TOWN OF BROOKLINE
MASSACHUSETTS

REPORTS OF SELECT BOARD AND ADVISORY COMMITTEE

on the

Articles in the Warrant

for the

ANNUAL TOWN MEETING

I hereby certify that the actions as indicated on the within pages were taken at the Annual Town Meeting called for Tuesday, May 21, 2019 at 7:00 P.M., adjourned to Thursday, May 23, 2019, Tuesday, May 28, 2019 and dissolved on Thursday, May 30, 2019 at 10:26 P.M.

ATTEST:

Patrick Joseph Ward

Town Clerk

Town of Brookline

SELECT BOARD

Neil A. Wishinsky, Chair

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

Bernard W. Greene **Heather A. Hamilton**

Melvin A. Kleckner, Town Administrator

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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 566-5474
Dennis Doughty, 57 Perry Street 739-7266
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
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
John VanScoyoc, 307 Reservoir Road 731-3584
Christine M. Westphal, 31 Hurd Road 738-7981

Lisa Portscher, Executive Assistant, Town Hall 730-2115

MAY 21, 2019
ANNUAL TOWN MEETING
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6.	Report on the close-out of special appropriations / Bond Authorization Rescission. (Select Board)
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2019 ANNUAL 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 2019 Annual Town Meeting to be held on Tuesday, May, 21, 2019 at 7:00 p.m.

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 establish that the number of Measurers of Wood and Bark be two, to be appointed by the Select Board, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Article 20 of the November, 2000 Special Town Meeting requires that this be the first article at each Annual Town Meeting. It calls for the Select Board to appoint two Measurers of Wood and Bark.

SELECT BOARD'S RECOMMENDATION

The Select Board recommend FAVORABLE ACTION, by a vote of 4-0 taken on March 19, 2019, on the vote offered by the Advisory Committee.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Heller
Franco	
Greene	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 1 seeks Town Meeting's approval to establish the number of Measurers of Wood and Bark at two and to permit the Select Board to appoint them.

In 2000, Town Meeting directed that the first Warrant Article of the Annual Town Meeting shall be the proposal to appoint one or more Measurers of Wood and Bark.

State law (Mass. Gen. Laws Ch. 94, §296) requires the Town to "annually choose one or more measurers of wood and bark," with the Select Board being able to appoint a person(s) to the position(s) after Town Meeting sets the number of measurers.

DISCUSSION:
This Article maintains a tradition reflecting Brookline's colonial past. This year, the Advisory Committee unanimously decided to continue this venerable tradition.

The positions do not draw a salary, stipend, or other remunerative benefit, and the Town incurs no current financial cost or future pension cost or liability for other post-employment benefits (OPEBs).

There has been at least one instance in recent memory in which a Measurer of Wood and Bark has been asked to resolve a dispute. The Measurers have their tape measures at the ready if they are called upon.

The Advisory Committee realizes that the Article 1 speech delivered by one of its members is frequently a memorable highlight of the Annual Town Meeting. The Committee urges all Town Meeting members to arrive in time for this year's innovative presentation.

RECOMMENDATION:
The Advisory Committee by a vote of 16–0–0 recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town establish that the number of Measurers of Wood and Bark be two, appointed by the Select Board.

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

There are no Collective Bargaining agreements for Town Meeting authorization. As a result, the Board recommended NO ACTION, by a vote of 5-0 taken on April 23, 2019.

ADVISORY COMMITTEE'S 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 recommends NO ACTION on Article 2 by a vote of 16–1–0.

XXX
A Vote of No Action was Board by a majority

ARTICLE 3

THIRD ARTICLE
Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Select Board, to enter into Compensating Balance Agreement(s) for FY2020 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article authorizes the Town Treasurer to enter into Compensating Balance Agreements, which are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

SELECT BOARD'S RECOMMENDATION

Compensating balances are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

Funds have been included in the Treasurer's FY2020 budget to pay for these banking services directly. This authorization, however, will give the Treasurer the flexibility to enter into such agreements if it should be in the best interest of the Town.

The Select Board recommend FAVORABLE ACTION, by a vote of 5-0 taken March 26, 2019, on the following vote:

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2020 in accordance with General Laws Chapter 44, Section 53F.

Passed by a unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Favorable Action on Article 3 would authorize the Town Treasurer, with the approval of the Select Board, to enter into compensating balance agreements for FY2020 in accordance with Massachusetts General Laws Chapter 44, Section 53F. These agreements would allow the Town to maintain specified amounts of deposits, which may or may not be interest bearing, in exchange for the reduction or elimination of cash payments for bank services.

DISCUSSION:
The proposed Town budget generally assumes that the Town's available funds are invested in interest-bearing accounts, and that banking services are paid for in the ordinary course. This authorization gives the Treasurer the authority to negotiate a reduction or elimination of fees for services, in exchange for deposits or Town funds in non-interest-bearing accounts.

Compensating balance agreements add value when the savings in fees more than offsets the loss of interest income, or when services can be bargained for among competing banks. They are a valuable cash management and services procurement tool. Town Meeting has authorized these arrangements since the mid-1980s.

RECOMMENDATION:
By a vote of 15–0–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

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ARTICLE 4

FOURTH ARTICLE
Submitted by: Select Board

To see if the Town will accept General Laws Chapter 44, Section 53F 3/4, which establishes a special revenue fund known as the PEG Access and Cable Related Fund, to reserve cable franchise fees and other cable-related revenues for appropriation to support PEG access services and oversight and renewal of the cable franchise agreement, the fund to begin operation for fiscal year 2020, which begins on July 1, 2019 or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article asks that the Town accept to accept a new statue that governs the cable television public, educational governmental (PEG) Access fund. Funds in this account include fees collected from customers by the cable operator in support of public, educational and government (PEG) programming. These payment are then transmitted to Brookline Interactive Group (BIG) who serves as the entity responsible for operating and managing the use of public, educational and governmental access funding, equipment and channels on the Cable Television System.

SELECT BOARD'S RECOMMENDATION

Article 4 allows the Town to establish a special revenue fund to accept public, educational governmental (PEG) payments made to the town by cable companies in accordance with their licensing agreements. The Town needs to accept this provision in order to comply with state law. Accepting this statute will allow the Town to transmit $80,000 of PEG funds from the RCN and Comcast agreements ($40,000 from each agreement) to Brookline Interactive Group (BIG).

On March 26, 2019, a unanimous Select Board recommended FAVORABLE ACTION on the following motion:

VOTED: That the Town will accept General Laws Chapter 44, Section 53F 3/4, which establishes a special revenue fund known as the PEG Access and Cable Related Fund, to reserve cable franchise fees and other cable-related revenues for appropriation to support PEG access services and oversight and renewal of the cable franchise agreement, the fund to begin operation for fiscal year 2020, which begins on July 1, 2019

Passed by a unanimous vote

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
A recent change in Massachusetts state law requires municipalities to set up a special revenue fund for the receipt and disbursement of funds received from franchise fees paid by cable television providers to support public access programming. The Town receives such fees from both Comcast and RCN. Warrant Article 4 would bring the Town into compliance with the state's requirements.

The Advisory Committee recommends FAVORABLE ACTION by a vote of 19–0–1.

BACKGROUND:
Massachusetts state law now requires that municipalities establish special revenue funds to handle payments that pass from the cable companies to the municipality for the benefit of a provider of public, educational, and government programming (PEG) cable services. The funds are held pending their transfer to the PEG organization.

Comcast and RCN each pays Brookline Interactive Group (BIG) $40,000 to be used for PEG capital equipment and facilities–presumably purchases of broadcasting equipment. Article 4 specifically deals with the receipt of these $40,000 payments and their transmittal to BIG per the terms of the franchise agreement.

In addition, the Town receives a franchise fee from Comcast and RCN equal to 5% of their gross annual revenue from Brookline cable television subscribers. The total paid to the Town is based on cable television revenue only, not on revenue derived from Internet or telephone service, and the annual total is on the order of $1 million. The fee is split 60/40 between the Town's general fund and BIG, so BIG receives about $400,000 a year from this source. Funds from the 60/40 split of fees based on top-line cable television revenue is paid directly to BIG by Comcast and RCN.

DISCUSSION:
Article 4 is basically a housekeeping change to bring Brookline into compliance with state law. The discussion in the Advisory Committee focused primarily on the relationship the Town has with BIG, and the revenue-based fee the Town receives from the cable TV providers.

Brookline Interactive Group is a 501(c)3 non-profit whose legal name is Brookline Cable Community Trust, Inc. BIG is supported partly by the above-noted payments from cable television service providers, and it raises funds and in-kind support from contributions and from program revenue. Its total revenue from all sources in 2016 was $671,935. BIG's facilities are in the Brookline High School Manual Arts building. In lieu of rent, BIG provides use of its facilities to Brookline High School students and to residents interested in learning how to use professional audio/visual equipment.

Since the cable television franchise holders pay a fee only on the revenue from cable television, revenue from the franchise fee is affected by the trend toward "cutting the cord"—dropping television cable service and instead streaming content over the Internet. Comcast and RCN may face a separate threat to their overall revenue in 2020, when mobile phone service providers complete their rollout of 5G phone service. The bandwidth available with 5G is such that households could conceivably switch from cable to wireless for their household Internet connection. That would not directly affect the franchise fee Brookline receives, but fast, price-competitive Internet service from wireless telephone providers might accelerate the trend toward households cutting the cord.

RECOMMENDATION:
The Advisory Committee by a vote of 19–0–1 recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 5

FIFTH ARTICLE
Submitted by: Select Board

To see if the town will vote to amend the town's general by-laws by adding the following new section 3.11a ½ to establish and authorize revolving funds for use by certain town departments, boards, committees, agencies or officers under Massachusetts General Laws Chapter 44, § 53E½, or take any other action relative thereto.

ARTICLE 3.11A ½ : DEPARTMENTAL REVOLVING FUNDS

3.11A ½ 1. Purpose. This by-law establishes and authorizes revolving funds for use by town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.

3.11A ½ 2. Expenditure Limitations. A town department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law/ordinance without appropriation subject to the following limitations:

a. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund, except for those employed as school bus drivers.

b. No liability shall be incurred in excess of the available balance of the fund.

c. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Advisory Committee.

3.11A ½ 3. Interest. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.

3.11A ½ 4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this by-law, the laws, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this by-law. The Comptroller shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Comptroller provides the department, board, committee, agency or officer on appropriations made for its/their use.

3.11A ½ 5. Authorized Revolving Funds.

A Revolving Fund	B Department, Board Committee, Agency or Officer Authorized to Spend from Fund	C Fees, Charges or Other Receipts Credited to Fund	D Program or Activity Expenses Payable from Fund	E Restrictions or Conditions on Expenses Payable from Fund	F Other Requirements/ Reports	G Fiscal Years
Student transportation	School Committee	Bus fees	To defray expenses related to student transportation			2020 and subsequent years

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Prior to the Municipal Modernization Act revolving funds under the provisions of General Laws, Chapter 44,Section 53E 1/2 could be established by an annual legislative body vote. The Town has several funds that were established in this manner and these funds are authorized annually through the budget process. The School Department has requested that a revolving fund be established to manage their school bus transportation program. Authorizations requested after FY2018 need to be established by by-law. This Article establishes a by-law for this purpose.

School Bus Program:
The Transportation Program is responsible for providing transportation to and from school for Public School of Brookline students. A bus fee is charged for this service. Transportation is also provided for Brookline special education students to and from school as indicated in their Individual Education Plan at no cost to the family.

FY19 was the first year of fee based busing for BHS students that reside in Baker and Heath zones. The fee was $400 per rider. The district operates two busses to transport the program's capacity of 144 registered students over 7 trips on a daily basis. In year two, there is no recommendation to change the fee for this optional service. In the initial year of the program, no revolving fund was voted by the School Committee or Town Meeting, so the full cost of the service, $151,200, was budgeted as part of the regular education busing line item and user fee revenue went to the Town's General Fund and was then directed to the School Department to support the operation.

Setting up a school bus user fee revolving fund is how many other school systems have handled accounting for transportation user fees. That law requires the fund to set a

maximum balance or maximum level of receipts and end expenditure. The recommended maximum balance for this revolving fund would be $75,000. Budgeted revenue is $48,000 though maximum revenue received which can be expended in FY20 would be $75,000. User fee estimates in the chart above are conservatively estimated so voted appropriations can reasonably be expected to cover incurred costs. Adopting the budget of $108,600 for the BHS South Brookline transportation reflects creating a transportation revolving fund for FY20. Adding a third bus for BHS would require an additional $66,300 be added to the overall transportation budget as presented above, and (probably) a vote from the School Committee to do so. This topic is likely to come up in future years as the student population as BHS continues to grow.

FY 19 BHS Service	$ per Day	Days/ Payers	$ Per Bus
2 Buses, Up to 4 hrs per day	$420	360	$151,200
True cost of BHS Busing			$151,200

FY20 Service w/ Revolving Fund	$ per Day	Days/ Payers	$ Per Bus
2 Buses, 4 hrs per day	$435	360	$156,600
User Fee Revolving	$400	120	$48,000
Net Cost of Level Service BHS Busing			$108,600

For informational purposes only	$ per Day	Days/ Payers	$ Per Bus
Add 3rd BHS Bus	$435	180	$78,300
Est. User Fee (More Capacity)	$400	30	$12,000
Net Cost of Third BHS Bus			$66,300

Funds are restricted by use to compensation for employees, contracted services and payment for equipment and materials to run program.

SELECT BOARD'S RECOMMENDATION

Article 5 allows the Town to establish a by-law that would create a school bus revolving fund, which is the new mechanism by which revolving funds are, established post-Municipal Modernization Act. This fund allows the Town to collect the fees charged to high school students who take school buses from South Brookline, a program that began in 2018, and utilize the revenue to operate the program. The district operates two busses to transport the program's capacity of 144 registered students over 7 trips on a daily basis. In year two, there is no recommendation to change the fee for this optional service.

That law requires the fund to set a maximum balance or maximum level of receipts and end expenditure. The recommended maximum balance for this revolving fund would be

$75,000 and can be found under the revolving fund section of the budget vote under Article 9.

The Select Board unanimously recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the general by-laws by adding the following new section 3.11a ½ to establish and authorize revolving funds for use by certain town departments, boards, committees, agencies or officers under Massachusetts General Laws Chapter 44, § 53E½.

ARTICLE 3.11A ½ : DEPARTMENTAL REVOLVING FUNDS

3.11A ½ 1. Purpose. This by-law establishes and authorizes revolving funds for use by town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.

3.11A ½ 2. Expenditure Limitations. A town department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law/ordinance without appropriation subject to the following limitations:

a. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund, except for those employed as school bus drivers.

b. No liability shall be incurred in excess of the available balance of the fund.

c. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Advisory Committee.

3.11A ½ 3. Interest. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.

3.11A ½ 4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this by-law, the laws, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this by-law. The Comptroller shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Comptroller provides the department, board, committee, agency or officer on appropriations made for its/their use.

3.11A ½ 5. Authorized Revolving Funds.

A Revolving Fund	B Department, Board Committee, Agency or Officer Authorized to Spend from Fund	C Fees, Charges or Other Receipts Credited to Fund	D Program or Activity Expenses Payable from Fund	E Restrictions or Conditions on Expenses Payable from Fund	F Other Requirements/ Reports	G Fiscal Years
Student transportation	School Committee	Bus fees	To defray expenses related to student transportation			2020 and subsequent years

Favorably by a unanimous vote

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Since the Municipal Modernization Act became law in 2016, Massachusetts municipalities have been required to create revolving funds through the mechanism of enacting a by-law. Article 5 establishes a revolving fund (the Student Transportation Revolving Fund) for the revenue realized from the fees charged to high school students who take school buses from South Brookline, a program that began in 2018. Although the Public Schools of Brookline operates the buses, the revenue accrues to the Town, so the revolving fund needs to comply with the regulations for non-school operating funds. The by-law is closely modeled on the model published by the Massachusetts Division of Local Services for non-school department programs.

The Advisory Committee recommends FAVORABLE ACTION by a vote of 20–0–0.

BACKGROUND:
At the start of the 2018–19 school year, the Public Schools of Brookline (PSB) provided four buses for high school students who live in South Brookline. The service was provided because the number of Brookline High School students from south of Route 9 who need public transportation exceeded the capacity of the PSB bus service provided previously. The MBTA operates Bus Route 51 which originates in Forest Hills and runs through Brookline along Independence Drive, Grove, Clyde, and Lee Streets, but the bus runs at half-hour or longer intervals and is subject to traffic tie-ups in the morning.

Students pay a fare to use the PSB buses, and the funds collected from those fares would be held in the proposed revolving fund. Although the Student Transportation Revolving Fund will be administered by the Town, funds could be withdrawn at the direction of the School Committee, which has responsibility for managing the bus program.

DISCUSSION:
This is a housekeeping change to Brookline's General By-laws to bring the Town into compliance with state law and with the regulations of the Department of Local Services (DLS). (Nonetheless, as noted below, revolving funds have been a topic of discussion in the past year and at the November 2018 Special Town Meeting.) DLS regulations establish the types of revolving funds that municipalities can establish, who has authority over each type, and how surpluses in the revolving funds are handled. For some funds, surpluses are accumulated for the exclusive use of the program supported by the fund. For others, a surplus may be withdrawn and used for other purposes.

There are no restrictions on the use of any surplus generated by a School Transportation Revolving Fund. However, the bus service is currently subsidized by the PSB budget, since the School Committee did not want to set the fare at a level that would discourage students from using it and instead deciding to drive to school.

In November 2018, the Advisory Committee passed a resolution endorsing the creation of a by-law that would formalize the Town's adherence to the State regulations covering revolving funds, including funds established before the Municipal Modernization Act was passed. Warrant Article 5 proposes to establish only one such fund, and this proposal is driven by the requirement that any new funds be established in accordance with post-2016 regulations. However, the deputy town administrator and the deputy superintendent of schools for administration and finance are reviewing the full set of revolving funds managed by the Town and the PSB, and they anticipate that an omnibus revolving fund by-law will be introduced at the November 2019 Special Town Meeting.

RECOMMENDATION:
The Advisory Committee by a vote of 20–0–0 recommends FAVORABLE ACTION on the motion offered by the Select Board.

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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 6

SIXTH ARTICLE
Submitted by: Select Board

To see if the Town will authorize the Comptroller to close out either all or a portion of the unexpended balances in certain Special Appropriations and return said sums to the Surplus Revenue accounts, and rescind the unused portion of prior borrowing authorizations, or act on anything relative thereto.

1) Special Appropriation Closeouts

2) Rescind the bond authorization for improvements to the Driscoll School, authorized as Item #70 of Section 13 of Article 7 of the 2018 Annual Town Meeting, in the amount of $4,000,000.

PETITIONER'S ARTICLE DESCRIPTION

Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a warrant article showing the status of all special appropriations. This article is also used for a debt rescission for the Driscoll School HVAC project now that the Building Committee has chosen a design option that will demolish the existing structure.

SELECT BOARD'S RECOMMENDATION

This is an annual article required by Section 2.1.4 of the Town's By-Laws. The tables that appear on the following pages detail the status of capital projects and special appropriations broken out by those that are debt financed and those that are funded with current revenues.

Under state statutes, any revenue funds declared surplus must be closed out to free cash at the end of the fiscal year. The Board's current position on this article is NO ACTION. The Board is choosing to not rescind the bond authorization for the Driscoll School until the outcome of the override is known. Should the override pass, the Board will reconsider this motion.

A unanimous Select Board votes NO ACTION under article 6.

A Vote of No Action was passed unanimously

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 6 has been submitted by the Select Board for the purpose of closing out any Special Appropriations and/or rescinding any unneeded Bond Authorizations. A similar Article is placed on the Warrant for each Annual Town Meeting.

By a vote of 13–0–3, the Advisory Committee recommends FAVORABLE ACTION.

BACKGROUND:
An Article similar to Article 6 is submitted each year by the Select Board to close out any Special Appropriations and/or rescind any unneeded Bond Authorizations.

Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a Warrant Article to:

(1) show the status of all special appropriations to ensure that surplus funds, if any, are managed in a timely fashion;

(2) identify the unused portion of borrowing authorization that requires rescission.

DISCUSSION:
There are two parts to Article 6. The first deals with Special Appropriations Closeouts. Under state statute, surplus funds for revenue-financed capital projects are transferred to Free Cash at the end of the respective fiscal year. (Bond finance accounts that have surpluses require Town Meeting to rescind the authorization, resulting in the reduction of the level of outstanding debt.)

Information on the status of funds for capital projects (Special Appropriations) that are debt-financed or revenue-funded is included in this report. (See the attached tables, one for bond-funded projects and one for revenue-financed projects.) No action is required if the surpluses are returned to Free Cash. The Town's Comptroller has the statutory authority to close out the unexpended balances in the accounts.

The second part of Article 6 raises the question of 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.

Should the May 7, 2019, debt exclusion override vote be successful and the May 2019 Annual Town Meeting subsequently vote to authorize issuing bonds to fund the Driscoll School project, the school will be replaced, and therefore the $4,000,000 bond authorization for a new HVAC system would no longer be necessary. Should the override fail and a second debt exclusion vote for the renovation/replacement of only Driscoll also fail, then a $4 million bond authorization would contribute only slightly more than 10%

of the cost of addressing the most basic renovation needs of the building. (According to JLA's estimate, the costs of such a project would be approximately $39.4 million.)

The Advisory Committee also considered the possibility of needing to perform significant repairs to the existing HVAC system before either the school is completely replaced or undergoes a basic renovation and discussed whether the bond authorization should be retained for that purpose. Members concluded that bonding such repairs would not be appropriate because the repairs were not likely to outlast the 10-year life of the bond. They also noted that a Reserve Fund transfer could be requested to address such an emergency.

In addition to finding little merit in retaining the bond authorization, members also noted that rescinding the authorization now would free up debt service capacity for other capital projects in the Capital Improvements Program's pipeline.

No Committee members advocated for retaining the $4 million bond authorization.

RECOMMENDATION:
By a vote of 13–0–3, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town rescind the bond authorization for improvements to the Driscoll School, authorized as Item #70 of Section 13 of Article 7 of the 2018 Annual Town Meeting, in the amount of $4,000,000.

XXX

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2019 as of 3/14/19

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K017	TOWN FURNITURE UPGRADES	72,575	10,981	12,904	48,690	Ongoing furniture replacement, chairs, tables, workstations. Most funds will be encumbered by end of FY.
K018	SCHOOL FURNITURE UPGRADES	119,386	85,894	15,293	18,199	Ongoing school furniture replacement program. Most funds will be encumbered by end of FY.
Sub-Total Finance Dept		**191,961**	**96,875**	**28,197**	**66,889**	
K084	GATEWAY EAST PROJECT	255,281	27,056	0	228,225	To be redirected to Roadway for Gateway East related construction expenses.
K100	COMMERCIAL AREA IMPROVEMENTS	7,366	0	0	7,366	Complete.
K122	RIVERWAY BIKE/PED PATH	40,000	0	0	40,000	Being Coordinated with USACE for Phase II Improvements.
K165	GATEWAY EAST CONSTRUCTION MATCH	250,000	0	0	250,000	Committed to MassDOT for project via Non-Participating Work Agreement. To be drawn as requested by MassDOT via requisition.
K158	ZONING BY-LAW RE-ORGANIZATION	200,000	670	6,026	193,304	Consultant undertaking Phase I of Recodification
Sub-Total Dept of Planning & Community Development		**752,647**	**27,726**	**6,026**	**718,895**	
K016	IT HARDWARE-SOFTWARE	60,648	37,288	0	23,360	Ongoing, last phase just completed
K132	DATAROOM UPGRADES	47,050	35,500	11,550	0	Complete
Sub-Total Information Technology Dept		**107,698**	**72,788**	**11,550**	**23,360**	
K159	CAD System Upgrade	200,000	0	0	200,000	Phase 3 of the upgrade slated to begin the week of April 8th. The work will take 4 or 5 weeks to complete.
Sub-Total Police Dept		**200,000**	**0**	**0**	**200,000**	
K095	FIRE ENGINE 6 REPLACEMENT	335,014	332,513	0	2,501	We have taken delivery of the new engine. Final equipment purchases to follow.
Sub-Total Fire Dept		**335,014**	**332,513**	**0**	**2,501**	
K002	ENERGY CONSERVATION	196,461	196,461	0	0	Complete
K010	ENERGY MANAGEMENT SYSTEMS	142,069	72,159	69,691	219	Ongoing Program
K022	TOWN-SCHOOL SECURITY-LIFE SAFETY	130,000	63,138	9,449	57,413	Ongoing Program
K032	RESERVOIR GATEHOUSE	235	0	235	0	Complete
K038	PIERCE SCHOOL ELECTRICAL SYSTEM	40,821	0	0	40,821	Complete
K040	PUTTERHAM BATHROOM	150,000	0	0	150,000	Beginning process RFP
K042	CLASSROOM CAPACITY EXPANSION	1,243,425	941,018	169,007	133,400	Ongoing Lease payments
K046	TOWN HALL/MAIN LIBRARY GARAGE IMPROVEMENTS	288,200	0	0	288,200	On hold until phase 5 budget is approved.
K050	ADA RENOVATIONS	101,107	62,291	24,843	13,973	Ongoing Program
K098	FIRE STATION RENOVATIONS	1,461,268	2,205	721,805	737,258	On hold pending further study.
K109	TOWN/SCHOOL BUILDINGS ELEVATOR	839,168	364,115	38,624	436,429	Ongoing Program - Heath School Elevator next.
K119	DEVOTION SCHOOL RENOVATION	58,041	40,846	0	17,195	Closeout, MSBA Audit
K121	GARAGE FLOOR SEALANTS	150,000	0	0	150,000	To be combined with phase 5
K123	DEVOTION HOUSE / PUTTERHAM SCHOOL	62,000	0	0	62,000	Ongoing Program
K128	COOLIDGE CORNER LIBRARY	543,439	514,819	499	28,121	Project construction complete, closeout
K131	DRISCOLL SCHOOL HVAC	147,499	28,107	82,600	36,792	Complete
K145	TOWN/SCHOOL TRASH COMPACTORS	100,000	93,420	0	6,580	Ongoing Program
K146	SCHOOL EXPANSION STUDIES	4,331	0	0	4,331	Complete
K148	TOWN REHAB/UPGRADE	64,793	48,922	15,871	0	Ongoing Projects
K153	SCHOOL REHAB/UPGRADE	254,845	254,586	259	0	Complete
K154	9th SCHOOL FEAS/SCHEMATIC	2,234,485	629,357	1,284,388	320,740	Ongoing Project
K157	PUBLIC SAFETY HVAC	125,000	124,965	35	0	Complete
K161	HVAC EQUIPMENT	150,000	120,770	0	29,230	Ongoing Program
K162	CLASSROOM CLIMATE CONTROL	225,000	221,056	2,000	1,944	Ongoing Project
K163	PUBLIC BUILDING FIRE ALARM UPGRADES	250,000	0	23,275	226,725	Ongoing Project
K168	DRISCOLL SCHOOL SCHEMATIC DESIGN	1,500,000	37	1,179,260	320,703	Ongoing Project
Sub-Total Building Dept		**10,462,187**	**3,778,272**	**3,621,841**	**3,062,074**	
K051	TREE MANAGEMENT	315,399	91,075	152,632	71,692	In progress
K052	BICYCLE ACCESS IMPROVEMENTS	254,621	28,020	42,371	184,230	In progress
K054	STREET LIGHTING REPLACEMENT	55,003	22,851	2,425	29,727	In the process of closing project, finalizing counts and inventory.
K055	CARLTON STREET FOOTBRIDGE	84,186	49	0	84,137	100% P,S & E documents submitted to MADOT. Open bids 9/2019
K056	SIDEWALK IMPROVEMENTS	644,668	193,358	7,188	444,122	On going project. Opening bids 4/2019
K058	STREET REHABILITATION	4,717,709	1,919,502	1,238,006	1,560,201	On going project. Consultant preparing conceptual designs.
K065	RIVERWAY PARK IMPROVEMENT	86,369	0	0	86,369	On Hold due to Muddy River Restoration Project
K066	PLAYGROUND,FENCE,FIELD, EQUIPMENT	549,264	183,267	272,415	93,582	In progress
K069	TENNIS/BASKETBALL COURT REHAB	193,385	0	0	193,385	Awaiting FY20 funding to move into construction
K070	LARZ ANDERSON PARK	1,077,911	49,027	204,623	824,261	Design & Construction Bid Documents In Progress.
K073	TOWN-SCHOOL GROUNDS REHAB	214,864	77,386	58,737	78,741	In progress
K078	MUDDY RIVER REMEDIATION	1,318,495	1,000	0	1,317,495	Phase II Portion of the Project in Design/Engineering Phase
K083	TRAFFIC CALMING	123,779	72,645	22,638	28,496	In progress
K088	MOUNTFORT ST TRAFFIC SIGNAL	410,101	0	0	410,101	Waiting on MADOT to reconst. St. Mary's St. bridge.

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2019 as of 3/14/19

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K093	WATER METER REPLACEMENT	265,000	216,188	23,812	25,000	On-going (year 2 of 4-year chang out)
K096	PARKING METERS	10,212	502	0	9,710	On going project.
K097	LANDFILL SETTLEMENTS	138,933	0	0	138,933	Preparing final paper work to closeout project.
K101	MUNICIPAL SERVICE CENTER REPAIRS	26,440	2,500	995	22,945	Ongoing Project
K102	BILLY WARD PLAYGROUND	8,223	2,400	5,823	0	Complete
K115	OLD BURIAL GROUNDS	94,377	0	0	94,377	Construction Bid Documents in Progress.
K120	PARK COMFORT STATIONS	46,977	0	0	46,977	In progress.
K124	WOODLAND RD / HAMMOND ST CROSSING STUDY	15,600	0	0	15,600	Concept approved by Transportation Board. Moving to 25% design
K125	BROOKLINE AVE PLAYGROUND	235,153	146,628	1,000	87,525	Playground parking area and pathway to be completed 2019.
K129	MBTA TRAFFIC SIGNALIZATION	50,000	0	0	50,000	Waiting on MBTA to allocate resources to implement TSP
K136	COREY HILL PLAYGROUND	586	586	0	0	Complete
K137	EMERSON GARDEN PLAYGROUND	115,124	93,797	7,931	13,396	Splash pad and drainage work to be completed 2019.
K141	DEAN RD/CHESTNUT HILL AVE TRAF SIGNAL	260,000	0	0	260,000	Design being completed by consultant
K142	WINTHROP PATH REHABILITATION	65,000	0	0	65,000	Repair work to be done summer 2019
K143	BROOKLINE RESERVOIR PARK	81,269	60,737	20,532	0	Complete
K144	HARRY DOWNES FIELD & PLAYGROUND RENOVATION	50,967	39,170	11,797	0	Complete
K150	DAVIS PATH FOOTBRIDGE	40,000	0	0	40,000	RFP for feasibility study due 4/2019
K151	MURPHY PLAYGROUND	70,000	4,500	0	65,500	Engineering review complete. Design to commence in 2019.
K152	STORMWATER IMPROVEMENTS	290,002	19,020	104,524	166,458	Ongoing Project
K160	CYPRESS PLAYGROUND DESIGN	240,000	17,704	0	222,296	Design Development In Progress.
K164	NETHERLANDS ROUD FACILITY IMPROVEMENTS	150,000	13,099	10,600	126,301	Awaiting FY20 funding to move into construction
K166	BROOKLINE RESERVOIR	500,000	0	0	500,000	Construction to Commence in 2019.
K167	RIDE SHARE FUNDS	207,443	0	18,100	189,343	In progress
Sub-Total DPW		**13,007,059**	**3,255,011**	**2,206,149**	**7,545,899**	
K139	LIBRARY FURNISHINGS	567	567	0	0	Complete
K140	LIBRARY INTERIOR PAINTING	49,975	30,322	0	19,653	Ongoing project
Sub-Total Library		**50,542**	**30,889**	**0**	**19,653**	
K106	SWIMMING POOL/SHOWERS/ REPOINTING	38,196	19,954	18,242	0	Complete
K106	POOL FILTER PROJECT	225,000	19,408	19,408	186,184	Still spending down, initial stage currently under way, in progress
Sub-Total Recreation		**263,196**	**39,362**	**37,650**	**186,184**	
	TOTAL	**25,370,304**	**7,633,436**	**5,911,413**	**11,825,455**	

Available Budget Report - Capital Funds (Bond funded) for Fiscal Year 2019 as of 3/15/19

		Revised Budget	YTD Expended	YTD Encumbered	Available	Status
C192	FIRE ENGINE TOWER #1 REPLACEME	4,819	0	0	4,819	Delevery complete. Equipment purchases on-going.
C193	FLEET MAINT FACILITY & TRAINING	3,799,263	2,032,988	1,765,280	994	Still under construction.
	FIRE CAPITAL	3,804,082	2,032,988	1,765,280	5,814	
C199	ACQUISITION OF 111 CYPRESS ST	352,093	203,401	7,740	140,953	Ongoing - legal, relocation expenses
C205	15-19 OAK ST ACQUISITION	4,700,000	4,700,000	0	0	complete
C171	REP/REN UNIFIED ARTS BUILDING	25,960	4,330	0	21,631	Ongoing project next phase
C175	ROOF REPAIRS AND REPLACEMENT	13,240	0	13,240	0	Ongoing program
C185	COOLIDGE CORNER SCHOOL RENOVATION	26,163,176	13,563,717	4,157,056	8,442,404	Ongoing, waiting for MSBA Audit and closeout
C189	ENVELOPE FENESTRATION	25,129	25,129	0	0	Complete
C190	ROOF REPAIRS AND REPLACEMENT	1,144,296	379,950	413,602	350,745	Ongoing program
C195	ENVELOPE FENESTRATION	1,962,080	1,001,793	138,760	821,527	Ongoing program
C197	HIGH SCHOOL SCHEMATIC DESIGN	186,476	186,476	0	0	complete
C203	DRISCOLL SCHOOL REHABILITATION	4,000,000	0	0	4,000,000	On hold
C204	BHS RENOVATION/EXPANSION	189,200,000	5,234,999	11,465,161	172,499,841	Ongoing program
	BUILDING CAPITAL	227,772,451	25,299,793	16,195,559	186,277,099	
C150	MUDDY RIVER RESTORATION	745,000	585,533	0	159,467	In Process: Phase II construction going out to bid 2019.
C157	NEWTON ST LANDFILL	8,092	130	7,000	962	Rear Landfill Capped, reviewing finalization of project.
C158	WASTEWATER SYSTEM IMP	994,419	243,985	171,035	579,399	Phase 2 on-going
C160	RESERVOIR AT FISHER HILL PURCH	9,361	6,700	2,661	0	Complete
C166	CARLTON ST FOOTBRIDGE RESTORAT	1,072,390	7,339	50,454	1,014,597	100% P,S,E documents sumitted to MADOT. Open bids 9/2019
C169	STORM DRAIN IMPROVEMENTS	11,276	1,080	2,217	7,980	On-going
C170	WATER MAIN IMPROVEMENTS	5,076	0	0	5,076	On-going
C172	WALDSTEIN PLAYG/WARREN FIELD/P	10,051	7,611	2,440	0	Complete
C179	NEWTON ST LANDFILL CLOSE	2,227,797	1,561,722	143,781	522,293	Rear Landfill Capped, reviewing finalization of project.
C180	VILLAGE SQUARE IMPROVEMENTS	1,200,000	0	0	1,200,000	The Town's remaining obligation to GE is $1.0 million construction match - which has been committed via Non-Participating Work Agreement
C181	SINGLETREE TANK IMPROVEMENTS	340,000	192,076	1,624	146,300	Ongoing project
C182	SINGLETREE GATEHOUSE IMPROVEMENTS	320,000	83,524	72,321	164,155	Ongoing project
C186	PIERCE PLAYGROUND	2,369	2,369	0	0	Complete
C187	WASTEWATER SYSTEM IMP	3,000,000	53,518	1,522,270	1,424,212	Phase 2 on-going
C194	COREY HILL PLAYGROUND	99,076	50,981	7,950	40,145	In process: Fence gates and panels in fabrication.
C196	WATER SYSTEM IMPROVEMENTS	261,598	74,000	25,850	161,748	On-going
C198	BROOKLINE RESERVOIR PARK	2,200,000	0	0	2,200,000	In process: Construction to start in 2019.
C200	WASTEWATER SYSTEM IMPROVEMENTS	3,000,000	0	0	3,000,000	Phase 2 on-going
C201	HARRY DOWNES FIELD/KRAFT FAM	2,450,000	0	2,019,055	430,945	In process: Construction to start in 2019.
C202	LARZ ANDERSON PARK	2,700,000	216,540	194,904	2,288,556	Design & Construction Bid Documents In Process. Construction to start in 2020.
	DPW CAPITAL	20,656,504	3,087,107	4,223,563	13,345,833	
C188	GOLF COURSE IMPROVEMENTS	765,000	0	0	765,000	For on-going work including drainage, bunkers, and cart paths.
	RECREATION CAPITAL	765,000	0	0	765,000	

ARTICLE 7

SEVENTH 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 the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore, and appropriate from available funds, a sum or sums of money therefore, 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 March 19, 2019, on Article 5.

A Vote of No Action was moved Wishinsky

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Heller
Franco	
Greene	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Massachusetts General Laws, Chapter 44, Section 64, requires the specific appropriation of funds for the payment of bills from a prior fiscal year.

DISCUSSION:
The Town has not identified any unpaid bills from a prior fiscal year.

RECOMMENDATION:
The Advisory Committee by a vote of 15–0–0 unanimously recommends NO ACTION.

XXX

ARTICLE 8

EIGHTH ARTICLE
Submitted by: Board of Assessors

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2020 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, low-income elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved by Town Meeting continually since FY1989.

SELECT BOARD'S RECOMMENDATION

This article provides for an increase in the property tax exemption amounts for certain classes of individuals, including surviving spouses, the elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2020 is approximately $54,300 and is funded from the tax abatement overlay reserve account. The law allows the Town to increase the exemptions by up to 100% as indicated on the following schedule, which are recommended by the Board of Assessors:

Description	Ch.59, Sec.5 Clause	FY2018 #Granted	Basic Amount Exempted	Proposed Amount Exempted
Surviving Spouse	17D	4	$175	$350
Veteran (10% Disability)	22	44	$400	$800
Veteran (loss of one hand, foot or eye)	22A	0	$750	$1,500
Veteran (loss of two hands, feet or eyes)	22B	0	$1,250	$2,500
Veteran (special housing)	22C	0	$1,500	$3,000
Veteran (certain widows of soldiers)	22D	0	$250	$500
Veteran (100% disability, cannot work)	22E	13	$1,000	$2,000
Blind	37A	35	$500	$1,000
Elderly	41C	11	$500	$1,000

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

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2020 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

Handwritten: Passed by a unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 8 is an annual Warrant Article to increase state-mandated local property tax exemptions for certain classes of individuals. The Advisory Committee unanimously recommends FAVORABLE ACTION.

BACKGROUND:
Property tax exemptions, in their base amounts are mandated by state law. This Article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. State law provides for a local, optional increase in the mandated exemptions, of up to 100%. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989.

DISCUSSION:
The estimated annual cost of the increased property tax exemptions is approximately $55,000, an amount that is fairly stable year to year. The assessor has noted that only about 107 Brookline residents benefit from this program. He also noted, for the Tax Deferral program which recently had a new 2.33% interest rate (tied to the variable ten-year Treasury rate), only eight individuals participated. The increased property tax exemptions are funded from the tax abatement overlay reserve account. Consequently, there is no impact on the Town budget and no appropriation required by Town Meeting, only the granting of approval for the Board of Assessors. The table below shows, by category, the basic amount exempted under Massachusetts law and the proposed exemption amount which is the maximum permitted by State law: Description Ch.59, Sec.5

Description	Ch.59, Sec.5 Clause	FY2018 #Granted	Basic Amount Exempted	Proposed Amount Exempted
Surviving Spouse	17D	4	$175	$350
Veteran (10% Disability)	22	44	$400	$800
Veteran (loss of one hand, foot or eye)	22A	0	$750	$1,500
Veteran (loss of two hands, feet or eyes)	22B	0	$1,250	$2,500
Veteran (special housing)	22C	0	$1,500	$3,000
Veteran (certain widows of soldiers)	22D	0	$250	$500
Veteran (100% disability, cannot work)	22E	13	$1,000	$2,000
Blind	37A	35	$500	$1,000
Elderly	41C	11	$500	$1,000

RECOMMENDATION:
By a vote of 16–0–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 9

AMENDMENT TO THE LESCOHIER REFERRAL MOTION OFFERED BY STANLEY SPIEGEL, TMM2

VOTED: That Town Meeting refers the subject matter of WA 9 the Ananian motion, "A Resolution 4-Driscoll", to the School Committee, with a request that the School Committee, after further study and review, consider revising the Driscoll School Educational Plan requesting an update to the feasibility study and revision of the Driscoll schematic design, and that these steps be completed prior to the deadline for the Select Board to consider placing a debt exclusion override question on the May 2020 ballot.

Marked up version found below with insertions **underlined in bold** and deletions ~~struck~~.

VOTED: That Town Meeting refers the subject matter of WA 9 the Ananian motion, "A Resolution 4-Driscoll", to the School Committee~~.~~**, with a request that** ~~T~~the School Committee, after further study and review, ~~shall~~ consider revising the Driscoll School Educational Plan requesting an update to the feasibility study and revision of the Driscoll schematic design~~.~~**, and that** ~~T~~these steps ~~to~~ be completed prior to the deadline for the Select Board to consider placing a debt exclusion override question on the May 2020 ballot.

Defeated by an Electronic Roll Vote of 164 In Favor, 152 Opposed and 9 Abstentions.

ARTICLE 9

MOTION TO REFER OFFERED BY DAVID LESCOHIER, TMM11

VOTED: That Town Meeting refers the subject matter of WA 9 the Ananian motion, "A Resolution 4-Driscoll", to the School Committee. The School Committee, after further study and review, shall consider revising the Driscoll School Educational Plan requesting an update to the feasibility study and revision of the Driscoll schematic design. These steps to be completed prior to the deadline for the Select Board to consider placing a debt exclusion override question on the May 2020 ballot.

ARTICLE 9

MOTION OFFERED BY CLINT RICHMOND, TMM6

VOTED: To amend Article 9, Table 1 item 13 for $15,000 to be added to the DPW budget for composting services.

ARTICLE 9

AMENDMENT OFFERED BY JANICE S. KAHN, TMM15

Proposed amendments to article 9, items 39 and 43

VOTED: That Town Meeting amend Article 9, Items #39 so that the $265,000 allocated for the Woodland Road Traffic Calming Project be reallocated as follows:

$132,000 be retained for traffic calming elements on Woodland Road; and that

$133,000 be retained for the crosswalk, curbing, pedestrian refuge island, and rectangular flashing beacons on Heath Street at the intersection of Woodland Road and Heath Street east of Hammond Street, be transferred to CIP item #43 for the rehabilitation of sidewalks.

PETITIONER'S AMENDMENT DESCRIPTION

A traffic calming request for the Woodland-Laurel neighborhood was submitted in late November 2013 due to concerns about increasing cut-through traffic bypassing the Route 9 corridor, expected to worsen with the imminent opening of Chestnut Hill Square, a major impact development on the Newton/Brookline border. An initial Traffic Calming Needs Assessment, prepared in June 2016 by the Transportation Division, supported the need for traffic calming measures. The first of two neighborhood meetings, required by the Town's traffic calming procedures, to review plans was held in November 2016, with an intention to take neighborhood feedback and come back a few months later. The second required meeting was postponed when the Baldwin School site was selected. The second meeting was not held until November 2017 and the revised plan for the project received approval from the neighborhood to move forward. That plan was approved by the Transportation Board in March 2018.

In March 2019 traffic calming plans were again presented to the Transportation Board, this time with no neighborhood prior review, and with the addition on Heath Street, at its intersection with Woodland near Pine Manor College, of both a pedestrian refuge island (similar to the one on Washington Street near Gardner Road) and a new crosswalk with rapid flash beacons. Neighborhood residents who attended the Transportation Board meeting were unanimous in their opposition to installing the traffic island, pointing out that there is little foot traffic in the area that would merit such an intrusive element. Residents also pointed out that they had participated in the many-years process of working with the Transportation Division to come up with a traffic calming plan per the Town's own review process, yet, in this case, they had received no advance knowledge of this additional element. Despite numerous requests at that meeting to remove the refuge island from the traffic calming plan, the Transportation Board approved it.

This amendment is being requested to bring the Woodland Road Traffic Calming Project back into alignment with the plan that was thoroughly vetted with the neighborhood that had initiated it.

ARTICLE 9

MOTION OFFERED BY KATHLEEN SCANLON, TMM3

Passed By A Limited Vote
8 275 In Favor And 1
Opposed.

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.

Proposed by Finance Committee Vote

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.

Passed by an Electronic Roll Call Vote of 155 In Favor, 58 Opposed and 17 Abstentions

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

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:	Nay:
Greene	Hamilton
Franco	Fernandez
Heller	

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.

PUBLIC SCHOOLS of
BROOKLINE

Executive Summary
FY 2020
Budget

2019 Annual Town Meeting

Budget Detail

Version: April 4, 2019

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Budget Overview

The Fiscal Year 2020 budget is built to support the Public Schools of Brookline's mission to ensure that every student develops the skills and knowledge to pursue a productive and fulfilling life, to participate thoughtfully in a democracy, and succeed in a diverse and evolving global society. The budget rests on two foundational beliefs:

1. Brookline should expect nothing less than exceptional and equitable outcomes for all of our learners. We must use our resources to ensure that we enable every student to succeed at high levels.

2. In an effective school system, what takes place in our classrooms and our schools matters the most. The resources of the district must be organized in a way that recognizes the centrality of our classrooms. As such, administration supports principals as instructional leaders, so principals can support educators, and educators can support each and every one of our students.

Through our budget choices, the school district is organized so that we support high quality instruction at all levels, prioritize the work that happens between students and educators in our classrooms, and build on our strengths and our challenges openly.

Our primary focus remains high quality teaching and learning for all students and especially for students in groups we know are disproportionately impacted by opportunity and outcome gaps - including race, income, disability, and language status. This budget prioritizes the staffing, program, and materials needed to ensure educators have the resources needed to support individual student needs.

As a district, we must support students and educators - both inside and outside of the classroom. To that end, the choices made in the FY2020 budget support the Public Schools of Brookline's five core values. The district's work in support of these core values is guided by the three-year goals put forth during the development of the FY2019-2021 override budget. These goals focus on maintaining the quality of education, programs and services in the face of historic and ongoing enrollment growth; and on maintaining small class sizes and the resources needed to fund new student support positions in guidance, nursing and English Learner instructors in order to lower student/educator ratios. These goals also continue the work on critical priorities, including educational equity, restorative practices, professional development, and curricula review and renewal.

Since Town voters approved the three-year operating override in May 2018, both the revenue and

expense outlooks have changed significantly. These changes have resulted in three unanticipated fiscal challenges that affect the budget in the following ways:

1. Significant changes downward in the Town's growth estimates of new revenue, along with an increase to the school department's charge for pension liability and increased expenses charged to other Town departments, are currently resulting in a net revenue loss to the PSB of $327,472.

2. Revenue from revolving funds and other sources of revenue, including transfers and offsets, are no longer allowed to be considered, resulting in a net revenue loss of $406,744.

3. Unanticipated increases in mandated expenses, mainly a 27% increase in out-of-district tuition expenses, are increasing the special education budget for FY2020.

Combined, the two revenue reductions result in a deficit of $1,831,182 that impacts the FY2020 budget. In the face of these challenges, the FY2020 budget request focuses on three primary areas, all designed to maintain the commitment to small classes, to increased staffing and improved services, and to strategic investments identified in the 2018 and prior operating overrides:

1. *Maintaining current staffing levels and fulfilling our contractual obligations* - As with all school systems, the majority of PSB's budget pays for teachers and other school-based personnel. Sixty-seven percent (67%) of the FY2020 budget increase funds the contractually obligated costs of maintaining our existing staff. In this presentation of the budget, a pool of funds equivalent to a 2% increase in cost of living (COLA) and equivalent to a 3% increase to cover all known contractual obligations for steps and lanes is included. This funding is within the 2018 override projection for FY2020. Holding this pool of funds in reserve pending the speedy resolution of our Unit A, Unit B, and paraprofessional contracts before they expire in 2019 remains a priority despite the significant FY2020 fiscal challenges.

2. *Responding to our ongoing increases in enrollment and the complexity of student needs* - Brookline's historic enrollment growth, which has been affecting the K-8 elementary schools since 2005, is now impacting Brookline High School. Since 2005, the district's K-8 student population has grown by 41%, or 1599 students. During that same time, Brookline High School grew by 11%, or 203 students. Over the next five years, high school enrollment is projected to accelerate and increase by an additional 21%, or 429 students. To keep pace with this ongoing growth, the FY2020 budget allocates increases in staff in several key areas. This includes the following commitments:
    - 7.0 FTE scheduled as a part of the 2018 override to support BHS enrollment growth

- 3.0 FTEs for guidance (K-8), nursing, and English Learner (EL) instruction
- 1.0 FTE for an additional educational leader position at Brookline High School
- A 27% increase in funding for out-of-district tuition to ensure that the PSB fulfills our moral and legal obligations to provide a free and appropriate public education in the least restrictive environment to all students

3. *Continuing commitment to strategic investments approved by voters in 2018* - In the face of a significant operating deficit, the FY2020 budget maintains the strategic investments approved by voters in 2018. These include:
   - Hiring a Senior Director for Educational Equity
   - Increase in professional development funds to support district-wide professional development on Diversity, Equity and Inclusion
   - Funding, at appropriate levels, of the resources necessary to support implementation of math program review recommendations, including funding for materials and professional development.
   - Funding the District's Financial Assistance policy.
   - Funding to subsidize transportation services for high school students living in South Brookline.
   - Holding in reserve funds above the 2% COLA, steps and lanes for paraprofessional collective bargaining.

This budget overview is organized into four sections designed to explain in detail the major forces affecting the FY2020 budget and provide a high-level summary of the budget focusing on major revenue and expenditure categories.

Section I	Primary Drivers of the FY 2020 Budget: Our Core Values and our District-Wide Priorities
Section II	FY19-FY21 Original Override Projection
Section III	Summary of Expenses
Section IV	Summary of FY2020 Budget Revenues

Section I – The Primary Drivers of the FY 2020 Budget

The FY2020 budget request is driven by three primary forces:

1. The Public Schools of Brookline's five core values and four district-wide goals;
2. Maintaining the quality of the education, programs, and services in the face of historic and ongoing enrollment growth; and
3. The commitments made in the Operating Overrides approved by Brookline voters in 2018 and prior overrides.

Five Core Values guide the Public Schools of Brookline

Our five Core Values inform all of PSB's work: everything from budget decisions to each building's School Improvement Plan. The aspirations underlying each of the Public Schools of Brookline's five Core Values are defined below. Pursuit of these values guides how we allocate our funding, people and time and are reflected in the FY 2019 override budget.

High Achievement for All

The Public Schools of Brookline inspires our students to develop a passion for learning. We support students through strong relationships to become invested in their learning, develop the confidence and persistence to grow as learners, and meet their goals for success in and beyond school. To pursue our value of all students achieving at high levels, the PSB is committed to and the FY 2019 override budget supports:

- Maintaining small class sizes.
- Quality early childhood education.
- Inclusive classrooms and district-wide Special Education programs.
- A comprehensive high school curriculum with an extensive variety of opportunities and programs.
- Math Program Review.
- Differentiated instruction for all learners PK-12.

Educational Equity

The Public Schools of Brookline identifies, understands, and eliminates barriers to educational achievement in our schools. Educators in every school provide their students with the support needed to reach and exceed Brookline's high standards. To pursue educational equity, the PSB is committed to and the FY 2019 override budget supports:

- District-wide Strategies such as:
  - High quality curriculum across all grades and all schools.
  - Inclusive classrooms with educators and specialized instructional personnel.
  - High quality professional development opportunities and supports focusing on instructional coaching and collaboration.
  - Specialized programs and services district-wide in support of access for all learners.

  - Literacy and Math Specialists across schools to provide support and create high outcomes for all students.
  - Child Study Teams individualizing student interventions and extensions.
  - District-wide and school specific professional development on equity.
  - District-wide equitable access to educational technology.
- Targeted Support Programs such as:
  - The Calculus Project.
  - African American and Latino Scholars.
  - Young Scholars.
  - Steps to Success.
  - Alternative Choices in Education (ACE) – an intensive and personalized alternative pathway for BHS students.
  - Leveled Literacy Interventions.
  - School Within a School.

Excellence in Teaching

The Public Schools of Brookline understands that passionate, knowledgeable, and skillful educators are the core strength of our schools. To support excellent instruction throughout our schools, the PSB is committed to and the FY 2019 override budget supports:

- Strong, effective mentoring programs for all new staff and administrators.
- A meaningful and structured approach to educator evaluation and support.
- Instructional coaching and professional development for teachers in math, literacy, educational technology, and Enrichment and Challenge Support.
- Recruiting and retaining outstanding educators.
- Job-embedded professional development on early release dates.
- A wide variety of professional learning opportunities.

Respect for Human Differences

The Public Schools of Brookline provides a safe environment for expressing and exploring human differences and commonalities. Our schools create caring and understanding communities that promote a deep sense of belonging and respect for all. To support respect for human differences throughout our schools, the PSB is committed to and the FY 2019 override budget supports:

- Meeting individual student needs through social-emotional learning at the K-8 schools and the high school.
- Professional development focused on bias and anti-racism.
- Ongoing review of instructional material to make them more representative of the diversity of our students and families.
- The METCO Program.
- Comprehensive district-wide Special Education opportunities.
- Robust school-based and District-wide English Learner programs.
- The School Within-a-School program at BHS.
- Bullying prevention in all of the K-8 schools.

- Providing support to students through the Advisory Program at BHS.
- Ongoing commitment to development of Cultural Proficiency in students and staff.

Collaboration

The Public Schools of Brookline commits to collaboration in all aspects of education to foster interaction among diverse viewpoints and to broaden learning opportunities for our students, educators, and community. Collaboration among faculty and between schools and our long-standing community-based partners creates the shared ownership of our schools that adds value to the lives of all community members. To support collaboration, the PSB is committed to and the FY 2019 override budget supports:

- Collaboration among faculty and administrators:
  - Child Study Teams.
  - Common planning time where faculty members collaborate on lesson planning, assessing student work and improving instruction.
  - School-based collaborative study groups where faculty members study topics related to strengthening instruction and improving their practice.
  - Curriculum coordinators visiting classes in teams and principals doing learning walks in all schools.
- Essential partnerships:
  - Parent Teacher Organizations, School Site Councils, and other specific parent groups (e.g., Special Education Advisory Council, Steps to Success parent group).
  - Brookline Education Foundation.
  - The Innovation Fund.
  - Brookline Community Foundation.
  - The Brookline Community Mental Health Center.
  - Municipal Departments:
    - Building Department and the Public Building Division – Facilities Maintenance, Repair, and Replacement.
    - The Public Library of Brookline – Education Technology and Library Services partnership.
    - Parks and Open Space – Playgrounds and Fields.
    - Police/Fire – Emergency Planning and Response.
    - DPW – Sidewalks, grounds maintenance and snow removal.
- Extended Day and enrichment programs in all K-8 schools

Section II – 2018 Proposition 2 ½ Override and Debt Exclusion

Against enrollment increases, growth of revenues in real dollars has been constrained by local revenue growth and the fixed nature of Proposition 2½. Because local revenue has not kept pace with the growth of students enrolled in the Public Schools of Brookline, the Town sought an operating override in May of 2018 to add resources to school and municipal budgets. The Town was presented with the option of raising their tax levy by $6,575,425. $5,473,642 of that amount was to be allocated to the School Department. The breakdown of the three year override is as follows:

		FY 2019 Override	FY2020	FY2021	Totals	New Revenue	3 YR Total
3 Year Funding Plan by Source of Funds							
	School Department	$ 1,944,574	$ 3,139,505	$ 389,563	5,473,642	5,873,642	
	Public Buildings	200,000	200,000		400,000		
	Municipal Departments	701,783	-	-	701,783		
Proposed Tax Levy Override		2,846,357	3,339,505	389,563	6,575,425		
	Town GIC Portion	$ 349,058			$ 349,058		
	Public Buildingss Portion	34,196			34,196	443,871	
	School Department Portion	409,675	-	-	409,675		
Employee Health Insurance Savings (GIC)		*792,929*	-	-	*792,929*		8,375,132
	Public Facilities Portion	*75,000*			*75,000*		
	BHS Busing - Local Receipts	*75,000*			75,000		
	School Department Portion	*3,644,085*	*3,399,413*	*3,634,633*	*10,678,131*		
Town/School Partnership Revenue		*3,794,085*	*3,399,413*	*3,634,633*	*10,828,131*		
Non Property Tax Revenue				*2,057,619*	2,057,619	2,057,619	
School Revenue Offsett		*(1,236,295)*	*21,507*	*22,152*	(1,192,636)		
Totals		*6,197,076*	*6,760,425*	*6,103,967*	*19,061,468*		

*COMPANION DOCUMENT: http://www.brooklinema.gov/DocumentCenter/View/13851

Included below are School Department financial projections for FY 2019 – FY 2021 operating funds as of April 23, 2018. The $1,831,182 decrease in revenue from this financial projection along with the anticipated 27% growth in out-of-district tuition expenses are the drivers of the current budget deficit. The resources needed to fulfill our promise to every student as well as all the commitments made in the 2018 and prior year operating overrides were projected as follows.

FY 2019 – FY 2021 School Department Budget Projections as of 4/23/2018

The FY 2019 – FY 2021 School Department preliminary financial projection is provided in a summary format. The purpose of this projection is to provide a baseline expenditure rate of the school district for what is currently being provided. The projection does not include

- The cost of adding new school buildings (such as the 9th Elementary School) or their operating costs,
- New initiatives,
- Employee benefit rate plan increases, or
- Technology expansion.

SC Balanced Budget with Override Revenue

Line #		FY 19-FY 21 Override Budget FY 19	FY 20	FY 21
1	Base Level Revenue Available (base level; Tax Levy, Local Reciepts, other Town revenue before additional funds from override and other fees/s)	$3,719,085	$3,399,413	$3,634,633
2	New Revenue (additional funds projected by SB based on override and other fees/sources)	$2,421,912	$3,382,930	$2,570,290
3	*Revenue Offsets (Circuit Breaker Reimbursement and Materials Fee)*	$(1,236,295)	$21,507	$22,152
Total Base without Mandates or Maintenance of Effort		**$2,569,030**	**$4,595,120**	**$4,761,889**
Total Enrollment Growth		**$1,630,006**	**$1,511,446**	**$1,428,204**
Subtotal Critical New Investments		**$705,666**	**$ 697,284**	**$36,983**
56	**Total New Investments to Operating Budget**	**$4,904,702**	**$6,803,850**	**$6,227,075**
58	**Total Budget Request**	**$113,793,421**	**$120,597,270**	**$126,824,346**

Economic Assumptions in the FY2020 budget

The FY2020 budget assumes a continuation of FY2019 programs and services, with limited enrollment expansion to adjust for teachers and educational leaders for Brookline High School as outlined in the 2018 override.

Salaries

Cost of Living Adjustments (COLA 2%): The 2018 Override assumed that all contracts and collective bargaining agreements will not collectively exceed a 2% COLA per year increase for FY2019-FY2021. This assumption has been included as an overarching 2% applied to the base of the total salary budget of the prior year. COLA adjustments are included in each of the years and compounded once from year to year. The School Committee has settled the AFSCME Custodial bargaining unit contract and is currently bargaining the AFSCME - Food Service agreement. The School Committee will begin bargaining for the FY 2019 - FY 2021 AFSCME - BESA agreement shortly. Currently the School Committee has proposed meeting dates to the Brookline Educators Union to begin negotiations for the FY2020 – FY2022 contracts and is awaiting a response.

Steps and Lanes (3%): The 2018 Override assumed salary increases of 3% per year for FY2019-FY2021 across all contracts and collective bargaining agreements for Steps and Lanes. This has been included as an overarching 3% applied to the base of the total salary budget of the prior year.

Step Changes: A one-year analysis has been completed using the 1st Quarter FY2019 Financial Projection of the current employees and the step increases they will receive in FY 2020. We do not yet have complete multi-year trend data to determine if the three variables that impact this percentage increase are historically accurate. The three variables are the step at hiring of new employees on the salary table, the turnover of retirees and new hires, and the number of FTEs at top step.

Lane Changes: Teachers are required to renew their teaching licenses every five years with the Department of Elementary and Secondary Education. A byproduct of the renewal process is often additional college coursework and credits that can result in a teacher being eligible for what is termed a "Lane change." A Lane change occurs when an educator moves from one-degree Lane/grade to another. For example, it is not uncommon for new teachers to move from a Bachelor's Lane/Grade to a Masters Lane/Grade that maintains their same step level within a year or two years of employment. The amount used is an average $10,000 cost impact for a Lane change and 25 teachers per year requesting an adjustment. The total increase due to Lane changes is included in the 3% for steps and lanes.

As projected in the 2018 three-year override budget, the average combined increase for steps and lanes being used across the pool of all employees is 3%. Due to the variance by bargaining unit, and the variance of the steps within each grade and step table, the analysis uses a number that is rounded up to the next whole percentage. Note that no step increases are provided for in our Administration and non-aligned employee groups where steps do not already exist. Any pay adjustments for non-aligned employees must be funded through the operating budget request process and or by School Committee adjusting the salary range for these positions. The Superintendent has discretion to designate compensation within the School Committee voted range for these employees. In addition $148,947 is held in reserve above these totals specifically for paraprofessional bargaining.

Turnover/Resignations/Retirement Savings: Every year there are 70-100 employees who make decisions to leave the district for reasons that include retirement, promotion, geographic relocation, or other life changes. It is important to acknowledge that many times these employee departures generate savings due to hiring people at a lower rate than their experienced predecessor. Therefore, an amount is deducted from the projection as well as from the general operating budget request annually. The FY 2020 assumption is $800,000 for all bargaining units. In FY2019 the assumption used was $800,000, and in FY 2017 and FY2018 an assumption of $1,000,000 was used. This higher level proved unsustainable after two years.

Enrollment Driven Personnel Increases: The district has the working assumption that additional employees will be added to the district each budget cycle as enrollment increases. The assumption is that the average cost of each new FTE is a Unit A Teacher hired at an average of Masters, Step 5, including the cost of benefits. Enrollment driven increases include classroom positions, increases in student services (such as nursing, guidance, English learner educators), and educational leaders required to meet enrollment driven needs.

Expenses

CPI (2 %): Using the New England Consumer Price Index Card for a general sense of where the economy for supplies and materials, an average of 2% was used. The actual CPI is closer to 1.7%. No other expense projections include additional COLA or CPI to prevent compounding.

Program Review: The district is facing updates and upgrades to its curriculum over the next few years. The Mathematics Program Review began in FY19. The $371,880 in the FY 20 Override Request acknowledges that the district will need to permanently fund curriculum adoptions as the Curriculum/Program Reviews are completed. As Math Program Review progresses, other Program Reviews will begin on a rolling basis thereby requiring expenditures to fund curriculum updates and professional development support for teachers to prepare them for implementing new curriculum.

Enrollment ($200 per student increment for net growth of 200 students per year, no COLA adjustment): Generally, as a net number of students arrive into the district we can accommodate their supply and material needs. However, there is occasionally a tipping point at which an impact is felt and supply budgets need to be increased permanently. The district does not yet budget on a per pupil basis for supplies and materials so an average of $200 per student is being used based on prior experience.

Special Education/504/Accommodations: The estimate provided is above and beyond the general education needs. Occasionally, additional equipment is needed and required in order for students to access the education that is not available in the regular classrooms.

Out of District Tuitions: The Town is responsible for the out of district tuition expenses for Special Education, Charter, School Choice, Vocational, and Agricultural schools. We most commonly budget for Special Education Tuition. However, the Cherry Sheet deducts the cost of Charter and School Choice students along with wards of the state that are in hospital schools. The $300,000 is included to assume an approximate 5% increase in the total tuition assessments to the Town for all types of non-Public School of Brookline costs.

2018 Operating Override Three year Projection Detail as of 4/23/2018

2018 Override	FY 19-FY 21 Override Budget		
	FY 19	FY 20	FY 21
Revenue			
Base Level Revenue Available (base level; Tax Levy, Local Receipts, other Town revenue before additional funds from override and other fees/s)	$3,719,085	$3,399,413	$ 3,634,633
New Revenue (additional funds projected by SB based on override and other fees/sources)	$2,421,912	$3,382,930	$2,570,290
Revenue Offsets (Circuit Breaker Reimbursement and Materials Fee)	$(1,236,295)	$21,507	$22,152
Net New Revenue	**$4,904,702**	**$6,803,850**	**$6,227,075**

Preliminary Base Budget Request (maintenance of effort)			
Personnel			
Collective Bargaining Agreements/Projections (2% COLA)	$4,392,074	$1,973,763	$2,013,238
Collective Bargaining Agreements/Projections (3% Steps)		$ 2,828,882	$2,913,749
Turnover Savings (Retirement/Resignation/Termination)	$(800,000)	$ (675,000)	$ (675,000)
Reclassification of Finance Staff (3 vacancies - Admin Asst, Financial Analyst - Payroll Mgr, Financial Analyst - Budget)	$(53,171)		
Coolidge Corner School Opening: Reduction and redistribution due to 2 buildings being open rather than one	$(68,000)		
Professional Development - Substitute Days - Modified the scheduling of Early Release Days	$(100,000)		
OverMax Aides	$133,400		
Eliminate Planning and Communications Specialist	$(62,424)		
Eliminate START	$(177,268)		
Eliminate Admin Asst (Student Services)	$(40,000)		
Expenses			
Benefits Reserve is initially set to $0 and reflects in both budgets the net savings/reserve for FTE reductions and additions	$(37,892)	$ 167,475	$209,902
Literacy Collaborative PD Funds -- brought fully in-house	$(77,000)		
Building Services Expenses	$(18,690)		
Tuition Budget Reduction (Students Aging Out and/or returning to the district)	$(522,000)	$300,000	$300,000
Total Base without Mandates or Maintenance of Effort	**$2,569,030**	**$4,595,120**	**$4,761,889**
Enrollment Growth			
Personnel			
Classroom Staff (FY19 = 10, FY20 = 10, FY21= 15, FY22 = 17,	$680,000	$693,600	$1,061,208

2018 Override	FY 19-FY 21 Override Budget		
	FY 19	FY 20	FY 21
FY 23 = 5) = Avg 21 students			
Nurse, Guidance, ELL/Other (3 Unit A per each year - avg $68k + COLA) - Sustains Ratios	$204,000	$208,080	$212,242
Maintain Educational Leader Ratio of 250:1 (Non-override: Lawrence VP, BHS Assoc Dean. Override Budget adds: FY 20 1.0 Assoc Head Master and FY 21 0.8 BHS Assoc Dean due to enrollment increases)	$240,000	$ 120,000	$96,000
Defund Lesley University Intern Program	$(85,380)		
BESA and Custodian for BHS Expansion	$60,000	$ 60,000	
Expenses			
Transportation (Mandated In-District Special Education and Contract Increases)	$234,826	$ 3,522	$ 3,575
Transportation (Regular Ed Contract Increase)	$53,560	$54,363	$ 55,179
Financial Assistance Policy (9% of students x $250 avg)	$175,000		
Program Review Materials (Supplies and Materials Adoptions for Math and subsequent subjects) Review FY18-19; Adoption FY20.		$371,880	
504 Services and Supports (non-special education)	$68,000		
Total Enrollment Growth	**$ 1,630,006**	**$1,511,446**	**$1,428,204**
Subtotal New Revenue Needed for Maintenance of Effort Only	**$4,199,036**	**$6,106,566**	**$6,190,092**
Maintenance of Effort - Balance/(Deficit)	**$705,666**	**$ 697,284**	**$ 36,983**

Strategic New Investments			
Personnel			
Professional Development: Override Budget Sr Dir Equity and embedded PD for Unit A	$130,000	$280,000	
Restorative Justice (funds to support professional development)	$65,000		
BHS Transportation - Fee based offset plus admin support (Overtime net of fees)	$15,000		
Expenses			
AntiDefamation League Middle School	$20,000		
BHS Transportation - Implementation of Fee Based Bussing for South Brookline	$117,200		
Supplies and Materials - Original $621k would remove supply lists sent home and expand with enrollment ($50-$135 range per pupil, by grade level); the $89k remaining minimally addresses enrollment and price increases of supplies already provided by PSB	$24,270	$28,337	$36,983
Response to Intervention Programs and Practices (General Education)	$100,000		

2018 Override	FY 19-FY 21 Override Budget		
	FY 19	FY 20	FY 21
NEASC – BHS		$40,000	
Pending Contract Negotiations: Additional funds for paraprofessional wages (full amount requested = $529k; amount funded by SB = $0; amount reserved by SC is $148k)		$148,947	
Public Buildings Division (Original Request $625k, Opening Coolidge Corner School FY 2019/BHS FY 2021/Opening 9th School FY 2022; No override $75k annually minimally meets inflation plus $24,196 Town/School Partnership Correction. The Override does not address BHS opening, but begins to address maintenance needs)	$234,196	$ 200,000	
Subtotal Strategic New Investments	$705,666	$697,284	$36,983

Total New Investments to Operating Budget	$4,904,702	$6,803,850	$6,227,075
Total New Revenue Needed for Maintenance of Effort and New Investments	$ 0	$ 0	$ 0
	(Over)/Under Avail Rev.		
Total Budget Request	$113,793,421	$120,597,270	$126,824,346

Section III – Summary of Expenses

The proposed FY 2020 budget is designed to continue the commitments to taxpayers made during the 2018 and prior overrides. As recently as the 2018 Override, the School Committee presented the Town with an override request $2 million over what was approved and funded. FY 18 closed with a $475,000 deficit that was balanced using Chapter 70 funds, the Benefit Reserve Account and Special Education Tuition Account that was partially backfilled by Circuit Breaker claim funds over projection from the FY 19 budget. All of which indicate that the district can no longer carry the structural deficit problem by managing the deficit through attrition and unexpended expense lines. While both the 2018 and 2015 operating budget overrides began to address the enrollment challenges and set our schools on a path towards greater stability, improved services, and better support for all of our students, there is still a funding gap.

Program	Exp.	FY18 ACTUAL FTE	FY18 ACTUAL EXP.	FY19 Budget ATM FTE	FY19 Budget ATM EXP.	FY20 BUDGET PRELIMINARY FTE	FY20 BUDGET PRELIMINARY EXP.	FY20 PRELIM Bud - FY19 Bud Variance FTE	FY20 PRELIM Bud - FY19 Bud Variance EXP.
Gross School Dept. Budget	Personnel	1,240.49	$94,622,356	1,276.72	$ 98,478,447	1,299.10	$ 104,014,289	22.38	$ 5,535,841
Expenditures	Services		$9,741,902		$ 10,542,721		$ 11,699,864		$ 1,157,142
	Supplies		$1,922,502		$ 2,051,297		$ 1,833,497		$ (217,800)
	Other		$393,018		$ 1,288,570		$ 1,102,213		$ (186,357)
	Capital		$1,140,010		$ 1,364,725		$ 1,191,685		$ (173,038)
	Total		$ 108,018,889		$ 113,725,760		$ 119,841,548	5.38%	$ 6,115,788

The FY 2020 budget expenditures focus on three primary areas designed to maintain the increased staffing and improved support services provided since 2015 as well as implement the limited number of strategic investments from the 2018 override in our work to address equity throughout the system.

1. **Maintaining current staffing levels and fulfilling our contractual obligations** - As with all school systems, the majority of PSB's budget pays for teachers and other school-based personnel. Approximately 86% of the FY2020 budget is personnel expense. 67% of the FY2020 budget increase pays for the contractually obligated costs of maintaining our existing staff including cost of living adjustments (2%) and step and lane advancements (3%).
2. **Responding to our ongoing enrollment growth** - As detailed in the budget overview, Brookline's historic enrollment growth that has been affecting the K-8 elementary schools since 2005 is now impacting the high school. To keep pace with this ongoing growth the FY 2020 budget requests limited increases in staff at Brookline High School and student service support.
3. **Implementing 2018 override's limited number of strategic investments** – Despite significant fiscal challenges, the FY2020 budget maintains the strategic investments approved by voters in 2018.

As our projected operating deficits continue to exist in the upcoming years, the senior management team, principals, and other budget managers will continue work on scheduling, staffing, hiring and programming to find improvements that maintain quality while curtailing expenditures. Our ongoing efforts to find efficiencies and to retool and revamp programs will necessarily result in further reallocation and realignment. PSB's primary mission is to be in service to students, and we need to fulfill that mission within the reasonable financial limits set by our community.

Personnel

In the FY 2020 budget, all salary line items reflect each employee budgeted at their appropriate step and lane.

Exp.	FY18 ACTUAL FTE	FY18 ACTUAL EXP.	FY19 Budget ATM FTE	FY19 Budget ATM EXP.	FY20 BUDGET PRELIMINARY FTE	FY20 BUDGET PRELIMINARY EXP.	FY20 PRELIM Bud - FY19 Bud Variance FTE	FY20 PRELIM Bud - FY19 Bud Variance EXP.
Personnel	1,240.49	$94,622,356	1,276.72	$ 98,478,447	1,299.10	$ 104,014,289	22.38	$ 5,535,841

The FY20 personnel increases include:

- 11 override FTE
- 4.5 FTE moved from Athletic revolving fund to general fund
- 1.5 FTE of general education BEEP personnel funded in the general instead of a transfer of funds to the revolving fund
- Funding a previously unfunded vice-principal FTE
- Additions made during FY19 include:
    - 4 unallocated special education FTE
    - Fractional increases of paraprofessional FTE

Contract Negotiations

The FY 2020 budget requests contain funding to address future Collective Bargaining Negotiations for three BEU contracts and the three AFSCME units. Included in the proposed budget is funding to support the anticipated salary movement for step and level advancement of all school employees.

Starting in FY19 the district budgeted for standardized work schedules for a portion of the paraprofessional group to have a seven hour day with a 30 minute unpaid lunch. This extension of the paraprofessional day allows schools to better support students, better operationalize building arrival/dismissal, efficiently provide services, and allow for collaboration and training time with administrators, teachers, and staff.

Other Personnel Account Changes

The FY 2020 budget uses a practice of applying a salary differential, attrition, or turnover savings to reduce the total cost of personnel funding. The practice estimates a savings due to employee turnover (resignation, retirement, termination, or reduction in force). The offset used this year is $800,000. The budget experiences an estimated turnover saving of approximately $600,000 for BEU Unit A, and $100,000 for BEU Paraprofessionals, and $100,000 for Unit B, AFSCME and Unaligned.

Personnel by Category

Personnel costs (exclusive of benefits) make up 86% of the school budget. The table below provides a summary of bargaining unit, FTE Total, and Budget Request total ($). The School Committee reserves funds for a portion of new FTEs requested to be transferred at the November Special Town Meeting to the Town's Unclassified Account for Health Insurance as part of the Special Town Meeting appropriation process.

	General		Grant		Revolving		Total Sum of FTE	Total Sum of FY20 SALARY
Row Labels	Sum of FTE	Sum of FY20 SALARY	Sum of FTE	Sum of FY20 SALARY	Sum of FTE	Sum of FY20 SALARY		
AFSCME CUSTODIANS	41.38	$ 2,630,979			4.00	$ 229,717	45.38	$ 2,860,696
AFSCME FOOD SERVICE					33.59	$ 939,816	33.59	$ 939,816
BEU - BESA	40.50	$ 2,327,109	3.00	$ 172,409	7.77	$ 478,439	51.27	$ 2,977,957
BEU - PARAPROFESSIONALS	259.68	$ 8,631,151	43.04	$ 1,404,303	24.28	$ 813,528	327.01	$ 10,848,981
BEU - UNIT A	863.85	$ 77,864,869	14.15	$ 1,354,308	18.35	$ 1,654,390	896.35	$ 80,873,567
BEU - UNIT A ATHLETIC STIPEND	0.00	$ 459,766				$ 35,000	0.00	$ 494,766
BEU - UNIT B	41.00	$ 5,009,982	1.20	$ 137,488	2.80	$ 202,779	45.00	$ 5,350,249
NON - ALIGNED	52.40	$ 5,630,386	9.53	$ 302,735	6.70	$ 474,461	68.63	$ 6,407,582
NU INTERN		$ 107,505						$ 107,505
STIPEND		$ 1,172,764		$ 25,150				$ 1,197,914
SUBSTITUTE		$ 917,895						$ 917,895
TOWN	1.00	$ 61,884					1.00	$ 61,884
SALARY SAVINGS		$ (800,000)						$ (800,000)
Grand Total	1299.81	$ 104,014,289	70.92	$ 3,396,392	97.49	$ 4,828,129	1468.23	$ 112,238,810

Categorization of Positions and Work Year

The School Department often receives questions about the number of staff. We only show staff in full-time equivalencies (FTE). Positions that utilize head counts, for example are Unit A- Stipends and Unit A- Coaches. Both of these budget lines do not display FTEs but a dollar amount based on head count filled. These positions are additional pay amounts for a specific function for a specific period of time and not benefits eligible. The School Department has traditionally presented their Full-time Equivalency (FTE) summary by bargaining unit. However, this format does not allow the reader to know the basis of work year of 1.0 FTE. Table A, below, is presented in the "Line Number" and "Roll up" order for each category presented in the budget and displays the basis for a 1.0 FTE.

1.0 Full-time Equivalency (FTE)

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
BEU	Unit A – Teachers	• **High School:** 6.833 Continuous hours (7:25 pm – 3 pm) per day	183 days • New teachers + 3 Orientation days

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
		• **K- 8**: 6.33 Continuous hours (7:30 am–3 pm) per day	• Prof Dev + 1 as notified by Supt.
	Unit A – Librarians	**K- 12**: 7.583 Continuous hours (7:45 am–4 pm) per day	Same as Above
	Unit A – Library Assistants	**K- 12**: 8 Continuous hours (7:45 am–4 pm) per day including 30 minute duty free lunch	Same as Above
	School Adjustment Counselors/Social Workers	**K- 12**: Shall maintain office hours from 8 am–4 pm per day	
	Pre-School and Pre-Kindergarten Teacher	**PreK**: 5.383 hours from 7:30am–2 pm or 11:00 am -5:30 pm per day, 4 ¼ hours are student contact time. **PreSchool**: 4.216 hours from 7:30am–1 pm or 11:30 am -5pm per day, 3 ¼ hours are student contact time.	
	Unit A – Occupational Therapists and Physical Therapists	6.833 Continuous hours (7:25 pm – 4 pm) per day Including 30 minute duty free lunch	
	Unit A – Lab Specialist	**K- 12**: 8 Continuous hours (7:30 am–4 pm) per day including 30 minute duty free lunch	191 days
	Unit A – Guidance Counselors	**K- 12**: Shall maintain office hours from 8 am–4 pm per day	183 + 8 additional compensatory days
	Unit A – Nurses	• 6.833 Continuous hours (7:25 pm – 3 pm) per day with 30 minute lunch break (on call for emergency)	183 + 6 additional compensatory days
	Unit A – Education Team Facilitators		183 + 8 additional compensatory days
	Unit A Stipends	No set work day or week in hours	Club/Organization
	Unit A – Athletic Stipends	No set work day or week	Season/Sport

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
		in hours	
	Unit B - Coordinators	7 Hours per day	
	Vice Principals Curriculum Coordinators		195 Days
	Supervisors Director of Career and College Counseling		194 Days
	Director of Educational Technology and Libraries; ELL Coordinator; Dir Steps to Success;		210 days
	Director of Athletics		209 Days
	Director of Special Education		208 Days
	METCO Director		203 Days
	Coordinator of Student Health Services; Program Coordinators (School Within a School, Early Childhood Program Coordinator, Opportunity for Change (ACE), Winthrop House, and Program Coordinator of Special Instruction)		190 Days
	Paraprofessionals	37.5 Hours per week, 7.5 hour day, plus 30 minute unpaid meal break per day	12 month 260 days
	Aides and Tutors, except as listed in other schedules, Home/Community Liaison, Tappan Security Monitor	7 hours per day plus 30 minute unpaid meal break per day	183 days Year 1; 189 days thereafter
	High School Parent Liaison, Attendance Officer, Performing Arts Production Aide, ELL Aide (formerly ESL/Bilingual Aide), Counselor for Teen Advantage	7 hours per day plus 30 minute unpaid meal break per day	183 days Year 1; 189 days thereafter
	Security Aide, Graphic Arts Publishing Coordinator	7 hours per day plus 30 minute unpaid meal break per day	183 days Year
	Athletic Aide, Building Aide, Science Resource Aide		188 days or 194 Days
	Early Childhood Extended Day Instructor, Handicap		183 days Year 1; 189 days thereafter

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
	Coordinator		
	Food Service Assistant		183 days Year 1; 189 days thereafter
	Educational Technology Support Specialist, Application Support Specialist, Steps to Success Program Advisor, Special Education Budget Analyst	37.5 Hours per week plus 30 minute unpaid meal break per day	12 Month 260 Days
	Senior Application Support Specialist Webmaster Teen Advantage Coordinator	37.5 Hours per week plus 30 minute unpaid meal break per day	12 Month 260 Days
	METCO Bus Monitor	4 hours per day	187 Days
	Parent Outreach Coordinator, Medication Coordinator, Assistant to the Athletic Director	7.5 hour day, plus 30 minute unpaid meal break per day	201 Days
	System Substitute, System Nurse Substitute		AS NEEDED
	Steps to Success Assistant Program Leader		
AFSME	Custodians	40 hours per week, 8 Hours per day, exclusive of meal time,	260 days
	Brookline Educational Secretaries Association	37.5 Hours per week, 7.5 hour day, exclusive of 30 minute unpaid meal break per day	52 weeks exclusive of vacation or other leave; School-year positions shall consist of 45 weeks or 47 weeks, inclusive of school vacation weeks or other leave. The 45-week or 47 week period will be as determined by the Superintendent of Schools or his/her designee.
	Food Service		
Non-Aligned	Central Administrators	40 hours per week, 8 Hours per day, exclusive of meal time,	260 days
	Directors/Deans	37.5 Hours per week, 7.5 hour day, exclusive of 30 minute unpaid meal break per day	260 days
	Non-Supervisory	37.5 Hours per week, 7.5 hour day, exclusive of 30	260 days

Group/ BU	Description	1.0 FTE Based in Work Week/Day in hours	Work Year (Days or Months)
		minute unpaid meal break per day	
	Stipends		
	Hourly/Daily		180 days to 260 days

Annually staffing changes occur for the following reasons:

1) Enrollment Shifts – Spring
   a) Each year the superintendent includes unallocated teaching positions in anticipation of enrollment shifts and changes as forecasted by the Enrollment Report.
   b) Once enrollment of kindergarten and secondary course selections take place in May, positions are allocated to each Principal to address enrollment needs that arise after the budget is approved.
   c) At the secondary level, Principals may need to reallocate staff within their buildings to address student course selection and class size. This means that the FTEs for all subject areas are modified from one year to the next.
2) Enrollment Shifts –Summer
   a) The school department will continue to experience enrollment shifts and changes due to students who move after school ends in June. Therefore, additional staff over the budget allocation may be added. Generally, the staff added are a result of Individual Education Plans (IEP), English Language learners (ELL), and Kindergarten students, or if the unallocated teacher positions were not adequate.
   b) Each program may reallocate, move, change, and reclassify existing FTE's to adjust for changing program needs or requirements. These FTEs are highlighted under each bargaining unit.
3) Enrollment Shifts – Future School years
   a) Each program may reallocate, move, change, and reclassify existing FTEs to adjust for changing program needs or requirements. These FTEs are highlighted under each bargaining unit.
   b) Each year due to projected enrollment or enrollment for each fun type changed that occur during the year, additional staff may be requested during the next budget cycle.
4) Reclassification of positions: Periodically positions may be reclassified. Reclassification can consist of
   a) Promotion or demotion of a position within an employee unit;
   b) Transfer from one bargaining unit to another; or
   c) Title change.

Personnel Detail Summary by Category/Line

Brookline Educators Union

Unit A – BEU Teachers: Unit A members are licensed teachers, department heads, and

coordinators. They work 183 days and have a salary table recognizing their level of education from bachelors to PhD and the number of years teaching.

Unit A - Stipends: Within the BEU contracts there are stipend positions for various academic, administrative, or extracurricular activities. These positions generally reflect work and activities that are completed outside of the traditional school day

Unit A – Athletic Coaches: Within the Unit A – BEU contract there are stipend positions for interscholastic athletic personnel. These positions generally reflect work and activities that are completed outside of the traditional school day with School Committee recognized sports teams.

BEU –Unit B - Assistant Principal/Supervisors: Reflects the number of administrators without teaching responsibilities who are part of the Association of Brookline Administrators bargaining contract.

BEU - Paraprofessionals: Members of this bargaining unit provide classroom support and instruction to students. The majority of students served are special education students or students identified in sub separate populations.

American Federation of State, County and Municipal Employees (AFSCME) Employee Groups
AFSCME – Custodians = Line No. 6: Formerly assigned to Facilities employees.

AFSCME - BESA (Brookline Educational Secretaries Association): BESA provides the administrative support function. The positions in this unit are both 12-month and 10-month positions and also both full-time and part-time. While most positions are on a full-time basis of 37.5 hours per week, there are a number at 40 hours per week.

Non-Aligned/Contract Employee Groups
Central Administrators: This categorization includes Superintendent, Deputy Superintendents, and Directors working under the Superintendent who have individual employment contracts and are not in a functional area of any other classification of employee.

Principal: Contains all building principals.

IND CONTR Salary: This category of employees includes non-represented salaried executive administrative assistants, confidential employees, managers/administrators, and other non-union central office employees.

No Benefit - Non-Union Hourly Employees: This group consists of FTEs associated with non-represented hourly employees. Home/Hospital, 504, translator, and extended year services are budgeted at a flat dollar amount.

Substitutes: There are no FTEs budgeted under substitutes. However, the budget for substitutes is now

no longer split into two categories, Payroll and Contracted Services. The district budgets a lump sum for these services. The Personal Services for Substitutes cover the estimated cost of the following short-term employees:

1. Long-Term Teacher Substitutes, who are individuals who are hired for ten or more continuous days to cover a classroom for a teacher who is on a short-term leave of absence.
2. Nurse Substitutes: All of our school nurses are provided by contract sick days, personal days and professional development opportunities. If the building nurse should leave the building for a planned period, the district must have a nurse on site to respond to student emergencies.
3. Instructional Assistant Substitutes: This amount is budgeted to cover the cost of instructional assistants that may be needed on a daily basis.
4. Secretary Substitutes: a secretary substitute is hired if an administrative assistant will be absent for an extended period of time.

Salary Savings: While no FTE is assigned to salary differential, the budget includes ($800,000) as a budget offset.

FY 2020 Expenses

Exp.	FY18 ACTUAL FTE	FY18 ACTUAL EXP.	FY19 Budget ATM FTE	FY19 Budget ATM EXP.	FY20 BUDGET PRELIMINARY FTE	FY20 BUDGET PRELIMINARY EXP.	FY20 PRELIM Bud - FY19 Bud Variance FTE	FY20 PRELIM Bud - FY19 Bud Variance EXP.
Services		$9,741,002		$ 10,542,721		$ 11,699,864		$ 1,157,142
Supplies		$1,922,502		$ 2,051,297		$ 1,833,497		$ (217,800)
Other		$593,018		$ 1,288,570		$ 1,102,213		$ (186,357)
Capital		$1,140,010		$ 1,364,723		$ 1,191,685		$ (173,038)

Transfer and Reduction of Line Items

In prior years, the School Department utilized a variety of reserve and contingency accounts to support critical program priorities in light of uncertain and unpredictable changes in enrollment, special education, and unanticipated expenditures. School Committee repeatedly expressed its concern that due to the overall tightness of the budget, there is less ability to absorb unforeseen events as in prior years. School Department is managing this tightness with greater accuracy in budgeting and reporting.

The budget also continues to include the net transfers of establishing accurate and correct budgeting for the Office of Teaching and Learning and Office of Student Services program areas to show budget and expenditure by school as required by the Department of Elementary and Secondary Education End of Year Financial Reporting. This includes moving the Out of District Tuition expense to their own line items based upon End of Year Reporting guidelines, rather than charges being commingled, as well as a separation of legal expenses and funding that account to better reflect historical experience.

Explanations of line item changes and reductions are provided in the program budget detail.

Benefit Reserve

We anticipate that the additional new positions will result in 15 additional health insurance subscribers. The average cost of benefits used for new staff is approximately **$11,150** per adjusted FTE. Actual benefit impact will be reconciled as part of the ongoing budget deliberations. The final listing of staff being added to the FY 2020 budget will be adjusted as efficiencies and tradeoffs are made internally by the Superintendent.

Highlights in the FY 2020 Override Budget

The FY 2020 override budget provides funds to continue advancing important educational practices and needed resources and staffing as follows in the three priority areas:

1. **Maintaining current staffing levels, fulfilling our contractual obligations, and cost efficiencies and reductions**
2. **Addressing enrollment growth**
3. **Investing in a Limited Number of Strategic Priorities**

	FY 19-FY 20 Override Budget Update		
	FY 20 Override Budget	**FY20 Modification**	**FY20 Change**
Revenue			
Base Level Revenue Available (base level; Tax Levy, Local Receipts, other Town revenue before additional funds from override and other fees/s)	$3,199,413	$ 3,556,451	$357,038
Public Building Division portion of Revenue	$ 200,000		$(200,000)
New Revenue (additional funds projected by SB based on override and other fees/sources)	$3,382,930	$ 3,139,505	$(243,425)
Revenue Offsets (Circuit Breaker Reimbursement and Materials Fee)	$ 21,507	$ (406,744)	$(428,251)
Net New Revenue	**$6,803,850**	**$ 6,289,212**	**$(514,638)**
Public Building Division portion of Revenue			
Operating Budget Adjustment: Establishment of Transportation Revolving Fund			
Total Adjusted Revenue	**$6,803,850**	**$ 6,289,212**	**$(514,638)**

Preliminary Base Budget Request (maintenance of effort)
Personnel

	FY 19-FY 20 Override Budget Update		
	FY 20 Override Budget	**FY20 Modification**	**FY20 Change**
Collective Bargaining Agreements/Projections (2% COLA)	$1,973,763	$4,472,719	$(329,926) Turnover savings
Collective Bargaining Agreements/Projections (3% Steps)	$2,828,882		
Turnover Savings (Retirement/Resignation/Termination)	$ (675,000)	$ (800,000)	$(125,000)
Personnel Adjustment		$ (129,325)	
Expenses			
Benefits Reserve is initially set to $0 and reflects in both budgets the net savings/reserve for FTE reductions and additions	$ 167,475	$ -	$ (167,475)
Literacy Collaborative PD Funds -- brought fully in-house			
Building Services Expenses			
Tuition Budget Reduction (Students Aging Out and/or returning to the district)	$ 300,000	$ 1,126,087	$826,087
Legal Services	$ -	$11,389	$11,389
Total Base without Mandates or Maintenance of Effort	**$4,595,120**	**$4,748,870**	**$153,750**

Enrollment Growth			
Personnel			
Classroom Staff (FY19 = 10, FY20 = 10, FY21= 15, FY22 = 17, FY 23 = 5) = Avg 21 students	$ 693,600	$ 551,113	$ (142,487)
Nurse, Guidance, ELL/Other (3 Unit A per each year - avg $68k + COLA) - Sustains Ratios	$ 208,080	$ 216,345	$ 8,265
Maintain Educational Leader Ratio of 250:1 (Non-override: Lawrence VP, BHS Assoc Dean. Override Budget adds: FY 20 1.0 Assoc Head Master and FY 21 0.8 BHS Assoc Dean due to enrollment increases)	$ 120,000	$ 120,000	$ -
BESA and Custodian for BHS Expansion	$ 60,000	$ 48,715	$ (11,285)
Expenses			
Transportation (Mandated In-District Special Education and Contract Increases)	$ 3,522	$ 62,829	$ 59,307
Transportation (Regular Ed Contract Increase)	$ 54,363	$ (55,363)	$ (109,726)
Program Review Materials (Supplies and Materials Adoptions for Math and subsequent subjects) Review FY18-19; Adoption FY20.	$ 371,880	$ 371,880	$ -

	FY 19-FY 20 Override Budget Update		
	FY 20 Override Budget	FY20 Modification	FY20 Change
Total Enrollment Growth	**$ 1,511,445**	**$ 1,315,519**	**$ (195,926)**
Subtotal New Revenue Needed for Maintenance of Effort Only	**$ 6,106,565**	**$ 6,064,389**	**$ (42,176)**
Maintenance of Effort - Balance/(Deficit)	**$ 697,285**	**$ 224,823**	**$ (472,462)**

Strategic New Investments			
Personnel			
Professional Development: Override Budget Sr Dir Equity and embedded PD for Unit A	$ 280,000	$ 200,000	$ (80,000)
Athletics Staffing Moved from Revolving Fund		$ 416,346	$ 416,346
Expenses			
BHS Transportation - Implementation of Fee Based Bussing for South Brookline		$ (8,600)	$ (8,600)
Supplies and Materials - Original $621k would remove supply lists sent home and expand with enrollment ($50-$135 range per pupil, by grade level); the $89k remaining minimally addresses enrollment and price increases of supplies already provided by PSB	$ 28,337	$ (271,663) Base Budget Reduction	$(300,000)
Other Expenses – Conferences, Dues, Travel, Etc.	$ -	$ (260,207) Base Budget Reduction	$ (260,207)
NEASC - BHS	$ 40,000	$ 0	$ (40,000)
Pending Contract Negotiations: Additional funds for paraprofessional wages (full amount requested = $529k; amount funded by SB = $0; amount reserved by SC is $148k)	$ 148,947	$ 148,947	$ -
Public Buildings Division (Original Request $625k, Opening Coolidge Corner School FY 2019/BHS FY 2021/Opening 9th School FY 2022; No override $75k annually minimally meets inflation plus $24,196 Town/School Partnership Correction. The Override does not address BHS opening, but begins to address maintenance needs)	$ 200,000	Removed to Public Building Division	$ (200,000)
Total Strategic New Investments	**$ 697,284**	**$ 224,823**	**$ (472,461)**

Total New Investments to Operating Budget	**$ 6,803,849**	**$ 6,289,212**	**$ (514,637)**
Total New Revenue Needed for Maintenance of Effort and New Investments	$ 1	$ 0	$ (1)
	(Over)/Under Avail Rev.		
Total Budget Request	$ 120,597,270	$ 119,841,548	$ (755,722)

	FY 19-FY 20 Override Budget Update		
	FY 20 Override Budget	**FY20 Modification**	**FY20 Change**
Reconciling Items	$ -	$ -	$ -
Published Budget	$ 120,597,270	$ 119,841,548	$ (755,722)
Budget (Deficit)/Balance	$ 1	$ -	$ (1)
Offsets	$ (2,915,588)	$ (2,487,337)	$ 428,251
Town Appropriation	$ 117,681,683	$ 117,354,211	$ (327,472)

Section IV – Summary of Budget Revenues

While Section I of this overview details the major drivers and priorities of the entire budget, this section summarizes the most significant year-to-year changes in revenues. Full detail of expenditures can be found in the Program Budget Detail section.

1. Town/School Partnership Revenue: **Estimated ($327,472)**
    a. Forecast adjustments to FY 20 from original projection (Fall 2017) are the result of the Town developing their budget and adjusting for fluctuations in the following areas:
        i. New Growth Estimates were reduced over the time period between the original projection and the Town/School Partnership for FY 20 and FY 21. Both fiscal years were negatively impacted by the reduction of New Growth. FY 21 will have a similar revenue reduction as seen in the adjustment for FY 20.
        ii. Pensions, Workers Compensation, and Medicare: The reconciliation of known retirees, workers compensation, and Medicare costs resulted in a revenue decrease due to the need to increase the Retirement, Workers Compensation, and Medicate accounts for FY 20. The school department's share of the Pension liability went from 25% to 26%.
        iii. Refuse and Sanitation Budget: An increase in the overall Refuse and Sanitation budget resulted in reducing school allocation of revenue by the Town/School Partnership.
        iv. The final and much smaller portion of the revenue reduction is the school portion of budget growth in all Town shared expenses as part of the Town/School Partnership Document.
        v. Health Insurance: The GIC Plan changes that occurred as part of the open enrollment period and the reconciliation of new plan participants resulted in a reduction in funding of the Health Insurance Benefit Line.

2. School Department Revenue Changes since 4/23/18: **Net $(406,744)**
    a. Materials Fee/Tuition Account: No change in Revenue Projection (+$21,507)
    b. Circuit Breaker: Updated to Budget Current Year (FY19) Reimbursement (+$81,109)
    c. Revolving Fund Reimbursement: Transfer and offset no longer allowed, expenses removed related personnel from operating budget and the Revenue Offset (-$150,680) and moved expenses to Rental of Facilities Account.
    d. Other Revenue: Eliminated as FY18 budget closing confirmed there is no funding source identified or available for this offset (-$358,650).

The Public Schools of Brookline budget request from the Annual Town Meeting for FY 2020 is $119,841,548, an increase of $6,289,212 over FY19 STM vote. The revenues available to fund the budget request are $327,472 less than is needed.

School Department Revenues

{Revenue Summary Chart Pending Final Town/School Partnership allocation}

Program	Exp.	FY18 ACTUAL FTE	FY18 ACTUAL EXP.	FY19 Budget STM FTE	FY19 Budget STM EXP.	FY20 BUDGET PRELIMINARY FTE	FY20 BUDGET PRELIMINARY EXP.	FY20 PRELIM Bud - FY19 Bud Variance FTE	FY20 PRELIM Bud - FY19 Bud Variance EXP.
School Dept. Revenues									
General Fund Appropriation			$ 104,758,343		$ 110,583,255		$ 117,354,211	5.96%	$ 6,770,956
BHS Fee Based Busing					$ 75,000			-100.00%	$ (75,000)
Total Town/School Partnership Revenue					$ 110,658,255		$ 117,354,211	5.89%	$ 6,695,956
Tuition and Fees			$ 696,016		$ 696,016		$ 717,523	28.68%	$ 21,507
Facility Rental			$ 225,000		$ -		$ -	*	$ -
Circuit Breaker Funding			$ 1,873,044		$ 1,688,705		$ 1,769,814	4.80%	$ 81,109
Revolving Fund Reimbursement			$ 50,680		$ 150,680		$ -	-100.00%	$ (150,680)
Other Revenue			$ -		$ 358,680		$ -	-100.00%	$ (358,680)
Total Revenue:			$ 107,603,083		$ 113,552,336		$ 119,841,548	5.38%	$ 6,289,212
Surplus/Deficit:			$ (415,806)		$ (173,424) *STM Budget Reduction of $173,424 to fund FY18 deficit		$ -	*FY19 STM Reduction added back to base	

The terms below define the lines in the above revenue chart that will be completed after the February 8 Town partnership Meeting.

General Fund Appropriation: As of April 4, 2019, estimated amount of funds received as part of the Town/School Partnership is $6,770,956 greater than FY19 STM vote. Sources of funds are tax levy and additional local receipts. We anticipate this number to increase as Chapter 70 and GIC rates become known.

BHS Fee Based Busing Revolving Fund: The override included revenue and resources to support the first year of Fee Based busing for BHS student who live in South Brookline. The fee of $400 was paid to the general fund in year one (FY 2019). FY 2020 requires a Revolving Fund to be established and for the fees and proportionate share of Transportation Costs to provide the service are charged directly to the fund. There is a subsidy for Fee Based Busing included of $108,000 in the FY 2020 budget. All expenditures are provided for in the Revolving Fund as shown in the Revolving Fund Section of this budget. Financial assistance will be provided through the School Committee's Financial Assistance Policy. The fee will be paid to a Revolving Fund authorized under M.G.L. Ch. 44, S 53 E ½ and or Chapter Ch. 71 § 68

Tuition and Fees: The Materials Fee program began in the 1960s. The School Committee policy publishes rates back to 1987-1988 school year. It is a program that has been maintained and currently

provides for 199 students of Town and School Department employees. All participating employees use payroll reduction for material fee payments unless they choose to pay in full in advance of the school year. FY2020 revenue is projected at $717,523. In addition, the district is part of an one year SEVIS/Student Exchange Program and charges tuition for two students per year.

Circuit Breaker Funding: The Circuit Breaker reimbursement for FY 2019 ($1,769,814; 72% reimbursement rate) serves as the base to calculate the FY 2020 revenue estimate. This practice began in FY 2019, when the district removed an additional $500,000 from the Circuit Breaker account to reflect that all prior year reserves have been expended in balancing the FY 2017 and FY 2018 budgets. All reserves in this account have been expended and will be applied in the fiscal year received.

Circuit Breaker funds are recurring funds, but are subject to change each fiscal year. The amount per student that qualifies for reimbursement can change dramatically from one year to the next depending on prior-year actual circuit breaker eligible expenditures. The other change that occurs is the funding level provided by the legislature to this account. During FY 2019 we started with an estimated 65% Reimbursement rate to receiving additional funds and ending the fiscal year at 72%.

CIRCUIT BREAKER REIMBURSEMENT HISTORY

Claim Year	Reimb Year	Eligible Students Claimed	Total Eligible Expenses	Foundation	Net Claim	Avg Claim Rate	% Change in Net Claim ($)	% Reimb	Total Adjusted Reimb
FY 18	FY19	83	6,030,671	3,572,586	2,458,085	29,615	-5.38%	72.00%	1,769,814
FY 17	FY18	93	6,519,559	3,921,554	2,598,005	27,936	1.16%	72.10%	1,873,044
FY 16	FY17	69	5,134,386	2,891,700	2,242,686	32,503	1.09%	73.16%	1,640,674
FY 15	FY16	76	5,230,933	3,166,772	2,064,161	27,160	-7.25%	75.00%	1,548,121
FY 14	FY15	73	5,227,622	3,002,080	2,225,542	30,487	-21.04%	73.56%	1,637,136
FY 13	FY14	86	6,282,474	3,463,776	2,818,698	32,776	-1.84%	75.00%	2,114,026
FY 12	FY13	86	6,179,472	3,307,860	2,871,612	33,391		74.60%	2,142,130

History: During FY 2004, the Circuit Breaker Reimbursement Program replaced a program referred to as the 50/50 account, where the State paid 50% of the residential tuitions directly to the residential school in which the placement had been made, and the school district paid the remaining 50%. The current program reimburses a school district for students with disabilities who require individual education program (IEP) services that cost greater than four times the statewide foundation budget. In FY 2005, the state shifted from a pay-as you go reimbursement program for residential tuitions to a broader-based, but still-partial, special education reimbursement program. The 2004 legislation expanded the types of expenditures eligible for reimbursement. Each year, there is a potential for a change in the percentage of reimbursement utilized by the State within the Special Education Circuit Breaker

Account.[1]

Subject to appropriation, the state's Circuit Breaker Fund reimburses the school district, for up to 75% of in-district and out-of-district student costs, which exceed four times the per pupil foundation amount. The state sets this amount annually as part of the annual state budget deliberations. Historically, the reimbursement rate has been between 35-75%. The district does not know the actual reimbursement rate for the fiscal year until after it submits its annual claim in July for the prior fiscal year expenditure activity. Eligible costs include instructional services, various types of therapies, and specialized equipment. Circuit Breaker specifically excludes transportation and building infrastructure costs. All Circuit Breaker funds received go into the Circuit Breaker Revolving Account, do not require further appropriation, and must be expended by the following June 30th.

Revolving Fund Reimbursement[2]: This revenue offset has been removed for FY 2020. It was intended to cover overhead costs associated with supporting fee-based programs operating under the authority of the School Committee. However, these costs should be charged directly to the specific revolving fund that generates the expense in accordance with statutory regulations and the Division of Local Services, Department Of Revenue. The district has removed this as an offset and moved expenditures in the operating budget to these funds for direct payment by the fund.

Other Revenue: Other Revenue was supposed to reflect the offset of one-time and non-recurring revenue that can be applied to the upcoming fiscal year. However, one-time funds are general fund receipts in accordance with statutory regulations and the Division of Local Services, Department Of Revenue, and should not be in any type of School Committee account under the rules provided by Chapter 71 or Chapter 40 and 44. If there are identifiable funds to which the expenditures should be charged, the expenses are noted as being transferred to those funds. FY 2020 removes this line as an offset as there are no revenue sources identified. Should one-time funds be received, they will be handled as required and outlined by municipal finance law.

General Fund Fee Summaries

Program	FY19 Fee	FY20 Fee	Reason for Change	Estimated Revenue
Transcripts	• $3.00 Processing fee for each transcript sent. Official copies are only	No Change	This is a general fund receipt as the cost to	

[1] A Primer on Financial Aspects of Special Education http://www.doe.mass.edu/finance/circuitbreaker/finance.html
[2] Revolving Funds for School Department Programs http://www.mass.gov/dor/docs/dls/training/revolvingfundchartschool.pdf

	sent directly to the school and/or program to which you are applying. • $3.00 Unofficial Transcripts may be requested for your own use. • $5.00 Processing fee for transcripts being mailed out of the country. • $2.00 Processing fee for correspondence confirming graduation. • Replacement diplomas are not available		produce this document is embedded in the base program staffing of Brookline High School	
Public Records Requests	$0.05 per copy, plus lowest hourly rate over 2 hours		No Change	Statutory Requirement
Other fees	TBD		As we move to compliance with student activities we will locate items being charged that are general fund receipts	Positively Impacts Town/School Partnership

Revolving Fund Fee Summaries

Program	FY19 Fee	FY20 Fee	Reason for Change	Estimated Revenue
Athletics	▪ High School Sport: $300 ▪ 7/8 Grade Basketball: $100 ▪ 7/8 Grade Volleyball: $85 ▪ 7/8 Grade Indoor Soccer: $85	▪ High School Sport: $300 ▪ 7/8 Grade Basketball: $100 ▪ 7/8 Grade Volleyball: $85 ▪ 7/8 Grade Indoor Soccer: $85	No Change	
Materials fee Need to verify numbers	Materials Fee: $2,888 Discount Per Add. Child: $288.80	Materials Fee: $2,974.64 Discount Per Add. Child: $297.46	3% increase	$750,000
International Tuition (SEVIS) 1 year Exchange	$20,632 per student plus Lunch, Breakfast, other student fees, fines, and charges.	$21,230 per student plus Lunch, Breakfast, other student fees, fines, and charges.	2.9% increase	Unknown Number of students for FY 20.
South Brookline Bus Transportation	**User Fee** ▪ Cost per Day/Fee: $400 ▪ Days/payers: 120	**User Fee** ▪ Cost per Day/Fee: $400 ▪ Days/payers: 120		**$48,000**
Beep Tuition	**Preschool** $10,488 **Pre-K** $10,488 **Pre-K Extended Days** **2 Days** Until 3:00PM $2,667 Until 5:45PM $4,461 **3 Days** Until 3:00PM $4,001 Until 5:45PM $6,691 **5 Days** Until 3:00PM $6,669 Until 5:45PM $11,153 **Launch Summer Program** $540/week	**Preschool** $10,700 **Pre-K** $10,700 **Pre-K Extended Days** **2 Days** Until 3:00PM $2,702 Until 5:45PM $4,552 **3 Days** Until 3:00PM $4,080 Until 5:45PM $6,828 **5 Days** Until 3:00PM $6,800 Until 5:45PM $11,380 **Launch Summer Program** $550/week	2% increase	

Program	FY19 Fee	FY20 Fee	Reason for Change	Estimated Revenue
School Lunch	**K-8** Breakfast $1.75 Lunch $3.25 Premium Lunch $- **High School** Breakfast $1.75 Lunch $3.50 Premium Lunch $4.25 Dairy/Lactaid Milk $0.75 Soy Milk $1.50 100% Juice $0.50 **Reduced Price** Breakfast $0.30 Lunch $0.40 **Adult Meals** $4.25 **Summer Lunch** $3.25	**K-8** Breakfast $2.00 Lunch $3. 50 Premium Lunch $4.50-$10.00 **High School** Breakfast $2.00 Lunch $3.75 Premium Lunch $4.50-$10.00 Dairy/Lactaid Milk $0.75 Soy Milk $1.50 100% Juice $0.50 **Reduced Price** Breakfast $0.30 Lunch $0.40 **Adult Meals** $4.50-$10.00 **Summer Lunch** $4.00	Increased by $0.25 Differential pricing Increased by $0.25 Differential pricing Set by state Differential pricing Breakeven Labor and last price change 2015	
Summer school Programs (BHS)	**2 Hour Class:** Brookline Resident $310 Non-resident $350 Financial Aid $60 **4 Hour Class:** Brookline Resident $575 Non-resident $625 Financial Aid $120	**2 Hour Class:** Brookline Resident $310 Non-resident $350 Financial Aid $60 **4 Hour Class:** Brookline Resident $575 Non-resident $625 Financial Aid $120	No Change	
Summer school Programs (elementary) Project Achieve and Discovery	▪ Project Achieve $400 ▪ Project Discovery $400 ▪ Project Explore $400	▪ No Fee	Proposal to Eliminate Fee and charge to operating budget	**$0**
BACE	Adult Programs $6-$324 Children's Programs $50-$350 Music Lessons $459-$718	Adult Programs $6-$324 Children's Programs $50-$350 Music Lessons $459-$718	No Change	

Program	FY19 Fee	FY20 Fee	Reason for Change	Estimated Revenue
Performing Arts	Costs are calculated for total cost of providing experience divided by the number of students	Costs are calculated for total cost of providing experience divided by the number of students	No Change	At Cost
Visual Arts	**Photography** $45 per course **Ceramics** $40 per course **Metals** $40 per course **Sculpture** $20 per course	**Photography** $45 per course **Ceramics** $40 per course **Metals** $40 per course **Sculpture** $20 per course	No Change	
Extracurricular Activities (non-club based)	Costs are calculated for total cost of providing experience divided by the number of students	Costs are calculated for total cost of providing experience divided by the number of students	No Change	At Cost
Lost Books	Replacement cost if in print. Last known cost if not, funds then used to buy updated version	Replacement cost if in print. Last known cost if not, funds then used to buy updated version	No Change	At Cost

ARTICLE 9

NINTH ARTICLE
Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2020 Budget

Appropriate the sums requested or proposed by the Select Board or by any other officer, board or committee, or any other sum or sums, for the fiscal year 2020 budget; without limiting the foregoing, appropriate the sums necessary for all town expenses, including the snow and ice budget, debt and interest, and operating expenses; fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with an option to purchase or installment purchase of equipment; appropriate to a stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with General Laws, Chapter 44, Section 53E½ and all Enterprise Funds in accordance with General Laws, Chapter 44, Section 53F½; allocate available free cash; provide for a reserve fund; and establish the requirements for transfers among appropriations, interfund transfers, transfers for the purposes of salary adjustments, filling vacant positions and budgetary reporting.

B.) Fiscal Year 2020 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $55,000, or any other sum, to be expended under the direction of the Building Commissioner for the rehabilitation of Town buildings.

2. Appropriate $600,000, or any other sum, 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.

3. Appropriate $900,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.

4. Appropriate $50,000, or any other sum, to be expended under the direction of the Fire Chief, for refurbishing the drafting pit at Station 6.

5. Appropriate $265,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Select Board, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Select Board on a semi-annual basis.

6. Appropriate $31,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, for bicycle access improvements.

7. Appropriate $161,040, or any other sum, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades.

8. Appropriate $1,750,000, 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 the rehabilitation of streets.

9. Appropriate $328,000, 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 the rehabilitation of sidewalks.

10. Appropriate $1,125,000, 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 modernization and improvements to the fire alarm call box system.

11. Appropriate $2,000,000, 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 system improvements.

12. Appropriate $265,000, 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 meter transmission unit (MTU) replacements.

13. Appropriate $3,000,000, 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 wastewater system improvements.

14. Appropriate $455,000, 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 improvements to the Netherland's Road facility.

15. Appropriate $600,000, 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 improvements at Larz Anderson Park.

16. Appropriate $100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, for the design of the renovation of Robinson Playground.

17. Appropriate $310,000, 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 the renovation of playground equipment, fields, and fencing.

18. Appropriate $160,000, 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 the rehabilitation of Town and School grounds.

19. Appropriate $200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Select Board and the Park and Recreation Commission, for the rehabilitation of tennis courts and basketball courts.

20. Appropriate $350,000, 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 the rehabilitation of comfort stations in parks and playgrounds.

21. Appropriate $235,000, 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 and the Tree Planting Committee, for the removal and replacement of trees.

22. Appropriate $50,000, or any other sum, to be expended under the direction of the Director of Recreation, for the renovation of a restroom at the Eliot Recreation Center.

23. Appropriate $110,000, or any other sum, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades.

24. Appropriate $150,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board for HVAC equipment in Town and School facilities.

25. Appropriate $80,000, or any other sum, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.

26. Appropriate $185,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.

27. Appropriate $125,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board, for upgrades to energy management systems in Town and School facilities.

28. Appropriate $1,500,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for building envelope / fenestration repairs to Town and School facilities.

29. Appropriate $260,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Board

of Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

30. Appropriate $50,000, or any other sum, to be expended under the direction of the Building Commissioner, for trash compactor replacements in Town and School facilities.

31. Appropriate $198,000 or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board and the School Committee, for minor renovations / upgrades to school buildings.

32. To see if the Town will vote to appropriate, borrow or transfer from available funds, $108,800,000, or any other sum, 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.

33. To see if the Town will vote to appropriate, borrow or transfer from available funds, $82,900,000, or any other sum, 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 renovate and expand the Baldwin School.

34. To see if the Town will vote to appropriate, borrow or transfer from available funds, $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). 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.

35. Appropriate $1,450,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and the School Committee, for the expansion of classroom capacity in various schools.

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; 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, gifts, reimbursements, and aid from both federal, state, and other sources and agencies for any of the purposes noted in this Article, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This is the annual appropriations article for FY2020. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the publication of the Town Administrator's Financial Plan on February 12th. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Select Board. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

SELECT BOARD'S RECOMMENDATION

The Select Board would like to thank the Town Administrator and his staff, the Advisory Committee, the School Superintendent and his staff, and the School Committee for all of their efforts and collaboration toward dealing with this FY2020 budget,

ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN

Since the Financial Plan was released on February 12th, there have been a number of changes made, all of which have been approved by both the Select Board and the Advisory Committee. The changes, as follows, were applied to the base budget (Vote A):

BUDGET ADJUSTMENTS			
	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
Group Health	31,712,136	-193,255	31,518,881
Debt and Interest	19,508,837	-540,358	18,968,479
School Department	117,149,956	204,255	117,354,211
Department of Public Works	15,648,096	26,583	15,674,679
Planning and Community Development	1,183,868	32,401	1,216,269
Council on Aging	961,605	15,750	977,355

The Health Insurance budget has decreased by $193,255. This is due to final GIC rates coming in less than originally budgeted. Of that amount, $204,255 is the School's share and $85,735 is the Town's. The School's share of the savings has been added to their appropriation. Town savings was used to fund the following:

- Partial funding of Park Ranger program staffing- $37,584 (with $11,000 remaining in Group Health to support a benefit-eligible position)
- Funding of the Advisory Committee's proposed increase in Council on Aging custodial staffing- $15,750
- Funding for Newbury College planning expenses (Planning department)- $32,401

With the completion of the bond sale, some adjustments are needed for the debt and interest portion of the budget. The FY2020 budget reflected a plan to borrow the remaining authorization left on the Coolidge School project, the acquisition of 111 Cypress Street and the first phase of construction for the High School Project. Due to the current cash requirements needed to close out the fiscal year and the uncertainty of the final MSBA reimbursement we may need one more borrowing cycle to close out the remaining budget requirements. The favorable rate achieved on the debt exclusion projects also lowered the budget requirements. Since these adjustments are specific to the debt exclusion there is a corresponding adjustment to the revenue estimate for property taxes, and no further budget adjustments are needed

SELECT BOARD'S VOTE vs. ADVISORY COMMITTEE'S BUDGET VOTE:

The Select Board's vote is in line with the Advisory Committee's votes on appropriations with the exception of two items. The Board is choosing to move the appropriations for the Baldwin and Driscoll School projects. Should the override fail, the Board would need to reconsider their vote on May 14, 2019.

BUDGET SUMMARY

The General Fund budget proposed by the Select Board totals $304 million, of which $294.7 million is appropriated, reflecting an increase of $13.8 million (4.9%). The remaining $8.8 million is the so-called "Non-Appropriated" portion of the budget. In total, the $304 million reflects a 4.7% increase. This budget recommendation includes a General Fund Operating Budget of $285 million, which represents an increase of $15 million (5.6%); revenue-financed capital of $9.8 million; enterprise / revolving funds of $34 million (gross); and non-appropriated expenses of $8.8 million.

FY2020 OVERVIEW

Overall, the Budget for FY 2020 reflects a balanced but conservative approach at funding the Town of Brookline's operations and obligations. I am pleased to report that this Budget accomplishes the following;

1.) Allocates funding to meet the essential operating costs of the School and Municipal departments in accordance with a 3-year plan.
2.) Funds $6.7 million in capital expenditures, meeting the Town's policy of allocating at least 7.5% of prior year's operating revenue for this purpose.
3.) Provides adequate funding in reserves and retains $2.6 million in Free Cash, ensuring that the Town's unreserved fund balance will remain at least 10% of general fund revenue. This is a key factor in maintaining the Town's Aaa bond rating.
4.) Appropriates $4.8 million in additional funds to meet the Town's funding schedule to eliminate the unfunded liability in the pension system and to address the major unfunded liability in Other Post-Employment Benefits (OPEB).
5.) Meets all other financial policies of the Town, including the appropriation of Free Cash for reserves.

FY 2020 could represent the final year of a sustained period of relative growth and stability in the Town's finances. Revenue growth from State Aid and Local Receipts has been strong, driven by a robust national and regional economy. With the exception of student population growth, our costs have been relatively stable, including growth in employee wages and benefits. In addition, the Town has realized cost savings in the procurement of utility rates and achieved efficiencies in managing its facilities and operations. However, storm clouds are beginning to appear on the horizon that will impact the Town's future financial situation. The Commonwealth of Massachusetts has not met its revenue targets for the first half of the fiscal year, highlighting a concern over future economic growth. While the Town's reliance on State Aid is relatively low, it is still a meaningful amount of revenue. A recession in the economy would impact the growth in taxes from new development and reduce growth in building permit receipts. The State's deteriorating fiscal position could have other impacts to the Town on off-budget grants and other financial assistance. The leadership crisis in Washington that resulted in an extended shutdown of federal government operations does not help, creating a great deal of uncertainty for state and local government and other sectors of the economy that rely on a stable federal government. The accumulation of the Town's major capital projects has created a difficult tax burden, and we are beginning to see significant cost escalation in construction costs. An initiative to avoid using fossil fuels in the heating and cooling of Town and School buildings will further increase design and construction costs, but will save long term operational costs and help meet the Town's ambitious climate goals.

REVENUES

The following summarizes the major categories of revenues that make up the Town's FY 2020 Budget.

TAXES: The property tax levy represents the Town's most prominent and stable source of revenue. Traditionally, the Town collects up to 99% of all property taxes billed. For FY 2020, property taxes are projected to total $239 million, representing nearly 78% of the Town's general fund revenue. For FY 2020, the property tax will increase by $5,620,315, including the allowed 2.5% growth under Proposition 2½ and the planned increment of the 3-year tax override. An additional $3,075,000 will be generated in taxes resulting from increased property value from new construction (referred to as New Growth). New Growth tax revenue is not capped by Proposition 2½ and is therefore essential to help fund the increasing costs of local government and mitigate the Town's "structural gap" between municipal revenues and expenses. Finally, $5,842,387 will be added to the tax levy from voter approved "Debt Exclusion" overrides to fund school construction projects. This includes the costs of principal and interest on debt issued for prior school projects, the new Coolidge Corner School project, the recent Brookline High School project, and the acquisition of the Oak Street properties recently authorized as part of the Baldwin school project. Preliminary design costs for the three elementary school projects; Driscoll, Baldwin and Pierce have been funded within the levy.

Overall, the property tax will increase by 6.4% in FY 2020, driven largely by the impact of the Tax Override and Debt Exclusions passed by Brookline's citizens. Encouraging prudent economic development is a key strategy to mitigate the impacts of property taxes on residents of the Town. In addition to the new revenue realized from commercial development, it is taxed at a higher rate than the residential rate. Finally, strategic commercial development creates residual revenue, such as meals taxes, and does not generate costly expenses for municipal services

LOCAL RECEIPTS: This is the category of Town revenue that is generated through licenses, permits, and other fees for municipal services. In FY 2020, this category of revenue represents 10% of all Town general fund revenue. We project that $29,943,370 million will be generated from this category of revenue in FY 2020, representing less than 1% growth from FY 2019. Departmental Income at $7,546,734 (mostly parking meter receipts) is the largest single category of revenue within Local Receipts. Other categories within Local Receipts include Motor Vehicle Excise Taxes at $6,142,644, General Government (mostly building permits) at $3,765,871, Parking and Court Fines at $3,400,000, Local Option Taxes (hotel and meals excise tax) at $3,081,858, the Refuse Fee at $2,850,000, Licenses and Permits at $1,170,775, the Payment in Lieu of Tax (PILOT) program at $1,010,509 and Interest Income at $974,977.

It is expected that Brookline's first adult use (recreational) marijuana establishment will open in 2019. The new state law authorizing non-medical sales of marijuana allows host communities to levy a 3.0% excise tax on non-medical sales. The Town currently receives $350,000 in "host community" revenue for an existing medical marijuana dispensary that is applied as general revenue. It is projected that a 3% tax on recreational marijuana sales will eventually generate more than double this amount. Due to the uncertainty of when and how this new commercial market will roll out, we are being very conservative with projecting new marijuana excise tax revenue for FY 2020. We will continue projecting the current amount of

$350,000 in marijuana revenue in FY 2020, deferring the projection of higher amounts until FY 2021 when the Town has committed to increasing non-property tax revenue as part of the three-year Override plan. In addition to the 3% excise tax on sales, the new law allows the Town to assess up to 3% of sales revenue as "impact fees". Since the expenditure of these fees are limited to specific impacts from marijuana sales, and because the period of time that these impact fees may be allowed, we will defer additional projections for this item until operations commence.

STATE AID: This category of revenue represents general and programmatic aid provided to the Town from the Commonwealth of Massachusetts. In FY 2020, we project this aid to represent about 7% of the Town's general revenue. At $22,307,826, FY 2020 State Aid is a slight increase over FY 2019. After several years of expansion, the Town's Chapter 70 Education Aid program will grow by only 1.0% in FY 2020. Now that the State has reached its minimum funding commitment to Brookline of 17.5%, our Chapter 70 allocation will effectively be limited to $20 more per pupil, translated as a "Minimum Aid" community. The Town believes the Chapter 70 formula does not adequately reflect the costs incurred by cities and towns in public education. We support the Governor's budget that adopted some reforms proposed by the Foundation Budget Review Commission and hope that the Legislature will act more aggressively in areas such as the cost of employee benefits and the cost of providing special education benefits. Unfortunately, given the need to spend most of the State's funding on poorer urban school districts, it is unlikely that the Town of Brookline will benefit substantially by any Chapter 70 reforms.

As part of its commitment to share general revenues with Massachusetts cities and towns, the Baker administration has again proposed to increase general government aid (Unrestricted General Government Aid) at the same rate that state general revenues increase. In FY 2020, this aid will increase by a modest 2.7%. As this Financial Plan is being finalized, reports from Beacon Hill are that state tax revenue are not meeting expectations over the first half of FY 2019. We have assumed the Governor's proposed state aid numbers in this Budget, but will monitor the progress in the Legislature carefully throughout the budget process leading to Town Meeting in May.

FREE CASH: Free Cash represents the State approved amount of the prior year's fund balance available for appropriation. The Town of Brookline maintains a very rigorous financial policy for the use of Free Cash, limiting its use to non-recurring, non-operational expenses of the Town. Following the conclusion of FY 2019, the State certified $11.8 million in Free Cash that was available for appropriation in FY 2020. Of this amount, the Town will appropriate $9.1 million, leaving $2.6 million unappropriated to meet our Unreserved Fund Balance policy ensuring that at least 10% of general revenue will be maintained in reserve. $6,719,184 will be used to fund Capital Improvements and the remainder will be used to fund various special reserve accounts of the Town, including a one-time appropriation to bolster the Workers Compensation Trust Fund. Of particular importance is the use of Free Cash to support the funding of the Town's Unfunded Pension Liability and its Other Post-Employment Benefits (OPEB) liability.

OTHER AVAILABLE FUNDS: This category of revenue mainly accounts for an allocation from the Town's Enterprise Funds or other self-supporting funds to support general government operating expenses. Revenue generated by the Water/Sewer program, the Lynch

Golf Course and the Recreation Revolving Fund is offset through related expenses in these funds, including indirect charges for their share of Pension and OPEB funding. Another source of revenue in this category includes income from the Cemetery Trust Fund.

Overall, $2,972,678 in revenue is projected to be generated from Other Available Funds in FY 2020. This is down 34.6% from FY 2018, mainly due to the one-time use of Parking Meter receipts, which is available due to the conversion of this revenue item to a local receipt in FY 2018. The remaining balance in the Fund will be used for Future Year Capital Improvements Program.

ENTERPRISES: The Town accounts for its enterprise activities separate from the General Fund. It is the Town's policy to recover 100% from the cost of its Water/Sewer and Golf enterprises while the Recreation Revolving Fund supports 77.3% of its costs (with general tax supporting the remaining 22.7%). In FY 2020, the Enterprises category projects $31.3 million, or a 1.8% increase over FY 2019. All revenue generated from enterprises is accounted for separately and is offset by the same amount of expenditures for these activities, ensuring that there is no financial impact on the Town's General Fund.

In FY 2020, we will be submitting to the Select Board shortly a water and sewer rate plan necessary to meet the projected revenue requirements. This advances the traditional rate setting process in order to coordinate the policy implications of rate setting with the budgeting process.

EXPENDITURES

The Expenditures category of the Town's budget is comprised of six sections; Municipal Departments, the School Department, Non Departmental, Special Appropriations, Enterprises and Non-Appropriated. Overall, expenditures in the FY 2020 Budget are $335,352,327, up by $14,827,206 for an increase of 4.6% over FY 2019. FY 2020 represents Year 2 of a three-year tax override plan that was approved by Brookline's voters last May. Year 2 of the override plan allocates an additional $3.3 million in property taxes to the School Department's budget. The following is a summary of the FY 2020 recommendations to each category of Expenditures.

MUNICIPAL DEPARTMENTS: The total amount of all municipal department budgets is recommended to be $78,134,452 in FY 2020, or an increase of 2.5% over FY 2019. This amount includes a reserve to cover collective bargaining agreements with the Town's various municipal unions.

As mentioned in the Introductory section of this Budget Message, the FY 2020 Budget is constrained by the likelihood of an economic downturn along with other expenses that are growing higher than average. In FY 2020, we are projecting the cost of employee health insurance to increase by 5.0% and the actuarial funding requirement of our pension system to increase by 7.2%. We must also absorb a 22.8% increase in the cost of solid waste disposal/recycling in response to a collapse of global markets for recyclable products. Operational costs in expanding our digital parking meter inventory is also constraining funding capacity for municipal departments. As a result, my recommendations for expenditures in municipal departments reflects a conservative approach, maintaining existing staffing levels and expenses. Most budget increases are limited to step increases and impacts of prior

collective bargaining agreements on municipal wages and a small inflation factor for some expense accounts. Each year, our budget process includes an opportunity for department heads to propose expansions or additional investments that can produce enhanced and/or more efficient service delivery. In FY 2019, the tax override initiative provided $701,783 in budget capacity to fund some of these departmental initiatives. In FY 2020, I have been unable to identify any available funding for enhancements, despite some very thoughtful and interesting proposals. In the event that additional funding capacity becomes available in advance of the Town Meeting appropriation process, I intend to give further consideration to fund some or all of the following budget proposals;

- An additional Building Inspector position ($80,785).
- An additional Fire Lieutenant position assigned to the Fire Prevention division ($90,000).
- Additional staffing for the Park Ranger program to enforce park regulations and the Green Dog program ($67,535).
- Additional clerical staffing in the Town Clerk's office to meet expanding needs, including the coordination for compliance with the new public records law ($25,180).

In addition, new revenue from host community agreements with prospective adult use marijuana establishments will provide a dedicated source of funding that is limited to addressing community impacts from this new enterprise. At this time, we are not building into the FY 2020 Budget any additional host community revenue above the current revenue from an existing licensed medical marijuana dispensary. In the likely event that one or more adult use marijuana licenses becomes active in FY 2020, we shall conduct a process to determine how the community impact fee from those operations shall be allocated. This revenue will be available to fund public health education and response programs for substance abuse, to assist in the enforcement of provisions of the new law and to mitigate other impacts that may emerge from this new and uncertain commercial activity.

A more detailed description of changes in municipal departmental budgets can be reviewed within the Departmental Budget recommendations section.

A more detailed description of changes in municipal departmental budgets can be reviewed within the Departmental Budget recommendations section.

THE SCHOOL DEPARTMENT: The School Department's Budget is recommended to be funded at $117,235,691 in FY 2020, an increase of 5.9% over FY 2019. This amount is inclusive of all salary and wage adjustments for teachers and other school employees. This budget amount is derived by applying the Town School Partnership formula plus $3,300,000 in budget capacity from the three year tax override plan approved by Brookline voters in May of 2018.

Since Town voters approved the three-year operating override in May 2018, both the revenue and expense outlooks have changed, placing additional pressure on the School Department to present a balanced budget. They include; 1.) Reduced townwide revenue projections, 2.) Revenue from revolving funds and other sources of revenue, including transfers and offsets,

are no longer available, and 3.) Unanticipated increases in mandated special education expenses, mainly a 27% increase in out-of-district tuition expenses.

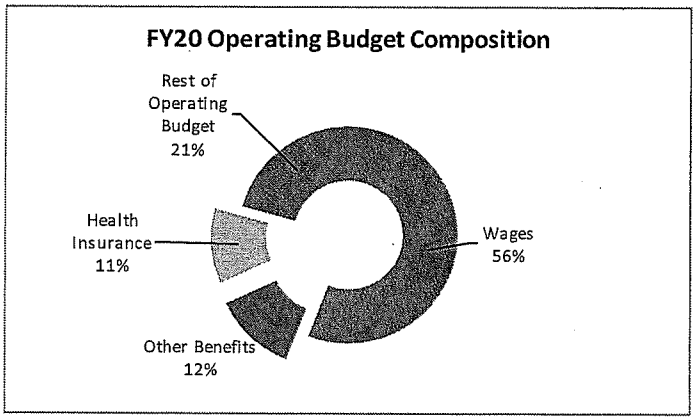
NON-DEPARTMENTAL: This category of Expenditures is a large component of the Town's Budget, including such fixed costs as pensions, health insurance, other insurances and debt service. It also covers the Reserve Fund, which is the account administered by the Advisory Committee to cover any emergency or unforeseen expenses that occur throughout the year, including snow and ice removal expenses. While this category is not assigned to a particular department, its costs are assigned to Municipal or School departments and is part of the Town School Partnership formula when allocating new revenues.

Overall, this category of expenditures is recommended to be funded at $90,117,382 in FY 2020, an increase over FY 2019 of 8.6%. This category includes many of the Town's "budget busters", which are those expenses that rise higher than the general rate of inflation. They include;

Pensions- Eligible employees of the Town and School departments are part of the Massachusetts Contributory Retirement System and receive a defined benefit upon retirement (state and local government employees in Massachusetts are not eligible for participation in the federal Social Security system). The Town of Brookline is responsible for funding the annual expense of existing pension payments, and to make sure that future liability is properly funded. It does so through a multi-year actuarial funding schedule, with funds appropriated to meet the schedule invested for the long term to support this obligation. The current funding schedule requires annual increases of 7.85% through 2030, at which time the Town will have eliminated the unfunded portion of the liability. For FY 2020, the funding schedule calls for an appropriation of $24,915,433, representing a $1,740,668 increase over FY 2019. In an effort to provide additional funding to support this liability, we have also allocated $300,000 from available Free Cash.

Other Post-Employment Benefits (OPEB)/Retiree Health Insurance- Similar to the pension system, the Town has an obligation to fund the costs of health insurance for retired employees and eligible family members. The annual cost to support existing retirees is funded within the Health Insurance Budget. An unfunded liability for OPEB exists, which demands the Town create a long term funding schedule similar to the pension system. While the Town is not yet on a formal funding schedule, we aggressively appropriate annual funding to a special trust fund for this purpose, and expect to commence a formal actuarial funding schedule at some point in the future. This includes annual funding from the Town's general revenues, contributions from self-supporting revolving and enterprise funds and an allocation from Free Cash. For FY 2020, we are recommending a total appropriation to the OPEB Trust Fund, of $4,781,980, an increase of 4.6% over FY 2019. The OPEB liability has become an important factor in disclosing the fiscal health and credit worthiness of a municipality. The Government Accounting Standards Board (GASB) has initiated Statement #74, which requires disclosure of the OPEB liability in a municipality's financial statements. This new requirement, combined with the credit rating agency's attention, make the OPEB liability a major factor in the Town's long term fiscal health. The latest net OPEB liability on the Town's FY 2018 financial statements is $262,732,400.

Employee Health Insurance- The Town is obligated to provide health insurance to permanent employees (and their families) who work at least 18.75 hours per week. The Town also covers retirees and their survivors. The Town procures its insurance coverage through the Massachusetts Group Insurance Commission (GIC), a governmental entity that manages the health care benefit for employees of all state agencies and dozens of cities and towns. The GIC has been very aggressive in keeping its costs/rates as low as possible, resulting in a composite projected rate increase for FY 2020 of 3.3%. However, this is a statewide average for all plans. It is our experience that Brookline's rate increase will be higher than the average given our proximity and access to the expensive teaching hospitals in Boston and the type of plans selected by our employees. In addition, we always build in a cushion to account for possible increases in enrollment or type of plan. As a result, we have projected an overall 5.0% rate increase in health insurance costs in the Town's Budget. We will consider modifying this projection when the detailed rate increases for all GIC plans is released at the end of February.



SPECIAL APPROPRIATIONS: This category of expense is mainly the annual appropriations for projects within the Capital Improvement Plan (CIP). The CIP is funded through a combination of direct appropriations and the issuance of debt. In FY 2020, the direct appropriations to fund capital projects is $9,788,054. This level of appropriation is bolstered through the use of over $6 million in Free Cash.

ENTERPRISES: The Town's FY 2020 Budget includes $34.4 million in expenses related to business type enterprises of the Town. It is the Town's policy to recover 100% of the costs associated with these activities through fees or other charges to users rather than through the general tax levy. The Town's formal enterprises include the water/sewer utility and the golf course. A recreation revolving fund is a similar but separate accounting mechanism. The water/sewer and golf course operations are fully funded through fees and charges while the recreation programs are subsidized 22.7% from the Town's General Fund. It is the Town's policy that all direct and indirect expenses of the Enterprises, including debt service and employee benefits, be accounted for and paid to the Town's general fund to ensure that the Town's taxpayers do not subsidize such activities.

NON-APPROPRIATED: This category of expenses relates to charges that are mandated but not required to be appropriated by Town Meeting. However, since these expenses must be

funded in the Town's Budget, they are fully disclosed and accounted for in this Financial Plan. State and county assessments at $6,825,698 are the largest part of this category, of which the $5.4 million assessment to the MBTA represents the major share. As the Town's assessment to Norfolk County has surpassed $1 million ($1,042,646 in FY 2020), it is time again to seek reform of this unreasonable financial burden on the Town. Most other counties in Massachusetts have been abolished and their costs assumed by state government. Furthermore, the Town of Brookline has the highest assessment of all 28 Norfolk County municipalities, despite its geographic distance from county facilities and services.

Another expense that is covered in the Non-Appropriated category is the Tax Overlay account at $1,806,742. This is an account that is under the control of the Board of Assessors and is used to fund the annual cost of property tax abatements and exemptions.

FY 2020 POLICY ISSUES AND INITIATIVES

The Financial Plan is a legal document that budgets the Town's funds for the ensuing fiscal year. It is also a financial planning tool, incorporating the capital improvement plan for the next seven years and making a 5-year projection of the budget. The Financial Plan should also be a strategic and management device, linking financial resources and consequences to overall Town goals and policies. This section addresses a number of policy issues and initiatives that are relevant to the FY 2020 budget process.

Federal Government Funding- Last year, I wrote about the issues surrounding federal immigration policy, and how the federal administration's expectations for local government to support civil detention for immigration violations contradicted the Town's "sanctuary" policies for treating all residents and visitors to Brookline equally without regard to national origin or immigration status. This contradiction continues to play out in the federal government's use of grants in aid to leverage local government's compliance. Currently, Department of Justice grants to assist our Police Department in enforcing crime are in jeopardy due to this policy disagreement. This year, I must also comment on the political crisis in Washington DC that resulted in a partial shutdown of federal government operations for several weeks. The Town is reliant upon federal aid including the Community Development Block Grants, Title 1 and IDEA Education funding, Department of Justice and Department of Homeland Security grants. Shutdowns or other interruptions of federal government operations place this funding at risk. Unfortunately, this political crisis is likely to continue for the foreseeable future.

Solid Waste and Recycling- The implementation of a Pay as You Throw system in Brookline has been a great success. Solid waste tonnage is down and recycling rates are up. Unfortunately, global economic forces are depressing the market for recycled products, creating a glut of recycled material. Led by China's policy to restrict

"contaminated" recycled products from the United States and elsewhere, the cost of collecting and processing recycled materials is increasing dramatically. For FY 2020, we are increasing our costs for this service by $450,000, or an increase of nearly 23%.

This crisis cannot be solved locally. All levels of government and private industry must work together to balance the need for practical recycling systems, including single-steam recycling, with the need to limit contamination and excessive processing of the recycled products. Investment in technologies to reuse recycled materials and more aggressive limitations on excess packaging at the retail level is essential to avoid having to dispose of these products in less environmentally productive ways.

Fiscal Policies- The Town prides itself on conservative budgeting and adhering to fiscal policies that are considered industry best practices. Brookline enjoys its premier Aaa bond rating in large part due to this fiscal discipline. However, any high performing organization requires a periodic review of its financial policies and practices to see if they remain relevant and represent best practices in the evolving nature of public financial management. The Town is also committed to the use of performance data and benchmarking in making the best decisions possible for allocating constrained tax revenue and improving the quality of its services. With this in mind, and with the backdrop of frequent tax overrides facing the Town's residents to fund operations and capital investment, the Select Board decided to establish a Fiscal Policy Advisory Committee (FPAC). The FPAC has already begun meeting and mapping out its work plan. We welcome this critical review and look forward to the Committee's findings and recommendations.

Buildings Management- Expansion of Town and School buildings, combined with more complex and costly technology, has placed a strong burden on the Public Buildings division of the Buildings department. A prior study of the division's assets and needs acknowledges the necessity to add funding and staffing over time. This is exacerbated by a tight labor market that has made retaining and attracting tradespersons difficult. The nature of building maintenance provides great opportunities for measuring effectiveness and performance, and we hope that use of this data will help guide the Town in the mist effective way to add capacity to this function.

In addition to ensuring that buildings are operated cost effectively, the use of certain buildings demands attention to their safety. This is certainly the case with school buildings, which house our youngest and most vulnerable residents. Recently, the Town has focused its attention on the health of our fire stations. With fire vehicles and contaminated equipment sharing space with the living quarters of the Town's firefighters, it is essential that these spaces are effectively

separated and maintained in a way that avoids cross contamination. A strong body of research is developing that is informing the way that Fire Stations are designed and managed. This is a challenge given the age and construction of Brookline's fire stations. As a first step, the Town has recommended in the CIP a study that will guide the cleaning and renovation of fire stations in a manner that will keep our firefighters safe and minimize unhealthy conditions.

Marijuana Sales Licensing- The Town of Brookline is on the verge of hosting its first non-medical retail store for the sale of marijuana. This is a controversial new industry in Massachusetts, complicated by the federal government's designation of marijuana as an illegal "Schedule 1" drug. The residents of Brookline voted overwhelmingly for statewide legalization and our Town Meeting established a comprehensive zoning and regulatory system for retail sales within the community.

The Town adopted the maximum 3.0% excise tax on non-medical sales and negotiated Host Community Agreements that ensure dedicated funding for mitigation activities. The Town is allowed to host up to four retail stores, and there has been active interest in securing all of these licenses. Still, the new industry is moving slowly and certain neighborhoods are less accepting of the uncertainty that this land use might bring. At the current time, the Town is uncomfortable with increasing revenue projections from marijuana operations above the amounts we currently receive from hosting the NETA medical marijuana dispensary in Brookline Village. It is expected that more substantial and predictable revenue estimates from this new activity will be realized in FY 2021.

Housing and Economic Development- For the last few years, the Town has been overwhelmed with proposals to develop residential housing throughout the community. Developers have utilized a state program (Chapter 40B) that allows exemptions from Town zoning by-laws when a development will incorporate a percentage of housing with affordable units. This is a controversial method of development, as projects take advantage of exemptions to zoning to site larger and denser buildings than the underlying character of the neighborhood. Chapter 40B ceases to apply when a community reaches the goal of having at least 10% of its housing units affordable (as defined by the state's Subsidized Housing Inventory). Fortunately, Brookline is nearing its 10% goal and has also received temporary relief through "safe harbor" status in recognition for making significant progress towards the 10% goal. Still, hundreds of housing units are in the process of being constructed, which is transforming many neighborhoods. An exciting project that is 100% affordable is being developed by Jewish Community Housing for the Elderly (2Life Communities) adjacent to the Kehillath Israel center.

Recently, the state legislature enacted a law to formalize and regulate the short term rental of residential property made famous through the Airbnb service. This will enable communities that host such rental properties with a 6% excise tax similar to the current hotel (room) tax. Although short term rentals are not explicitly allowed in Brookline's zoning by-laws, it is likely that a proposal will be advanced at Town Meeting this spring that formalizes this popular service consistent with the new state law, thereby creating opportunities for expanded excise taxes.

Efforts to promote economic development have proven successful, taking advantage of a robust economy and Brookline's unique location and access to public transit. Led by the Town's Economic Development Advisory Board (EDAB), the Town has seen significant development projects underway or planned in Brookline Village, Cleveland Circle and Coolidge Corner, contributing to enhanced tax revenue and public amenities that were negotiated in exchange for zoning relief. As has been stated several times, commercial development has many advantages.

With a dual (higher) rate of taxation for commercial properties, economic development is a key strategy in mitigating the impacts of property taxes on residents of the Town. Strategic commercial development creates residual revenue, such as hotel and meals taxes, and tends to attract other business activity and vitality. Finally, commercial land uses tend to generate less demand for costly municipal services. The Town is excited to pursue EDAB's latest initiative in planning the development of the Route 9/Boylston Street corridor.

School Facility Expansion- Much has been written about the Town's lengthy and controversial journey to site a "9th" elementary school to accommodate the influx of school students in Brookline. The difficulty in securing an acceptable site for a 9th School has led back to the "expand in place" philosophy that utilizes existing school land and buildings to create sufficient classroom capacity. The result of this decision is a three-pronged approach of expanding the existing Driscoll School, building a new (but smaller) 9th school on the site of the former Baldwin School and renovating the Pierce School with the assistance of the Massachusetts School Building Authority. The Baldwin decision remains highly controversial, despite a two-thirds vote at Town Meeting for preliminary funding actions. A lawsuit and related efforts by opponents to disqualify the project due to adjacent parkland protections continues to create uncertainty for the timing of this project. Needless to say, the financial burden of the cumulative debt for these projects is daunting, especially on top of debt already

authorized for the Coolidge Corner School and Brookline High School projects.

The Town is also evaluating the merits of making a bid to acquire all or a portion of the soon to be former Newbury College campus. While this consideration is not limited to any particular use, there is growing support for the ability of the Town to plan its future by acquiring strategic parcels of land for its long term benefit. A special committee has been established to help the Select Board consider this opportunity and to strategize on options for acquisition.

Legal Capacity for Labor Relations- The Town has decided to fund an in-house capacity to handle labor relations and personnel matters through its Legal department, lessening the need to privately contract for these professional services. The infrastructure in the Legal department will be expanded slightly to accommodate this new capacity, and we expect to reduce contractual services costs over time as this system matures. As a service organization, most of the Town's costs and assets are invested in its employees. We believe more timely and dedicated attention to employee matters and the labor relations process will result in more cost efficiency and less productive litigation.

Energy and Carbon Reduction- While the Town has long been a leader in cost effective procurement of energy and reduction in usage through energy conservation and new technologies, a new effort has taken hold that pushes the boundaries of the Town's energy goals. Spurred by the warming of the planet and motivated by Town Meeting commitments to meet aggressive carbon reduction goals, the Select Board has been encouraged to take on more ambitious goals for reducing the Town's carbon footprint. While a Town Meeting Resolution adopted in 2017 seeking "net zero" energy design for its school projects was just taking hold, a new goal of eliminating the Town's use of fossil fuels to power and heat its buildings and vehicles has been adopted. Already, more aggressive efforts are underway in designing our newest schools to employ non-fossil energy sources and delivery systems. It is expected that procurement of the Town's heat and electricity, along with vehicles that consume fuel, will include options for renewable energy. It is essential that these decisions are evaluated with a full "life cycle" approach, taking into consideration both short and long term financial implications of these decisions.

LONG RANGE FINANCIAL PLANNING

The cornerstone of the Town's budgeting process is the Long-Range Financial Projection, often referred to as "the Forecast". It is essential that a government have a financial planning process that assesses long-term financial implications of current and proposed policies,

programs, and assumptions that develop appropriate strategies to achieve its goals. The Forecast also acts as a bridge between a municipality's annual operating budget and its CIP, bringing all of the fiscal policy and economic variables together to establish coordinated managerial direction. Revenue and expenditure forecasting, along with capital planning and debt management, are key elements in developing a strong municipal fiscal position.

Prepared annually, the five-year Forecast serves as the starting point for the ensuing budget year - and also provides decision makers, taxpayers, and employees with an understanding of the long-term financial challenges the Town faces. In late-November / early-December, the Deputy Town Administrator and the Director of Finance present the Forecast to the Select Board. This presentation is the culmination of months of work involving the analysis of hundreds of revenue and expenditure line-items, making assumptions about economic conditions, and understanding state budget conditions.

The FY 2020 – FY 2024 Long Range Financial Projection for the General Fund makes the following key assumptions:

- New Growth in the Property Tax Levy of $1.8 million per year, augmented by the redevelopment of re-development at the former Circle Cinema site ($575K in FY 2020, the new hotel at 25 Washington Street ($400K in FY 2021, $300K in FY 2022), and by the re-development of 1and 2 Brookline Place ($700K in FY2020, $950K in FY 2021, $200K in FY 2022).

- For State Aid in FY 2020, full use of the Governor's proposal. For FY 2021 - FY 2023, annual 2.5% increases in Ch. 70 and Unrestricted General Government Aid (UGGA).

- For Local Receipts, FY 2020 reflects an increase of $164,783 (.6%). In FY's 2021-2025, limited growth is expected (approximately $300,000 / yr, or 1%).

- Use of Free Cash continues to follow the Town's Free Cash Policy, as recently updated by the Selectmen in 2011.

- A 2% wage increase for all years for all Town unions, except for FY2021 where a 2.5% increase has been bargained for some units. Step increases of $250,000 for Town Departments. Steps, lanes and collective bargaining increase combined at 5% for the School Department offset by $675,000 of annual turnover.
- Inflation in most Services, Supplies, and Capital Outlay accounts of 1.5% - 2.5% (approximately $300,000 for the School Department and $250,000 for Town departments).
- Annual utility increases of $150,000.

- Annual Special Education growth of $775,000 - $800,000.
- Enrollment growth cost increases of $1.4 and $1.2 million for FY2021 and FY2022.
- For FY 2020, a Health Insurance rate increase of 5% and an increase in enrollment of 51. For FY's 2021-2025, assume a 5% annual rate increase and 40 new enrollees per year.
- A Pension appropriation based on the most recent funding schedule approved by PERAC for FY's 2020 and 2021)
- Continue to fund OPEB's by increasing the appropriation by at least $250,000 per year from on-going revenues.
- Debt Service and pay-as-you-go CIP that reflects full-funding of the CIP (6% of net revenue plus the use of Free Cash to get to 7.5%).

These assumptions create an escalating deficit position for FY 2021 primarily for the Schools, starting at $5.3 million in FY 2021 and reaching $22 million by FY 2024. It should be noted that the deficits in the out years are inflated because they are built upon a deficit in the prior fiscal year. In fact, the Town must balance its budget each year, and that balanced budget will become the base for the following year's projection. Nonetheless, the cumulative deficits in the Long Range Projection are a reminder that the Town must find ways to support a sustainable budget in the long term.

The Long Range Financial Projection is detailed on the following pages:

	2020	2021	2022	2023	2024
REVENUE					
Property Taxes	239,499,109	253,112,657	266,087,957	274,158,158	282,427,894
Local Receipts	29,943,370	30,497,928	30,787,995	31,088,783	31,390,409
Motor Vehicle Excise (MVE)	6,142,644	6,265,497	6,390,807	6,518,623	6,648,995
Local Option Taxes	3,081,858	3,393,495	3,461,365	3,530,593	3,601,204
Licenses & Permits	1,170,775	1,170,775	1,170,775	1,170,775	1,170,775
Parking / Court Fines	3,400,000	3,400,000	3,400,000	3,400,000	3,400,000
General Government	3,765,871	3,826,584	3,862,807	3,899,549	3,936,819
Interest Income	974,977	999,351	1,024,335	1,049,943	1,076,192
PILOT's	1,010,509	1,030,719	1,051,333	1,072,360	1,093,807
Refuse Fee	2,850,000	2,850,000	2,850,000	2,850,000	2,850,000
Departmental & Other	7,546,736	7,561,507	7,576,573	7,596,941	7,612,615
State Aid	22,307,826	22,849,605	23,404,929	23,539,474	24,122,912
General Government Aid	6,825,378	6,993,922	7,166,680	7,343,756	7,525,260
School Aid	15,366,003	15,739,238	16,121,805	16,079,273	16,481,207
Tax Abatement Aid	29,174	29,174	29,174	29,174	29,174
Offset Aid	87,271	87,271	87,271	87,271	87,271
Other Available Funds	3,188,731	3,164,001	3,292,564	3,428,568	3,572,483
Walnut Hill Cemetery Fund	100,000	100,000	100,000	100,000	100,000
Reimb./Pymts from Enterprise Funds	2,617,704	2,621,877	2,728,858	2,841,930	2,961,475
Reimb. from Rec Revolving Fund	471,027	442,124	463,705	486,638	511,009
Capital Project Surplus	0	0	0	0	0
Free Cash (for Appropriation)	9,081,257	5,000,000	4,775,000	4,925,000	5,075,000
TOTAL REVENUE	304,020,292	314,624,191	328,348,445	337,139,983	346,588,698
$$ Increase	12,908,120	10,603,899	13,724,254	8,791,538	9,448,714
% Increase	4.7%	3.5%	4.4%	2.7%	2.8%

	2020	2021	2022	2023	2024
EXPENDITURES					
Departmental	**77,024,454**	**78,972,900**	**81,172,219**	**83,131,146**	**85,129,921**
Personnel	56,272,296	57,607,296	59,272,296	60,687,296	62,132,296
Services	10,851,430	11,122,716	11,400,784	11,685,804	11,977,949
Supplies	2,272,556	2,329,370	2,387,604	2,447,295	2,508,477
Other	582,482	597,044	611,970	627,269	642,951
Utilities	4,672,660	4,972,660	5,122,660	5,272,660	5,422,660
Capital	2,353,030	2,323,814	2,356,905	2,390,823	2,425,589
Intergovernmental	20,000	20,000	20,000	20,000	20,000
Coll. Barg. - Town	**1,110,000**	**1,440,000**	**1,190,000**	**1,220,000**	**1,240,000**
Schools	**112,433,045**	**118,776,140**	**125,603,896**	**131,484,896**	**137,645,896**
Coll. Barg. - School	**4,802,645**	**5,430,000**	**5,710,000**	**5,990,000**	**6,290,000**
Non-Departmental - Benefits	**66,499,951**	**70,899,207**	**75,533,910**	**81,023,491**	**86,909,684**
Pensions	24,915,433	26,512,211	28,593,420	30,838,004	33,258,787
Group Health	31,712,136	34,514,909	36,580,738	39,324,293	42,273,615
Retiree Group Health Trust Fund (OPEB's)	4,781,980	4,431,980	4,681,980	4,931,980	5,181,980
Group Life	145,000	148,625	152,341	156,149	160,053
Disability Insurance	46,000	46,000	46,000	46,000	46,000
Workers' Compensation	2,050,000	1,896,250	1,943,656	1,992,248	2,042,054
Public Safety IOD Medical Expenses	0	275,000	275,000	275,000	275,000
Unemployment Compensation	200,000	250,000	250,000	250,000	250,000
Medical Disabilities	40,000	40,000	40,000	40,000	40,000
Medicare Coverage	2,609,403	2,784,233	2,970,776	3,169,818	3,382,196
Non-Departmental - General	**1,419,100**	**936,883**	**961,584**	**977,740**	**999,604**
Non-Departmental - Debt Service	**19,508,837**	**23,283,505**	**28,388,844**	**30,829,981**	**30,256,136**
General Fund	19,508,837	23,283,505	28,388,844	30,829,981	30,256,136
Non-Departmental - Reserve Fund	**2,689,494**	**2,798,136**	**2,900,550**	**2,991,788**	**3,076,036**
Tax Supported	2,017,120	2,098,602	2,175,413	2,243,841	2,307,027
Free Cash Supported	672,373	699,534	725,138	747,947	769,009
Special Appropriations	**9,788,055**	**8,401,061**	**8,279,829**	**6,524,258**	**7,736,934**
Tax Supported	3,068,871	4,182,342	4,304,400	2,409,437	3,485,274
Free Cash Supported	6,719,184	4,218,719	3,975,429	4,114,821	4,251,660
Other	0	0	0	0	0
Non-Appropriated	**8,744,711**	**8,952,128**	**9,164,731**	**9,382,650**	**9,606,016**
State Assessments	6,825,698	6,987,947	7,154,252	7,324,715	7,499,440
Cherry Sheet Offsets	87,271	87,271	87,271	87,271	87,271
Overlay	1,806,742	1,851,910	1,898,208	1,945,663	1,994,305
Tax Titles - Deficits/Judgements	25,000	25,000	25,000	25,000	25,000
TOTAL EXPENDITURES	**304,020,292**	**319,889,959**	**338,905,563**	**353,555,949**	**368,890,227**
$$ Increase	12,908,120	15,869,667	12,767,698	14,562,646	14,430,867
% Increase	4.7%	5.2%	4.0%	4.3%	4.1%

	2020	2021	2022	2023	2024
CUMULATIVE SURPLUS/(DEFICIT)	0	(5,265,768)	(10,557,118)	(16,415,966)	(22,301,530)
DEFICIT AS A % OF OP REV	0.0%	-1.7%	-3.2%	-4.9%	-6.4%
Surplus / (Deficit) Prior to Collective Bargaining	5,912,645	1,604,232	6,900,000	7,210,000	7,530,000
Town Share of Surplus / (Deficit)	1,110,000	117,428	(1,083,861)	(2,134,602)	(1,539,166)
Town Collective Bargaining	1,110,000	1,440,000	1,190,000	1,220,000	1,240,000
Total Town Surplus / (Deficit)	0	(1,322,572)	(2,273,861)	(3,354,602)	(2,779,166)
School Share of Surplus / (Deficit)	4,802,645	1,486,804	(2,573,257)	(7,071,363)	(13,232,363)
School Collective Bargaining	4,802,645	5,430,000	5,710,000	5,990,000	6,290,000
Total School Surplus / (Deficit)	0	(3,943,196)	(8,283,257)	(13,061,363)	(19,522,363)

CAPITAL IMPROVEMENT PROGRAM (CIP)

Capital planning and budgeting is a critical undertaking for all government organizations and is central to the delivery of essential services and the quality of life for its residents. In fact, without a sound plan for long-term investment in infrastructure and equipment, the ability of local government to accomplish its goals is greatly hampered. Over the last 10 years (FY10 - FY19), the Town has authorized expenditures of $541 million, for an average of $54 million per year. These efforts, which have been supported by the Select Board, the Advisory Committee, Town Meeting, and, ultimately, the taxpayers of Brookline, have helped address a backlog of capital projects. This has allowed for the creation of additional classroom spaces necessitated by the surge in enrollment, dramatically improved the Town's physical assets, and have helped yield savings in the Operating Budget through investments in technology and energy efficiency. However, the overcrowding situation in Brookline's public schools is a major capital issue that cannot be addressed solely within the general revenue available for the CIP. On June 13th, the Town completed its third study since 2013 on selecting a site for a new school. The Select Board and School Committee approved moving forward with expanding the Baldwin School, expanding and renovating the Driscoll School, and renovating and possibly expanding the Pierce School. Since the projects necessary to address this issue are so expensive, this CIP assumes future proposals to seek voter approved "debt exclusions", which are temporary tax increases for the life of the debt incurred for these projects. Last year, such debt exclusion was approved for the replacement and enlargement of the High School.

It was a challenge to develop a balanced CIP that continues to reflect the various priorities of the Town, while simultaneously addressing the overcrowding issue in the schools. The overcrowding issue in the schools continues to be the most urgent CIP need, consuming more of the CIP and necessitating additional Debt Exclusion Overrides. The K-8 elementary schools have grown by 40% going from 3,904 students in 2006 to 5,482 students in 2017. These larger elementary grades will soon begin to enter the high school. Brookline High School is currently experiencing the initial wave of rapid enrollment growth that will increase the student body from 1,800 students in 2015, to at least 2,600 or more students by 2023.

The Town is in the midst of schematic design for the High School renovation and expansion project as well as schematic design for the Baldwin and Driscoll School projects. The Town was informed in December that the MSBA invited the Pierce School into the eligibility period. As presented, this proposed $267.6 million six-year CIP includes estimates for the Baldwin School and Driscoll School projects, but does not include an estimate for the Pierce School project beyond the feasibility/schematic design phase. A Debt Exclusion Override is assumed

for all three projects. The Classroom Capacity item in FY2020 continues to cover the leases at the temples, 62 Harvard, and 24 Webster Place ($1,450,000) with very limited funding to modify smaller spaces in existing buildings.

The recommended FY2020 – FY2025 CIP calls for an investment of $267.6 million, for an average of approximately $44.6 million per year, and follows the Town's CIP and Free Cash policies for projects inside the levy limit. This continues the Town's commitment to prevent the decline of its infrastructure, upgrade its facilities, improve its physical appearance, and invest in opportunities that positively impact the Operating Budget. Over the last 10 years (FY10 - FY19), the Town has authorized expenditures of $541 million, for an average of $54 million per year. These efforts, which have been supported by the Select Board, the Advisory Committee, Town Meeting, and, ultimately, the taxpayers of Brookline, have helped address a backlog of capital projects. This has allowed for the creation of additional classroom spaces necessitated by the surge in enrollment, dramatically improved the Town's physical assets, and have helped yield savings in the Operating Budget through investments in technology and energy efficiency.

Even with the pressure placed on the CIP by the overcrowding issue, this recommended CIP continues the Town's commitment to **public works projects**, including upgrading its parks/playgrounds, streets/sidewalks, water/sewer infrastructure, and other areas. There is $28M of specific park projects included, as shown in the table below:

	Total	Prior Year (FY19)	FY2020		FY2021		FY2022		FY2023		FY2024		FY2025		Future Years	
			Amount	RC	Amount	RC	Amount	RC	Amount	RC	Amount	RC	Amount	RC	Amount	RC
Parks and Playgrounds																
Amory tennis courts, Parking and Halls	1,700,000												1,700,000	B		
Cypress Playground/Athl. Field	240,000	240,000														
Fisher Hill Gatehouse Safety and Struct	175,000														175,000	
Harry Downes Field & Playground/Kra	2,450,000	2,450,000														
Larz Anderson Park	12,400,000	2,700,000			2,200,000	B					2,500,000	B			5,000,000	
Larz Anderson Park cash	1,025,000	425,000	600,000	A												
Murphy Playground	915,000						915,000	B								
Riverway Park	625,000														625,000	
Robinson Playground	1,250,000		100,000	A	1,150,000	B										
Schick Playground	1,125,000				100,000	A	1,025,000	B								
Boylston St. Playground	1,350,000						110,000	A	1,240,000	B						
Griggs Park	1,120,000												1,120,000	A		
Soule Athletic Fields	1,900,000														1,900,000	
Skyline Park Turf replacement and Par	1,980,000										180,000	A	1,800,000	B		

There is also funding allocated in FY2019 for a Traffic Calming/Safety Improvement project that calls will address intersection realignment on Woodland Road at the intersection with Laurel Road, intersection realignment on Woodland Road at the intersection with Heath Street (Pine Manor side),a new crosswalk with Rectangular Rapid Flash Beacon on Heath Street at Woodland Road, three raised speed humps on Woodland Road (Pine Manor side), a 20 mph Safety Speed Zone on the Beaver Country Day side, and other elements approved by the Transportation Board.

Current Funding for *Street Rehabilitation* account resumes the funding plan set prior to the infusion of one-time funds from the Parking Meter account. Ultimately the remaining balance in the Fund ($1.3M) will be devoted to this account, but further appropriation is on hold

pending progression of the Gateway East project as there may be unknown costs the Town may need to absorb as the project enters construction.

A few years ago, a study was made of the conditions of the fire stations and what was needed to maintain the integrity of the floors and building in regard to the newer, larger fire equipment. Fire Station Renovation work outlined in the report included flooring, shoring, beams, columns, and structural work. The report also included recommendations for the HVAC systems, generators, lighting, life safety, and mechanical, electrical, plumbing (MEP), along with other peripheral systems. In FY2012, $650K was appropriated to undertake the Structural component. The next phase for implementation was the Life Safety component, which was funded between FY2013 – FY2015 ($890K). Given the work planned for Station 6 the funding schedule for Station 6 MEP work was moved from FY2021 to FY2017 in order to allow efficiencies with bids and project schedules.

In addition, the Fire Chief has requested additional funding for industrial cleaning and reconfiguration of spaces to mitigate potential hazards in the stations. The project would include industrial cleaning of all non-porous surfaces and all duct work, painting of all walls and ceilings (hard surfaces), replacement of all acoustic/porous ceiling tiles, replacement of all window treatments, replacement of all (soft) furniture in living areas , replacement of all beds and mattresses and the replacement of any fabric partitions. The Town and Fire Department are committed to implementing all reasonable actions necessary to reduce and/or mitigate those exposures within our span of control.

This type of project has been implemented in Boston, and requires further study to develop a plan that takes into consideration the limitations of our current station configurations. The Town will spend FY2019 funds to conduct a study, which will provide MEP/FP systems, Architectural, Cost Estimating, Code Consulting and HAZMAT guidelines for the Fire Department. The CIP will need to be adjusted after the Town gets the results from the study.

The CIP as presented includes estimates for work at each for HVAC and lighting/communication system improvements as follows:

Sta 4 (Rt. 9/Reservoir Rd)	$50,000(FY20)
Sta 1 (Brookline Village)	$550,000 (FY20)
Sta 7 (Washington Sq)	$670,000 (FY21)
TOTAL	$1,270,000

The Town has an excellent fire apparatus rehab/replacement schedule that calls for rehabbing engines every 10 years and ladders every 12 years and for replacing front line engines every 17 years and front line ladder trucks every 20 years. Engine #1 is scheduled for replacement in FY2023. Quint #4 is scheduled for Rehabilitation in FY2020, but the Fire Chief has recommended deferral in order to conduct an assessment that will allow the department to definitively establish the type and quantity of apparatus and personnel necessary for safe and efficient operations. Maintenance staff advised the Chief that given the current condition of the piece deferral would not significantly increase any future cost for maintenance. Rescue #1 is scheduled for rehabilitation in FY2024 and Engine #3 is scheduled for FY2025.

Some of the major projects proposed in the CIP include:

- Pierce School- 2M for Feasibility / Schematic Design
- Radio Infrastructure - $4.5M (FY20-24)
- Larz Anderson - $13.4M (FY20-25, Future Years)
- Classroom Capacity - $9.8M (FY20-FY25)
- Skyline Park $1.98M (FY25)
- Fire Station Renovations - $1.7M (FY20-22)
- Public Building Fire Alarm upgrades - $1.7M (FY19-24)
- HVAC equipment - $1.3M (FY19-24)
- Fire Department's Engine #1 Replacement - $725K (FY23)

Continued major investments include:

- Street and Sidewalk Rehab - $25 million
- Parks and Open Space - $21.4 million
- Town/School Bldg Envelope/Fenestration Repairs - $6.4 million
- Town/School Roofs - $1.6 million
- Water & Sewer Infrastructure - $8.2 million -- enterprise fund
- Town/School Energy Mgmt/Conservation - $1.4 million
- Information Technology - $1.1 million
- Tree Replacement - $1.9 million

CONCLUSION AND RECOMMENDATION

The Board would once again like to thank the Town Administrator, his staff and all of the department heads in preparing this Budget. We continue to be grateful for the quality of the Financial Plan, as it provides an outstanding and useful document for the Select Board, Advisory Committee and Town Meeting, and creates transparency and confidence among the Town's citizenry and other stakeholders. Our independent Auditor has publicly acknowledged the quality of this document and we are proud to announce that the Town was awarded the Government Finance Officers Association's (GFOA) award for Excellence in Budget Presentation for the thirteenth consecutive year.

We thank the Advisory Committee again for another excellent job on preparing and reviewing the Town's budget, paying particular attention to applying the Financial Policies that have guided Town budgeting over the past decade. The amount of time the Advisory Committee spent on reviewing the Financial Plan is simply remarkable. The willingness of the Advisory Committee, School Committee, this Board, and, ultimately Town Meeting, to work collaboratively throughout the budget process is a major reason why this community has been able to avoid a number of problems that other communities have had to address.

The Board recommends FAVORABLE ACTION by a vote of 5-0 taken on April 30, 2019 on the motion offered by the Advisory Committee with the following amendments:

13.) SPECIAL APPROPRIATIONS

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. .

MOTION UNDER ITEM 68 HELD BY ADVISORY COMMITTEE Appropriate, $82,900,000, 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 renovate and expand the Baldwin School and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $82,900,000 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.

TOWN OF BROOKLINE'S FISCAL POLICIES
Adopted by the Board of Select Board on June 28, 2011

FREE CASH POLICIES

Free Cash shall not be used for Operating Budget purposes. It shall be utilized in the following manner and order:

1. Appropriated Budget Reserve – an amount equivalent to 0.25% of the prior year's net revenue shall be appropriated as part of the Town's 1% Appropriated Budget Reserve Fund, as allowed for under MGL Chapter 40, Section 6 and as described in the Town's Reserve Policies.

2. Unreserved Fund Balance / Stabilization Fund – Free Cash shall be used to maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town's Audited Financial Statements, with a goal of 12.5%, as described in the Town's Reserve Policies. If the Stabilization Fund were drawn down in the immediate prior fiscal year, then an allocation shall be made to the Fund in an amount at least equivalent to the draw down of the immediate prior fiscal year.

3. Liability / Catastrophe Fund – to the extent necessary, Free Cash shall be used to reach the funding target of the Town's Liability / Catastrophe Fund, as described in the Town's Reserve Policies.

4. Capital Improvement Program (CIP) – remaining Free Cash shall be dedicated to the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by available levels of Free Cash.

5. Affordable Housing Trust Fund (AHTF) – in order to support the Town's efforts toward creating and maintaining affordable housing, 15% of remaining Free Cash shall be appropriated into the AHTF if the unreserved fund balance in the AHTF, as calculated in the Town's financial system, is less than $5 million.

6. Special Use – remaining Free Cash may be used to augment the trust funds related to fringe benefits, unfunded liabilities related to employee benefits, including pensions and Other Post-Employment Benefits (OPEB's), and other one-time uses, including additional funding for the CIP and AHTF.

RESERVE POLICIES

The establishment and maintenance of adequate financial reserves provide the Town of Brookline with financial flexibility and security and is recognized as an important factor considered by bond rating agencies, the underwriting community and other stakeholders. The Town shall maintain the following general, special, and strategic reserve funds:

- **Budget Reserve** – to respond to extraordinary and unforeseen financial obligations, an annual budget reserve shall be established under the provisions of MGL Chapter 40, Section 6. The funding level shall be an amount equivalent to 1% of the prior year's net revenue, maintained in the manner set out below. Any unexpended balance at the end of the fiscal year must go toward the calculation of free cash; no fund balance is maintained.

    - Funding from Property Tax Levy – an amount equivalent to 0.75% of the prior year's net revenue shall be allocated from the Property Tax levy to the Appropriated Budget Reserve.
    - Funding from Free Cash – an amount equivalent to 0.25% of the prior year's net revenue shall be allocated from Free Cash, per the Town's Free Cash Policies, to the Appropriated Budget Reserve.

- **Unreserved Fund Balance / Stabilization Fund** – the Town shall maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town's Audited Financial Statements, with a goal of 12.5%. If the balance falls below 10% at the end of the fiscal year, then Free Cash shall be used to bring the amount up to 10%, as described in the Free Cash Policy, as part of the ensuing fiscal year's budget. The Stabilization Fund shall be established under the provisions of MGL Chapter 40, Section 5B.

    1. The Stabilization Fund may only be used under the following circumstances:
        a. to fund capital projects, on a pay-as-you-go basis, when available Free Cash drops below $2 million in any year; and/or
        b. to support the operating budget when Net Revenue, as defined in the CIP policies, increases less than 3% from the prior fiscal year.

    2. The level of use of the Stabilization Fund shall be limited to the following:
        a. when funding capital projects, on a pay-as-you-go basis under #1a. above, no more than $1 million may be drawn down from the fund in any fiscal year. The maximum draw down over any three year period shall not exceed $2.5 million.
        b. when supporting the operating budget under #1b. above, the amount drawn down from the fund shall be equal to the amount necessary to bring the year-over-year increase in the Town's prior year net revenue to 3%, or $1 million, whichever is less. The maximum draw down over any three year period shall not exceed $2.5 million.

3. In order to replenish the Stabilization Fund if used, in the year immediately following any draw down, an amount at least equivalent to the draw down shall be deposited into the fund. Said funding shall come from Free Cash.

- **Liability / Catastrophe Fund** – established by Chapter 66 of the Acts of 1998, and amended by Chapter 137 of the Acts of 2001, this fund shall be maintained in order to protect the community against major facility disaster and/or a substantial negative financial impact of litigation. The uses of and procedures for accessing the fund are described in the above referenced special act. The target fund balance is 1% of the prior year's net revenue and funding shall come from available Free Cash and other one-time revenues.

- **Overlay Reserve** – established per the requirements of MGL Chapter 59, Section 25, the Overlay is used as a reserve, under the direction of the Board of Assessors, to fund property tax exemptions and abatements resulting from adjustments in valuation. The Board of Select Board shall, at the conclusion of each fiscal year, require the Board of Assessors to submit an update of the Overlay reserve for each fiscal year, including, but not limited to, the current balances, amounts of potential abatements, and any transfers between accounts. If the balance of any fiscal year overlay exceeds the amount of potential abatements, the Board of Select Board may request the Board of Assessors to declare those balances surplus, for use in the Town's Capital Improvement Plan (CIP) or for any other one-time expense.

CAPITAL IMPROVEMENT PROGRAM (CIP) POLICIES

Planning, budgeting and financing for the replacement, repair and acquisition of capital assets is a critical component of the Town of Brookline's financial system. Prudent planning and funding of its capital infrastructure ensures that the Town can continue to provide quality public services in a financially sound manner. The development of a Capital Improvement Program (CIP) is the mechanism that the Town uses to identify projects, prioritize funding and create a long-term financial plan that can be achieved within the limitations of the Town's budget.

Definition of a CIP Project

A capital improvement project is any project that improves or adds to the Town's infrastructure, has a substantial useful life, and costs $25,000 or more, regardless of funding source. Examples of capital projects include the following:

. Construction of new buildings
. Major renovation of or additions to existing buildings
. Land acquisition or major land improvements
. Street reconstruction and resurfacing

. Sanitary sewer and storm drain construction and rehabilitation
. Water system construction and rehabilitation
. Major equipment acquisition and refurbishment
. Planning, feasibility studies, and design for potential capital projects

Evaluation of CIP Projects

The capital improvement program shall include those projects that will preserve and provide, in the most efficient manner, the infrastructure necessary to achieve the highest level of public services and quality of life possible within the available financial resources.

Only those projects that have gone through the CIP review process shall be included in the CIP. The CIP shall be developed in concert with the operating budget and shall be in conformance with the Board's CIP financing policy. No project, regardless of the funding source, shall be included in the CIP unless it meets an identified capital need of the Town and is in conformance with this policy.

Capital improvement projects shall be thoroughly evaluated and prioritized using the criteria set forth below. Priority will be given to projects that preserve essential infrastructure. Expansion of the capital plan (buildings, facilities, and equipment) must be necessary to meet a critical service. Consideration shall be given to the distributional effects of a project and the qualitative impact on services, as well as the level of disruption and inconvenience.

The evaluation criteria shall include the following:

- Eliminates a proven or obvious hazard to public health and safety
- Required by legislation or action of other governmental jurisdictions
- Supports adopted plans, goals, objectives, and policies
- Reduces or stabilizes operating costs
- Prolongs the functional life of a capital asset of the Town by five years or more
- Replaces a clearly obsolete facility or maintains and makes better use of an existing facility
- Prevents a substantial reduction in an existing standard of service
- Directly benefits the Town's economic base by increasing property values
- Provides new programs having social, cultural, historic, environmental, economic, or aesthetic value
- Utilizes outside financing sources such as grants

CIP Financing Policies

An important commitment is to providing the funds necessary to fully address the Town's capital improvement needs in a fiscally prudent manner. It is recognized that a balance must be maintained between operating and capital budgets so as to meet the needs of both to the maximum extent possible.

For the purposes of these policies, the following definitions apply:

- Net Operating Revenue - Gross revenues, less net debt exclusion funds, enterprise (self-supporting) operations funds, free cash, grants, transfers from other non-recurring non-general funds, and non-appropriated costs.
- Net Direct Debt (and Debt Service) - Gross costs from local debt, less Prop 2 1/2 debt exclusion amounts and amounts from enterprise operations.
- Net Tax-Financed CIP - Gross amount of appropriations for capital improvements from current revenues, less amounts for enterprise operations, grants, free cash, transfers, and non-recurring special revenue funds.

The capital improvements program shall be prepared and financed in accordance with the following policies:

OUTSIDE FUNDING
State and/or federal grant funding shall be pursued and used to finance the capital budget wherever possible.

ENTERPRISE OPERATIONS - SELF SUPPORTING
Capital projects for enterprise operations shall be financed from enterprise revenues solely.

CIP BUDGET ALLOCATIONS - 6% OF NET REVENUES
Total net direct debt service and net tax-financed CIP shall be maintained at a level equivalent to 6% of prior year net operating revenues.

- TAX FINANCED ALLOCATION - 1.5% OF NET REVENUES
  Net tax-financed capital expenditures shall be maintained at a target level equivalent to 1.5% of prior year net operating revenues.

- DEBT-FINANCED ALLOCATION - 4.5% OF NET REVENUES
  Net direct debt service shall be maintained at a target equivalent to 4.5% of prior year net operating revenues.

DEBT MANAGEMENT POLICIES
Debt financing of capital projects shall be utilized in accordance with the following policies:

- Debt financing for projects supported by General Fund revenue shall be reserved for capital projects and expenditures which either cost in excess of $250,000 or have an anticipated life span of five years or more, or are expected to prolong the useful life of a capital asset by five years or more. For projects supported by Enterprise Fund revenue, debt financing shall be reserved for capital projects and expenditures that cost in excess of $100,000.

- Bond maturities shall not exceed the anticipated useful life of the capital project being financed. Except for major buildings and water and sewer

projects, bond maturities shall be limited to no more than ten years.

- Bond maturities shall be maintained so that at least 60% of the outstanding net direct debt (principal) shall mature within 10 years.

- Total outstanding general obligation debt shall not exceed 2.5% of the total assessed value of property.

- Total outstanding general obligation debt per capita shall not exceed $2,385, which reflects $2,000 inflated annually since July 1, 2004. This amount shall continue to be adjusted annually by the consumer price index (CPI) for all urban consumers (northeast region all items).

- Total outstanding general obligation debt per capita shall not exceed 6% of per capita income, as defined by the Census Bureau of the U.S. Department of Commerce.

FREE CASH
After using free cash in accordance with the Town's free cash policy, available free cash shall be used to supplement the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by levels of available free cash.

UNFUNDED LIABILITIES POLICY

Defined as "the actuarial calculation of the value of future benefits payable less the net assets of the fund at a given balance date", unfunded liabilities represent a significant financial obligation for all levels of government across the country. In Brookline and other Massachusetts municipalities, the two primary unfunded liabilities are for Pensions and Other Post-Employment Benefits (OPEB's).

- Pensions – the Contributory Retirement System is a defined benefit program that is governed by Massachusetts General Laws, Ch. 32 and is regulated by the Public Employee Retirement Administration Commission (PERAC), a State entity responsible for the oversight, guidance, monitoring, and regulation of Massachusetts' 105 public pension systems. Funding for this system covers the costs of employees who are part of the Town's retirement system, which does not include teachers, as their pensions are funded by the State.

  In accordance with State law, PERAC regulations and government accounting standards, the Town contracts for an actuarial valuation of the retirement system to quantify the unfunded liability on a biennial basis. Under current State law, the Town then establishes a funding schedule to fully-fund this liability by 2040. The Town shall continue to fund this liability in the most fiscally prudent manner, recognizing the fact

that the adoption of a funding schedule is, by law, the responsibility of the local retirement board.

- OPEB's – these consist primarily of the costs associated with providing health insurance for retirees and their spouses. The Government Accounting Standards Board (GASB) issued Statements No. 43 and No. 45 in 2004 to address the OPEB issue. GASB 43 required the accrual of liabilities of OPEB generally over the working career of plan members rather than the recognition of pay-as-you-go contributions, while GASB 45 required the accrual of the OPEB expense over the same period of time. The reporting requirements of GASB 43 and 45 include disclosures and schedules providing actuarially determined values related to the funded status of the OPEB. This requires that the accrued liabilities be determined by a qualified actuary using acceptable actuarial methods.

  While there is currently no legal requirement to fund OPEB's, the Town shall continue to follow its plan to move toward fully-funding the Annual Required Contribution (ARC), ultimately developing a funding schedule that fully-funds OPEB's according to a schedule similar to the pension funding schedule. This plan should continue to include annual increases in the portion of the appropriation supported by General Fund revenues. It should also include using the "run-off" from the pension system once that system is fully-funded. In order to determine the funding schedule, the Town shall continue its current practice of having an independent actuary prepare biennial valuations, which is in compliance with GASB's requirement.

ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee has reviewed the proposed appropriations for FY2020 and is pleased to present this report to Town Meeting. Since February 2019, the Committee and its subcommittees have conducted public hearings with the Town's department heads and the leadership of the Public Schools of Brookline. By a vote of 19–0–4, the Advisory Committee, recommends FAVORABLE ACTION on the FY2020 budget.

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

OVERVIEW

The FY2020 budget funds several modest, but important new initiatives, while also providing the Public Schools of Brookline sufficient funds to keep up with continued high levels of enrollment. The operating budget benefits from a second year of increased revenue from the May 2018 operating override, as well as lower-than-expected group health costs. The Capital Improvements Program features special appropriations of $108.8 million for reconstruction of the Driscoll School and $82.9 million for a new school at the Baldwin School site, as well as many other less costly projects.

BUDGET BASICS: FY2020 REVENUES AND EXPENDITURES

What follows is a brief overview and explanation of the proposed revenues and expenditures, and how they compare to the FY2019 budget.

Revenues

FY2020 revenue is estimated at almost $303.5 million. This is the first time that Brookline's revenue has exceeded $300 million. Of this total, 79% comes from property taxes, 10% from local receipts, 7% from state aid, 3% from Free Cash, and 1% from Other Available Funds.

Projected total revenue for FY2020 will increase by 4.7% over FY2019, compared to an increase of 6.8% from FY2018 to FY2019. The lower percentage increase primarily reflects the fact that the additional property tax revenue due to the May 2018 debt exclusion override is being offset by slower growth in state aid and local receipts, and a decrease in Other Available Funds.

Brookline's revenue from property taxes will increase by 6.4% in FY2020, compared to 6.2% in FY2019. Property taxes remain the greatest contributor to our revenues, representing 79% of total General Fund revenue. Property tax revenue increases annually faster than the 2.5% implied by the name of Proposition 2½, because new growth (i.e., new construction) generates additional taxes and because in recent years Brookline has voted to approve operating and debt exclusion

overrides. New growth is projected to be about $3 million in FY2020. Debt exclusions will also add about $3 million to the overall property tax levy.

In FY2020, projected State Aid accounts for $22.3 million of Brookline's revenue, a 0.9% increase over FY2019. This increase is much lower than the 6.3% increase in FY2019. One reason for the small size of the increase is that Chapter 70 Education Aid from the state to Brookline has reached the state minimum funding commitment and will increase by only $20 per pupil in future years. The final amount of state aid will depend on the state budget, which is in its final legislative stages. If state aid increases in the eventual state budget, the fall 2019 Town Meeting will appropriate the additional amount by voting on budget amendments, After being cut deeply in the years following the 2008 financial crisis and recession, Brookline's state aid has been climbing in recent years, but this revenue is vulnerable to general economic trends, the health of the state budget, and state policies for allocating education aid. The very slow growth in FY2020 state aid does not bode well for future Town budgets. Potential Chapter 70 reforms are under consideration, but they would probably not benefit Brookline.

Local Receipts are projected to increase by 0.6% to $29.9 million. Revenue in the Local Receipts category comes from parking meter revenue, motor vehicle excise taxes, hotel and meals taxes, building permit fees, fees for other licenses and permits, the refuse fee, payments in lieu of taxes (PILOTs), and parking fines. Revenue in most of these categories has been increasing slowly or not at all in recent years, partly because fees (e.g. the refuse fee) have not been increased. A small amount reflects interest income, which remains low due to continued low interest rates. Local receipts are likely to increase as the Town collects marijuana excise taxes from retail marijuana stores. One store is open and three applications are pending.

Free Cash is the result of previous revenues exceeding estimates and/or expenditures coming in below appropriations. For FY2020, State-certified Free Cash is $11.9 million, but the amount available for appropriation is only $9.3 million. Under the fiscal policies that Brookline has followed in recent years, $2.6 million of the Free Cash will remain unappropriated so Brookline can maintain an unrestricted fund balance of at least 10% of annual revenue, with a goal of 12.5%. In recent years, bond-rating agencies have expressed concern about the low levels (as a percentage of annual revenue) of Brookline's undesignated fund balance. The Town does not want to jeopardize its Aaa bond rating, which was recently reaffirmed by Moody's. To ensure that Brookline's bond rating remains high, $2.8 million of the Free Cash will be left unappropriated, in order to improve the Town's undesignated fund balance. This leaves about $9.1 million of Free Cash available for appropriation. In accordance with fiscal policies, some of this Free Cash is allocated to the Liability/Catastrophe Fund ($389,700), and the Operating Budget Reserve Fund ($672,373), the Capital Improvements Program ($6,719,184), and the Affordable Housing Trust Fund ($200,000). The FY2020 budget also provides for appropriating $600,000 in Free Cash to post-retiree group health (OPEBs) and $300,000 to the Pension Fund—the same amounts as in FY2019. The OPEB and Pension Fund appropriations are intended to accelerate the Town's progress toward meeting its long-term financial obligations to fully fund these two funds.

The Town's revenues also include a category called "Other Available Funds." This category includes Walnut Hills Cemetery funds, state aid for libraries, Golf Enterprise Fund reimbursement, Recreation Revolving Fund reimbursement, Water and Sewer Enterprise Fund reimbursement,

Tax Abatement Reserve surplus, capital project surplus, and the proceeds from the sale of Town-owned land. The reimbursements from the revolving funds are primarily to cover the cost of fringe benefits received by employees whose salaries are charged to those funds.

The FY2020 revenue from Other Available Funds will decrease 34.6% compared to FY2019 (from $4.9 million to $3.2 million), after having increased 108.9% in FY2019 compared to FY2018. These wide swings reflect the fact that parking meter receipts are now entirely classified as Local Receipts, not Other Available Funds. In addition, the large FY2019 increase was primarily the result of: (1) a $1.4 million transfer from the Parking Meter Fund (to be used for street rehabilitation); (2) a re-appropriation of $500,000 in FY2018 CIP funds that were not used for schematic design of a 9th elementary school; and (3) a $2.4 million transfer from the bond premium account (to be added to the funding for expanding and renovating Brookline High School). (The Town receives a bond premium when buyers of bonds issued by Brookline pay more than the face value of the bonds. Buyers might pay such a premium to receive a higher interest rate.) In future years, revenue from Other Available Funds are likely to be more stable.

All revenue sources combined produce a projected total of $303.48 million in FY2020, a 4.7% increase in total revenue, compared to the 6.8% increase from FY2018 to FY2019. Some of this General Fund revenue must be deducted for Non-Appropriated Expenses: State/County charges—primarily the Norfolk County and MBTA assessments—of $6.8 million, "Cherry Sheet" offsets of $87,271, and the Tax Abatement Overlay of $1.88 million. This leaves us with a total of $294.66 million available for appropriation.

Expenditures

On the expenditure side, departmental expenditures (69% of total general expenditures) increase from a budgeted amount of $186.96 million in FY2019 to $195.66 million in FY2020—a 4.6% increase. Over three-quarters of the increase is in the Schools appropriation, which climbs by 6.1% to $117,354,211, an increase of almost $7 million. (As discussed below, total school spending is higher than this amount, because the schools receive additional funding from grants and other sources that are not appropriated by Town Meeting, and some school-related spending is not reflected in the Schools budget.) Spending for Town departments rises by approximately $1.7 million, an increase of 2.2%.

Non-Departmental expenditures increase by 7.7% to $89.3 million, compared to $82.9 million in FY2019. Of the increase, about $3.3 million reflects the growth in Employee Benefits, which will grow by 5.2 % in FY2020. Most of the rest of the increase is attributable to higher debt service costs, which will increase by just over $3.3 million from FY2019 to FY2020, reaching a total of almost $19 million, which reflects higher borrowing to finance capital projects, such as the Coolidge Corner School and Brookline High School. Additionally, there are revenue-financed Special Appropriations (Capital Improvements Program, generally referred to as the CIP) of $9.7 million, down by 11.5% compared to FY2019. (The amount budgeted for the CIP only includes revenue-financed projects. The cost of CIP items funded by borrowing is reflected in the amount budgeted for debt service. These large expenses are spread out over many years, even though they are voted on as part of the annual budget.)
There are also the Non-Appropriated expenses of $8.8 million as mentioned above.

FY2020 Revenues and Expenditures

Revenues

	$	% change
Property Tax	238,958,751	6.4
Local Receipts	29,943,370	0.6
State Aid	22,307,826	0.9
Free Cash	9,081,257	6.6
Other Available Funds	3,238,731	-34.6
Total Revenue	$303,529,935	4.7 %

Expenditures

	$	% change
Departmental	195,656,294	4.6
Non-Departmental	89,290,874	7.7
Special Appropriations (CIP)	9,767,030	-11.5*
Non-Appropriated Exp.	8,815,737	-0.9
Total Expenditures	$303,529,935	4.7 %

*Reflects the fact that the FY2019 CIP benefited from $2.4 million in bond premium funds and $1.4 million from the Parking Meter Fund.

GROUP HEALTH AND BENEFITS

In FY2020, as in previous years, Employee Benefits (including Pensions, Workers' Compensation, Unemployment, Life Insurance and Health Insurance) are one of Brookline's largest expenses. In FY2020, these costs represent about 23% of our General Appropriation, roughly the same percentage as in FY2019.

Group Health

Health insurance now represents about 11% of the budget. For FY2020, the recommended appropriation is $31.5 million, an increase of 2.5% over FY2019's $30.7 million. The FY2020 group health appropriation came in $204,255 under what had been projected in the *FY-2020 Financial Plan*, resulting in a savings of $85,735 for the town and $118,520 for the schools. The state Group Insurance Commission (GIC) set this year's rates at lower-than-expected level. The *FY-2020 Financial Plan* had assumed a 5.0% rate increase for all health plans. The actual average increase was 3.6%

Total group health enrollment is estimated at 3,208 for FY2020, down from the estimated 3,297 in FY2019, divided almost evenly between active employees and retirees. Of the total, 1,852 (57.7%) are or were school employees, while 1,357 (42.3%) are or were Town employees. As school enrollment grows and more teachers are hired, school employees are gradually becoming a larger proportion of group health enrollees.

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

For many years, it has been clear that some savings in healthcare costs may be possible if Brookline can reduce the share of premium costs it pays on behalf of our employees. Under the current (expiring) negotiated agreement, the Town covers 83% of the cost, while employees cover 17%. The state-wide average is closer to 70% municipality/30% employee. Each 1% reduction in the Town's share saves about $300,000. Any change in these percentages would have to be negotiated with the Town's unions. The Advisory Committee hopes that such negotiations can lead to savings.

- Retiree Health: OPEBs

Brookline has a significant obligation to provide healthcare benefits for its current and future retirees. As employees in the Baby Boomer cohort retire and live longer than previous generations, the number of retirees receiving healthcare benefits will continue to grow. These benefits are referred to as Other Post Retirement Benefits (OPEBs). According to the Segal Group, the unfunded liability for Brookline's retiree health obligation was $236.9 million as of June 30, 2018, a significant decrease since June 30, 2016, when it was $280.7 million. The calculation of the liability will be updated on June 30, 2020.

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

Brookline has established a post-retirement benefits trust fund to defray OPEB costs. As of January 1, 2015, the fund balance was $25.4 million. Under Brookline's plan for funding its OPEB liabilities, annual trust fund contributions are appropriated from General Fund revenues ($3.7 million) assessments on grants and special revenue funds ($248,888), savings redirected from the non-contributory retirement health plan, and one-time revenues. Brookline's OPEB funding plan adds $250,000 each year to the base contribution. The FY2020 contribution will be $4.78 million, including an additional contribution of $600,000 from Free Cash, which offsets the end of availability of Medicare Part D revenue.

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

Brookline is among the few communities in Massachusetts that sets aside funds to cover its OPEB liability. We should congratulate ourselves for being fiscally responsible, but we also should bear in mind that Brookline's OPEB obligations are exceptionally large in both absolute and relative terms.

One current concern with OPEB contributions is that funds from, for example the school Food Service Revolving Fund are no longer being directed to the OPEB trust fund.

- Pensions

Brookline maintains a defined benefit pension system for Town and School employees, with the exception of teachers, who are covered by a state pension system. Many newer positions in the Schools tend to be aides, and therefore may be eligible for the Town pension system. Currently, there are 3,860 employees (active, inactive, and retired) and their survivors in the Town pension system.

Brookline maintains a pension fund that was valued at approximately $302.2 million on December 31, 2017, up from $256 million on December 31, 2015. As of January 1, 2018, the retirement system was 57.1% funded with an unfunded liability of $227.5 million. Because returns on the fund's investments have been inconsistent in recent years, the unfunded liability has been increasing. After a 28% loss due to poor investment returns in 2008, the Town increased its annual contributions and extended the funding schedule so that Brookline will reach full funding in 2030 instead of the previous target date of 2028. The Retirement Board, which controls the pension fund, voted to reduce the assumed annual rate of return on investments from 8.15% to 7.75%, to 7.6%, and most recently to 7.2%. As the assumed rate is reduced, Brookline will need to appropriate more for pension fund contributions, which will increase pressure on other areas of the budget.

Brookline's FY2020 pension fund contribution will be $24.9 million, a 7.5% increase over FY2019. This includes $300,000 from Free Cash—an addition to the required contribution.

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

THE SCHOOL BUDGET

In FY2020, the General Fund appropriation for the Public Schools of Brookline will be $117,354,211, a 6.1% increase over the FY2019 appropriation of $110,658,255. In addition, in order to comply with state law, the Town budget includes a separate appropriation of $92,895 for vocational education assessments. This appropriation funds the cost of Brookline students' enrollment in out-of-district vocational schools. Combining it with the Schools budget brings the total education appropriation to $117,447,106. Spending on the Schools, whether in the Schools budget or for school-related expenses in the Town budget (e.g., the Building Department, health insurance) is actually considerably higher and accounts for about 62% of Brookline's appropriations. The Advisory Committee's report on the school budget (see below) offers an analysis of the FY2020 school budget.

NEW PROGRAMS AND NEW INITIATIVES IN THE FY2020 BUDGET

For FY2020, there are very few new programs and initiatives by town departments. In FY2019, the additional $701,783 in funds raised by the May 2018 operating override made it possible to fund some new positions and increased spending on building maintenance. The FY2020 budget, on the other hand, essentially "level-funds" most town departments; increases are largely limited to funding step increases and wage and salary increases due to collective bargaining agreements. This has been the pattern in most non-override years for the past decade.

The savings due to lower-than-expected health insurance costs made it possible to fund the following new initiatives and positions.

Partial funding of Park Ranger program staffing: $37,584

Increase in Council on Aging custodial staffing: $15,750

Funding for Newbury College planning expenses: $32,401

The FY2020 budget features continued funding for new initiatives and programs by town departments that were made possible by the increased revenues generated by the May 2018 override. The Building Department continues to devote more resources to the repair and maintenance of public buildings, although the backlog of needs is large and growing. The Department of Public Works has been able to acquire new equipment. The override revenues also fund positions that directly serve the public at popular community facilities (the library and the pool), as well as a sustainability coordinator who can further Brookline's goals as a Green community.

Many town departments requested additional FY2020 funds for new initiatives or new positions, but these requests were not granted. For example, the Fire Department requested an additional Fire Lieutenant for the Fire Prevention Division, as well as funds for training. The Building Department would like at least one more Building Inspector. The Town Clerk's office requested additional clerical staffing. These and other budget expansion requests may be revisited at the fall 2019 Town Meeting if Brookline receives more state aid than anticipated. The Police Department would like to purchase hybrid vehicles to replace four older vehicles.

CAPITAL IMPROVEMENTS PROGRAM (CIP)

Brookline's Capital Improvements Program (CIP) is funded by setting aside 6% of the prior year's net revenue for capital projects and supplementing this amount with Free Cash so that the total CIP funding is 7.5% of the prior year's net revenue. This policy has served Brookline well, enabling the Town to invest consistently in its public facilities. CIP funds have been used to renovate or expand many of Brookline's public buildings, schools, parks, and other facilities in recent years. CIP funds are also used for the construction of new facilities, such as the Fire Department's training facilities. The Town's CIP policies prevent the "shabbification" of Brookline's public assets and protect the Town's investment in its capital stock.

The Advisory Committee has provided detailed descriptions of each of the many projects in the FY2020 CIP (Special Appropriations 35–69) in this report, with the exception of the special appropriations for the Driscoll and Baldwin School projects (items 67 and 68). The Committee will vote on those two items after the May 7 Town election and then report its recommendation to Town Meeting in the supplemental mailing. Town Meeting may take a separate vote on any one of the special appropriations. It must take a separate vote for any bond-financed special appropriation; those appropriations require a two-thirds majority.

The following are some of the most notable projects in the FY2020 CIP.

Driscoll and Baldwin School Projects

The most significant FY2020 CIP projects, in terms of cost and public attention, are the proposals for demolishing the existing Driscoll and Baldwin Schools and building new K-8 schools on each site. The Driscoll project would cost $108.8 million. Baldwin would be $82.9 million. Both projects would be financed by borrowing in future fiscal years. The Advisory Committee has scheduled its vote on the Driscoll and Baldwin projects after the May 7 town-wide vote on a debt exclusion override that would increase property taxes to fund debt service payments for these two projects.

Pierce School Feasibility

In December 2018, Brookline received the welcome news that the Massachusetts School Building Authority had welcomed the Pierce School into the eligibility period. This means renovation or reconstruction of Pierce may be supported with state funding, although Brookline would most like pay a significant majority of the overall cost, which could be as high as $200 million. Pierce is now entering the Design Feasibility Phase. The FY2020 includes $2 million for feasibility studies and schematic design, which will be undertaken as part of the MSBA process.

Parks and Playgrounds

Every CIP includes funds for multiple parks and playgrounds. In FY2020, the CIP will make significant investments in Larz Anderson Park as part of a multi-year program of repairs and improvements to that park. Also included are improvements to the comfort stations in Larz Anderson Park, funding for repair and replacement of playground facilities and equipment throughout Brookline, and tennis court repairs. The design process for the renovation of Robinson Playground will begin this fiscal year, with construction slated for FY2021.

Street Rehabilitation

The CIP includes slightly more than $2 million for street rehabilitation, an amount that is considerably smaller than the $3.1 million FY2019 appropriation for this purpose. The Advisory Committee welcomes this appropriation, as will Brookline drivers who have encountered too many potholes, but the Committee continues to be concerned about the adequacy of funding for street rehabilitation. Brookline will be implementing a Complete Streets policy, which may increase street rehabilitation costs unless grants are available for Complete Streets projects. There is

backlog of over $20 million in roadway repair and maintenance. Last year, a report by Stantec Consulting Services recommended that funding be increased to $3 million per year to keep the roads in good condition and the backlog under control. The Advisory Committee supports using up to $1 million in funds from the Parking Meter Fund for street rehabilitation, if such funds are not needed for the Gateway East project.

Classroom Capacity

The CIP includes $1,450,000 in classroom capacity funds. This CIP appropriation is used to rent space for elementary and Brookline Early Education Program (BEEP) at various locations (temples, 62 Harvard Street, and 24 Webster Place) because there is not enough classroom space in schools or other public buildings. The Advisory Committee has questioned whether this appropriation should come out of the operating budget instead of the CIP. The funds are for rental payments, not to acquire or improve capital facilities. Note that some of this appropriation could be re-purposed for debt service payments to finance the acquisition of Newbury College. The college buildings include classrooms that the School Committee regards as suitable for early education. If Brookline acquires the Newbury College property, it could move early education programs to the college, reduce the amount the Town pays to rent classroom space, and use the savings to pay some of the cost of acquiring Newbury College.

Police and Fire Radio Infrastructure

The FY2020 CIP includes $4.5 million for a long-overdue upgrade of the radio infrastructure for the police and fire radio channels. This is a large amount, but for the sake of public safety it is essential to replace the existing Police and Fire channels and portable and mobile radios, which are well beyond the typical life of such systems.

Fire Alarm Call Box System

Brookline has an aging network of hundreds of hard-wired fire alarm call boxes. The Department of Public Works has the responsibility for maintaining this system. The CIP includes an item that would finance abandonment of the existing hard-wired network and replacement of 80 of the 297 street boxes with modern solar-powered wireless call boxes. The Fire Department has determined that 80 street boxes are sufficient to provide town-wide coverage. The existing 42 publicly owned master call boxes in buildings will be replaced with wireless boxes.

Traffic Calming

The FY2020 CIP includes one item for Traffic/Calming Safety Improvements. Although there is only one proposed project—the Woodland Road traffic calming project—and the size of the appropriation ($265,000) is relatively small, this special appropriation highlights some of the complex issues related to traffic calming in Brookline. On the one hand, many Brookline neighborhoods request traffic calming and the Town is unable to respond rapidly, if at all. On the other, some Brookline neighborhoods are dissatisfied with the traffic calming measures that are proposed or implemented in response to their requests. In recent years, these problems have become more acute by large volumes of cut-through traffic on local streets. In the case of the

Woodland Road project, neighbors, who initially submitted a request for traffic calming in 2013, are concerned about the proposed changes to the (eastern) intersection of Woodland Road and Heath Street. A detailed discussion of the Advisory Committee's recommendation appears in this report's summary of the CIP items. By a narrow margin, the Advisory Committee voted to impose conditions on funds that might be used to install flashing signals at the Woodland Road/Heath Street intersection. A significant minority of the Committee would have gone further and eliminated funding for the reconfiguration of that intersection.

EMERGING AND ENDURING BUDGET CHALLENGES AND ISSUES

The Projected Deficit

Every year, the Town Administrator's *Financial Plan* projects a structural gap between revenues The *FY-2020 Financial Plan* is no exception. As in previous years, there is a graph showing expenditures and revenues. The line for expenditures always goes up faster than the line for revenues, suggesting that there is a structural deficit. In the *FY-2020 Financial Plan*, the long-range financial projection shows a projected deficit that emerges in FY2021 at about $5.3 million and grows to $22 million in FY2024.

The projected deficits, of course, never materialize. In part, this is because the Town Administrator and his staff take steps to reduce costs and increase revenues. There is also a justifiable conservative bias built in to the projections. Estimates of revenues, for example, tend to be deliberately low, whereas pessimistic assumptions often drive up projected expenditures. This is sound budget practice and has helped to ensure that Brookline balances its budget each year and enjoys a Aaa bond rating.

Nevertheless, we cannot assume that it will always be easy to balance future budgets. The task of balancing each year's budget may be more difficult than expected, and the costs of the solutions may be unexpectedly high.

First, the Town's future budget deficits are being projected at a time when the underlying economic conditions—which should produce healthy budgets—are nearly perfect. Economic growth remains strong in Massachusetts and nationally, so state tax receipts and some local receipts should be growing. Inflation remains low. The Boston CPI increased only 2.1% in the twelve months that ended in March 2019, a lower rate than the 3.6% increase in the previous twelve months. A low inflation rate should reduce the rate of increase in most of the Town's costs. In addition to the low overall inflation rate, the rate of increase in group insurance costs has been modest in recent years, a far cry from the double-digit increases that were the norm a few years ago. The local real estate market remains strong, which makes it more likely that there will be new construction and new growth that increases Brookline's property tax revenues. Finally, interest rates remain low, reducing the Town's borrowing costs. The cost of borrowing for the Devotion/Coolidge Corner School project, for example, has come in well below earlier estimates.

Despite these favorable conditions, the Town faces a structural deficit. How much would the fiscal outlook deteriorate if any of these conditions changes for the worse? The risks and magnitude of future deficits would most likely increase if economic growth slowed or inflation increased.

Moreover, Brookline faces some negative fiscal trends despite the prevalence of excellent underlying economic conditions. State aid will increase by less than 1% in FY2020. Local receipts are growing at an even slower rate.

Second, the Town's fiscal experience since 2008 has been that frequent operating overrides are the eventual solution to the emergence of structural deficits. Brookline's voters have approved Proposition 2½ overrides in 2008, 2015, and 2018. Like the 2015 override, the 2018 override was described as a three-year plan, implying that another override might be placed on the ballot in 2021.

There are at least three significant problems with relying on repeated operating overrides to maintain balance budgets: (1) higher taxes make Brookline less affordable for many categories of residents, changing the character of the community; (2) the increased tax burden from operating overrides may make it harder to win public support for debt exclusion overrides, which are sometimes the only means of financing major capital projects; and (3) if Brookline's voters at some point refuse to approve future operating overrides, and that would force the Town to make very difficult fiscal choices, just as Proposition 2½ did in the early 1980s.

Frequent—almost "routine"—operating overrides have also changed the way that Brookline approaches the process of putting an override question on the ballot. In 1994, 2008, and 2015, committees were convened to conduct detailed studies of the Town's finances, including the scope for greater efficiency in delivering services. The committees and Town staff often presented detailed analyses of the capacity of Brookline residents to pay higher taxes, comparisons of the cost of government and tax burden in Brookline and comparable communities, and estimates of how the proposed override—and previous or potential overrides—would increase property taxes levied on Brookline residential and commercial properties.

To some extent, the extraordinary work of previous committees, such as the 2014–15 Override Study Committee, has reduced the need for some of the analysis of each succeeding override, but some facts change and previous analysis needs to be updated. For example, does Brookline's cost of government still compare favorably to that of its peer communities? An analysis prepared before the 2015 operating override suggested that Brookline delivered services very efficiently and its expenditures increased at a slower rate than for most of the comparable communities. Even more important, every operating or debt exclusion override has a unique impact on Brookline's taxes, and that impact needs to be viewed in the context of the cumulative effect of other recent or expected overrides.

Brookline's voters have shown an impressive willingness to approve higher property taxes to finance operating and capital expenses. Their votes may not have changed if they had more information on the impact of each tax increase. Still, the principles of good government should lead to the maximum amount of transparency, analysis, and information whenever an override question is on the ballot.

Underfunded Repairs and Maintenance

The Town has responded to the problem of structural deficits not only by raising revenue through frequent operating overrides, but also by limiting the growth of departmental expenditures. With the exception of the schools, which have received increased funds as enrollment has grown, most departments have been level-funded in recent years, apart from any allocations of override funds. In most cases, departments have carried out their functions with limited funds, but the Advisory Committee realizes most budget expansion requests go unfunded.

Perhaps even more important, however, is the risk that repairs and maintenance of the Town's capital stock—especially buildings and roads—will be neglected. The Advisory Committee has repeatedly called attention to the gap between documented needs for funding of roadway and building maintenance and the funds that are available for this purpose. The 2018 override included increased funds for building maintenance, and the CIP appropriation for street rehabilitation was increased significantly in FY2019, but these are only first steps. The Town has to face the need to make a large investment to maintain its physical plant, which includes 45 public buildings valued at an estimated $135 million. The backlog of deferred maintenance for school buildings is approximately $17 million. Yearly preventative maintenance costs continue to increase as new buildings are added and existing buildings are expanded. When existing and planned school construction projects are completed, the total square footage of school buildings will have increased by about 25%. A 2016 report by an outside consultant found that the Public Buildings Division lacked the FTEs to carry out its functions. Brookline's roadways also will deteriorate unless the Town invests more in repairs and maintenance. A recent Stantec report found that spending more now will pay off in future savings, because it is much more expensive to repair a road that has deteriorated badly.

Rapidly Increasing Levels of Debt

Brookline has been taking on an unprecedented level of debt in recent years, and this trend will continue. The Town has borrowed—or will borrow—hundreds of millions of dollars to finance the Devotion/Coolidge Corner School, the renovation and expansion of Brookline High School, and (assuming that voters approve debt exclusion overrides), the Baldwin, Pierce, and Driscoll school projects. Although some cost estimates remain uncertain (e.g., the Pierce School), the total debt added by these projects will exceed $500 million. In FY2020, Brookline's projected total outstanding debt will exceed $533 million. (See p. VIII-13 if the *FY-2020 Financial Plan.*) Additional borrowing to finance the Pierce School project, which could cost $150 million, would bring the overall level of debt close to $700 million. In 2010, Brookline's had only $75 million in outstanding debt.

As a result of increasing borrowing, the amount that Brookline spends annually on debt service is increasing. The FY2020 budget allocates almost $19 million for debt and interest, a 21.1% increase over FY2019. (Enterprise funds contribute another $1.8 million in debt service costs, but those funds generate their own revenue and thus their debt is financed outside the General Fund.) In the next five years, Brookline's annual debt service is likely to exceed $40 million.

These rapid and large increases in Brookline's overall level of debt raise two concerns. First, will high levels of debt jeopardize Brookline's Aaa bond rating? The answer is not clear. In its March 11, 2019, report that affirmed the Town's Aaa rating, Moody's listed "substantial increase in the debt burden" as one of the factors that could lead to a downgrade. The others were "trend of operating deficits that result in a material decline in reserves"; "material tax base contraction"; and "failure to address long-term pension and OPEB liabilities." Those three factors are relatively unlikely to emerge, also funding pension and OPEB liabilities will continue to be a challenge. On the other hand, there is no doubt that Brookline's debt burden will increase substantially. (Moody's described Brookline's debt as "low but increasing" in its March 2019 report.)

Rising debt levels may not threaten the Town's Aaa bond rating if Brookline voters continue to approve debt exclusions to finance further borrowing. If bonds are slated to be repaid by a dedicated revenue stream from a specific tax increase, they are more likely to be regarded as "safe" investments. In its March 11, 2019, report, Moody's listed the "expectation that voters will continue to approve debt exclusions for growing capital needs" as one of the factors contributing to Moody's assessment that the "town's financial position will remain stable going forward." Thus the most serious concern might be that Brookline's voters, having approved multiple operating and debt exclusion overrides, will eventually refuse to approve further overrides.

The second, related concern raised by Brookline's growing levels of debt is that the Town is no longer complying with its own fiscal policies. As p. VII-2 of the *FY-2020 Financial Plan* indicates, Brookline's total outstanding debt per capita ($6,319) and total outstanding debt per capita as a percentage of per capita income (9.7%) already exceed the levels prescribed by the Town ($2,663 and 6%, respectively). Total outstanding debt as a percentage of the assessed value of real estate in Brookline (1.5%), however, is still far below the level prescribed by Town policies—2.5%. The level of debt only exceeds the guidelines set by Town policies because Brookline has raised taxes through debt exclusions to finance much its borrowing. If one excludes the debt financed by debt exclusions, the remaining debt—the debt financed within the Proposition 2½ levy limit—complies with Brookline's fiscal policies. Regardless of this distinction between the two categories of debt, it is time for the Town to consider revising its fiscal policies to make them more realistic in light of the current and projected levels of debt.

Note that increasing on debt service generally does not "crowd out" operating spending. Most of the debt service is financed by dedicated revenue from debt exclusion overrides. The rest is financed within the CIP.

Developing a Response to Deficits and Debt: The Brookline Fiscal Advisory Committee

Motivated by concerns over the Town's projected structural deficits and rising levels of debt, the Advisory Committee in May 2018 voted for a resolution that called for the establishment of a "Long-Range Financial Review Committee" that would take a broad look at Brookline's finances, including revenues, expenditures, capacity to pay further tax increases, and fiscal policies.

The Select Board responded by appointing the Brookline Fiscal Advisory Committee (BFAC). That committee has been charged with the responsibility to (1) review and evaluate Brookline's fiscal and financial projections through FY22, (2) examine Town and School budget principles

and financial policies, and (3) suggest actions that address misalignment between projected revenues and expenditures. Although BFAC is not charged with examining all of the topics listed in the Advisory Committee's May 2018 resolution, the Advisory Committee welcomes its establishment and looks forward to receiving its final report.

Recycling and Solid Waste

Recycling and solid waste removal services have a direct, weekly impact on the lives of many Brookline residents. There have been many changes in these programs in recent years, as the Town has adopted single-stream recycling and, most recently, a modified pay-as-you-throw (PAYT) system that requires residents to use Town-supplied toters for their trash. With each change, there has been significant discussion and debate as Brookline residents have assessed the impact of the change and contemplated how they will adapt.

Brookline's recycling program faces the likely need for further changes in FY2020 and beyond. The market for recycled materials has deteriorated, largely because China will no longer accept contaminated recyclables. In previous years, it generally cost less for Brookline to dispose of recyclable materials (as compared to trash), because such materials could be sold, generating revenues that offset the cost of collection. Thus the Town and its residents had strong incentives to recycle, which is, in any case, required by Massachusetts state law. Currently, however, the weak market for recyclables has made the cost of recycling approximately the same as the cost of disposing of solid waste, although there are significant short-term market fluctuations.

The FY2020, the services portion of the sanitation budget of the Department of Public Works will increase by over 22%, reflecting increased charges under the Town recycling contract. In the coming years, the Town will have to consider increasing the refuse fee, renegotiating its recycling contract, and/or reducing the cost of trash collection to address the escalating cost of recycling. Residents can help by avoiding contamination in single-stream recycling, but there will also need to be a broader movement to reducing excessive packaging.

Paying for Resilience: The Fiscal Implications of Climate Change

Brookline's residents and Town government have paid much attention to the problem of climate change. Multiple committees and organizations have raised awareness of the problem and set goals and policies. Much of this effort has been devoted to reducing greenhouse gas emissions by, for example, proposing that new schools not rely on fossil fuels, buying hybrid or electric vehicles for the Town's fleet, and attempting to use green energy sources. Some of these steps have added to the Town's budget, but they may reduce long-term costs or help to limit the extent of climate change.

In planning budgets for the coming decades, Brookline also will need to study and fund measures to improve resilience in the face of climate change. The private sector will most likely take steps on its own (e.g. to prevent flood damage, utility systems may be located on upper floors instead of in basements). The public sector in Massachusetts already has begun to analyze what needs to be done to adapt to and mitigate the effects of climate change. In September 2018, for example, the

Commonwealth of Massachusetts adopted the *Massachusetts State Hazard Mitigation and Climate Adaptation Plan*:
https://www.mass.gov/files/documents/2018/10/26/SHMCAP-September2018-Full-Plan-web.pdf

The state's plan provides a comprehensive overview of necessary state and local actions. The key task for Brookline is to identify the steps the Town must take and to ensure that there is adequate funding in the Town budget, which already faces multiple challenges. The Town Administrator is aware of the issues, and there is ample expertise on these questions in Brookline, but long-term planning and budgeting for emerging problems is never easy.

New Revenue Opportunities

The long-term fiscal outlook for Brookline is not totally bleak. There are at least two important new revenue opportunities: marijuana and Airbnb taxes.

In recent years, the Town has attempted to increase revenue by encouraging new growth in the form of commercial—particularly hotel—development, increased fees and parking meter rates, and period property tax overrides. In the near future, two new sources of revenue will become available: taxes on recreational marijuana sales and short-term (Airbnb) rentals.

Legal recreational marijuana sales began in Brookline on Saturday, March 23, 2019. Four stores are likely to be open by the end of 2019. The Town will receive local tax payments amounting to 3% of the gross revenue from marijuana sales, as well as additional payments under Host Community Agreements that the Town has negotiated with each marijuana store. Given that only one store is open and projections of futures sales are uncertain, it is not yet possible to offer precise projections of the tax revenues that Brookline would receive. Will the new revenues serve as the non-property tax revenue included in the three-year override plan adopted in 2018? Will the revenues be needed to offset any public health and public safety costs associated with retail marijuana stores? Should the revenues be earmarked for a particular purpose or used wherever necessary? The Advisory Committee favors a public discussion of these questions as more information becomes available

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Airbnb rentals (or similar short-term rentals) offer another emerging source of revenue. At the of 2018, the state adopted legislation that will enable Brookline to impose a tax of as much as 6% on short-term rentals, as well as a community impact fee of up to 3%. The Department of Planning and Community Development has begun to study this issue and may file a Warrant Article for the fall 2019 Town Meeting that would clarify the legal and regulatory status of short-term rentals. Brookline will need to study this issue closely, however, because short-term rentals may have significant negative and positive effects.

On the plus side, short-term rentals will generate revenue for Brookline property owners and the Town. Residential units used for short-term rentals will not pose great demands on Town services. They won't, for example, be occupied by families who enroll their children in Brookline schools. Visitors who stay in short-term rentals may shop or eat at Brookline stores and restaurants.

On the minus side, short-term rentals can have many negative effects. First, they change the character of the community in many ways. Instead of long-term residents, there are more transient visitors with no stake in the future of the community. If significant numbers of units are converted to short-term rentals, a community can be "hollowed out" with relatively few permanent residents. Second, they change the housing market by removing units from the rental inventory and thereby increasing the rents on the remaining—and increasingly scarce—long-term rental units. If short-term rentals generate more income than long-term rentals, building or unit owners will have an incentive to convert residential units into short-term rentals. Brookline Property values may go up to reflect the potential revenues for short-term rentals, making Brookline even less affordable.

ADVISORY COMMITTEE REPORT TO TOWN MEETING ON THE PUBLIC SCHOOLS OF BROOKLINE FY2020 BUDGET

The FY2020 operating budget for the Public Schools of Brookline (PSB) is $117,354,211.

The $27,690,841 cost of benefits for PSB employees and Building Department expenses for the schools is carried in the Town budget. In all, PSB accounts for about 62% of Brookline's total operating budget.

In past years, the Advisory Committee's report on the PSB budget focused on explaining the budget in terms of how much money was being spent and where it was spent, and on how funds provided by operating overrides had been used. In the last three years, PSB's budget as explained by the budget book has become increasingly comprehensible. This year, it includes both program-by-program expenses and school-by-school expenses down to the level of the staffing in each school and the salaries budgeted for each type of teaching position. Furthermore, over the past two years, all staff have been classified in a way that links the line item in which their salaries are carried to what they actually do. Personnel costs account for 85% of the budget, so reading through the details of staff costs provides an excellent window into where money is spent, as well as an understanding of the size and complexity of PSB's operations.

Given the availability of this data and the detailed explanations of each program is explained, it no longer seems necessary to "translate" the budget book in detail to those who read it. The Advisory Committee recognizes that many Town Meeting members do not read the budget in depth, so we have provided a summary of the operating budget request. Note that the summary of expenditures does not include two major PSB expenses that carried in the Town budget–the cost of PSB staff health care benefits and the cost of services provided by the Building Department. Benefits costs attributed to PSB are $27,690,841 and Building Department costs are $5,460,368.[1] Grants are expected to contribute $5,036,009 to the FY20 PSB budget.

[1] See Town of Brookline FY-2020 Financial Plan, Pages IV-141 and IV-61

Expenses, not Including Employee Benefits & Building Dept. Expenses for PSB

Program	Item	FY18 Actual FTE	FY18 Actual $	FY19 Budget Nov. TM FTE	FY19 Budget Nov. TM $	FY20 Budget FTE	FY20 Budget $	FY20 to FY19 change FTE	FY20 to FY19 change $
Gross school budget expenses	Personnel	1,240.49	$94,622,356	1,276.72	$98,478,447	1,313.60	$104, 014,289	36.88	$5,535,841
	Services		9,741,022		10,542,721		11,699,864		1,157,142
	Supplies		1,922,502		2,051,297		1,833,497		(217,800)
	Other		593,018		1,288,570		1,102,213		(186,357)
	Capital		1,140,010		1,364,723		1,191,685		(173,038)
	Total		$108,018,889		$113,725,760		$119,841,548		$6,115,788

Revenue Sources

Source	FY18 Actual	FY19 Budget Nov. TM*	FY20 Budget	FY20 Prelim to FY19 variance %	FY20 Prelim to FY19 variance $
General Fund Appropriation	$104,758,343	$110,583,255	$117,354,211	6.12	$6,770,956
BHS Bus Fees	0	75,000	Moved to revolving fund	-100.00	(75,000)
Total T-S Partnership $	$104,758,343	$110,658,255	$117,354,211	6.06	$6,695,956
Tuition & fees	$696,016	$696,016	$717,523	28.68	$21,507
Facility Rental	225,000	Moved to revolving fund	Moved to revolving fund		
Circuit Breaker Funding	$1,873,044	1,688,705	1,769,814	4.80	81,109

Rev. Fund expense reimb's	50,680	150,680	$0	-100.00	(150,680)
Other Revenue	$0	358,680	$0	-100.00	6,289,212
Total Revenue	$107,603,083	$113,552,336	$119,841,548	5.54	$6,289,212
Surplus/(Deficit)	($415,806)	($173,424) *	$0		

* Includes adjustments made at Nov. 2018 TM to offset the FY18 deficit

The following table of the PSB FY2020 Budget contents may be helpful:

Budget Section	Contents	Pages
Budget Overview	PSB Core Values; use of 2018 override funds; summary of expenses; summary of revenue including state aid, grants and reserve funds	Pages 1 – 34
Program Budget Detail	Listing of department codes; notes on the budget book	Page 36
Administration	Line item detail for School Committee and central office expenses	Pages 37 – 62
Instructional Services	Classrooms program explanations & expenses: The "3 R's" and a wide range of complementary programs *Instructional Services and Student Services (in the next row) provide most of the in-classroom services PSB offers. These two categories account for $97,072,797 of PSB's $112,238,810 in salary costs, or 86.5% of the total.*[2]	Pages 63 - 148
Student Services	Special Education & related health services Student Services include 71.3 teacher FTEs and 199.7 paraprofessional FTEs. Student Services accounts for 21% of the operating budget. *The percentage of special education students in Brookline is comparable to similar municipalities. Brookline's proximity to the Longwood Medical Area does attract families whose students require a high level of medical care.*	Pages 149 - 173
General Instruction	Expense detail by school, including staffing and staff salaries *This section provides a level of insight into school-by-school operations that was previously not available in the budget.*	Pages 174 - 253
Ancillary/Other School Services	Expense details for health services; athletics; student activities; transportation; and maintenance	Pages 254 – 281

[2] Based on the salary costs of members of BEU's Units A and B plus paraprofessionals, not including athletics stipends. See the table on Page 16 of the FY20 budget. Note that the $112.3 million for salaries includes $8.2 million that are covered by revolving funds and grants and not by Town Meeting's allocation.

Budget Section	Contents	Pages
Tuitions	Tuition payments by PSB for students who are enrolled in out-of-district schools such as county voc-tech schools and special education programs. Out-of-district tuition for special education is projected to account for $5,417,857 in FY20. *Depending on the year, State "Circuit Breaker" about 1/3rd of these expenses. The formula provides 72 - 74.6% of the costs in excess of $50,000 for student placed out of district. Receipts from Circuit Breaker funds are projected at $1,769,814 for FY20.*	Pages 282 - 289
Shared Services	Reference to sections of the Town budget covering shared services: IT; Building; Parks; Health	Page 290
Gifts, Grants & Donations (draft)	Grants including federal, state & local; gifts. The expected total receipts from grants is $5,036,009. *This section is a draft because the final amounts of some FY20 grants have not been confirmed*	Pages 1 – 80 (Tabbed "Preliminary" section of the budget book)
Revolving Funds	PSB administers 13 revolving funds related to school activities plus the Adult Education revolving fund. *State law defines how revolving funds are managed. In some cases, surpluses are accumulated within the fund for exclusive use of the supported program. For other funds, surpluses are available for general operations. State law allows PSB to use operating funds to cover deficits in its revolving funds.*	Pages 1 – 34 (Tabbed "Preliminary" section of the budget book)

Use of funds from the 2018 Operating Override: The 2018 operating override was built on the assumption that $6,803,850 in new funding would be available to PSB in FY20.[3] Currently, however, the PSB is likely to experience a shortfall of $541,638 and must budget accordingly.

Source of New Funds	Projected	Actual FY20
Increase in base revenue available to PSB from Town revenue (before adding override funds)	$3,399,413	$3,556,451
Increase in operating funds from the override	$3,382,930	3,139,505
Increases in PSB revenue from Circuit Breaker and Materials Fee	$21,507	($406,744)

[3] See Page 23 of the FY20 PSB Budget

Total increase for FY20	$6,803,850	$6,289,212
Shortfall		($541,638)

The PSB now expects a significantly lower level of support from State "circuit breaker" support—a decrease of $428,251. The shortfall was accommodated in the FY20 budget by changes in the FY20 actual budget that are detailed on Pages 23–26 in the PSB FY20 Budget. The items of note are a reduction of $300,000 in supplies, discussed below; $200,000 in Building Department for school opening costs shifted to the Town budget; a decision not to fill a managerial position whose occupant will be on leave for FY20; and a series of changes in non-student-facing line items.

Enrollment: After the intense discussion in 2018 regarding school enrollment projections, it is worth noting that K-8 enrollment increased by 21 students and High School enrollment increased by approximately 65 students, for an overall increase of approximately 86 students. The increase at the High School was driven largely by the difference in the size of the kindergarten classes of 2009 (the entering freshmen) and 2006 (the graduating seniors).

OVERVIEW: THEMES AND CONCERNS

The Advisory Committee report focuses on three broad themes and two specific concerns. As has been the case in the last three years, the detailed explanations by PSB staff when we discussed these themes and concerns were very helpful to the Advisory Committee.

The first theme has to do with the nuts and bolts of managerial accounting. The second, more strategic theme has to do with the efficient delivery of programs, which translates into the efficient use of available funds. The third theme concerns special education, and particularly out-of-district tuition.

Theme #1: Managerial Accounting Nuts & Bolts

Controlling unanticipated expenses*:* PSB ended FY18 with a deficit caused by the fact that some expenses were not visible to the central office until late in the fiscal year even though they had been incurred earlier.

While the individual items were small, they added up. In other cases, the budgeted amounts for some line items were exceeded. For example, stipends are budgeted for teachers who coach teams or advise student activities, but the increase in stipends due to increases in contractually agreed salary levels was not built into the budget. That deficit was offset by the November 2018 Town Meeting, which shifted funds from the FY19 PSB budget to cover the FY18 deficit. [Say more about amounts and how?]

Could there be another potential budget gap for FY19? PSB has spent considerable time and effort to assert control over what had previously been viewed as fringe items, and we do not expect another end-of-the-fiscal-year surprise from the same causes. Among other steps, spending against the FY19 budget without central office approval was frozen last fall as a means of reducing any potential FY19 gap.

Controls have been put in place to ensure that the only payments for stipends will be those that are provided for in the budget.

Two other factors increased pressure on FY19's budget vs. actual expenses.

Revolving fund deficits: First, the food service and athletics revolving funds have been in deficit for several years. In prior years, the deficits were covered by unexpended reserves, and those reserves are no longer being built in to the budget. Note that it is an acceptable practice for the operating budget to subsidize revolving funds, but such funds should not close out the year in deficit.

The food service deficit has been exacerbated by changes in school menus that did not resonate with the customers–the students. That resulted in drop in demand and thus a drop in revenue. The School Committee has gone out to bid for a new food services contract and it is also analyzing whether to bring management of food services back in-house. The menu has been tweaked, and the School Committee is considering an increase in the cost of some types of meals in order to keep the food services deficit under control. One problem is that the cost of meals provided at no cost or at a subsidized cost exceeds the federal reimbursement for those meals. That difference has to be made up either by charging the rest of the students more or by subsidizing the food service revolving fund.

The Athletics Revolving Fund has been supported in the FY20 budget by the transfer of salaries for 4.5 FTEs from the revolving fund to the operating budget, so the revolving fund should end FY20 in balance or close to it. This provides a built-in subsidy, as is appropriate when it is clear that fees cannot cover all of a revolving fund's expenses. The School Committee could raise fees, but it does not want to increase the burden on parents to an extent that reduces student participation.

Out-of-district tuitions: Second, following several years of declines in the number of special needs students for whom PSB was paying out-of-district tuitions, a handful of special needs students who could not be educated within Brookline programs moved into the district, resulting in a 27% increase in out-of-district costs. As noted above, the budget includes a total of $5,417,857 for out-of-district tuition in FY20 for an expected cohort of 52 special needs students.

Theme #2: Efficient delivery of programs

Dealing with the structural deficit: Each year, we see forecasts for structural deficits in both the Town and School budgets. The following year, the budget for the then-current year has been balanced, but the structural deficit projection for future years remains in place. This annual recession of the deficit horizon is not a game, but rather the result of conservative current budgeting and conservative future projections by both Town and School.

In FY20, the projected deficit that had been predicted in the spring of 2018 for PSB in FY20 materialized. Causes included a decrease from FY19 projections in the amount of revenue the Town collects and the continuation of FY 19's higher level of out-of-district tuitions for special

education students. And the reserves that were once sprinkled through the school budget are gone, first because of a laudable change in the budgeting philosophy of PSB and then because it was impossible to balance the budget and retain reserves that are, in fact, appropriate.

Quoting from the PSB Executive Summary of the FY20 budget dated February 22, 2019, "In prior years, the School Department utilized a variety of reserve and contingency accounts.... [The] School Committee repeatedly expressed its concern that due to the overall tightness of the budget there is less ability to absorb unforeseen events.... The School Department is managing this tightness with greater accuracy in budgeting and reporting."

The Advisory Committee's School Subcommittee expressed its concern somewhat differently. Our question was how PSB would be able to manage *anticipated* cost increases, let alone unforeseen events. The short answer is that Superintendent Bott and his senior staff are focused on delivering programs more efficiently. To cite a simple example, it may be possible to schedule ELL (English Language Learner) specialists who work in more than one school in a way that reduces their travel time.

Cross-referencing the program-by-program detail in the FY20 budget with the school-by-school data will help in this analysis. The reclassification of staff to allocate their salaries to the programs they deliver is equally important, since that reclassification increases the accuracy of program costs.

In the same context, Superintendent Bott has embarked on a program to assess standards and assess needs across the district. His February 28, 2019 progress report to the School Committee details the full range of his organizational goals and progress to date. For example, one of the goals is to "reorganize and prioritize professional learning opportunities and create a 3–5 year professional learning plan that minimizes the disruption to instructional time," an initiative that should increase classroom hours available for teaching. Another goal is to improve the "design, [develop and implement] of all initiatives [leading] to fewer initiatives, better long term planning, and staff and stakeholders being more effectively informed, included, and engage in development, design and implementation."

His report is available on the PSB website at https://www.brookline.k12.ma.us/cms/lib/MA01907509/Centricity/Domain/721/1.%20SY18-19%20District%20Goals%20-%20Mid%20Year%20Status%20Update.pdf

Theme #3: Out-of-district tuition for special education

As noted previously, out-of-district tuition costs for special education students increased by an unexpected 27% in FY19. This was the result of a handful of students who require out-of-district services moving into the district. The transportation costs alone for one such student can hit $20,000, so it does not take a significant increase in the overall number of students to throw the budget out of balance.

PSB has built a reserve into FY20's budget, and there has been discussion of setting up a $1 million special education stabilization fund. Any drawdown of that fund would have to be made up the following year, but it would greatly reduce the likelihood that the current year's

budget could be thrown out of balance by a small change in the number of students requiring out-of-district services.

Specific concerns: School supplies budget

School Supplies budget: The Advisory Committee School Subcommittee also expressed concern about the reduction of the budget for school supplies. Brookline has had a pattern of asking parents to buy school supplies that are typically provided by the school district. Parents also have to pay for the participation of their children in athletics and numerous other student activities such as field trips. These costs can total $1,000 in the course of an academic year.

Last year, the deputy superintendent for administration and finance made a strong case for increasing the supplies budget to cover costs that have been passed on to parents. However, the budget gap that opened in FY19 when funds were reallocated to close the FY18 gap resulted in a decision to reduce the funds available for supplies below the amount originally authorized for the remainder of FY19. The FY20 supplies budget for all purposes is $661,658, a reduction of $250,152 from FY19's budget. If there are surpluses in other accounts, we urge the School Committee to increase the supplies budget.

Chart of Accounts: PSB is still using a chart of accounts that predates the 1993 Education Reform Act. Our chart of accounts is out of date. This may seem like a nit-picking technicality, but it has strategic implications for delivering programs efficiently.

At the very least, it affects the accuracy of the costs attributed to programs. For example, the China Exchange program is charged to High School general expenses and should be charged to its own program account. This specific case is a minor issue compared to the matter of analyzing how to improve the delivery of larger programs with far higher costs, but it exemplifies the overall chart of accounts problem.

PSB lacks the staff time to tackle this task, but there is growing awareness by the treasurer and comptroller that this is an issue. The Advisory Committee looks forward to seeing progress on deciding how to solve this problem.

Other Comments

We continue to ask the Schools to use the method the Town has adopted for taking an average per FTE for the cost of benefits to each program and including an estimate of benefits costs below the line for each program budget, or at least in a footnote to each program budget. The cost of benefits adds approximately 24.6% to the cost of salaries. Omitting that estimate from the summaries of program costs understates those costs in the eye of the public, and perhaps in the eye of PSB employees.

Advisory Committee Report on the FY2020 Capital Improvements Program (CIP)
Recommendations and Project Descriptions

The FY20 CIP request, as currently planned, would fund HVAC and lighting/communication system improvements for Station 4 (Reservoir Road and Route 9) and Station 1 (Brookline Village) but depending on the recommendations of the Fire Station Study currently underway, the funds may need to be redirected. The study is expected to be completed in the near future.

The Advisory Committee recommends $600,000 for the currently proposed upgrades at Stations 4 and 1, with the understanding that these funds may need to be redirected for other purposes after the release of the study.

35. TOWN REHAB/UPGRADES
Recommendation: $55,000 (Revenue Financed)

This program, instituted in 2017, uses CIP funds for the repair and upgrade of Town facilities during the time between major renovation projects. Items funded under the program include large-scale painting programs, new flooring, ceilings, window treatments and toilet upgrades. There is currently an estimated $300,000 backlog of work to be done. In FY20, projects include new carpeting in various rooms in Town Hall and new flooring or carpeting in various spaces in the Municipal Services Garage on Hammond Street.

36. FIRE STATION RENOVATIONS
Recommendation: $600,000 (Revenue Financed)

In FY12, after the completion of a study of the conditions of the Town's fire stations, work was undertaken to ensure that their structural elements such as flooring, shoring, beams, and columns had the ability to support larger and heavier pieces of fire equipment. The same study also addressed life safety and mechanical, electrical, and plumbing (MEP) systems.
All recommended structural work was addressed first, followed by upgrading life safety systems in each station, as prioritized by the Fire Chief (FY13–FY15), and finally MEP work, which was started in FY17.
In FY19, Town Meeting approved combining $60,000 in FY18 CIP funds with $385,000 in FY19 CIP funds to undertake renovations at Station 4, on the corner of Reservoir Road and Route 9. The funds were directed to support the installation of a new HVAC system, a new generator, and upgrades to the exhaust and electrical systems.
Brookline's five fire stations are now being studied for the purpose of developing plans to address potentially hazardous environmental factors, while taking into consideration the age and physical limitations of each building. Boston, among other cities, has completed such a study, prompted in part by the recognition that firefighters spend significant portions of their shifts in the station during which time there is the potential of being exposed to pollutants and off-gassing and particle re-suspension from contaminated post-fire gear.

Brookline's Fire Chief has requested funds for industrial cleaning and reconfiguration of interior spaces to mitigate potential hazards in the stations. The scope of such an undertaking would include industrial cleaning of all non-porous surfaces and all duct work, painting of all walls and ceilings (hard surfaces), and replacement of all acoustic/porous ceiling tiles, window treatments, (soft) furniture in living areas, beds and mattresses, and any fabric partitions.

37. RADIO INFRASTRUCTURE
Recommendation: $900,000 (Revenue Financed)

The upgrading of the radio infrastructure for the police and fire radio channels is overdue. Replacement parts do not readily exist for current equipment, and the infrastructure as a whole, including the radio copper circuit connections that will no longer be supported by Verizon, is considered to be at its "end of service" phase. Police channel 1, and Fire channel 1 have not been upgraded for the last 20 to 25 years, and Police channel 2 was built out about 13 years ago. No work has been permitted for over 10 years due to the T-Band frequency freeze imposed by Congress and the restrictions of the FCC license under which the departments operate.

This project, as currently contemplated, will consist of replacing a) Police radio channels 1 and 2; b) Fire radio channel 1; and c) the subscriber radios (portable, hand-held radios and mobile radios that are installed in the departments' vehicles) for both departments. The estimated cost to rebuild the infrastructure for the three radio channels along with the subscriber costs is $3,944,577.30.

The Town plans to lease-finance the cost of this project over a 5-year period. Since the cost of financing the project is based on a conservative estimate, a total of $4,500,000 is requested, resulting in a conservative estimated lease payment of $900,000 per year. If the actual finance costs are lower than the rates quoted last October, the costs in the out years will be reduced. After five years, the Town will own the equipment.

Currently, the cost of maintaining the equipment in the Police Department is approximately $42,000; the estimated cost of maintaining the equipment after the five-year lease is approximately $52,000

38. REFURBISH DRAFTING PIT
Recommendation: $50,000 (Revenue Financed)

Brookline's ISO (Insurance Services Office) Class 1 rating, reflecting the Fire Department's superior ability to protect property, directly impacts the insurance rates of all property owners. Part of the process of achieving and maintaining this Class 1 rating rests on the department's ability to meet certain benchmarks, including those with regard to water supply, fire service personnel and training, and age and condition of apparatus.

One important aspect of this standard is the ability to maintain the department's fire engines at their peak capacity. Every year pump testing requires an engine to "draft" or draw water from a static source to be able to maintain the internal pump pressure necessary to pump at maximum capacity.

The department's "drafting pit," a reservoir of water with which to perform such tests, is located on the property of Station 6 on Hammond St. It is decades old, has been out of service for about seven years, and needs refurbishment before it can be put back into operation. Once it is again functional, the Fire Chief believes that it, along with the new training facility, will contribute to the promotion of the entire complex as a regional facility, making the Department eligible for federal grants.

In order to make the drafting pit operative, the following steps should be taken: 1) removing the stagnant water currently in the reservoir; 2) pressure cleaning the interior surfaces so that an epoxy waterproofing can be applied to the walls and flooring; and 3) installing a new pipe to replace the current dysfunctional one.

39. TRAFFIC CALMING / SAFETY IMPROVEMENTS
Woodland Road Traffic Calming Project
Recommendation: $265,000 (Revenue Financed), subject to the condition that no funds shall be committed, encumbered or expended on flashing signal devices at the eastern intersection of Woodland Road and Heath Street until the Transportation Board has assessed the effectiveness of other measures to improve pedestrian safety at that intersection and has held at least one public hearing to take public comment on traffic calming measures at the intersection.

Woodland Road neighbors submitted a Traffic Calming request in late 2013, citing safety concerns caused by the speed and volume of cut-through traffic bypassing the Route 9 corridor. In June 2016 Transportation Division staff prepared a Traffic Calming Initial Needs Assessment. The study included vehicle speeds, volumes, accident history, and other roadway characteristics, all of which, after evaluation, indicated that traffic calming measures were warranted.

The first of two neighborhood meetings was held in November 2016, and based on neighborhood feedback, staff began to develop a plan to submit to the neighborhood at a second meeting to be held a few months later. The second neighborhood meeting was postponed when the intention to locate a 9th elementary school on the Baldwin School site was announced. The second neighborhood meeting was subsequently held in November 2017.

Initial plans included a new section of sidewalk on Woodland Road, east of Hammond Street (Pine Manor side), to create a continuous ADA-compliant sidewalk from Heath Street to Hammond Street; new crosswalks and three raised speed humps on Woodland Road; and realigning the intersection and crosswalk on Woodland Road at Heath Street, near Pine Manor College.

A new ADA-compliant sidewalk on Woodland Road, west of Hammond Street (Beaver Country Day School side), from Hammond Street to Heath Street was also recommended, along with a new crosswalk and a 20 mph Safety Zone.

The recommendations were presented to the Transportation Board in March 2018 at which time they were generally well received. However, Board members asked that the possible

installation of a refuge island on Heath Street, at the intersection with Woodland be explored, to address their concerns about sight lines.

Approximately one year later, Traffic Calming plans were again presented to the Transportation Board, this time with no neighborhood preview, and with the addition of a pedestrian refuge island and a new crosswalk with rectangular rapid flash beacons on Heath Street, at its intersection with Woodland. The relocated crosswalk, refuge island, and rectangular rapid flash beacons revision was recommended by Howard Stein Hudson (HSH), the consultant hired by the Transportation Division to develop a Complete Streets Prioritization Plan.

The Board approved the HSH recommendation, along with the Traffic Calming plans that they approved in March 2018, including speed bumps, radar display boards, and additional roadway elements, as well as continuous sidewalks along one side of Woodland Road to meet the requirements for ADA.

FY20 CIP funds totaling $265,000 are now requested to undertake all of the aforementioned improvements, with the exception of the ADA-compliant sidewalks, which will be constructed at a later date as part of a different Town program.

Residents of the Woodland Road neighborhood on the east side of Hammond Street as well as a number of Precinct 15 Town Meeting members expressed strong objections to the proposed treatment of the eastern intersection of Woodland Road and Heath Street, designed to address pedestrian safety, noting that there was neither formal documentation nor informal records regarding the amount of foot traffic and/or potentially endangered pedestrians in this area.

Residents also expressed frustration with never having been notified about the additional elements incorporated into the plans presented at the March 2018 meeting. The first time they were informed of the island and flashing signals was at the 2019 meeting during which the Transportation Board approved the final plans.

Lastly, it was felt that if this intersection were to be altered in anticipation of the construction of the Baldwin School and the teachers, parents, and visitors who might need to park on Woodland Road and walk to the school, then any pedestrian improvements in the area should be paid for with funds for the Baldwin project.

After considerable discussion and deliberation regarding the Woodland Road Traffic Calming Project at its April 30th meeting, Advisory Committee members voted 13-11-1 to recommend $265,000 for the project, with the condition that funds for the flashing beacons not be committed, encumbered, or expended until after 1) the corners at the eastern intersection of Woodland Road and Heath Street had been realigned and the crosswalk and pedestrian refuge island had been installed on Heath Street; 2) such measures had been evaluated for their effectiveness in addressing pedestrian safety; and 3) the Transportation Board had held at least one public hearing to take public comment regarding traffic calming efforts at this intersection.

40. BICYCLE ACCESS IMPROVEMENTS
Recommendation: $31,000 (Revenue Financed)

Bicycle Access Improvements are a program of the Transportation Division of the Department of Public Works. They are funded on an annual basis to implement the recommendations of the Green Routes Master Network Plan, developed by the Bicycle Advisory Committee and approved by the Transportation Board.

FY20 funds totaling $31,000 are requested for three projects:

1. Contra-flow Bicycle Lane on Ivy Street, from St. Mary's Street to Carlton Street
This project will extend the existing contra-flow bicycle lane on Ivy Street, providing a way that allows a cyclist to travel legally from St. Mary's Street to Carlton Street and to connect with the existing north/south bicycle accommodations that run between the BU Bridge via Ivy Street and Essex Street and the Longwood Medical Area via Chapel Street.

Contra-flow bicycle lanes convert a one-way traffic street into a two-way street: one direction for motor vehicles and bikes, and the other for bikes only. The proposed design includes a buffered yellow lane line marking between the motor vehicle and the contra-flow bicycle. Brookline has several contra-flow bicycle lanes, including one on the portion of Ivy Street between Essex and Carlton Streets, which have existed for a number of years without any reported accidents.

2. Shared Lane Markings on St. Mary's Street from Mountfort Street to Beacon Street
This project will provide shared lane markings ("sharrows") in both directions on St. Mary's Street between Mountfort and Carlton Streets. Although a lesser form of bicycle accommodation, sharrows on narrow roadways such as St. Mary's Street (27 feet curb to curb) can be used to raise driver awareness of the need to share the road with cyclists, indicate to cyclists the proper location to ride to avoid right side hazards, and provide guidance on network connections.

3. Shared Lane Markings on Naples Road
This project provides for the shared lane markings on the portion of the Naples Road that is part of the resolution for the reconstruction of Babcock Street, approved by the Transportation Board and Select Board. The remainder of the project, including intersection realignments, new crosswalks, ADA compliant wheel chair ramps, and miscellaneous signs and markings will be covered under Chapter 90 funds.

41. **PARKING METER TECHNOLOGY UPGRADE**
Recommendation: $161,040 (Transferred funds from Parking Meter Fund)

In 2013, the Town of Brookline undertook the upgrading of metered public parking spaces to provide customer convenience, ensure a regular turnover of spaces in high demand areas, and improve municipal maintenance and collection operations. This effort included the installation of both Digital Luke multi-space parking meters in public parking lots and over 500 IPS single

space, credit-card-accepting parking meters in high-use districts along portions of Beacon Street, Harvard Street, Kent Street, and Brookline Avenue. Replacement of the remaining 666 coin-only single head parking meter mechanisms with the IPS credit-card-accepting meters continues and is currently planned to be completed during FY2021.

The per-unit price of $610 per mechanism includes meter mechanism, installation and commissioning, and extended 12-month warranty.

It should be noted that the cost of data storage services for meters increased by $63,176 in DPW's FY20 operating budget.

42. STREET REHABILITATION
Recommendation: $ 2,028,225 ($1,800,000 Revenue Financed and $228,225 in funds transferred from the balance remaining in the appropriation voted under Article 9 of the 2018 Annual Town Meeting)

In 1992, the Department of Public Works undertook a comprehensive study of its roads (331streets which add up to 97.6 miles of paved surface) and implemented a pavement management system. The system was designed to bring Town-owned streets to a sufficient level of repair such that the roads could be maintained without undertaking costly full reconstruction. From 1992 to 1997, the Town made some progress in this regard, but funding was inconsistent. Starting in 1997, the Town began allocating $1 million per year to streets, in addition to utilizing Chapter 90 funding from the State for certain thoroughfares.

Based on the recommendations of the 2007/2008 Override Study Committee, the 2008 Override approved by the voters included $750,000 for streets and sidewalks, to be increased annually by 2.5%.

A subsequent assessment and report, indexing roadways according to their condition, noted that roadways with a 75 rating could be kept in good repair with maintenance instead of needing more expensive and time-consuming reconstruction. Reconstructing streets costs at least twice as much as performing preventative maintenance.

In 2014, there was a backlog of $18,492,001, exclusive of curbing, sidewalks, etc.; in 2018 that backlog was approximately $ 23.5 million, an increase of approximately $1.2 million over 2016, attributable to inflation and deterioration. In order to maintain the PCI (Pavement Condition Index) that existed in 2014, the Town would have needed to invest approximately $2 million dollars in street rehabilitation. As of 2018, to maintain a PCI rating of 73, the amount of needed funding was $4 million. Stantec Consulting Services recommended that the minimal funding for road rehabilitation increase to $3 million "to keep the network in 'good' condition and backlog relatively sustainable in the future."

Last year, $1.71 million was requested for Street Rehabilitation funds. The Advisory Committee recommended—and Town Meeting agreed—that an additional $1.4 million of available dollars from the Parking Meter Fund should be added to the initial request. This year, Parking Meter funds are being reserved for other purposes. As a result the recommended allocation of CIP funds for the Street Rehabilitation program, even when combined with

$960,605 in state funding (Chapter 90 dollars, which are restricted to certain streets) totals $2,988,830. This amount falls short of the investment needed to maintain a PCI of 73 and keep the backlog relatively sustainable.

It should also be noted that with the Town's adoption of the Complete Streets program, additional costs are imposed on the Street Rehabilitation program. In order not to delay roadway reconstruction projects because of the need to develop, review, and approve Complete Streets concept designs, this past year the Engineering Department retained the services of an on-call consultant to develop concept designs that meet Complete Streets best practices. For FY19, the cost of the consultant's services was $28,300.

Further, there are additional construction costs for streets whose treatments triggers Complete Street design elements. In the case of one street in North Brookline, the increased cost related to bicycle access improvements (essentially pavement markings) added an additional $14,500 (or 4%) to that project. In another case, the Complete Streets elements were rejected by the Transportation Board, which subsequently issued an exemption to the policy's requirements. If the Complete Streets changes had gone forward, they would have added $93,636 (or 11%) to the total costs of that project.

Streets scheduled for reconstruction with FY20 CIP funds include portions of Heath Street, west of Hammond, and a portion of Woodland Road, also west of Hammond Street. Streets on the Mill and Overlay list include portions of Freeman and Smythe Streets, Hamilton Road, and Linden Court. Remaining funds will be used for "Crack Seal and Patch" work on over 25 streets in different parts of the town.

43. SIDEWALK REPAIR/RECONSTRUCTION
Recommendation: $328,000 (Revenue Financed)

Sidewalks that are not reconstructed as part of the street reconstruction program will be reconstructed with funds from DPW's Sidewalk Management Plan. Using the formula recommended by the 2007/2008 Override Study Committee and approved by voters in the 2008 Override, DPW has requested $328,000 for sidewalk repair in FY20.

In accordance with DPW policy, concrete rather than asphalt will be used in sidewalk reconstruction, except in cases determined by the Tree Warden in which asphalt will be used near street trees.

44. FIRE ALARM CALL BOX SYSTEM
Recommendation: $1,125,000 (Revenue Financed)

The Department of Public Works operates and maintains the Town's Fire Alarm Call Box System that consists of 1) 297 street call boxes along the public way; 2) 203 master station call boxes within buildings, 42 of which are publicly owned; and 3) a network of underground conduit and cable and overhead cable providing both power to the boxes and communication to central dispatch at the Public Safety Building. The system provides notification to Public Safety Dispatch for deployment of fire resources and emergency medical response. The DPW's ability to maintain this aging system has been hampered by inaccurate mapping of conduit and

cable locations as well as out-of-date equipment.

In 2015, the DPW and the Fire Department engaged the services of Environmental Partners Group (EPG), Inc. to update the entire system inventory, perform a conditions study, and recommend options for the upgrade or replacement of the system. Information gathered from central dispatch revealed that only 239 "pulls" were recorded over a 10-year period from 130 street boxes, while 167 street boxes had no activity over the same 10-year period. The following options were provided by EPG to upgrade or replace the system:

1. Repair the existing hard-wired system ($3,800,000);

2. Replace 162 of the 297 street boxes and all 42 public master boxes with solar powered wireless boxes and abandon the hard-wired network ($2,380,000);

3. Replace all 297 street boxes and all 42 public master boxes with solar powered wireless boxes and abandon the hard-wired network ($4,100,000)

After the completion of the study, the Fire Department further reviewed system needs further and concluded that only 80 street boxes would be required to provide town-wide coverage. As a result, the DPW has recalculated the project recommendation as follows:

- Replace 42 Master Boxes with wireless boxes ($295,000)
- Replace 80 Street Boxes with solar powered wireless boxes ($765,000)
- TRX Legacy dispatch system upgrade ($65,000)

45. WATER METER MOBILE TRANSMISSION UNIT (MTU) REPLACEMENT
Recommendation: $265,000 (Water and Sewer Enterprise Fund budget)

The Town's water meters and infrastructure were installed in 2006. MTUs transfer meter consumption information to the collectors, and their batteries are nearing the end of their useful life. This program is designed to replace all 10,000+/- MTUs over a four year period. It started last year at which time Town Meeting approved $265,000 for the first installment of the total $1,090,000 project cost. Another $265,000 is requested for FY20 to continue the replacement program.

46. 44 NETHERLANDS ROAD – IMPROVEMENTS
Recommendation: $455,000 (Water and Sewer Enterprise Fund budget)

The replacement of the crushed floor drain and concrete floor of the Water Division building was originally estimated at $150,000, and funds were approved at the 2018 Town Meeting for the project. Subsequently, the Building Department engaged a consultant, Desman Design Management, to undertake a conditions assessment of the floor. The consultant found that there was delamination (horizontal cracking) of cast-in-place concrete likely due to the corrosion of the embedded steel and that the drainage system within the garage did not function as designed. The recommended removal and replacement of the top 4" of the concrete slab,

replacement of some of the reinforcing bars, and replacement of trench drains and area drains will require additional funds.

47. LARZ ANDERSON PARK
Recommendation: $600,000 (Revenue Financed)

Comprising over 65 acres, Larz Anderson Park, listed on the National and State Registers of Historic Places, is the largest park in Brookline and the flagship park of the Town. Within its borders are not only architecturally significant buildings but also athletic fields, play equipment, picnic areas, walking paths, an ice rink, significant trees, a lagoon, sweeping slopes, and impressive views of the City of Boston.

If approved, FY20 CIP funds would be added to earlier allocations to undertake the full depth reclamation/reconstruction of the roadway that winds through the park as well as construction of associated handicapped accessible paths, parking, safety improvements, upgraded lighting, overall pathway improvements, and restoration of the stairs that are currently in poor and deteriorating condition.

This project is expected to go out to bid next winter. The roadway through the park will be closed for the approximately three months of construction.

48. ROBINSON PLAYGROUND
Recommendation: $100,000 (Revenue Financed)

The Margaret E. Robinson Playground is a 2.38-acre park located at Cypress and Franklin Streets in a densely populated neighborhood. It was built on the site of the car barn lot for the Boston Elevated Railway Company in the 1890s. Current playground facilities include a youth baseball/softball field, paved basketball court, multi-use court play area, playground equipment, picnic area, and water play. The Playground is a participant in the Green Dog Program.

Renovation plans include new playground equipment for older and younger children; water play, new irrigation and field renovation; basketball and multi-use court improvements; pathway and drainage improvements; and fence replacement. The $100,000 in FY20 is for the design of the improvements. Construction costs are currently projected to be $1.15 million.

49. PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE
Recommendation: $310,000 (Revenue Financed)

This annual, town-wide program directs CIP funds to the repair and replacement of unsafe and deteriorating playground, fence, and field facilities or components. Items funded under this program include fences, backstops, retaining walls, picnic furniture, turf restoration, bench replacements, play structures, safety surfacing, and drainage improvements.

Although needs shift from year to year, in general, the allocations are as follows:

- 100K-125K – Field Renovation/Repair – Laser Grading and Cutting out Infields, Soil Classification and Amendments, Special Aeration/Overseeding/Field Treatments, Irrigation upgrades, Synthetic Turf Infill replenishment and repair.

- 70K-100K – Playground Repair & Replacement – Replacement of panels, slides, play components, safety surfacing, access, swings, ADA accommodations, etc.

- 30K+ Park Furniture, Trash Receptacles, Signage, Drainage, Walls, Recycling, Bike Racks, Pavement/Concrete repair, etc.

- 95K-115K – Fence Repair & Replacement: Rails, poles, fabric, fixtures, backstops and gates.

50. TOWN/SCHOOL GROUNDS REHAB
Recommendation: $160,000 (Revenue Financed)

Town and School grounds require on-going structural improvements and repair. CIP funds are used to support a range of undertakings on Town or School grounds, including the installation of plantings, regrading, reseeding, tree work, construction of new retaining walls or concrete or asphalt walkways, purchase of trash receptacles and bike racks, drainage improvements, retaining walls, and repairs to such exterior features as stairs, treads, railings, and benches. These funds are not used for the replacement of areas over building structures or directly connected to buildings, such as entrance stairways or ramps, which are under the Building Department's jurisdiction.

51. TENNIS COURTS/BASKETBALL COURTS
Recommendation: $200,000 (Revenue Financed)

The Town maintains over 19 basketball courts and 36 hard-surface tennis courts. Over time, the court surfaces begin to deteriorate, crack, and weather. In order to maintain the integrity, safety, and playability of the courts, the Town needs to plan for not only the phased reconstruction/renovation/resurfacing of the courts but also for lighting and drainage improvements. In FY20 funds will be used for five courts at the Baker School. Any remaining funds will be used for improvements to the courts at the Coolidge Corner School, which were not included in the recent expansion and renovation of the school.

52. COMFORT STATIONS
Recommendation: $350,000 (Revenue Financed)

The Larz Anderson comfort station and service area are in need of accessibility, structural and ventilation improvements. Its public restroom facilities are in need of structural upgrades, new doors, landings, and facilities to better accommodate all ages and abilities. The project includes ventilation and flooring improvements, doors, fixtures and lighting. This project will also

upgrade the service doors and area for the maintenance and office areas of the building as well as the façade. The office area will be renovated to better serve staff and park visitors.

This program anticipates fixture, drainage, ventilation, and access improvements to comfort stations system-wide with future funding.

53. TREE REMOVAL AND REPLACEMENT / URBAN FORESTRY MANAGEMENT
Recommendation: $235,000 (Revenue Financed)

The tree removal and replacement program represents the Town's effort to balance street tree removals with plantings. It is critical to remove trees that have matured or have been impacted by storm damage or disease before they become public safety hazards. New tree plantings are also critical since they directly impact the tree-lined character of the community, improve storm water quality, provide oxygen, and reduce heat impact in the summer. Both the planting and watering of new trees are in-house operations, resulting in cost savings and better quality control.
Approximately 200 trees per year are removed, while 350-450 replacement trees are purchased each year. Last November 226 trees representing 35 different species were purchased to be planted on the Town's streets in the spring.

There are other uses for the funds within this CIP allocation, including the removal of trees identified as safety hazards or concerns in the Town's four conservation areas and in its parks as well as structural and safety pruning of trees in the parks. In addition, funds may be used for new trees, planted in anticipation of the ultimate loss of existing mature trees.

This line item also includes funding for Urban Forestry Management in the Town's parks and open spaces. Storm damage, disease, and old age continue to reduce tree canopies. The funds are utilized to address such needs as tree removal, crown thinning, soil amendments, woodland canopy gap management, removal of invasive species, pest management, health and structural pruning, and planting. Such measures have been developed with the goals of supporting resistance to disease and pests and countering the rapid decline of trees left unmanaged in an urban environment. Work in this regard continues to be undertaken in collaboration with the Olmsted Tree Society of the Emerald Necklace Conservancy.

54. ELIOT RECREATION CENTER BATHROOM RENOVATION Recommendation: $50,000 (Retained Earnings of the Recreation Revolving Fund)

The Recreation Department's plans to renovate the two bathrooms at the Eliot Recreation Center call for new flooring, fixtures, and water line as well as painting the facilities and installing diaper-changing stations. There have been no discussions to date as to whether one or both bathrooms will be gender neutral or whether a gender-neutral bathroom will be added.

55. SCHOOL FURNITURE
Recommendation: $110,000 (Revenue Financed)

Outdated and worn school furniture in all schools is replaced on an annual basis. When an individual school is completely renovated or expanded, most or all of the furniture gets replaced as part of the project. Under such circumstances, furniture that is still in good condition is allocated to other buildings, as appropriate. Furniture/furnishings for science and art rooms as well as gymnasiums is often significantly more expensive than traditional classroom furniture. Some furniture becomes obsolete before wearing out.

56. HVAC EQUIPMENT
Recommendation: $150,000 (Revenue Financed)

The replacement and/or upgrading of HVAC equipment or equipment parts currently does not take place on a predictable schedule. Instead, such work occurs when an air conditioning or heating system fails, usually due to overload of the former during the summer months and demands on the latter during cold weather. The cost to address the problem is borne by the Building Department's Operations and Maintenance budget. The purpose of the HVAC Equipment program is to undertake proactively, rather than reactively, the replacement of the larger and more expensive parts of boilers, burners, air conditioners, including compressors, and other HVAC equipment before an emergency situation arises.

There are currently 199 permanent air conditioning systems in both Town and School buildings. Their sizes range from two to 100+ tons and many are 10 years or older. Typically, air conditioning compressors last between five and 10 years; replacement costs can range from $3,500 to $150,000, depending on the size of the system. Given the increase in installations of AC equipment over the years, the Operations and Maintenance budget can no longer absorb this potential level of expense.

In terms of heating, a cast iron boiler will last at least 50 and in some cases, 100 years. However, the town no longer installs cast iron boilers, opting instead for efficient condensing boilers, which have a life span of 20–25 years.

Current plans call for replacing air conditioning compressors and upgrading equipment, starting with the oldest equipment and working in the off-season. Last summer 27 new air conditioning units were installed with FY19 CIP dollars. FY20 CIP funds would be directed to replacing one unit in the main office at the Heath School, two units in the main office of New Lincoln, and those in the shared Social Studies and Computer room in the basement of New Lincoln.

57. TOWN/SCHOOL BUILDING - ADA RENOVATIONS
Recommendation: $80,000 (Revenue Financed)

Support for this annual program of improvements is requested to bring Town and School buildings into compliance with the Americans with Disabilities Act (ADA), which requires

that the Town make public buildings accessible to all.

In FY19, funds were appropriated to improve ADA access in buildings used by the Recreation Department and in the libraries, and for partial ADA modifications in the bathrooms of the Pierce School Café. In FY20, funds will be directed to install automatic door openers at the rear of the Health Department and other buildings and to modify public restrooms, as needed.

58. TOWN/SCHOOL BUILDING - ENERGY CONSERVATION Recommendation: $185,000 (Revenue Financed)

Efforts to decrease energy consumption in Town and School buildings include, but are not limited to, lighting retrofit and controls, energy efficient motors, insulation, and heating and cooling equipment. In addition, water conservation efforts are explored. The Town/School Energy Conservation Program augments existing gas and electric utility conservation programs. A continued area of focus is building commissioning. Many years ago, a building's HVAC system was set up by multiple contractors and then signed off by the design engineer. Sometimes there would be control issues, leading to complaints or high energy use. The Building Department, for all new projects, hires a Commissioning Agent. Recommissioning of certain buildings is suggested in order to confirm that the equipment was designed, installed and set up properly.

In FY19 funds were directed to the installation of LED lights at all fire stations, the Public Safety Building and at the new Lincoln School (Phase 1). They were also used to install destratification fans in school gyms and auditoriums to reduce hot and cold spots in large spaces through the mixing of air, resulting in reduced energy costs.

FY20 funds would be used to fund the installation of LED lights at the new Lincoln School (Phase 2) and the Health Department and to install destratification fans the Baker School auditorium, gym, cafeteria, and multi-purpose room.

59. TOWN/SCHOOL BUILDING - ENERGY MANAGEMENT SYSTEM Recommendation: $125,000 (Revenue Financed)

This project's purpose is to upgrade the energy management systems in Town and School buildings. A few of the larger buildings have older (30 years) energy management systems that have exceeded their life expectancy and replacement parts are no longer available. These systems will be replaced and upgraded with new web-based systems integrated into the Town's existing computer network. Other systems will be upgraded with newer software or firmware. The Building Department will continue to work with the Information Technology Department on these projects.

FY19 funds were directed to the replacement and upgrading of field controllers at the Lawrence School, to the upgrading of the Johnson Energy Management System, and to the replacement of batteries in all the Johnson main panels to address potential power outages and to provide a constant flow of power in the system.

Plans for FY20 include building automation support in all buildings that have an Energy Management System. Such support would cover software upgrades and patches. Remote service access, allowing systems to be monitored with a Cloud application, would also be funded, along with the components necessary to submit room schedules to School Dude, which would subsequently program the Energy Management System to regulate the heating of classrooms.

60. TOWN/SCHOOL BUILDING - SECURITY/LIFE SAFETY SYSTEMS Recommendation: $260,000 (Revenue Financed)

Over the last number of years, several large capital projects have been undertaken that included security improvements in Town and School buildings. This program will extend the effort and improve areas where security may be lacking. These funds would also be used to continue the on-going process of replacement and installation of new and upgraded burglar alarms, sprinkler systems, emergency lighting, and egress signs.

Work planned for FY19 included installing cameras at the Senior Center, upgrading cameras at Town Hall from analog to digital, modifying the sprinkler systems for the Pierce and Town Hall garages, and increasing school security measures via new hardware for doors. In FY20, funds will be used to replace the keycard system in the Public Safety Building, thus bringing hardware and software in all public buildings up to the same updated level. Funds will also be directed to upgrading additional cameras at Town Hall from analog to digital, fire escape inspections, and in school buildings, the installation of Lock Down buttons to call police, burglar alarms, and other security enhancements.

61. TOWN/SCHOOL TRASH COMPACTOR REPLACEMENTS Recommendation: $50,000 (Revenue Financed)

Last year new trash compactors were installed at the Baker, Baldwin, Lynch, Lawrence, Driscoll, Heath, Runkle, New Lincoln, and Pierce Schools as well as at the High School. In FY20, funds would be used to install new compactors at the Health Department Building, Putterham Golf Course, and the Old Lincoln School.

62. SCHOOL REHAB/UPGRADE
Recommendation: $198,000 (Revenue Financed)

This is an on-going, school-wide program for the repair and upgrade of school facilities in between major renovation projects. Items funded under this program include large-scale painting programs, new flooring, ceilings, window treatments, and toilet upgrades.

Given the amount of funding needed for such work (there was a backlog of approximately $15.7 million two years ago), a decision was made in 2017 to establish a "mini CIP" program to relieve pressure on the operating budget of the School Department.

In FY19, $230,000 was appropriated, with a significant portion of the funds to be spent on painting, shades, and flooring at the Heath School and the Lynch Center. The remaining funds were to be directed to Baker (gym pads, painting, new flooring in the hallways and on the

stairs); Driscoll (gym pads); Lawrence (removal of old wallpaper and painting); New Lincoln (new window screens, removal of wallpaper, painting, gym pads, new flooring); and Pierce (new sink in the Art room, and carpeting in various areas).

As of now, the backlog has been reduced to approximately $15.3 million, and preliminary plans for FY20 include new flooring for several classrooms at the Baker School; new flooring for the principal's office at the Heath School; painting, carpeting and new stair treads at the Lawrence School; the replacement of 24 whiteboards system-wide; installation of gym pads at New Lincoln; and carpet replacement at the Pierce School.

63. CLASSROOM CAPACITY
Recommendation: $1,450,000 (Revenue Financed)

Student enrollment growth has required the expansion of three K-8 schools, the construction of an almost entirely new and significantly larger school, the renovation and expansion of the High School, the purchase of modular classrooms, and the leasing of space in privately owned buildings for classrooms and physical education as well as School Department office space.

Classroom Capacity funds have been used in past years to cover leases for spaces for BEEP classrooms (Temple Emeth and Temple Ohabei Shalom) Pierce School classrooms and physical education space (62 Harvard Street and the Brookline Teen Center), School Department offices (24 Webster Place) and for multi-year lease/buy payments for the Baker School modular classrooms. Leases for BEEP classrooms at the temples and for the office space on Webster Place will expire this summer and fall, respectively. The lease for four classrooms at 62 Harvard Street will expire at the end of August 2020.

A Request for Proposals for leasing classroom and office space was issued by the School Department last winter and responses were received in mid-March. A decision regarding leased space has not been reached primarily due to the cancellation of plans to move BEEP classrooms and offices to 127 Harvard Street and the unknown outcome of the Town's efforts to purchase the Newbury College campus, which has been identified as a possible home for BEEP classrooms and administrative office as well as for other School Department uses.

Additional information may be available by the time Town Meeting convenes on May 21.

64. WATER SYSTEM IMPROVEMENTS
Recommendation: $2,000,000 (Water and Sewer Enterprise Fund Bond)

The Water Division's consultant, Weston and Sampson, is expected to complete a 5-7 year plan for improvements to the Town's water system. The primary focus of the plan will be on: 1) distribution system redundancy; 2) fire flow improvement; and 3) identification and replacement of water mains prone to leaks and/or breaks.

The cost of implementing the plan, including design work and construction, for the first year is $2,000,000. Funding for subsequent years will be included in the FY21–FY26 CIP.

65. WASTEWATER SYSTEM IMPROVEMENTS
Recommendation: $3,000,000 (Water and Sewer Enterprise Fund Bond)

This on-going project provides funding for the rehabilitation of the wastewater collection system (sanitary sewer). Rehabilitation was based on the recommendations of the Wastewater Master Plan completed in 1999. Previously construction projects to correct sewer system deficiencies targeted: 1) structural improvements, 2) sewer and storm drain separation and 3) hydraulic capacity restoration. Moving forward the primary focus will be on the removal of inflow and infiltration sources with the overall goals of eliminating sewerage backups into homes and businesses and lowering MWRA wholesale costs by reducing extraneous flows. Funding for this project should ultimately enhance the efficiency of the wastewater collection system and help to lower MWRA wholesale costs.

66. TOWN/SCHOOL BUILDING - ENVELOPE /FENESTRATION REPAIRS
Recommendation: $1,500,000 (General Fund Bond)

In FY12–13, a consultant undertook a visual inspection of the exterior of all Town and School buildings and developed cost estimates for needed repairs to the buildings' outside envelopes, including masonry, bricks and mortar, flashing, dental work, coping stones, metal shelves, and tower work, as well as window and door openings and windows themselves. The consultant also developed a priority list and schedule for future work.

The resultant Master Plan called for the expenditure of $27,450,000 over a 30-year period, with $12.65 million called for between FY17 and FY22. Also included in the plan are required chimney inspections and repairs and the installation of new metal liners to connect to the gas burning equipment in the building when appropriate. The schedule has recently been reassessed by the Building Department, which took into account prior years' savings, and now calls for the expenditure of $6.45 million for FY20–FY25.

Some of the FY20 funds will be used to rebuild windows at the Baker School, repoint the exterior of the Lawrence School, and undertake exterior masonry and trim repairs at the Soule Recreation Center. The remaining money will be used for repointing the exterior of the Public Safety Building and the Main Library.

67. DRISCOLL SCHOOL

The Advisory Committee will vote on this item on May 8, 2019. Its report and recommendation will be included in the Supplemental Mailing.

68. BALDWIN SCHOOL

The Advisory Committee will vote on this item on May 8, 2019. Its report and recommendation will be included in the Supplemental Mailing.

69. PIERCE SCHOOL
Recommendation: $2,000,000 (General Fund Bond)

According to School Department data, K-8 student enrollment at the Pierce School has grown from 546 students in FY06 to the current enrollment of 865 students. Spaces in privately owned buildings are currently being leased and used for classrooms and physical education. The two buildings that comprise the school date from 1854 and 1974, and despite the millions of CIP funds that have been spent to upgrade and maintain the buildings and adjacent playground, both buildings are in need of major renovation, if not actual replacement.

On April 3, 2018 the Select Board authorized the Superintendent of Schools to submit a Statement of Interest (SOI) to the Massachusetts School Building Authority (MSBA), seeking to partner with the MSBA on the renovation and possible expansion of the school. Included in the SOI were the following objectives, all of which are MSBA priorities: 1) Elimination of Severe Overcrowding; 2) Prevention of Severe Overcrowding due to Increased School Enrollments; 3) Replacement, Renovation or Modernization of School Facility Systems; and 4) Replacement of or Addition to Obsolete Buildings.

The April 2018 SOI anticipates an FY22 population of 958 students at Pierce (the equivalent of a five section school). Whether that number needs adjustment based on the revised enrollment projections issued by the School Department in November 2018 has not been determined. School Committee members have stated that the MSBA, in consultation with the district, will use its own enrollment projections to guide decisions relative to the size of the renovated/expanded school.

On December 12, 2018 the Pierce School was invited into the MSBA's 270-day Eligibility Period, which officially starts on June 1, 2019. During this time preliminary requirements are to be completed. These requirements are intended to " determine the District's financial and community readiness to enter the MSBA Capital Pipeline" and include the formation of a School Building Committee, completion of an Educational Profile Questionnaire, certification of a design enrollment for the proposed project, and confirmation of community authorization and funding to proceed.

According to the MSBA website, the "design enrollment" is critical to "position the district to efficiently meet space capacity needs throughout future enrollment variations." A baseline projected enrollment, generated by the MSBA "using a data-driven methodology, will be shared, reviewed, and discussed with the District and ultimately used to develop the total square foot of the proposed project as informed by the MSBA's space guidelines and the district's educational program." (https://www.massschoolbuildings.org/building/prerequisites/enrollment_methodology).

The current request for Feasibility/Schematic Design funds for Pierce is $2 million, a percentage of which may be reimbursed to the Town by the MSBA, should the partnership proceed. The scope of the Pierce Project is currently not well defined, consequently Town Hall staff have based the $2 million figure on costs associated with the High School project and the percentages recommended on the MSBA website. Assuming a $200 million project, the cost

of the feasibility/schematic design phase would be $1,420,000 and the cost of the Owner's Project Manager (OPM) would be $420,000. Rounded up, those numbers total $2 million, and are considered to be a "best guess" at this point in time.

CONCLUSION AND RECOMMENDATION

The Advisory Committee thanks all the individuals, boards, committees, and commissions that have been involved in the FY2020 budget process. Town Administrator Melvin Kleckner has our gratitude for overseeing the production of an award-winning Financial Plan, which always provides a solid basis for developing each year's budget. We also appreciate his willingness to listen to the Advisory Committee's input on budgetary issues. We owe great thanks to Deputy Town Administrator Melissa Goff, who works closely with the Advisory Committee during its consideration of departmental budgets and is an absolutely invaluable source of information at every stage of the budget process. It has been our pleasure to work with Assistant Town Administrator Justin Casanova-Davis, who joined the executive branch of Town government this fiscal year.

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

Special thanks go to the Select Board and its outgoing chair, Neil Wishinsky. The Select Board, as always, devoted much time to attempting to address the fiscal challenges that Brookline faces as a result of increasing school enrollment. As chair, Neil Wishinsky worked tirelessly on some of the most difficult issues that Brookline has confronted in recent decades. He will be missed.

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

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

The Advisory Committee is honored to submit the FY2020 Town Budget with a recommendation of FAVORABLE ACTION. The vote was 19–0–4 on the overall appropriation and all appropriations listed in the following tables, with the exception of the special appropriations for the Baldwin and Driscoll School projects. The Advisory Committee has not voted on its recommendation for those two special appropriations, which do not include the expenditure of any FY2020 funds but instead authorize borrowing that will require debt service payments in future years. The Advisory Committee will vote on the Baldwin and Driscoll School projects after the May 7 Town election.

ADVISORY COMMITTEE'S FISCAL YEAR 2020 BUDGET RECOMMENDATION

By a vote of 19–0–4, the Advisory Committee submits the FY2020 Town Budget with a recommendation of FAVORABLE ACTION on the following motion:

VOTED: To approve the budget for fiscal year 2020 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) **TRANSFERS AMONG APPROPRIATIONS**: Transfers between the total departmental appropriations separately set forth in Tables 1 and 2 shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

A) Expenditures within the appropriation for the School Department shall not be restricted.

B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Select Board and Advisory Committee:

i) Transfers from the appropriation for the capital outlay object classification to any other object classification.

ii) Transfers to the appropriation for the personal services object classification from any other object classification.

iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.

v) Transfers within the Department of Public Works from the Parks Division to any other purpose.

vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.

C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall

be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.

D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Select Board, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) **PROCUREMENT CONTRACTS AND LEASES:** The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2020 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Select Board.

3.) **ALLOCATION OF SALARY ADJUSTMENTS:** Appropriations for salary and wage adjustments (Item #20) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Select Board shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #19), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

4.) **STIPENDS / SALARIES OF ELECTED OFFICIALS:** The stipends of members of the Select Board shall be at the rate of $4,500 per year for the Chair and at the rate of $3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of $112,339 effective July 1, 2019, plus any adjustment approved by vote of the Select Board. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

5.) **VACANT POSITIONS:** No appropriation for salaries, wages, or other compensation shall be expended for any benefit-eligible position which has become vacant during the fiscal year unless the Select Board, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) GOLF ENTERPRISE FUND: The following sums, totaling $1,884,446 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	$726,448
Purchase of Services	$153,071
Supplies	$313,700
Other	$14,700
Utilities	$117,923
Capital	$86,420
Debt Service	$147,501
Reserve	$25,000
Total Appropriations	$1,584,763
Indirect Costs	$299,683
Total Costs	$1,884,446

Total costs of $1,884,446 to be funded from golf receipts with $299,683 to be reimbursed to the General Fund for indirect costs.

28,364,475

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling ~~$30,225,250~~, 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	2,335,396	441,109	2,776,505
Purchase of Services	190,598	163,200	353,798
Supplies	102,020	21,000	123,020
Other	8,900	1,680	10,580
Utilities	102,061	0	102,061
Capital	277,530	352,800	630,330
Intergovernmental	7,304,294	13,349,703	20,653,997
Debt Service	289,950	1,023,397	1,313,347
Reserve	124,504	158,313	282,817
Total Appropriations	10,735,252	15,511,202	26,246,454
Indirect Costs	1,839,652	478,368	2,318,020
Total Costs	12,574,905	15,989,570	28,564,475

Total costs of $28,564,475 to be funded from water and sewer receipts with $2,318,020 to be reimbursed to the General Fund for indirect costs.

8.) REVOLVING FUNDS:

a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed $4,200,000.

b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed $225,000.

c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed $100,000.

d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed $30,000.

e.) The Library Director is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Copier Program. Annual expenditures from the fund shall not exceed $30,000.

f.) The School Department is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the School bus Program. Annual expenditures from the fund shall not exceed $75,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of $5,460,368, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of

the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) SNOW AND ICE BUDGET: The sum of $582,755, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article 9.

11.) INTERFUND TRANSFERS: In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Cemetery Sales Special Revenue Fund [to the General Fund for the Department of Public Works]	$ 100,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	$471,027

12.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 35 through 69, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #64 - 69, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

Appropriate sums of money for the following special purposes:

35.) Raise and appropriate $55,000, to be expended under the direction of the Building Commissioner for the rehabilitation of Town buildings.

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. ES RE AMENDMENT on Purple Supplement No. #3]

37.) Raise and appropriate $900,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the

Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.

38.) Raise and appropriate $50,000, to be expended under the direction of the Fire Chief, for refurbishing the drafting pit at Station 6.

39.) Raise and appropriate $265,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Select Board, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Select Board on a semi-annual basis and, subject to the condition that no funds shall be committed, encumbered or expended on flashing signal devices at the eastern intersection of Woodland Road and Heath Street until the Transportation Board has assessed the effectiveness of other measures to improve pedestrian safety at that intersection and has held at least one public hearing to take public comment on traffic calming measures at the intersection..

40.) Raise and appropriate $31,000, to be expended under the direction of the Commissioner of Public Works, for bicycle access improvements.

41.) Raise and appropriate $161,040, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades, and to meet the appropriation transfer $161,040 from the Parking Meter Fund.

42.) Raise and appropriate $~~1,978,225~~ 2,028,225, 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 the rehabilitation of streets and transfer $228,225 from the balance remaining in the appropriation voted under Article 9 of the 2018 Annual Town Meeting.

43.) Raise and appropriate $328,000, 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 the rehabilitation of sidewalks.

44.) Raise and appropriate $1,125,000, 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 modernization and improvements to the fire alarm call box system.

45.) Raise and appropriate $265,000, 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 meter transmission unit (MTU) replacements, and to meet the appropriation transfer $265,000 from the retained earnings of the Water and Sewer Enterprise Fund.

46.) Raise and appropriate $455,000, 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 improvements to the Netherland's Road facility and to meet the appropriation transfer $455,000 from the retained earnings of the Water and Sewer Enterprise Fund.

47.) Raise and appropriate $600,000, 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 improvements at Larz Anderson Park.

48.) Raise and appropriate $100,000, to be expended under the direction of the Commissioner of Public Works, for the design of the renovation of Robinson Playground.

49.) Raise and appropriate $310,000, 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 the renovation of playground equipment, fields, and fencing.

50.) Raise and appropriate $160,000, 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 the rehabilitation of Town and School grounds.

51.) Raise and appropriate $200,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over $100,000 to be approved by the Select Board and the Park and Recreation Commission, for the rehabilitation of tennis courts and basketball courts.

52.) Raise and appropriate $350,000, 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 the rehabilitation of comfort stations in parks and playgrounds.

53.) Raise and appropriate $235,000, 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 and the Tree Planting Committee, for the removal and replacement of trees.

54.) Raise and appropriate $50,000, to be expended under the direction of the Director of Recreation, for the renovation of a restroom at the Eliot Recreation Center, and to meet the

appropriation transfer $50,000 from the retained earnings of the Recreation Revolving Fund.

55.) Raise and appropriate $110,000, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades.

56.) Raise and appropriate $150,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board for HVAC equipment in Town and School facilities.

57.) Raise and appropriate $80,000, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.

58.) Raise and appropriate $185,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.

59.) Raise and appropriate $125,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board, for upgrades to energy management systems in Town and School facilities.

60.) Raise and appropriate $260,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

61.) Raise and appropriate $50,000, to be expended under the direction of the Building Commissioner, for trash compactor replacements in Town and School facilities.

62.) Raise and appropriate $198,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board and the School Committee, for minor renovations / upgrades to school buildings.

63.) Raise and appropriate $1,450,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and the School Committee, for the expansion of classroom capacity in various schools.

64.) Appropriate $2,000,000, 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 system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $2,000,000 under General

Laws, Chapter 44, Section 8(5), 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.

65.) Appropriate $3,000,000, 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 wastewater system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $3,000,000 under General Laws, Chapter 44, Section 7(9), 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.

66.) Appropriate $1,500,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for building envelope / fenestration repairs to Town and School facilities and to meet the appropriation, authorize the Treasurer with the approval of the Selectmen, to borrow $1,500,000 under General Law, Chapter 44, Section 7 (3A), as amended, or pursuant to any other enabling authority. 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.

67.) **MOTION UNDER ITEM 67 HELD BY ADVISORY COMMITTEE** 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

SEE MAIN MOTION. RESOLUTION ON ORANGE SUPPLEMENT NO. #2

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

68.) **MOTION UNDER ITEM 68 HELD BY ADVISORY COMMITTEE** Appropriate, $82,900,000, 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 renovate and expand the Baldwin School and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $82,900,000 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.

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). 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.

Passed As Amended By A Unanimous Vote

14.) **FREE CASH**: Appropriate and transfer $9,081,257 from free cash for the following purposes:

a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $672,373;
b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $389,700;

c.) Reduce the tax rate (Special Appropriations) – $6,719,184;
d.) Housing Trust Fund – $200,000;
e.) Retiree Healthcare Liability Trust Fund (Chapter 472 of the Acts of 1998, as amended) – $600,000;
f.) Contributory Retirement Pension Fund (MGL Chapter 32, Section 22) – $300,000.
g.) Worker's Compensation Trust Fund (MGL Chapter 40, Section 13A) – $200,000

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FY2020 BUDGET - TABLE 1 MAY, 2019

		FY17 ACTUAL	FY18 ACTUAL	FY19 BUDGET	FY20 BUDGET	$$ CHANGE FROM FY19	% CHANGE FROM FY19
	REVENUES						
	Property Taxes	204,064,199	211,374,488	224,490,479	238,958,751	14,468,272	6.4%
	Local Receipts	28,627,979	36,277,400	29,778,588	29,943,370	164,783	0.6%
	State Aid	19,705,394	20,352,973	22,112,759	22,307,826	195,067	0.9%
	Free Cash	5,311,538	8,354,017	8,516,286	9,081,257	564,971	6.6%
	Other Available Funds	7,840,067	3,050,446	4,872,678	3,238,731	(1,633,948)	-33.5%
	TOTAL REVENUE	**265,549,177**	**279,409,325**	**289,770,790**	**303,529,935**	**13,759,145**	**4.7%**
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Select Board	710,634	738,119	731,791	737,511	5,720	0.8%
	2 . Human Resources	734,670	755,582	678,268	653,495	(24,773)	-3.7%
	3 . Information Technology	1,953,280	1,922,893	2,028,342	2,032,347	4,005	0.2%
	4 . Diversity, Inclusion, and Community Relations	231,634	228,918	272,149	276,642	4,494	1.7%
	5 . Finance Department	3,174,052	3,372,305	3,349,839	3,410,309	60,470	1.8%
	a. Comptroller	*587,376*	*588,341*	*685,500*	*697,828*	*12,328*	*1.8%*
	b. Purchasing	*655,723*	*661,607*	*717,277*	*741,164*	*23,887*	*3.3%*
	c. Assessing	*687,608*	*694,167*	*720,154*	*720,716*	*562*	*0.1%*
	d. Treasurer	*1,243,344*	*1,428,190*	*1,226,908*	*1,250,602*	*23,693*	*1.9%*
	6 . Legal Services	1,052,847	1,055,753	1,076,126	1,142,204	66,078	6.1%
	7 . Advisory Committee	21,196	21,427	27,805	28,042	237	0.9%
	8 . Town Clerk	761,507	562,943	792,040	662,765	(129,275)	-16.3%
	9 . Planning and Community Development	975,267	1,006,669	1,157,325	1,216,269	58,944	5.1%
	10 . Police	16,478,636	16,151,311	16,719,112	16,936,644	217,532	1.3%
	11 . Fire	15,007,729	15,070,184	15,584,343	15,703,922	119,579	0.8%
	12 . Building	7,554,334	7,653,367	8,345,682	8,606,282	260,600	3.1%
(1)	13 . Public Works	15,540,196	16,336,101	15,533,488	15,674,679	141,191	0.9%
	a. Administration	*881,248*	*885,065*	*918,667*	*935,457*	*16,790*	*1.8%*
	b. Engineering/Transportation	*1,151,132*	*1,179,727*	*1,309,832*	*1,360,161*	*50,329*	*3.8%*
	c. Highway	*4,504,869*	*4,944,741*	*5,227,069*	*5,194,588*	*(32,481)*	*-0.6%*
	d. Sanitation	*3,245,364*	*3,267,293*	*3,260,840*	*3,543,591*	*282,751*	*8.7%*
	e. Parks and Open Space	*3,599,580*	*3,766,756*	*4,083,137*	*4,058,129*	*(25,008)*	*-0.6%*
	f. Snow and Ice	*2,158,002*	*2,292,518*	*733,945*	*582,755*	*(151,190)*	*-20.6%*
	14 . Library	4,129,662	4,147,017	4,196,362	4,266,111	69,749	1.7%
	15 . Health and Human Services	1,201,816	1,181,028	1,242,374	1,236,042	(6,332)	-0.5%
	16 . Veterans' Services	308,507	303,845	342,378	342,585	207	0.1%
	17 . Council on Aging	916,512	902,328	957,812	977,355	19,542	2.0%
	18 . Recreation	1,020,333	1,027,649	1,093,345	1,120,983	27,638	2.5%
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2)	20 . Collective Bargaining - Town	1,148,529	784,317	1,400,693	2,470,000	1,069,307	76.3%
	Subtotal Town	*71,772,811*	*72,437,441*	*76,244,275*	*78,209,187*	*1,964,912*	*2.6%*
	21 . *Schools*	*101,118,780*	*105,196,458*	*110,658,255*	*117,354,211*	*6,695,957*	*6.1%*
	22. . *Vocational Education Assessments*	*0*	*21,753*	*92,895*	*92,895*	*0*	*-*
	Subtotal Education	*101,118,780*	*105,218,211*	*110,751,150*	*117,447,106*	*6,695,957*	*6.0%*
	TOTAL DEPARTMENTAL EXPENDITURES	**172,891,591**	**177,655,652**	**186,995,425**	**195,656,294**	**8,660,869**	

		FY17 ACTUAL	FY18 ACTUAL	FY19 BUDGET	FY20 BUDGET	$$ CHANGE FROM FY19	% CHANGE FROM FY19
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	54,682,308	59,317,285	63,046,019	66,306,696	3,260,677	5.2%
(3)	*a. Pensions*	*19,720,540*	*21,519,358*	*23,174,765*	*24,915,433*	*1,740,668*	*7.5%*
	b. Group Health	*26,821,422*	*29,055,009*	*30,746,239*	*31,518,881*	*772,642*	*2.5%*
	c. Health Reimbursement Account (HRA)	*0*	*0*	*0*	*0*	*0*	
(3)	*d. Retiree Group Health Trust Fund (OPEB's)*	*3,774,838*	*4,480,080*	*4,570,465*	*4,781,980*	*211,515*	*4.6%*
	e. Employee Assistance Program (EAP)	*24,900*	*22,825*	*28,000*	*0*	*(28,000)*	*-100.0%*
	f. Group Life	*131,381*	*132,145*	*145,000*	*145,000*	*0*	*0.0%*
	g. Disability Insurance	*11,076*	*13,436*	*46,000*	*46,000*	*0*	*0.0%*
(3)	*h. Worker's Compensation*	*1,450,000*	*1,450,000*	*1,450,000*	*2,050,000*	*600,000*	*41.4%*
(3)	*i. Public Safety IOD Medical Expenses*	*250,000*	*200,000*	*200,000*	*0*	*(200,000)*	*-100.0%*
(3)	*j. Unemployment Compensation*	*300,000*	*200,000*	*200,000*	*200,000*	*0*	*0.0%*
	k. Medical Disabilities	*19,810*	*15,709*	*40,000*	*40,000*	*0*	*0.0%*
	l. Medicare Coverage	*2,178,341*	*2,228,723*	*2,445,551*	*2,609,403*	*163,852*	*6.7%*
(2)	24 . Reserve Fund	3,348,737	1,939,266	2,547,870	2,689,494	141,623	5.6%
	25 . Stabilization Fund	0	0	0	0	0	
	26 . Affordable Housing	158,539	576,803	545,112	200,000	(345,112)	-63.3%
	27 . Liability/Catastrophe Fund	144,322	203,644	456,762	389,700	(67,062)	-14.7%
	28 . General Insurance	316,595	334,959	420,830	507,952	87,122	20.7%
	29 . Audit/Professional Services	129,632	123,252	137,000	142,000	5,000	3.6%
	30 . Contingency Fund	13,374	11,874	15,000	15,000	0	0.0%
	31 . Out-of-State Travel	2,039	110	3,000	3,000	0	0.0%
	32 . Printing of Warrants & Reports	34,479	44,567	55,000	55,000	0	0.0%
	33 . MMA Dues	12,281	12,588	13,222	13,553	331	2.5%
	Subtotal General	*4,159,998*	*3,247,063*	*4,193,796*	*4,015,699*	*(178,098)*	*-4.2%*
(1)	34 . Borrowing	10,255,515	12,577,453	15,658,637	18,968,479	3,309,842	21.1%
	a. Funded Debt - Principal	*7,859,250*	*9,007,500*	*10,219,250*	*11,952,053*	*1,732,803*	*17.0%*
	b. Funded Debt - Interest	*2,381,652*	*3,566,569*	*5,242,387*	*6,856,426*	*1,614,039*	*30.8%*
	c. Bond Anticipation Notes	*3,250*	*0*	*137,000*	*100,000*	*(37,000)*	*-27.0%*
	d. Abatement Interest and Refunds	*11,363*	*3,384*	*60,000*	*60,000*	*0*	*0.0%*
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**69,097,820**	**75,141,801**	**82,898,452**	**89,290,874**	**6,392,422**	**7.7%**
	TOTAL GENERAL APPROPRIATIONS	**241,989,410**	**252,797,453**	**269,893,877**	**284,947,167**	**15,053,290**	**5.6%**
	SPECIAL APPROPRIATIONS						
	35 . Town Building Rehab/Upgrade (revenue financed)				55,000		
	36 . Fire Station Renovations (revenue financed)				600,000		
	37 . Police/Fire Radio Infrastructure (revenue financed)				900,000		
	38 . Fire Drafting Pit (revenue financed)				50,000		
	39 . Traffic Calming / Safety Improvements (revenue financed)				265,000		
	40 . Bicycle Access Improvements (revenue financed)				31,000		
	41 . Parking Meters (revenue financed, transter from Parking Meter Fund)				161,040		
	42 . Street Rehabilitation (revenue financed ($1.75M) + Re-appropriation ($228,225))				2,028,225		
	43 . Sidewalk Repair/Reconstruction (revenue financed)				328,000		
	44 . Fire alarm call box system (revenue financed)				1,125,000		
	45 . Water Meter MTU Replacement (revenue financed Water and Sewer fund)				265,000		
	46 . Netherlands Road Facility Improvements (revenue financed Water and Sewer fund)				455,000		
	47 . Larz Anderson Park (revenue financed)				600,000		

		FY17 ACTUAL	FY18 ACTUAL	FY19 BUDGET	FY20 BUDGET	$$ CHANGE FROM FY19	% CHANGE FROM FY19
	48 . Robinson Playground Design (revenue financed)				100,000		
	49 . Playground Equipment, Fields, Fencing (revenue financed)				310,000		
	50 . Town/School Grounds Rehab (revenue financed)				160,000		
	51 . Tennis Court rehabilitation (revenue financed)				200,000		
	52 . Comfort Stations (revenue financed)				350,000		
	53 . Tree Removal and Replacement (revenue financed)				235,000		
	54 . Eliot Recreation Center Bathroom Renovation (revenue financed Rec Revolving fund)				50,000		
	55 . School Furniture Upgrades (revenue financed)				110,000		
	56 . HVAC Equipment (revenue financed)				150,000		
	57 . Town/School ADA Renovations (revenue financed)				80,000		
	58 . Town/School Energy Conservation Projects (revenue financed)				185,000		
	59 . Town/School Energy Management Systems (revenue financed)				125,000		
	60 . Town/School Bldg Security / Life Safety Systems (revenue financed)				260,000		
	61 . Town/School Compactor Replacements (revenue financed)				50,000		
	62 . School Building Rehab/Upgrade (revenue financed)				198,000		
	63 . Classroom Capacity (revenue financed)				1,450,000		
	64 . Water System Improvements (utility bond)				2,000,000		
	65 . Wastewater System Improvements (utility bond)				3,000,000		
	66 . Town/School Bldg Envelope/Fenestration Repairs (bond)				1,500,000		
	67 . Driscoll School Reconstruction (bond)				108,800,000	MOVED BY SB, HELD BY AC	
	68 . Baldwin School Reconstruction (bond)				82,900,000	MOVED BY SB, HELD BY AC	
	69 . Pierce School Feasibility (bond)				2,000,000		
(4)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**8,879,374**	**9,720,862**	**10,979,868**	**9,767,030**	**(1,212,838)**	**-11.0%**
	TOTAL APPROPRIATED EXPENDITURES	**250,868,784**	**262,518,315**	**280,873,745**	**294,714,197**	**13,840,452**	**4.9%**
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	89,197	86,983	88,500	87,271		
	State & County Charges	6,393,642	6,492,524	6,592,747	6,825,698		
	Overlay	1,840,902	1,722,221	1,762,675	1,877,769		
	Deficits-Judgments-Tax Titles	25,000	25,000	453,123	25,000		
	TOTAL NON-APPROPRIATED EXPEND.	**8,348,741**	**8,326,728**	**8,897,045**	**8,815,737**	**(81,308)**	**-0.9%**
	TOTAL EXPENDITURES	**259,217,525**	**270,845,043**	**289,770,790**	**303,529,935**	**13,759,145**	**4.7%**
	SURPLUS/(DEFICIT)	**6,331,652**	**8,564,281**	**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 #3

Passed, as Amended and Separately Voted, including Tablets, by a Unanimous Vote

FY20 BUDGET - TABLE 2 MAY 2019

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)	706,626	7,080	4,000	17,600		2,205			737,511
Human Resources Department (Human Resources Director)	313,646	286,809	20,400	31,000		1,640			653,495
Information Technology Department (Chief Information Officer)	1,190,574	545,773	10,350	17,550		268,100			2,032,347
Diversity, Inclusion, and Community Relations (Director)	226,017	35,600	10,500	3,650		875			276,642
Finance Department (Director of Finance)	2,374,880	913,757	46,960	29,907	1,375	43,430			3,410,309
Legal Services (Town Counsel)	771,430	251,309	4,500	113,100		1,865			1,142,204
Advisory Committee (Chair, Advisory Committee)	23,902		3,275	570		295			28,042
Town Clerk (Town Clerk)	546,413	94,872	17,750	2,450		1,280			662,765
Planning and Community Department (Plan. & Com. Dev. Dir.)	1,106,873	91,034	9,712	4,550		4,100			1,216,269
Police Department (Police Chief)	15,074,009	719,471	219,900	74,000	293,095	556,169			16,936,644
Fire Department (Fire Chief)	14,830,270	166,426	191,952	31,700	212,912	270,662			15,703,922
Public Buildings Department (Building Commissioner)	2,705,666	3,205,653	29,750	13,900	2,567,943	83,370			8,606,282
Public Works Department (Commissioner of Public Works)	8,440,810	4,053,061	970,750	53,500	1,075,059	1,061,500	20,000		15,674,680
Public Library Department (Library Board of Trustees)	3,113,564	226,075	610,764	4,700	267,884	43,124			4,266,111
Health & Human Services Department (Health & Human Svcs Dir)	955,220	217,902	15,100	4,120	39,515	4,185			1,236,042
Veterans' Services (Veterans' Services Director)	175,502	2,388	650	163,535		510			342,585
Council on Aging (Council on Aging Director)	842,458	43,583	19,763	4,250	61,601	5,700			977,355
Recreation Department (Recreation Director)	841,770	23,037	86,480	12,400	153,276	4,020			1,120,983
School Department (School Committee)									117,354,211
Total Departmental Budgets	**54,239,629**	**10,883,830**	**2,272,556**	**582,482**	**4,672,660**	**2,353,030**	**20,000**		**192,378,399**
DEBT SERVICE									
Debt Service (Director of Finance)								18,968,479	18,968,479
Total Debt Service								**18,968,479**	**18,968,479**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	24,915,433								24,915,433
Group Health Insurance (Human Resources Director)	31,518,881								31,518,881
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,781,980								4,781,980
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	46,000								46,000
Workers' Compensation (Human Resources Director)	2,050,000								2,050,000
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)	2,609,403								2,609,403
Total Employee Benefits	**66,306,696**								**66,306,696**
GENERAL / UNCLASSIFIED									
Vocational Euducation Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				2,689,494					2,689,494
Liability/Catastrophe Fund (Director of Finance)				389,700					389,700
Housing Trust Fund (Planning & Community Develpoment Dir.)				200,000					200,000
General Insurance (Town Administrator)		507,952							507,952
Audit/Professional Services (Director of Finance)		142,000							142,000
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)				13,553					13,553
Town Salary Reserve (*) (Director of Finance)	2,470,000								2,470,000
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	**3,210,000**	**672,952**	**10,000**	**3,307,747**					**7,293,594**
TOTAL GENERAL APPROPRIATIONS	**123,756,325**	**11,556,782**	**2,282,556**	**3,890,229**	**4,672,660**	**2,353,030**	**20,000**	**18,968,479**	**284,947,167**

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

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.

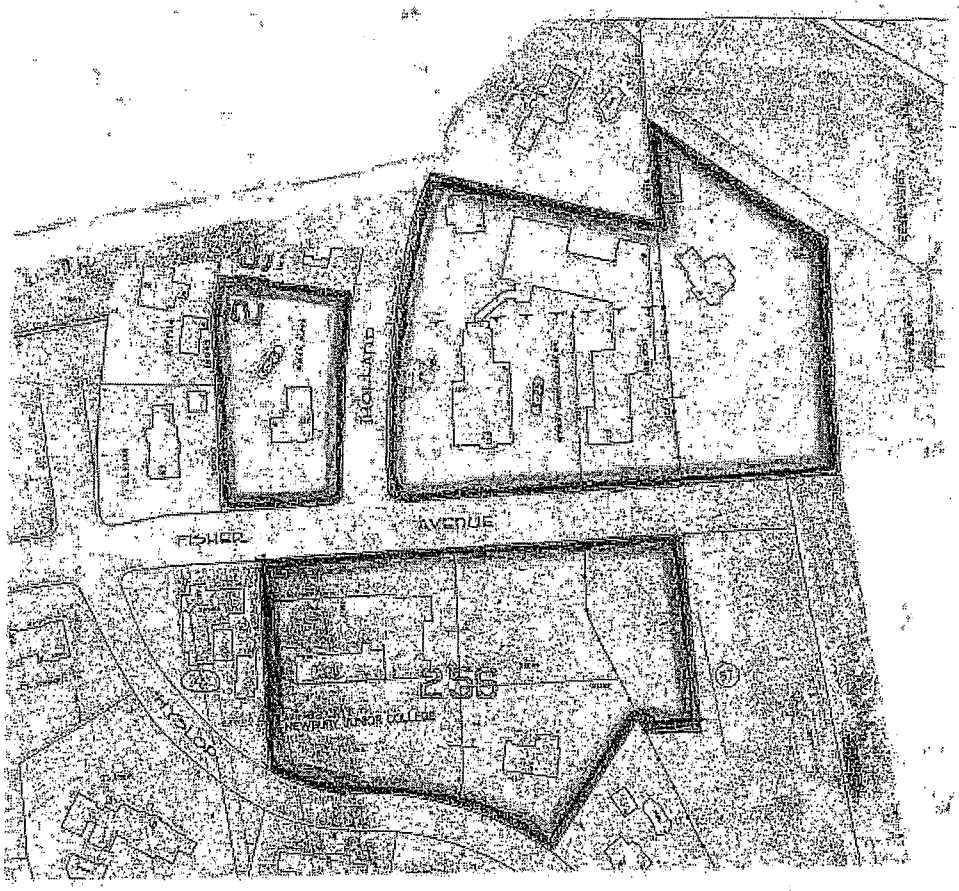
The Advisory Committee has received no information that would provide a basis for a recommendation under Article 10. The Committee will review and possibly vote on this Article on May 21 or, if necessary, a later date.

ARTICLE 10

TENTH ARTICLE
Submitted by: Select Board

To see if the Town will vote to authorize the Select Board to acquire on terms and conditions that are in the best interest of the Town, by purchase, gift, eminent domain or otherwise, in fee simple, all or some of the parcels of land comprising the real property of Newbury College located at 110, 117, 124 and 150 Fisher Avenue, 124 and 125 Holland Avenue, and 146 Hyslop Road, Brookline, Massachusetts, as substantially shown on the plan attached hereto entitled "Plan of Newbury College" a copy of which is on file in the Office of the Town Clerk, including all buildings and structures thereon and all privileges and appurtenances thereto belonging, as well as all trees and shrubs thereon, consisting of up to approximately 342,943 square feet, for general municipal and/or educational purposes, and for all purposes and uses accessory thereto, and that to meet such expenditure, appropriate a sum of money to be expended at the direction of the Selectmen to pay the costs of acquiring said property, and for the payment of all costs incidental and related thereto, and to determine whether such amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; and to authorize the Select Board to apply for, accept and expend any grants from any source whatsoever that may be available to pay for any portion of said real property, or to take any other action relative thereto.

Land Description:
Seven parcels of land with the buildings thereon known as and numbered 110, 117, 124 and 150 Fisher Avenue; 124 and 125 Holland Avenue; and 146 Hyslop Road, Brookline, Massachusetts situated in Brookline, Norfolk County, Massachusetts, as substantially shown on the site plan entitled "Plan of Newbury College".



Fisher Avenue	Parcel ID
#110	256-01-01
#117	259-01-02
#124	256-24-00
#150	250-01-02
Holland Road	
#124	250-03-05
#135	249-13-00
Hyslop Road	
#149	256-20-00

Plan of Newbury College

Scale: 1" = 100' Date: January 22, 2019

PETITIONER'S ARTICLE DESCRIPTION

This article mirrors the language found under Article 2 of the April 9, 2019 First Special Town Meeting. The Select Board is re-filing this article in case more time is needed in order to take action contemplated by the article.

BROOKLINE SCHOOL COMMITTEE STATEMENT TO TOWN MEETING ON POTENTIAL ACQUISITION OF NEWBURY COLLEGE PROPERTY

(Statement was submitted to Town Meeting for the April 9, 2019 Special Town Meeting, but also applies to Annual Town Meeting Article 10)

School enrollment growth in Brookline has resulted in overcrowding throughout the district, and in the displacement of both programs and staff out of our school buildings and into temporary and rental facilities that present a range of challenges and drawbacks. In particular, 11 Brookline Early Education Program (BEEP) classrooms and the BEEP family intake center are currently housed in community religious buildings. 49 school staff from a number of departments including BEEP, BACE, METCO and others have been relocated to rental space. This is costing the town more than $715,000 in FY 19 and costs are projected to rise.

While much additional study and community input would be required, the Brookline School Committee is supportive, hopeful, and excited about the possibility that parts of the Newbury site could be could be used for school purposes.

The School Committee is not in favor of the Newbury site as a preferred site for a new elementary school because of its proximity to both Runkle and Heath and the relatively low density of the neighborhood. These factors would likely result in significant disruption to families who live close to both of those schools and significant long vehicular commutes for students attending the new school.

SELECT BOARD'S RECOMMENDATION

A report and recommendation by the Select Board under Article 10 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 10 will be provided in the Supplemental Mailing.

XXX

A/O Action Was Taken

ARTICLE 11

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

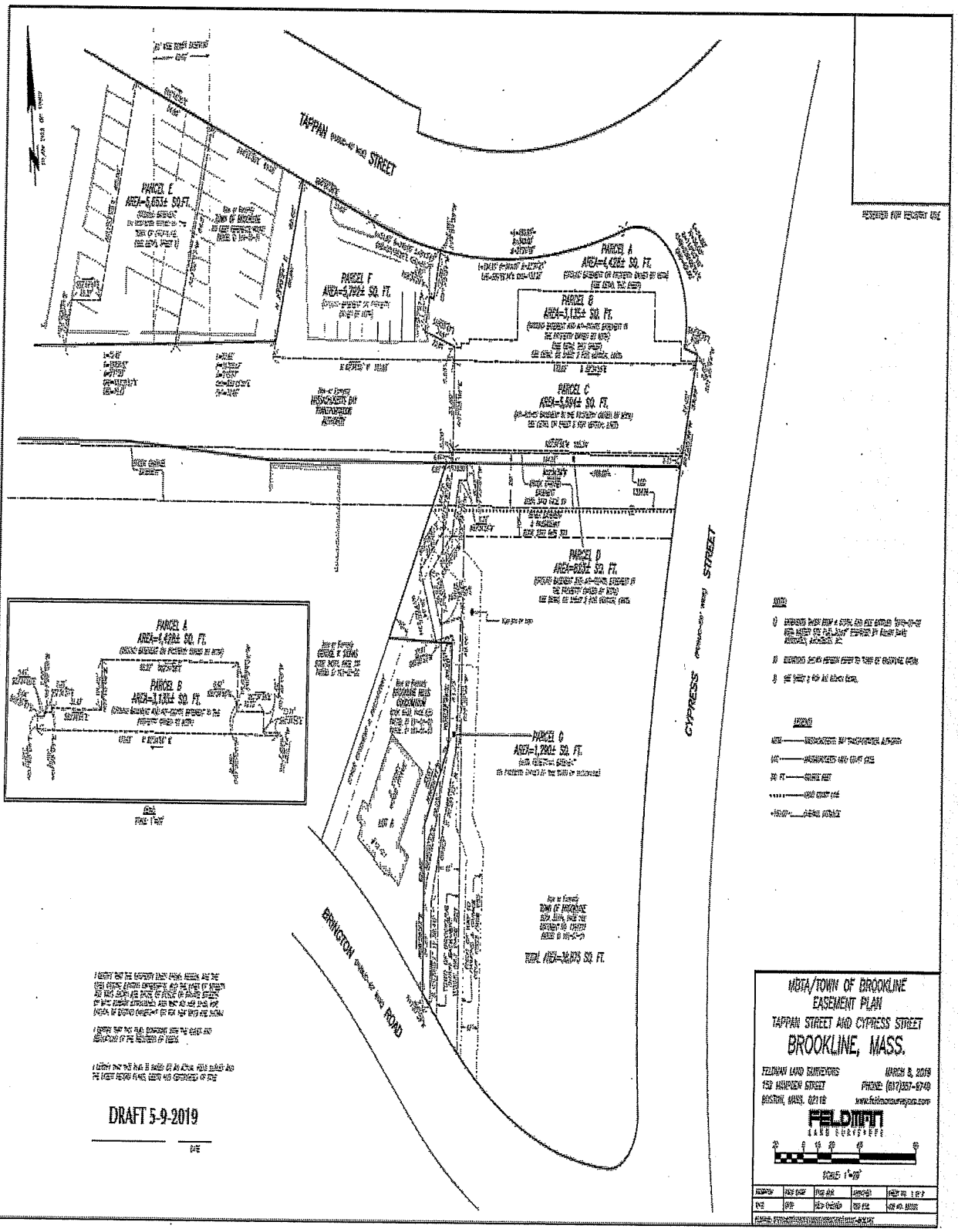
The Select Board reconsidered Article 11 in order to respond to revised plans for the easement with the MBTA. The revised plans provide more detail on the easement and provide refined square footage estimates.

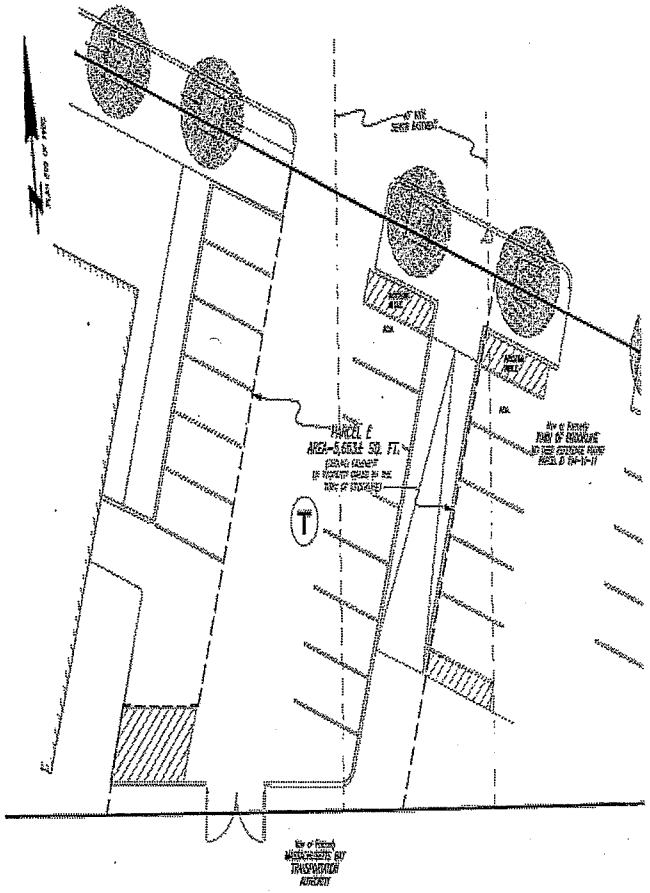
A unanimous Select Board voted FAVORABLE ACTION on the following motion:

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:

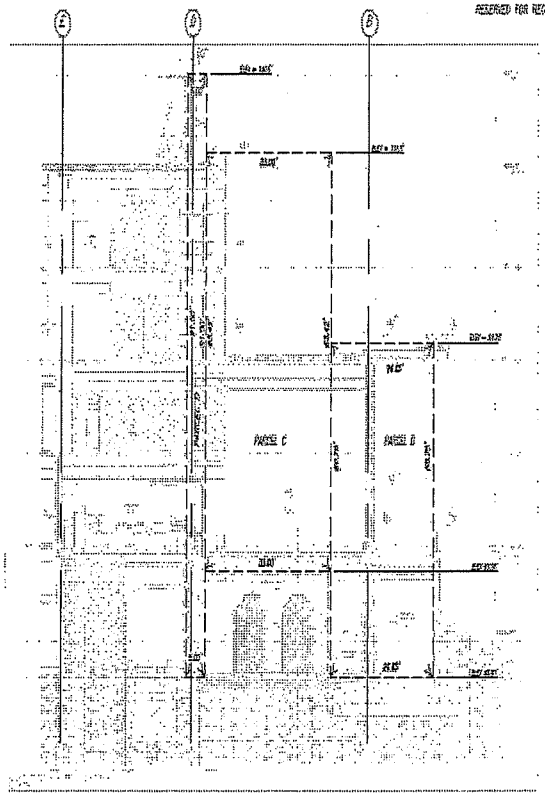
- The Town will acquire certain ground and air rights easements from the MBTA sufficient to allow the construction of the Brookline High School Expansion and attendant improvements on MBTA air rights and land located at the corner of Cypress Street and Tappan Street, a portion of which contains the MBTA 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.


TAPPAN STREET
CYPRESS STREET
ERVINGTON ROAD
PARCEL E
AREA=5,655± SQ. FT.
PARCEL F
AREA=5,700± SQ. FT.
PARCEL A
AREA=4,420± SQ. FT.
PARCEL B
AREA=1,135± SQ. FT.
PARCEL C
AREA=5,594± SQ. FT.
PARCEL D
AREA=605± SQ. FT.
PARCEL G
AREA=1,200± SQ. FT.
TOTAL AREA=36,076 SQ. FT.
DRAFT 5-9-2019
MBTA/TOWN OF BROOKLINE
EASEMENT PLAN
TAPPAN STREET AND CYPRESS STREET
BROOKLINE, MASS.
FELDMAN LAND SURVEYORS
152 HAMPDEN STREET
BOSTON, MASS. 02118
MARCH 8, 2019
PHONE: (617)357-9740
FELDMAN
LAND SURVEYORS



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



AS AVAILABLE DETAIL
SECTION AT CROSS LINE 5 LOOKING WEST
SCALE 1" = 10'
ELEVATIONS ARE ON BOSTON CITY BASE

NOTES:

1) BEARINGS ARE BASED ON A DEED AND PLAT ENTITLED "PLAN OF LAND IN BROOKLINE AND BOSTON" RECORDED AT NORFOLK COUNTY REGISTRY OF DEEDS AS PLAN NO. 1 OF 2011.

2) ELEVATIONS SHOWN HEREON REFER TO BOSTON CITY BASE (BCB).

3) SURVEY WORK PERFORMED:

FIELD WORK COMPLETED:

MONUMENTS FOUND ESTABLISHED OUTLINE OF THE PROPERTY SHOWN HEREON.

TEMPORARY BENCH MARKS SET:

TBM #1: X-CUT ON WEST END OF CURB ON THE SOUTH SIDE OF CYPRESS STREET AND APPROX. 200 FEET EAST OF THE INTERSECTION OF CYPRESS STREET AND TAPPAN STREET.
ELEVATION= 101.11(BCB)

TBM #2: X-CUT ON WEST END OF CURB ON THE SOUTH SIDE OF CYPRESS STREET AND APPROX. 50 FEET WEST OF THE INTERSECTION OF CYPRESS STREET AND TAPPAN STREET.
ELEVATION= 99.47(BCB)

LEGEND

MBTA ——— MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

B/B ——— BOUNDARIES AND BOUNDARY LINE

SQ. FT. ——— SQUARE FEET

I CERTIFY THAT THE PROPERTY LINES SHOWN HEREON ARE THE EXISTING RECORD BOUNDARIES, AND THE LINES OF OWNERSHIP AND WAYS SHOWN ARE BASED ON ACTUAL OR RECORD DEEDS. THE WAYS HAVE BEEN 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 LOCATIONS SHOWN, EXISTED AND EXISTED AT THE TIME.

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

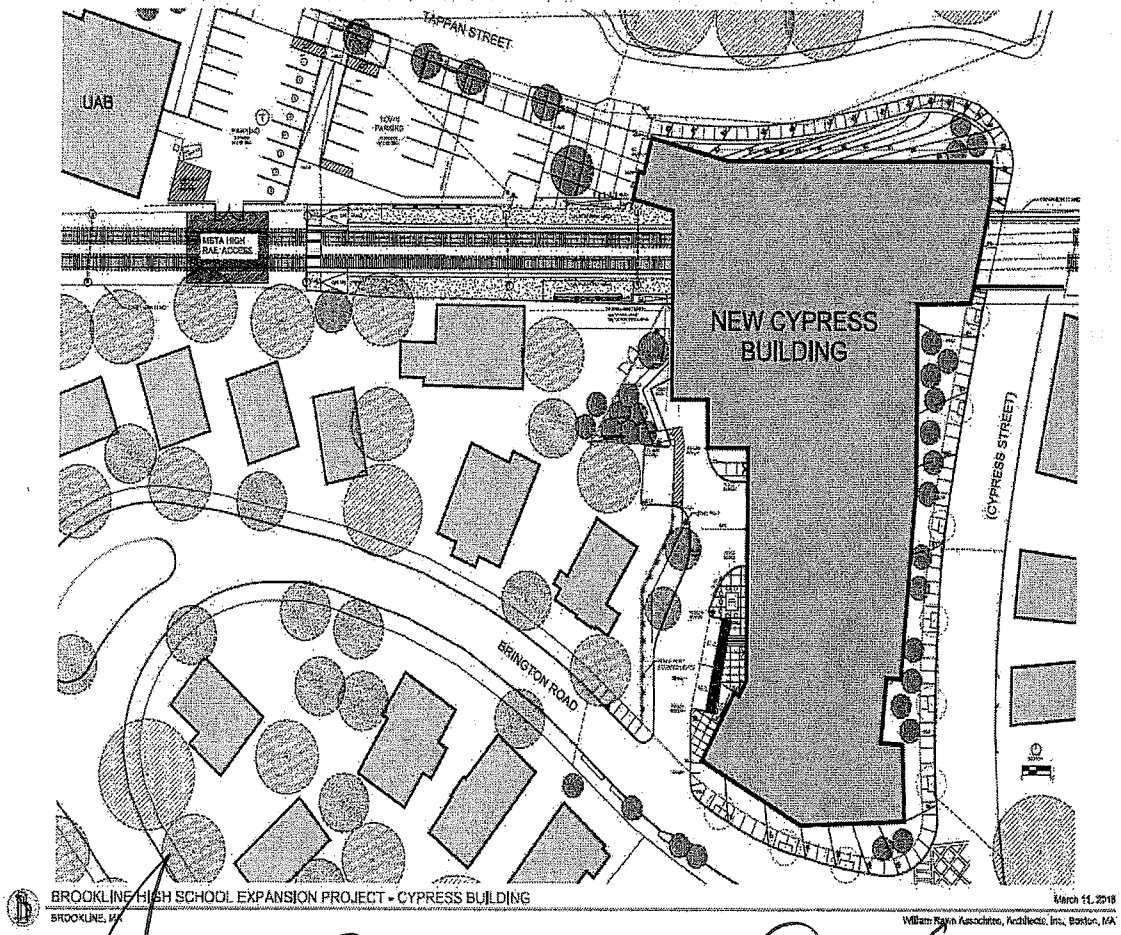
FELDMAN LAND SURVEYORS

SCALE: 1"=20'

REVISIONS	FIELD BOOK	PROJECT NO.	APPROVED	SHEET NO. 1 OF 2
DATE	SCALE	FIELD CHECKED	CAD FILE	JOB NO. 19-0010

FILENAME: S:\PROJECTS\2019\19-0010\CAD\19-0010-EASE.DWG

BROOKLINE HIGH SCHOOL IMPROVEMENTS PROJECT



Passed by a Counted Vote
200 In Favor and 1 Opposed

ARTICLE 11

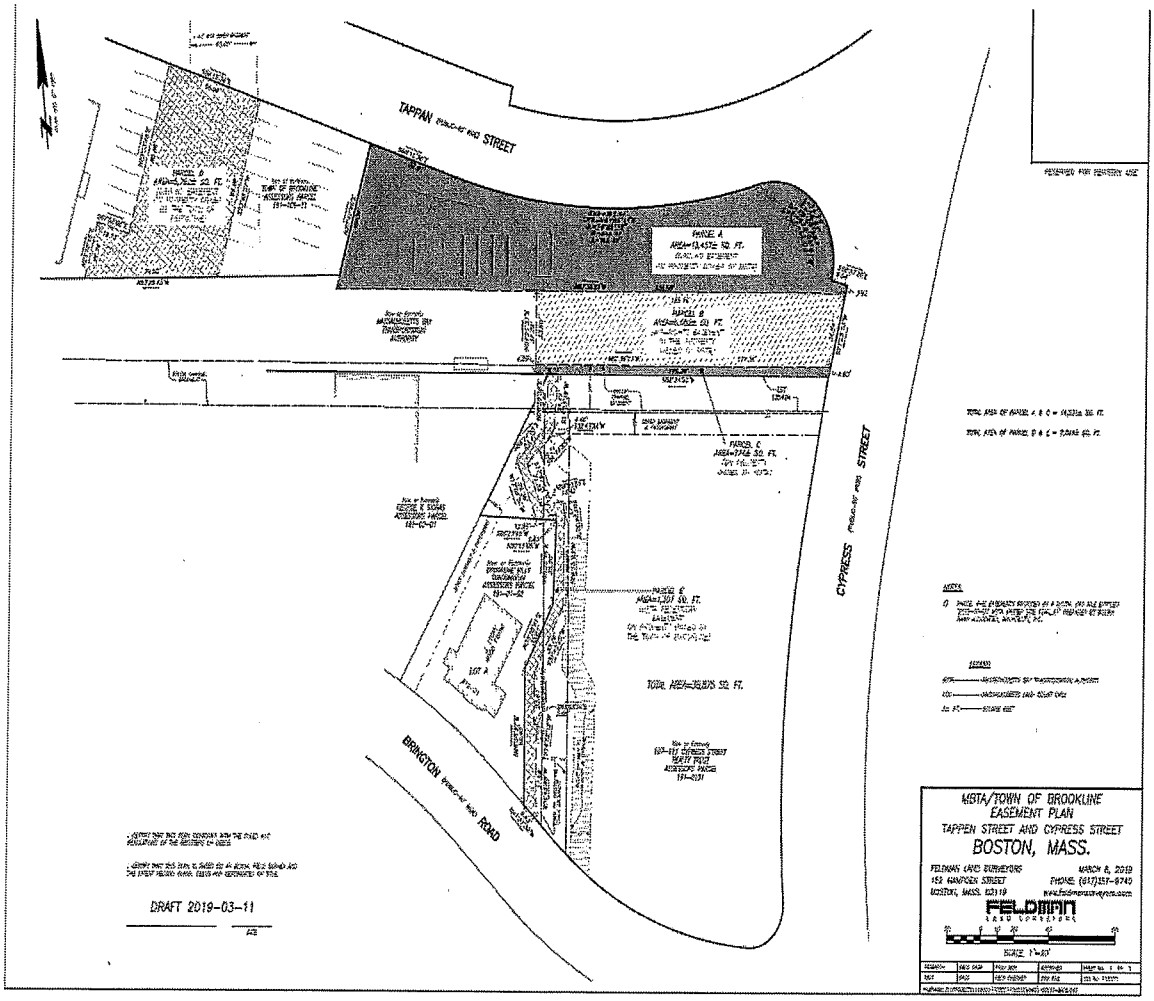
ELEVENTH ARTICLE
Submitted by: Select Board

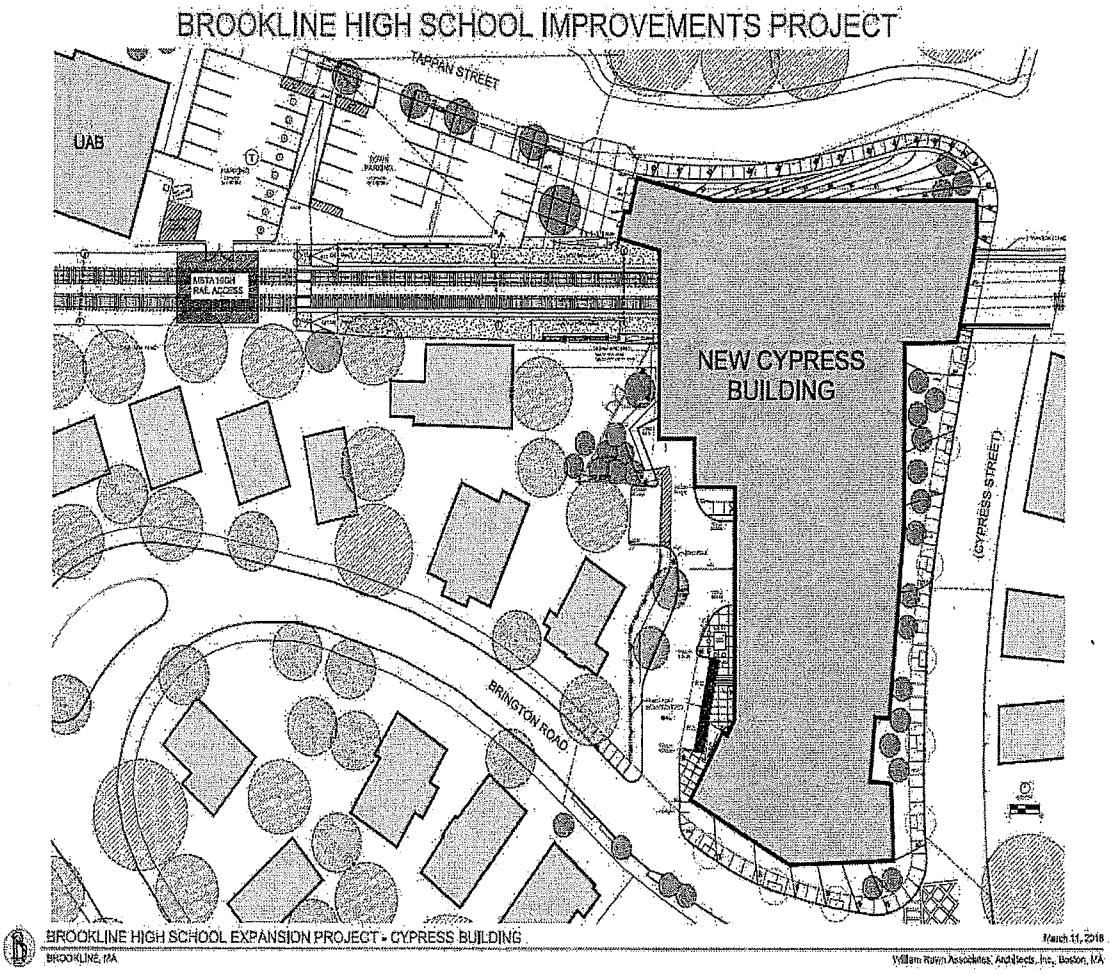
To see if the Town will vote to authorize the Select Board to grant and acquire, as necessary, permanent rights and easements necessary to facilitate the construction of the new Brookline High School Expansion located at 111 Cypress Street as well as certain improvements to the MBTA Brookline Hills Station, 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" and "C" on the plan "MBTA/Town of Brookline Easements Plan" and containing approximately 14,231 square feet in ground easement area and 6,082 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 "D" and "E" on the plan "MBTA/Town of Brookline Easements Plan" and containing approximately 7,099 square feet in easement area.

(Larger copies of the following plans will be available in the Select Board's Office)


TAPPAN STREET
CYPRESS STREET
BRINGTON ROAD
MBTA/TOWN OF BROOKLINE
EASEMENT PLAN
TAPPEN STREET AND CYPRESS STREET
BOSTON, MASS.
FELDMAN
DRAFT 2019-03-11



Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The planned expansion of Brookline High School includes the construction of a new school building situated on Cypress Street. The design of the new building extends over the MBTA Green Line tracks onto property owned by the MBTA. The Town has reached Agreement with the MBTA, wherein the MBTA will grant easements for the necessary air rights and ground rights to allow the construction of the new building and the Town will undertake certain improvements to the Brookline Hills MBTA Station, including replacement of MBTA parking area utilized by the new school building, making the MBTA Station accessible for people with disabilities and creating public accessibility to the MBTA Station from Brington Road.

The High School Project and the MBTA Station Improvements will require certain rights and easements over certain portions of Town Property on Tappan Street and off Brington Road order to provide access to and egress from the MBTA Facilities for MBTA patrons and employees. The Town, in turn, will acquire rights and easements over MBTA property, including air rights to extend the new building over the tracks. This warrant article will give the Select Board the authority to enter into a reciprocal easement agreements with the MBTA that will allow the High School Expansion project to proceed as planned.

SELECT BOARD'S RECOMMENDATION

This Warrant Article seeks authorization from Town Meeting for the Select Board to execute easement agreements with the MBTA that will allow the High School Expansion project to proceed as planned. The design of the new building extends over the MBTA Green Line tracks onto property owned by the MBTA. The MBTA will grant easements for the necessary air rights and ground rights to allow the construction of the new building and the Town will undertake certain improvements to the Brookline Hills MBTA to provide access to and egress from the MBTA Facilities for MBTA patrons and employees.

The Select Board is very excited to commence construction on the High School project and is appreciative of the cooperation of the MBTA, which will allow for the construction of a first class facility that will be anchored to the rest of the High School campus.

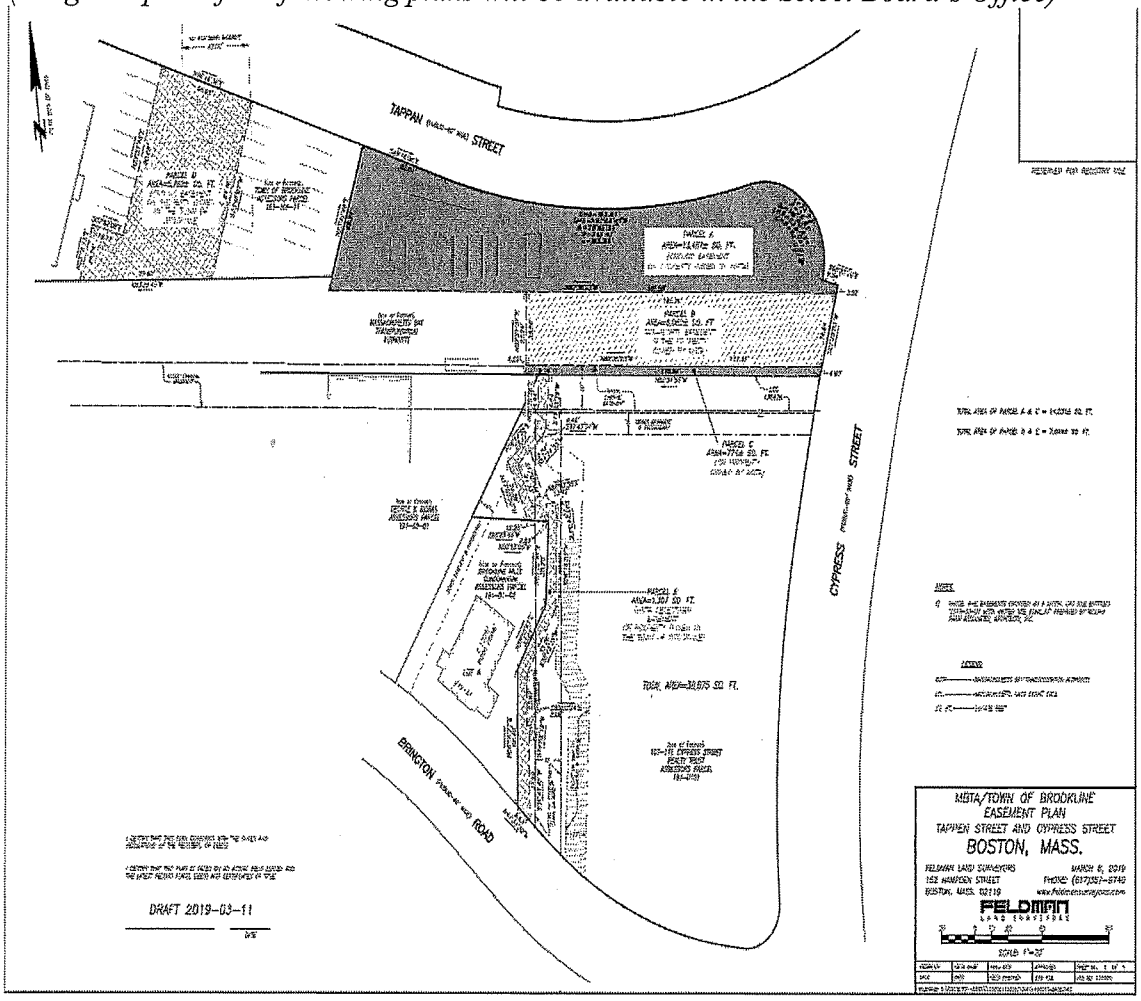
A unanimous Select Board voted FAVORABLE ACTION on the following motion:

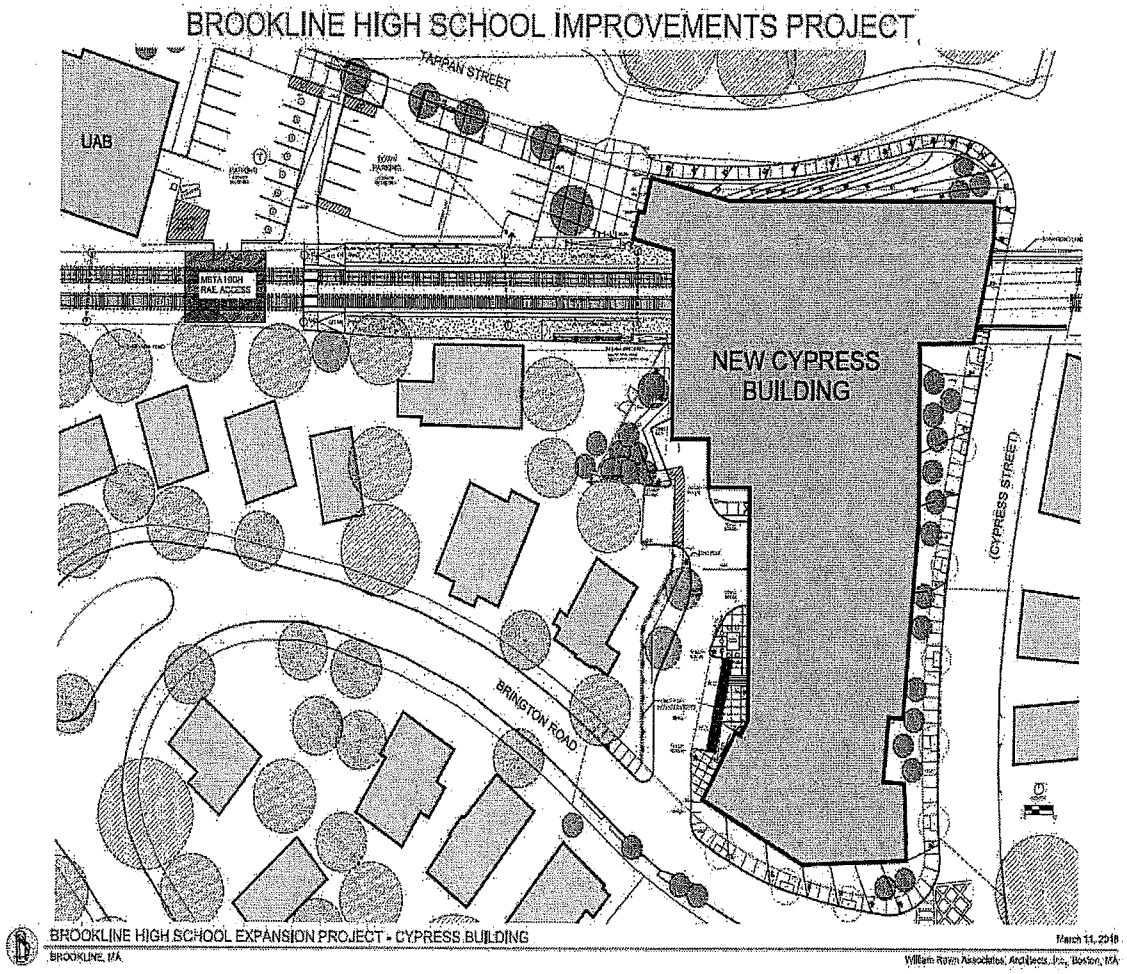
VOTED: That the Town authorize the Select Board to grant and acquire, as necessary, permanent rights and easements necessary to facilitate the construction of the new Brookline High School Expansion located at 111 Cypress Street as well as certain improvements to the MBTA Brookline Hills Station, as 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" and "C" on the plan "MBTA/Town of Brookline Easements Plan" and containing approximately 14,231 square feet in ground easement area and 6,082 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 "D" and "E" on the plan "MBTA/Town of Brookline Easements Plan" and containing approximately 7,099 square feet in easement area.

(Larger copies of the following plans will be available in the Select Board's Office)





ADVISORY COMMITTEE'S RECOMMENDATION

.SUMMARY:

The planned expansion of Brookline High School includes the construction of a new school building situated on Cypress Street. The design of the new building extends over the MBTA Green Line tracks onto property owned by the MBTA.

Warrant Article 11 gives the Select Board authority to enter into reciprocal easement agreements with the MBTA that will allow the High School Expansion project to proceed as planned. The Town will acquire rights and easements over MBTA property, including air rights to extend the new building over the tracks. In return, the Town is required to grant the MBTA certain rights and easements over certain portions of Town property on Tappan

Street and off Brington Road in order to provide access to and egress from the MBTA Facilities for MBTA patrons and employees.

By a vote of 16–2–1, the Advisory Committee recommends FAVORABLE ACTION.

BACKGROUND:
Article 11 is necessitated by the multi-part/multi-phase expansion and renovation of Brookline High School. The portion relevant to Article 11 is the building project at 111 Cypress Street. The Public Schools of Brookline (PSB) describes the project as a 120,000 square foot new academic building planned for 700 students. The building will include general-use classrooms, a library, physics labs, special education classrooms, a cafeteria, a "white box" theater, administrative offices, and building support spaces.

The construction timetable is:

- Site mobilization–June to July 2019
- Demolition–July to October 2019
- Foundations–September 2019 to January 2020
- Erection–January to May 2020
- Façade–May to December 2020
- Interiors–October 2020 to June 2021
- Landscaping–April to June 2021
- Occupancy–September 2021

DISCUSSION:
As described by the George Cole, a member of the Building Commission, the Article 11 exchange of easements will enable the MBTA to replace parking and access to the Green Line tracks lost due to the air rights construction at 111 Cypress. Parking will be reconfigured such that the eight MBTA (employee and staff) spaces will be relocated. The final configuration of the school and/or public parking spaces is to be determined. The Town will rebuild the Brookline Hills MBTA stop with replacements/improvements to accessibility, lighting, canopies, and signage. The estimated cost will be $6 million, factoring in the added expense of construction around an active trackway. The new MBTA platform will accommodate three-car trains.

Brington Road neighbors, some of whom were represented at a subcommittee hearing in person or by email, have presented comments and concerns regarding an Access/Egress Easement that will be granted to the MBTA. The immediately adjacent property is 19–21 Brington Road. Concerns also were raised by several Cypress Field neighbors and others as to fencing, shrubbery and lighting of the rebuilt T stop.

A letter signed by eight Precinct 6 Town Meeting Members recommends improvements to parking (car and bike) as well as pedestrian access plans.

The Advisory Committee acknowledged the concerns of neighbors and the need to take them into account, but it recognized that many of these concerns are about issues of station design and that easements will be necessary to make possible construction of the proposed BHS building at 111 Cypress Street, regardless of the final design of the station, parking lot, and access pathways.

RECOMMENDATION:
By a vote of 16–2–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

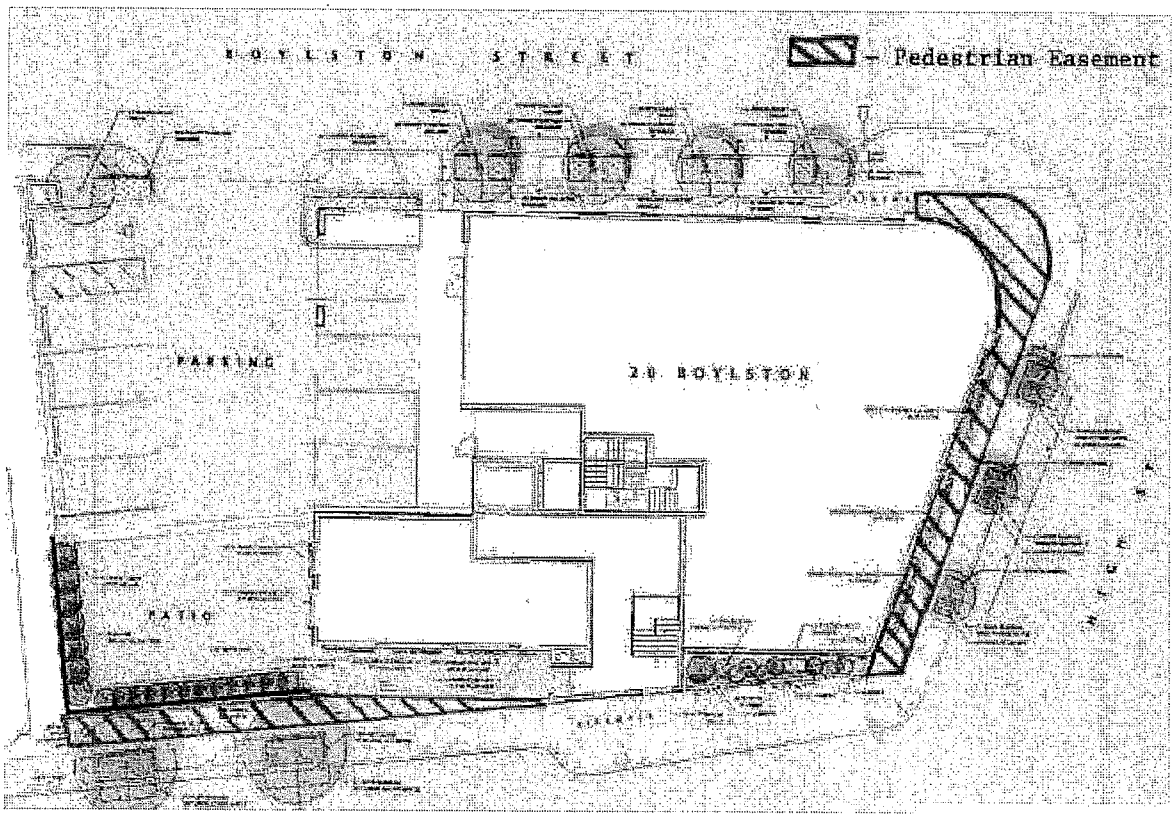
XXX

ARTICLE 12

TWELFTH ARTICLE

Submitted by: Commissioner of Public Works

To see if the Town will vote to authorize the Select Board, on such terms and conditions that are in the best interest of the Town, to accept a grant of easements from Kenwood Investments LLC, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, or one of its successors or assigns ("Grantor"), over portions of land located at 20 Boylston Street, Brookline, Massachusetts and substantially shown as Pedestrian Easement on the sketch included with this Article for the purposes of providing permanent, safe and continuous pedestrian access along Boylston Street, High Street and Walnut Street in conjunction with Grantor's development of a mixed use building at the site, said easement will be further described in an Easement Agreement and plan to be recorded at the Norfolk County Registry of Deeds upon acceptance by the Select Board.



Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

20 Boylston Street is the site of a proposed mixed-use development, which received a Special Permit for construction pursuant to the Town's Design Review and Affordable Housing provisions of its Zoning By-Law. During the design phase of the project, with input from the neighbors, the Design Advisory Team and the Planning Board, the owner agreed to increase the width of the sidewalks on Walnut Street and High Street by setting the building back in excess of the minimum setbacks and adding sidewalk area on its property. The owner also agreed to plant several street trees on the sidewalk. Without this additional sidewalk area provided by the owner, there is insufficient room for both the trees to be planted and safe pedestrian passage as part of this project.

The Department of Public Works and the Transportation Board have recommended, and the Special Permit requires, that the owner grant the Town an easement over the newly created sidewalk area on its property to ensure adequate pedestrian access. The easement would allow the sidewalk to remain a safe and generous width, larger than required and satisfactory to the Design Advisory Team and Planning Board. The owner supports the grant of this pedestrian easement to the Town.

Therefore, the petitioner is submitting this warrant article as a means to ensure the planting of street trees, public safety and access in conjunction with the Zoning Board of Appeals' approval of the project, and to ensure that the Town has a permanent, non-revocable mechanism for sufficient pedestrian access over the newly created portion of the sidewalk on the owner's lot.

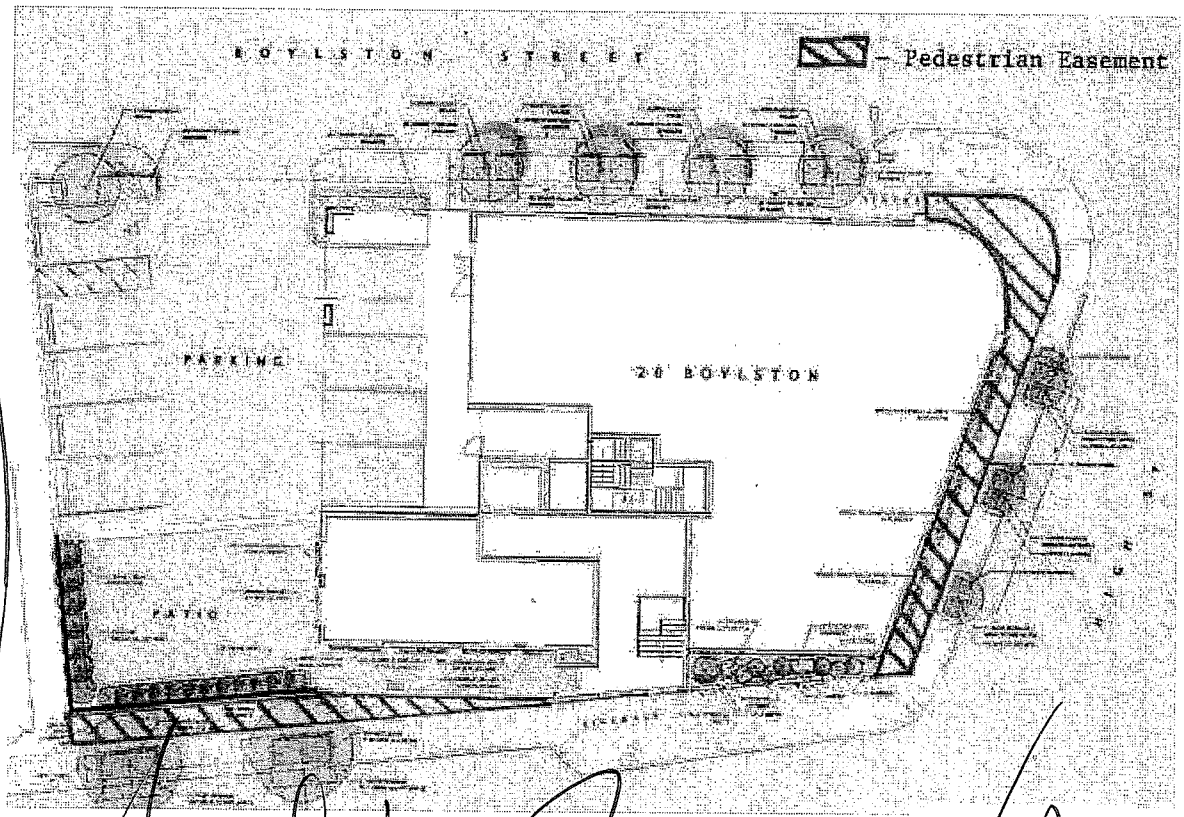
SELECT BOARD'S RECOMMENDATION

Article 12 seeks authorization for the Select Board to accept an easement over the newly created sidewalk area on the site of a proposed mixed-use development located at 20 Boylston Street. The owner agreed to increase the width of the sidewalks on Walnut Street and High Street by setting the building back in excess of the minimum setbacks and adding sidewalk area on its property. The Town needs to accept the easement in order to ensure adequate pedestrian access on the new sidewalks.

The Select Board is pleased with the outcome of Special Permit process, which was satisfactory for both neighbors, the Planning Board and the owner.

On April 2, 2019 a unanimous Select Board voted FAVORABLE ACTION on the following motion:

VOTED: That the Town authorize the Select Board, on such terms and conditions that are in the best interest of the Town, to accept a grant of easements from Kenwood Investments LLC, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, or one of its successors or assigns ("Grantor"), over portions of land located at 20 Boylston Street, Brookline, Massachusetts and substantially shown as Pedestrian Easement on the sketch included with this Article for the purposes of providing permanent, safe and continuous pedestrian access along Boylston Street, High Street and Walnut Street in conjunction with Grantor's development of a mixed use building at the site, said easement will be further described in an Easement Agreement and plan to be recorded at the Norfolk County Registry of Deeds upon acceptance by the Select Board.



Passed by a Unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:

Article 12 asks Town Meeting to authorize the Select Board to accept a grant of easement from Kenwood Investments LLC over portions of land located at 20 Boylston Street, the

former Dunkin' Donuts location at the corner of High Street and Route 9. By a vote of 18–0–1, the Advisory Committee recommends FAVORABLE ACTION.

BACKGROUND:
The developer of 20 Boylston Street (formerly the site of Dunkin' Donuts) has received a special permit from the Zoning Board of Appeals to construct a mixed-use development. As a result of the design review process, the owner agreed to increase the width of the sidewalks on both Walnut Street and High Street by increasing the setback of the building and making portions of the property available for additional sidewalk area. The developer also agreed to plant street trees on High Street and Walnut Street, subject to the approval of the Tree Planting Committee, and on Boylston Street (Route 9), subject to the approval of the Massachusetts Department of Transportation. The additional sidewalk area on Walnut and High Streets is necessary to accommodate tree planting and a safe pedestrian passageway. Article 12 provides the Town with a permanent, non-revocable mechanism for sufficient pedestrian access over the newly created portion of the sidewalk on the owner's property.

DISCUSSION:
Advisory Committee members recognized that the granting of easement(s) was a condition of the Zoning Board of Appeal's issuance of a Special Permit for the development of the property: https://www.brooklinema.gov/ArchiveCenter/ViewFile/Item/1729.

Committee members also noted that a neighbor and member of the Design Advisory Team wrote in an email to the Advisory Committee's Capital Subcommittee that the easement "will provide wider sidewalks for better pedestrian access AND it will provide space for street trees. Both of these we [the neighborhood] consider to be public benefits [that] will enhance the pedestrian experience along this stretch."

During the discussion of Article 12, there was discussion of the question of who would be responsible for the maintenance, pruning, watering, and (eventual) replacement of the street trees that the developer had agreed to plant on High, Walnut, and Boylston Streets. Parks and Open Space Director Erin Gallentine has stated her support of "agreements with developers invested in and taking care of their piece of the public way."

The Advisory Committee is also supportive of such private-public partnerships, but upon the advice of Town Counsel decided not to amend Article 12 to add a condition explicitly requiring such an arrangement. Rather, in recommending approval of Article 12, the Advisory Committee strongly encourages the Select Board, when it enters the memorandum of understanding or agreement stipulated in Condition 5 of the decision of the Zoning Board of Appeals, to include such an ongoing maintenance arrangement.

RECOMMENDATION:
By a vote of 18–0–1 the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 13-15

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
UPDATE ON 40Bs/SHI STATUS

Town of Brookline
Massachusetts

Department of Planning and Community Development

Town Hall, 2nd Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2130 Fax (617) 730-2442
TTY (617) 730-2327

Alison C. Steinfeld
Director

TO:	Judith Leichtner
FROM:	Alison Steinfeld
SUBJ:	40Bs/SHI Status
DATE:	May 23, 2019

I am responding to your questions set forth in your May 21st e-mail relative to the Town's status on the Subsidized Housing Inventory (SHI). Thank you for your effort to synthesize and simplify your questions. Unfortunately, there are a lot of variables involved and it is very difficult to provide reasonable estimates.

Let me preface my response by stating that I anticipate that the Town's SHI will fluctuate significantly over the next few years. The most critical factor in this volatility is the fact that a project's units that are certified on the SHI upon issuance of the Comprehensive Permit subsequently fall back off the SHI if a building permit is not issued within one year of the Comprehensive Permit. These units then do not go back on the SHI until they receive a building permit. Further, if a project with a building permit does not receive a certificate of occupancy within 18 months of receiving its building permit, the units are again dropped off of the SHI until such time as those units, receive their occupancy permit.

Therefore, units are never permanently on the SHI until an occupancy permit is issued.

Responding to your specific questions:

1) **When is the census actually conducted (as of what date in 2020)?**
For purposes of these questions, we'll refer to a snapshot in time as being the official "Census Day," April 1, 2020. However, the 2020 census has officially already begun; see more information about the Census Bureau's timeline. For example, a complete address list is updated in 2019, the public is asked to respond prior to April 1st, and census takers visit households that haven't responded after April 1st. Additionally, data isn't scheduled to be released at the state level until March 2021. During the 2010 census, housing count community-level data was not released until the summer and fall of 2011.

2) **What projects, Chapter 40A, Chapter 40B or otherwise, do you expect to be complete as of that date?** (I'm assuming you are asking about projects completed subsequent to the 2010 census.)

Projects completed and occupied:
Olmsted Hill (24 units – all affordable)
45 Marion Street (64 units – Chapter 40B)
321 Hammond Pond Parkway (27 units—inclusionary zoning)
86 Dummer Street (32 units—BHA—100% affordable)

Projects under construction as of May 21, 2019:
420 Harvard Street (25 units - Chapter 40B)
455 Harvard Street (17 units - Chapter 40B)
21 Crowninshield Road (8 units - Chapter 40B)

Soon to begin construction
370 Harvard Street - JCHE/2Life (62 units - Chapter 40B)

Plus: A small number of single, two and three unit buildings net of demolitions.

3. **What, in your understanding, is the number of year round units today (May 2019) corresponding to the 26,201 units counted in the census?**
"Year-round units" are only calculated every ten years by the U.S. Census consistent with its methodology. Our Housing Planner, Virginia Bullock, has determined that, according to the U.S. Census Building Permit Survey, 258 units were permitted in Brookline from 2010 through 2017. During 2018 through May 1, 2019, permits for an additional 72 units were issued for a total of 330 permitted housing units since 2010. Some of these 330 permitted units have not yet received their Certificates of Occupancy. This total figure, furthermore, should be reduced by the number of units removed (demolished), which our Preservation Planners estimate to be approximately 10 units/year, or a total of about 90 units removed since 2010. Based on the foregoing, we estimate 240 +/- net new units (258 + 72 - 90) have been added to the total year-round housing stock following issuance of the 2010 census, for a projected total of 26,441 units as of May 1, 2019.

4. **Based on current or planned construction activity, what is your projection of the total number of units that will be counted in the census on the census date?**
The above data suggests an average annual increase of about 27 units per year. Based on an estimated 26,441 units as of May 1, 2019 and assuming the timely completion of 62 units at JCHE/2Life and that an average of 27 net units per year are added to the Town's inventory, then I would estimate a total of about 26,530 units at the 2020 Census cutoff date (26,441 + 27 + 62).

Alternatively, the Assessor's Office estimated that as of on January 1, 2016 the Town has 26,840 housing units. Starting with that data point and adding 116 units from the Planning Department's tracking of multifamily units, plus the JCHE project, then we would have 26,840 + 116 + 62 = 27,018 units for the 2020 federal census.

Using these two data points, we anticipate that the Town's total number of housing units to be counted under the 2020 census will fall within a range of 26,500 and 27,000. It is important to understand the U.S. Census establishes the number of year-round units, which is not necessarily consistent with a municipality's data.

5. **Do we expect the 230 units associated with the Puddingstone development to fall off the list prior to the census date?**
The 230 Puddingstone units will fall off of the SHI on October 28, 2019 (one year from the date of filing its Comprehensive Permit decision) based on my understanding that Chestnut Hill Realty does not expect to seek a building permit by that date. Those 230 units could, however, be added back onto the SHI prior to the 2020 census if a building permit is issued. (Note: there is no correlation between census data and the SHI other than the fact that the census establishes the denominator. The census only counts housing units that are actually built—a project's presence on the SHI is irrelevant.)

6. **What is your expectation for the total number of units that will count toward the subsidized housing inventory on the census date?**

Current number (as of 5/21/19)		2,587
Less:		
Puddingstone		(230)
Plus potentially:		
JCHE/2Life	62	
Residences of South Brookline	175	
Puddingstone	230	
40 Centre Street	40	
1180 Boylston Street	45	
Babcock Place	45	
1299 Beacon Street	80	
	677	677
		3,034

7. **What do you estimate the percent subsidized on the census date will be?** (I assume by "percent subsidized" you mean the SHI index, since not all units on the SHI are subsidized, and some units that are subsidized are not on the SHI.)

If all of the above 677 units identified above were to be added to the SHI for a total of 3,034 certified units, then the Town's SHI would be approximately 11.2% to 11.4% (using a range of 26,500 to 27,000 for the denominator following the 2020 Census.

8. **Finally, just staying within the next decade before the total [number of] year round units resets again in 2030, what planned projects have to complete as planned in order for us to get "permanently" over the 10% threshold?**

Total projected 2020 housing stock of 26,500-27,000 units x 10% =	**2,650 to 2,700 needed SHI units**
Units that we can be reasonably sure will be SHI-certified as permanent plus units that will be on the SHI and are under active construction)[1]	2,312
Estimated number of units needed to achieve 10% based on estimated 2020 Federal Census housing inventory	**338 to 438**

Therefore, any combination of the following projects, listed in order of the Planning Department's estimate judgment of which developments have the highest likelihood to move forward the fastest towards Certificates of Occupancy, that total or exceed 338 to 438 will likely allow the Town to reach 10%:

JCHE/2Life	62
445 Harvard	25
Residences of South Brookline*	177
Babcock Place	45
Puddingstone*	230
1180 Boylston	45
1299 Beacon	74
Hampton Court*	123

[1]

number of units on SHI as of 5/21/19		2,587
Less units not currently under construction but are on SHI		
Puddingstone	230	
Babcock Place	45	
	275	(275)
		2,312

Waldo-Durgin Mixed Use*	11	OR	The Coolidge*	299
40 Centre Street**	40			
500 Harvard Street***	30			
Total	862-1150			

* Chestnut Hill Realty projects. Note that both Hampton Court & The Coolidge are currently pending but on hold before the Zoning Board of Appeals. **

Assumes the developer prevails in Court and proceeds to apply for a Building Permit

*** This project is eligible to apply for a Comprehensive Permit; we anticipate the proponent will not apply until the Town is no longer in a temporary safe harbor.

Finally, to reiterate, the only thing that I can say confidently is that the Town's SHI will fluctuate over the next few years, hovering around 10%. It is exceedingly difficult to project if and when projects will ultimately secure Occupancy Permits and how many units each project will ultimately contribute toward the SHI. Of less import is the fact that the Federal Government uses its own methodology to establish a total year round housing unit count, which probably will not coincide with the Town's own numbers.

The Planning Department will continue to closely monitor the Town's SHI status.

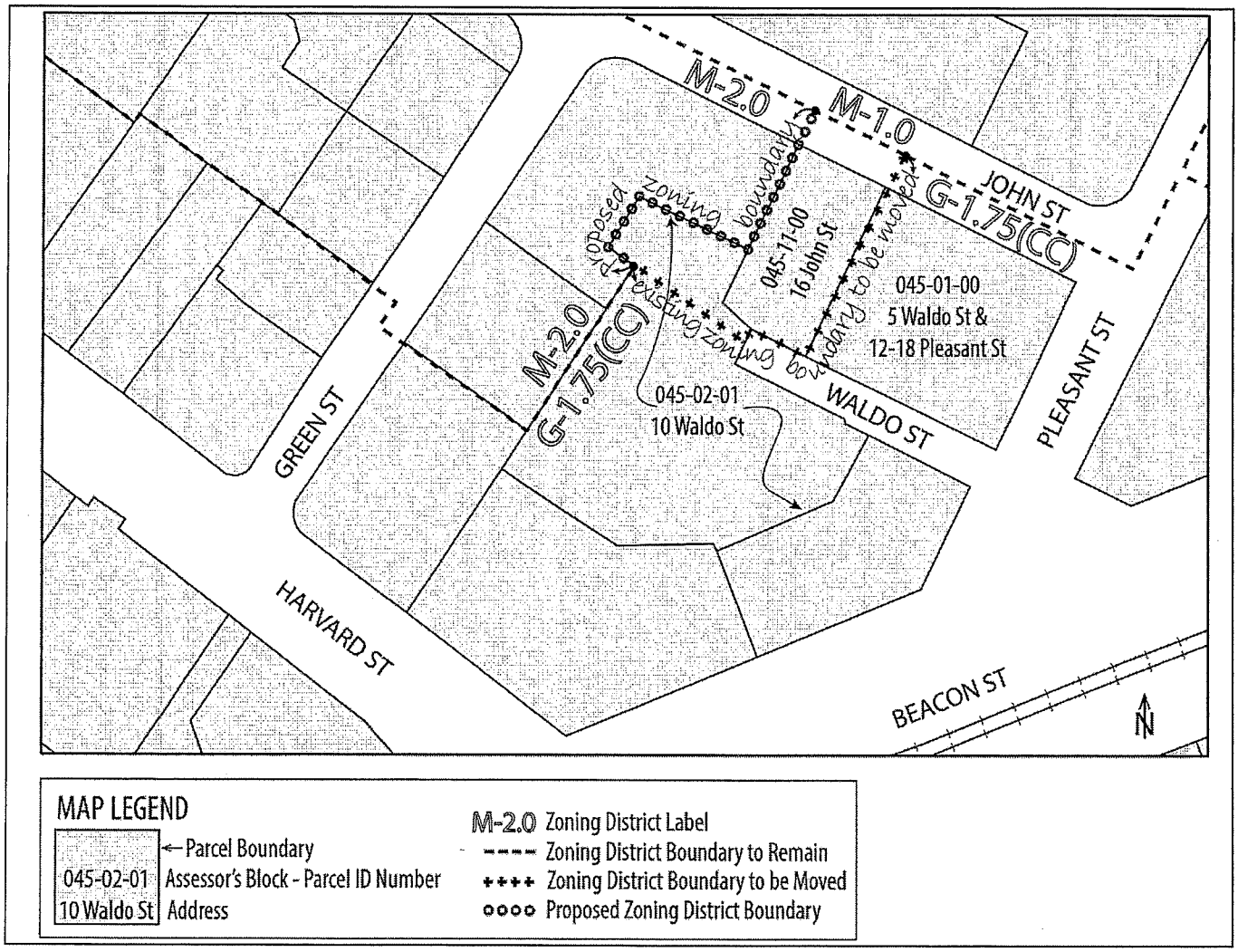
ARTICLE 13

THIRTEENTH ARTICLE

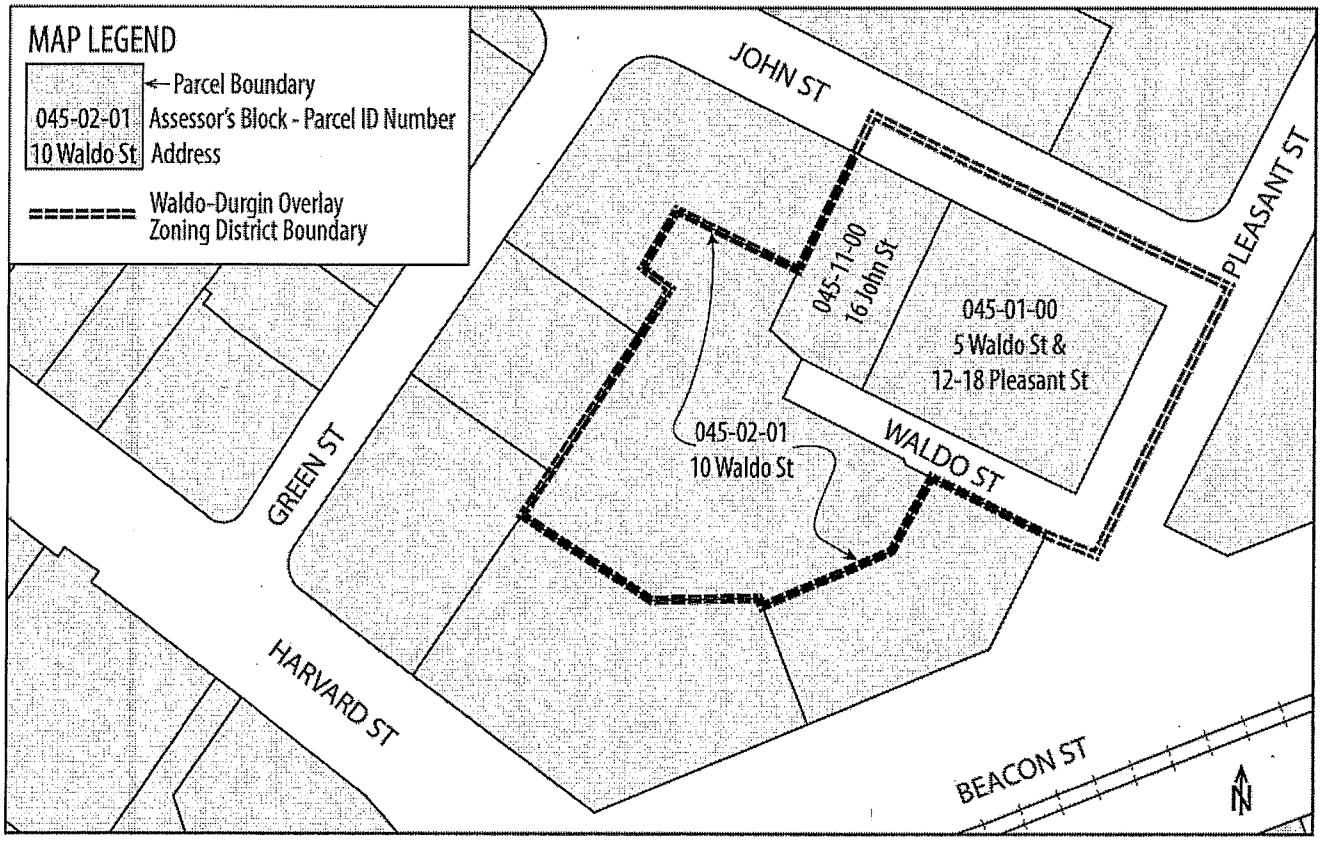
Submitted by: Neil Wishinsky on behalf of the Coolidge Corner Study Committee and other residents

To see if the Town will amend the Zoning By-Law and Zoning Map as follows:

1. **By adopting the following map change adjusting the boundary between the G-1.75(CC) and M-2.0 districts, such that the entirety of parcels with Tax Parcel Identifications 045-02-01 (10 Waldo Street, currently located in both districts) and 045-11-00 (16 John Street, currently located in the M-2.0 district) would both be fully located within the G-1.75(CC) district.**



2. **By adopting the following map change, adding a Waldo-Durgin Overlay District as shown below, including: parcels with Tax Parcel Identifications 045-02-01 (10 Waldo Street), 045-11-00 (16 John Street), and 045-01-00 (5 Waldo Street & 12-18 Pleasant Street); all of Waldo Street; and portions of John and Pleasant Street.**



3. **By amending Section 3.01.4 by adding a new item at the end:**

   "f. Waldo-Durgin Overlay District"

4. **By amending Section 4.07 – Table of Use Regulations – to allow for greater design flexibility for mixed-use buildings in the Waldo-Durgin Overlay District, by adding a sentence at the end of the description of Use 6 in the Use Table, underlined below:**

   Use 6, Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.

   *Compliance with §4.08 required if containing 6 or more dwelling units.

Permitted by special permit in S-0.5P and S-0.75P Districts subject to §5.06.

In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby space. Within the Waldo-Durgin Overlay District, the percentage of such frontage devoted to residential use may be increased by special permit in accordance with §5.06.4.k.

5. **By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 21 after the words "G-1.75" in the row for the G-1.75 District which Footnote 21 shall read as follows:**

"21. See Section 5.06.4 – Special Districts, subsections b. Coolidge Corner General Business District G-1.75(CC) and k. Waldo-Durgin Overlay District with respect to uses and all dimensional requirements."

6. **By amending Section 5.06.4.b – Coolidge Corner General Business District G-1.75(CC) – by adding a new item at the end:**

"6. For such applications within the Waldo-Durgin Overlay District, the Board of Appeals may grant by special permit an increase in gross floor area or height subject to the procedures, limitations, and conditions of §5.06.4.k."

7. **By amending Section 5.06.4 – Special Districts – by adding a new item as follows:**

"k. Waldo-Durgin Overlay District

1) It has been determined through study of the northeast block of Coolidge Corner that potential exists for careful, planned redevelopment. It has further been determined that, due to the circulation patterns as well as the adjacency of this area to cultural anchors, retail businesses, transit systems and residential neighborhoods, a mix of residential and commercial uses are appropriate. Significant improvements to the pedestrian realm, the provision of publicly accessible amenities for the neighborhood, sustainability improvements and the preference for parking infrastructure to be located underground are all reasons why additional density may be allowed by Special Permit under the criteria of this section.

2) At any point prior to June 1, 2020, an applicant may seek relief by Special Permit under this Overlay District by completing the Design Review preapplication process as set forth in Section 5.09 (3)(a)(2) provided the proposed project includes the following requirements and limitations:

a. Includes a minimum of 57,000 square feet of contiguous land

b. Includes a Hotel component with at least 160 rooms.

3) The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.

a. The project must contain a minimum of 12% Open Space. For the purposes of this requirement, Open Space shall include parts of a Lot at ground level that meet one or more of the following criteria: contiguous landscaped areas that are at the least 200 square feet in size; and walkways open to the public that include planted containers, landscaped beds, and/or street trees.

b. Parking

i. All parking structures shall be located underground and shall be a maximum of 115,000 gross square feet in size.

ii. The number of parking spaces required per Article 6 of the Zoning By-Law may be reduced at the request of the applicant, following review of a parking study and favorable recommendation by the Planning Board.

iii. Parking Infrastructure Flexibility – To encourage the reduction of vehicle use over time, an applicant may seek a modification to any Special Permit granted under Section 5.06.4.k to both reduce the number of required spaces and convert the use from underground parking to other allowed uses, subject to all other provisions of the By-Law with respect to use, as long as updated traffic and parking studies demonstrate those parking spaces are no longer needed. Any such below ground space, whether or not it is habitable, shall be excluded from the maximum Floor Area Ratio calculations.

iv. Any fees charged for parking must be separate from any rental, lease, sale, employment, contract or other arrangement permitting a user to occupy the building.

c. The Gross Floor Area Ratio for a project permitted pursuant to this section shall not exceed 6.0.If a Special Permit application includes less than 86,250 square feet of underground parking infrastructure, then, in addition to the review processes described in Section 5.09 (Design Review) the applicant shall, prior to submitting a Special Permit application, request a public hearing with the Economic Development Advisory Board (EDAB) to review the financial feasibility of the project. Based on the information presented by the applicant and/or EDAB's consultant(s), if any,

EDAB may make a recommendation to the Planning Board and Board of Appeals as to whether the Floor Area Ratio is justified.

d. The maximum building height may be 160' for portions of a building that are within 180' of Pleasant Street and 110' of John Street; otherwise, the maximum building height is 125'. These maximum building heights do not include rooftop structures such as elevator penthouses and mechanical equipment. Building heights shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of Pleasant Street at the edge of pavement opposite the midpoint of the Pleasant Street boundary of the Waldo-Durgin Overlay District .

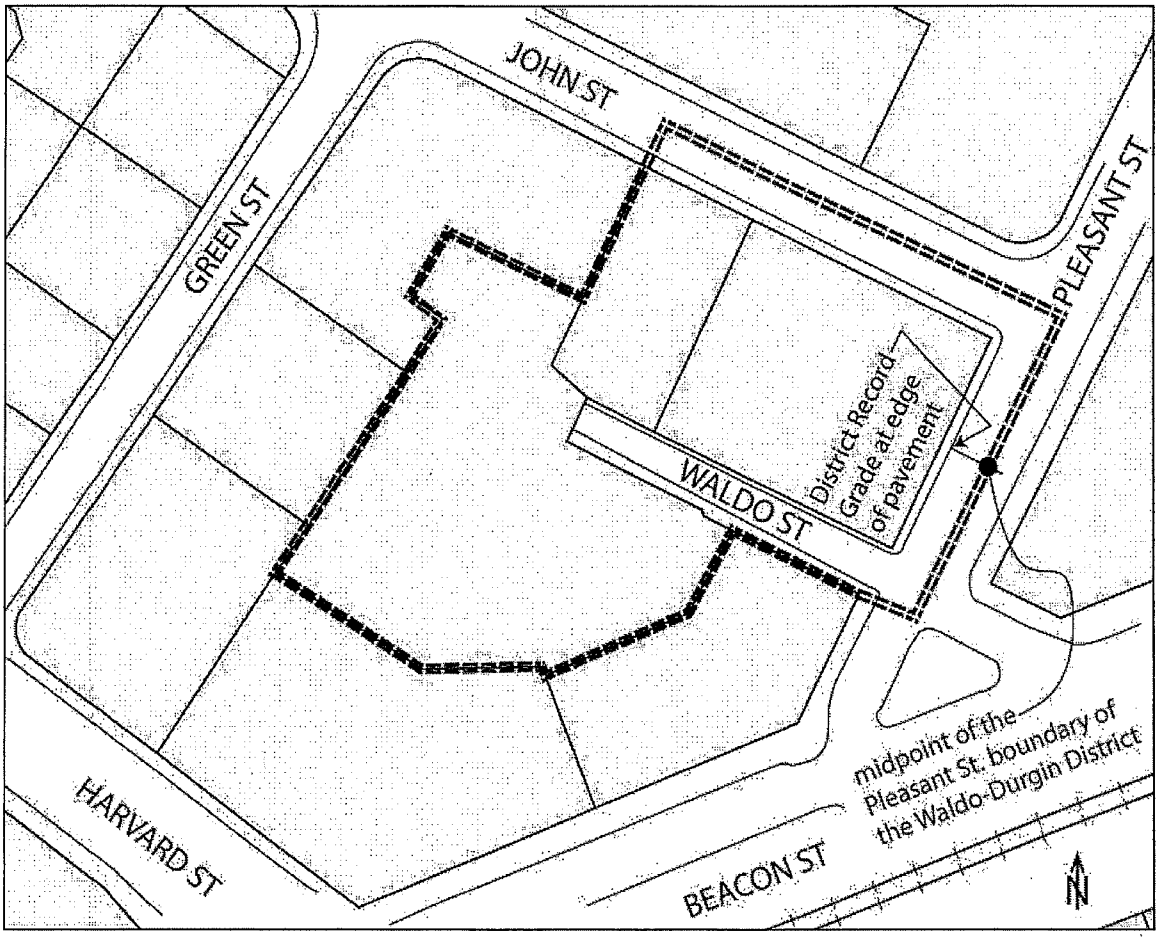


Figure 5.06.4.k.1 – Height of Building Measurements in the Waldo-Durgin Overlay District

e. The residential component of the project shall not include more than 132 units that do not meet the Affordable Unit definition in

Section 4.08(2)(c) nor shall it contain more than 13 habitable, above-ground stories of primarily residential use.

f. The non-residential component of the project shall not contain more than 10 habitable, above-ground stories.

g. No rear yard is required. The above-ground portion of any building shall be setback at least 10' from the property line bordering John Street.

h. Use Flexibility

i. The ground floor use along the entire length of Pleasant Street may only include the following uses as defined and regulated in Section 4.07, Table of Use Regulations: entertainment and recreation facility (Use 16), certain retail uses (Uses 29, 33, 33A), restaurants (Uses 30 and 34), and office (Use 35). Additionally, the building use along Pleasant Street must include at least one retail (Use 29, 33, or 33A), or restaurant (Use 30 or 34) space that is at least 30' wide along Pleasant Street and a minimum of 1,200 square feet in floor space.

ii. The ground floor of a residential building may have maximum frontage along a street that exceeds the 40% maximum in Use 6 in Section 4.07 - Table of Use Regulations, if the applicant adequately demonstrates that: (i) the location of residential and non-residential uses of the ground floor are appropriate given the transition between residential and commercial neighborhoods; and (ii) the average frontage for the first floor is no more than 75% residential.

iii. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential or hotel use without being considered an accessory use.

4) Any application including new structures that seeks relief under this Overlay District Special Permit shall:

a) be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading and passenger pick-up zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm

water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on□site disposal of hazardous substances; maximize pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By□Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

i. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;

ii. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site; and

iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.

b) be deemed a Major Impact Project with respect to Section 5.09, Design Review.

c) include as a condition of the special permit a Transportation Access Plan Agreement ("TAPA") approved by the Director of Transportation that includes Transportation Demand Management ("TDM") programs and an annual report review process. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within 60 days after they issue their determination. Failure to issue such a determination within 60 days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not

required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination."

5) Allowing the additional density through the Special Permit contemplated by this Section has a potential benefit contemporaneous with its inclusion in the By-Law. However, planning objectives potentially achieved by this Section may not be met if substantial time elapses. Therefore, if upon closing the public hearing on a Special Permit under Section 5.06.4.k, the Board of Appeals finds: (a) more than two years has elapsed since the opening of the public hearing; and (b) the amount of elapsed time is, in the discretion of the Board, excessive and contravenes the planning objectives of Section 5.06.4.k, the Board may deny the request for a Waldo-Durgin Overlay District Special Permit.

8. By amending Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements – by adding a new footnote as follows:

"3. For the Waldo-Durgin Overlay Special District, parking requirements shall be the same as those districts with a maximum floor area ratio of 1.75, except as otherwise provided for in Section 5.06.4.k".

9. By amending Section 7.07 – Sign By-Law – Exceptions to the Above – by adding to Section 7.07.1 a new item at the end:

"e. The Board of Appeals may be special permit grant relief to the requirements of Section 7.01 for signage for the buildings in the Waldo-Durgin Overlay Special District subject, however, to compliance with the Design Review Procedures set forth in Section 7.08."

...or act upon anything else relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Coolidge Corner Study Committee (CCSC) recommends Town Meeting approval of a new Waldo Durgin Overlay Zoning District for a portion of Coolidge Corner. The CCSC considers this district of unique civic significance as a highly visible location in Coolidge Corner, the commercial heart of Brookline.

Executive Summary

The proposed Waldo Durgin Overlay Zoning District includes three contiguous tax parcels including 8-10 Waldo Street, 10-18 Pleasant Street, and 16 John Street. Collectively these

parcels total approximately 1.3 acres. All three parcels in the overlay district are owned by Chestnut Hill Realty entities (CHR). These parcels now include the underutilized Waldo and Durgin garage structures and a surface parking lot used primarily by adjacent condominium owners.

CHR has proposed two alternative redevelopment programs for the site: (1) a residential building comprising 299 units filed as a Comprehensive Permit under MGL Chapter 40B regulations; and (2) a mixed-use project including a hotel with 210 rooms and a residential building with 143 units and ground floor commercial space. Both proposed projects comprise a total of approximately 350,000 square feet.

A comprehensive permit public hearing process is currently active for the 40B proposal with the Brookline Zoning Board of Appeals (ZBA). The proposed mixed-use plan would include multi-family residential and hotel buildings at a scale not presently permitted under existing zoning; consequently, this redevelopment option will require adoption of zoning amendments.

The proposed zoning is supplemented by a set of Design Guidelines, a Memorandum of Agreement (MOA), and Tax Certainty Agreement. The MOA defines and references the mixed-use development project including preliminary site plans and building floor plans, including an underground parking garage. Through the MOA, CHR has committed to pedestrian, bicycle, and traffic mitigation; public realm improvements (on and off-site); sustainable design elements; and unique provisions to meet affordable housing requirements.

The mixed-use project would require Special Permits from the ZBA and Site Plan Review by the Planning Board. It would be deemed a Major Impact Project subject to review by a Design Advisory Team appointed by the Planning Board.

The CCSC believes the mixed-use development program provides the Town several advantages over the 40B alternative including the following:

- Substantially greater local control over the design of the site plan and buildings.

- Significantly more extensive public realm improvements, including landscape upgrades at the Coolidge Corner Library and conversion of the 14-space municipal parking lot at John & Green Streets to a park.

- Ability to require active ground level, publicly accessible café/restaurant or retail in the residential building. Further the MOA stipulates that if this space is vacant for more than a year, CHR will offer it to the Town to use.

- Ability to require on-going conditions after the project is constructed, including annual Transportation Demand Management (TDM) reports for the hotel, parking and operations management.

- Flexible provisions to encourage retrofitting portions of the underground parking garage for other uses should future demand justify fewer spaces.

- Superior environmentally sustainable design including the developer's commitment to meet LEED v4 certifiable standards and Energy Use Intensity (EUI) targets that exceed stretch building codes.

- Significantly higher tax revenue from both property tax (including a portion at higher commercial rates) and the room occupancy excise tax from the hotel; in total annual tax revenues are estimated to exceed the 40B option by $1.65 million in the initial year of stabilized occupancy.

- Lower demand for schools and other municipal services as the mixed-use option would have less than half of the residential units proposed in the 40B.

- Use of meeting space in the hotel by the Town and Brookline community non-profit groups at a nominal custodial fee.

The CCSC acknowledges that the 40B option would provide more Affordable Housing units in the near term than the mixed-use proposal (both in total and in units counted on the Town's Subsidized Housing Inventory. To address this concern the Committee worked with CHR and the Housing Advisory Board (HAB) on an agreement that would provide a lump sum payment to the Housing Trust Fund of $3.275 million from CHR in lieu of ten Affordable units provided on site. It is anticipated that the HAB will be able to leverage these funds in concert with mission based non-profit housing developers to create significantly more Affordable units than the ten not provided on site. This payment is in addition to the 11 affordable (at 80% Area Median Income) provided on-site.

Coolidge Corner Study Committee

The Coolidge Corner Study Committee was appointed by the Select Board in 2017 to study the Waldo Durgin and 1200 Beacon Street (AKA Holiday Inn) sites for potential redevelopment. Plans for 1200 Beacon were subsequently withdrawn and the CCSC focused solely on the Waldo Durgin site. CCSC membership included representatives from the Select Board, Planning Board, Preservation Commission, Economic Development Advisory Board, Housing Advisory Board, Town Meeting Members, and neighborhood representatives. CCSC members are architects, attorneys, urban planners, real estate professionals, and neighborhood advocates. Please see https://www.brooklinema.gov/1367/Coolidge-Corner-Study-Committee.

Special District Overlay Zoning

The Town's Zoning By-Law allows for the creation of Special Districts in recognition that conditions present within the Town may require detailed neighborhood, district or site planning and design review to ensure: orderly and planned growth and development; historic and natural resource conservation; residential neighborhood preservation; economic viability of commercial areas; and concurrent planning for transportation, infrastructure and related public improvements. To ensure that the dimensional and related requirements of the Zoning By-Law address these unique conditions, Town Meeting, from time to time, in accordance with MGL Chapter 40 A, may establish Special District Regulations and the Board of Appeals may consider applications for Special Permits based on those regulations.

The Waldo Durgin Overlay District zoning does not replace the underlying G-1.75 (CC) zoning; rather it supplements it by allowing by Special Permit permitted uses at a greater density than would otherwise be allowed via the underlying zoning. The overlay district also requires such projects to be subject to additional Special District Zoning requirements and restrictions, including Design Guidelines and Site Plan Review by the Planning Board.

Mixed-Use Development Project

The proposed mixed-use project consists of two separate buildings of high-quality urban and sustainable design. The buildings will comprise a total of approximately 350,000 square feet representing a Floor Area Ratio of approximately 6.0. A high-end, select service hotel is proposed for the west portion of the site including 210 rooms. The hotel is designed as an 8-10 story building with the footprint aligning with adjacent retail buildings fronting on Beacon and Harvard Streets. A multi-family residential building is proposed for the east portion of the site and would include 143 apartment units on 14 floors, with co-working space, and café/restaurant or retail space on the ground floor. The co-working space is proposed on the first and second (mezzanine) floors along Pleasant Street. The residential building will be designed for and as indicated by CHR, marketed to, "Empty Nesters" although there will be no formal age restrictions. The buildings will be accessed via an L-shaped new street running through the site from Pleasant Street through Waldo Street to John Street.

The mixed-use proposal includes a two-level underground garage comprising approximately 115,000 square feet that will accommodate an estimated 289 total parking spaces. Parking garage capacity is based on the following utilization assumptions: 74 spaces for hotel use (0.35 per room), 157 spaces for the residential apartments (1.1 per unit), 23 spaces for adjacent residents replacing loss of the surface lot, 10 spaces for commercial space use (1.1 per 1,000 SF), 11 spaces to replace existing spaces in the service alley, and 14 spaces to replace those taken from converting the municipal lot on the corner of John and Green Streets to a park.

The John/Green Street park will be landscaped by CHR as part of the package of public realm improvements. The underground parking infrastructure allows for approximately

12,000 square feet of landscaped space throughout the site; most of this open space would not be available if parking was located at grade.

40B Proposal

CHR has a Comprehensive Permit application for the subject location currently pending before the Brookline Zoning Board of Appeals (ZBA) filed under MGL Chapter 40B regulations. The 40B proposal includes a 12-story building comprising approximately 347,000 square feet, with 299 residential units and 333 parking spaces (including 41 surface spaces and 292 spaces below grade). CHR's 40B hearing at the ZBA has been continued while the CCSC worked on the overlay district zoning amendment and supplemental development agreements.

CHR is proposing the mixed-use development project contemplated by the proposed overlay district zoning and supplemental development agreements. However, if there are amendments to the zoning that would, in CHR's judgment, result in the mixed-use project being financially or operationally infeasible, this would void the development agreements described in the MOA.

CHR has stated if the overlay zoning warrant articles aren't passed, they will proceed with the 40B proposal under the pending ZBA application. This would likely result in CHR receiving a comprehensive 40B permit for a project of similar size, but with no on-going special permit conditions, significant community benefits, or sustainability commitments as provided with the mixed-use project. CHR's 40B application can move forward despite the Town's temporary 40B safe harbor status (applicable through October 2019) as this designation applies only to new 40B applicants.

Supplemental Controls, Guidelines & Agreements

The proposed special district overlay zoning is accompanied by a set of detailed Design Guidelines, and a Memorandum of Agreement (MOA) and Tax Certainty Agreement between the Select Board and CHR. Collectively these land use regulations, developer agreements, and design guidelines will provide the Town, abutters, and Coolidge Corner residents and business owners with far greater controls, public benefits, and mitigation than would be available under the 40B option.

The overlay zoning and MOA include new requirements beyond those in prior development agreements, providing for more comprehensive sustainable design elements, and a provision for that would allow portions of the underground garage to be used by others and/or retrofitted for other uses should parking demand change over time. These key provisions of the overlay zoning and the MOA have been negotiated with CHR to ensure a high quality, well-designed project that reflects the Town's commitment to environmental sustainability.

A. Design Guidelines

The Design Guidelines were drafted by the CCSC's Architecture Subcommittee with significant input from CHR's design consultants, led by Cambridge 7 Architects. The guidelines are intended to inform the visual and functional aspects of the buildings, influence their relationship to neighboring buildings, and highlight their impact on the urban fabric of Coolidge Corner. The guidelines cover a range of site and building design features including open space, circulation, entrances, porosity, building mass, set-backs, fenestration, façade materials, rooftops, and sustainability. The Design Guidelines proposed by the CCSC are anticipated to be adopted by the Planning Board at their March 14, 2019 meeting.

The mixed-use project will be designated a Major Impact Project subject to review by a Design Advisory Team (DAT) appointed by the Planning Board. The DAT will advise the Planning Board regarding the Site Plan permit and the ZBA regarding the Special Permit.

B. **Memorandum of Agreement (MOA)**

The MOA outlines detailed commitments related to the mixed-use development project not appropriate for inclusion in the zoning by-law. The MOA references a description of the proposed development program, preliminary site plans, preliminary building floor plans, a parking plan (structure and utilization), traffic mitigation, public realm improvements and unique provisions to meet affordable housing requirements.

CHR's pending 40B application before the ZBA will continue to be stayed under the MOA through the spring Town Meeting and beyond, assuming the warrant articles are passed without material change. Once the zoning article is approved by the Attorney General, the MOA will be recorded.

C. Tax Certainty Agreement

CHR will execute an agreement that provides for tax payments at the full assessed value of the property for a period of 95 years even if all or portions of the property were to be transferred to a non-profit owner-occupant. It also contains a provision to ensure payment of the occupancy excise tax as long as the building is operated as a hotel. This agreement will be recorded in the property chain of title. The Tax Certainty Agreement is contingent upon approval of the overlay district zoning.

Financial Feasibility Analysis

CCSC members and neighbors were concerned about the size of the proposed mixed-use development, especially the height of the residential building. To address these concerns the Town retained Pam McKinney, a highly regarded independent real estate consultant, to evaluate the project scale necessary to meet financial feasibility thresholds. Ms. McKinney was previously engaged by the Town to conduct similar feasibility analysis for other major commercial re-zoning proposals.

Over the past 18 months Pam met with the CCSC and Town officials to discuss the financial analysis she performed for several different development program scenarios. During the CCSC review process the residential building plan was modified to reduce the building footprint, height and add commercial space at the ground floor and mezzanine. Ms. McKinney concluded that the mixed-use development program, as revised, was of appropriate scale and design to meet current lender underwriting standards to be financially feasible. She noted the proposed high-rise scale is needed for redevelopment of this in-fill urban site given increased construction costs for Class A buildings, the high cost of providing parking underground, land values in Brookline, rising construction loan interest rates, and the requirements to fund affordable housing and significant public realm improvements.

Bottom line the projected return on cost was deemed adequate, but very tight, in meeting the minimum threshold for financial feasibility. Ms. McKinney also noted that the supplemental components of the development program, including parking and amenity space, are needed to support the premium rental rates required for the proposed hotel and apartment building to be financially viable.

Affordable Housing

This overlay district zoning is being proposed as an alternative to an all-housing 299-unit Comprehensive Permit (40B) project. The 40B project would override, rather than amend, Brookline's zoning controls. In lieu of 40B, the proposed mixed-use project would be subject to all of the provisions of the Town's inclusionary zoning by-law (Section 4.08).

Brookline inclusionary zoning requires that 15 percent of a proposed project's total number of units qualify as affordable. Of the proposed 143 rental units, the 15 percent requirement translates into 21 affordable units to be provided within the proposed building. In turn, 21 affordable units translates physically into two stories of onsite apartments.

The CCSC's public discussions included advocacies for both affordable housing and for possible ways to control and reduce the height and massing of the proposed residential building. As part of those discussions the Housing Advisory Board (HAB) explored several possible avenues for fulfilling the affordable housing requirements under Section 4.08 which could, at the same time reduce the height and massing of the proposed building.

Section 4.08 allows the Town to negotiate "alternative requirements for affordable units", including:

The applicant may make a cash payment to the Town's Housing Trust with a value comparable to the difference between the value of the affordable units required under this §4.08 if provided on-site, and the fair market value of such units free of the [below-market rent] conditions. The applicant's Affordable Housing Plan shall show that the

applicant shall provide a greater affordable housing benefit to the Town than would have been provided on site.

The agreement negotiated by HAB with CHR, and incorporated into the MOA, includes the provision of both on site affordable units and a substantial payment into the Town's Affordable Housing Trust Fund.

Of the 21 required affordable units 11 will be required to be built onsite, which physically translates to approximately one story, though these units will be dispersed throughout the building. In lieu of the remaining 10 affordable units being built onsite, the HAB has endorsed a cash payment by CHR to the Town's Affordable Housing Trust in the amount of $3,275,000. This lump sum payment would average about $328,000 for each of the 10 remaining affordable onsite units and would meet the above-referenced alternative requirement of the Town's inclusionary zoning bylaw. The Town's outside consultant, Pam McKinney, has validated this negotiated amount, consistent with the above provision. Twenty five percent of the Trust Fund payment will be due upon issuance of the building permit, with the balance due prior to the issuance of the Certificate of Occupancy. Interest will accrue on the lump sum payment if project completion is delayed.

Equally important to the fair market value of the Trust Fund payment (economic cost to the developer) is the second part of the Section 4.08's alternative requirements, i.e., that the applicant's payment to the Housing Trust "*shall provide a greater affordable housing benefit to the Town than would have been provided on site*."

The Town's Affordable Housing Trust has deployed funds totaling about $9 million which has produced 180 affordable housing units in five projects as follows:

- $1.981 million for 32 new low-income rental units at the BHA's Dummer Street project: $61,906 per affordable unit
- $820,000 for 24 new moderate-income owner-occupied units at Olmsted Hill: $34,166 per affordable unit
- $829,000 for 31 low-income enhanced lodging house rental units on Beals Street: $26,741 per affordable unit
- $1.466 million for 57 low and moderate-income senior rentals at JFK crossing: $25,719 per affordable unit (groundbreaking scheduled for early 2019)
- $3.78 million for 20 low-income rental units and 16 moderate-income ownership units at St. Aidan's: $105,000 per unit

The Trust Fund's average cost per affordable unit produced in these five projects has been approximately $50,000 per affordable unit.

The Trust Fund's above-described track record indicates that it will be able to create a number of new affordable housing units several times that of the 10 units being removed from the proposed residential building. That is because the Trust Fund's average cost per-unit to create new affordable housing - about $50,000 over recent years - is a fraction of the $328,000 per-unit buyout cost. This better affordable housing outcome is achievable by working with non-profit affordable housing sponsors who are able to access state, federal and private housing assistance funds whereby our Housing Trust Funds become the "last dollars in" to make desired affordable housing proposals financially feasible in Brookline.

Compared with the 299-unit Chapter 40B alternative, the mixed-use zoning alternative with the $3,275,000 Affordable Housing Trust Fund payment has the advantages of far greater Town control over project design and a large annual fiscal benefit. While the mixed-use zoning will eventually produce a multiple of the 11 onsite affordable units, a very large 40B project would, in the shorter run, add more units to Brookline's subsidized housing inventory credit (SHI) as defined by the Commonwealth.

Fiscal Impact

The mixed-use proposal offers significantly better fiscal impact to the Town of Brookline than the 40B option, both in terms of higher tax revenues and lower demand for municipal services.

The hotel building, which would comprise approximately 41% of the total gross square feet of the mixed-use project, will be taxed at a commercial property tax rate that is presently 164% greater than the residential tax rate. In addition, the hotel will pay occupancy excise tax equal to 6.0% of room revenue. Total annual tax revenue generated by the mixed-use project upon stabilized occupancy is estimated to be approximately $3.36 million. This annual tax revenue would be approximately $3.0 million higher than current property tax revenue, and $1.65 million higher than the proposed 40B option. The mixed-use project will also have substantially fewer apartment units than the 40B proposal, resulting in lower demand for schools and other Town services.

Public Benefits

In addition to the significant positive fiscal impacts noted above, the proposed mixed-use project will offer substantial public benefits not available under the 40B proposal. These benefits include the following:

Open Space: Design and aesthetic improvements to the outdoor spaces including open space on site; landscaping and seating at the Town-owned Coolidge Corner Library; and the conversion of surface parking to park at the intersection of John and Green Streets.

Pedestrian Circulation and Safety: Recorded public area easement for pedestrians will be provided connecting the site from Pleasant Street through Waldo Street and the redeveloped property to John Street. Generous sidewalk widths and traffic calming

devices will be installed to facilitate pedestrian safety. In addition, CHR has pledged to use best efforts to secure an agreement providing connection from the hotel lobby to Brookline Booksmith, allowing for direct pedestrian access to/from Harvard Street.

Active Ground Level Retail: A commitment to construct a (minimum) 1,200 square foot space along Pleasant Street to be operated as a public café/restaurant or retail space. In the event this space is not economically viable, the space could be used by the Town at cost.

Community Meeting Space: Access to meeting space in the hotel for occasional use by the Town and Brookline community non-profits for a nominal custodial fee.

Traffic Monitoring: Provision of a traffic impact study and mitigation measures that include annual monitoring for the hotel.

Historic Records: CHR will provide to the Town historic documentation of the Durgin Garage prior to demolition.

Sustainable Design

CHR has agreed to comply with Leadership in Energy and Environmental Design (LEED) Silver v4 standards for both the proposed hotel and residential buildings. In addition, they have agreed to Energy Use Intensity (EUI) targets that exceed the Commonwealth of Massachusetts stretch building codes. (EUI is a measure of energy consumption within a building in a one-year period, typically expressed in kilo-British Thermal Units divided by the building's total gross square feet.) LEED Silver standards encompass building and site design elements, construction materials sourcing and debris recycling, building operations, and transportation. As the project is designed, CHR will seek opportunities for the mixed-use project to further the Town's goal to reach zero emissions by 2050, including evaluating the viability of an all-electric HVAC system.

The mixed-use project's main focus areas of sustainable design that will support LEED certifiability include the following:

Building Design – Façade & MEP Systems: Optimization of energy performance will be the focus in the design of the building's façades and the mechanical / electrical / plumbing (MEP) systems. Façade optimization shall consider passive design principles such as the ratio of glazed to opaque surfaces, thermal performance of wall assemblies, and solar shading. Multiple MEP systems will be evaluated, with greenhouse gas emissions impact included as a key determinant of project suitability.

Sustainable Transportation: The site meets LEED standards in regard to its' close proximity to public transportation. In addition, the project will include bicycle parking

facilities to encourage active modes of transit for residents and guests and provide electronic vehicle (EV) charging capabilities to enable the all-electric future of transportation.

Water Efficiency: The plumbing system in both the hotel and residential buildings will incorporate low-flow, fixtures to reduce potable water use and impact on the local watershed.

Sustainable Construction and Demolition Waste Management: The general contractor and subcontractors will be required to divert construction materials and debris away from landfills to recycling and reuse facilities.

Parking

As has been the case in other successful commercial re-zonings in Brookline, there was a range of opinions expressed by CCSC members, neighbors, and area business owners as to how much parking is needed to support the proposed mixed-use development. Factors influencing the supply of parking include potential impact on traffic congestion, unmet parking demand spilling over into nearby lots or on-street spaces, and financial feasibility (i.e., sufficient spaces to support rental of hotel rooms and apartments, including to the target market of empty nesters). Some individuals representing local merchants felt there is currently inadequate parking in the district.

CCSC members and CHR agreed that a that a longer-term view of parking should be considered given changes in automobile ownership patterns, and growing use of public transit and on-demand car services such as Uber and Lyft. CHR's current mixed-use plan includes 289 parking spaces in the underground garage. As previously noted, total capacity design is based on the following utilization assumptions: 0.35 spaces per hotel room, 1.1 spaces per apartment unit, and 1.1 spaces per 1,000 SF of commercial space, plus allowances for the replacement of spaces for the adjacent resident's surface lot, the pocket park, and the service alley.

CHR believes adequate parking capacity is critical to support the premium rental rates for the hotel rooms and apartments necessary to make the mixed-use project financially feasible. This assumption is supported by real estate consultant Pam McKinney. However, the proposed overlay district zoning imposes no parking space minimums, in total or by use ratios. Importantly CHR has also agreed to provide parking on an unbundled basis to development occupants. This will make possible that excess underground parking, if any, could be made available to other Coolidge Corner residents and businesses, or could be retrofit for other (non-parking) uses. Such a revision would require Town review and approval, with the developer demonstrating sufficient supply to meet demand. CHR cannot revise the development plan in the Special Permit application pre construction phase without financial analysis to reconfirm the required project scale.

Sunset Provision and Timetable

The proposed overlay zoning effectively sunsets (expires) as of June 2020 if the developer has not by that date begun the special permit process utilizing the overlay zoning. CHR is required to use best efforts to diligently secure all permits, and a special permit application can be denied if CHR delays. Before any existing structures on site can be demolished, CHR must have a building permit and demonstrate their financing is in place to complete the mixed-use project. Upon completion of the mixed-use development, CHR will withdraw its 40B application, and a public easement for pedestrians and Tax Certainty agreement held in escrow will be recorded in the chain of title. Acceptance of the public easement is anticipated at a future Town Meeting following special permit approvals, once the exact location of the buildings and walkways are defined.

Companion Warrant Articles
Additional Warrant Articles were filed that, if passed, would authorize Town Meeting approval for the Select Board to enter into the Memorandum of Agreement, Tax Certainty Agreement and any other related agreements necessary to accommodate the proposed mixed-use project.

PLANNING BOARD REPORT AND RECOMMENDATION

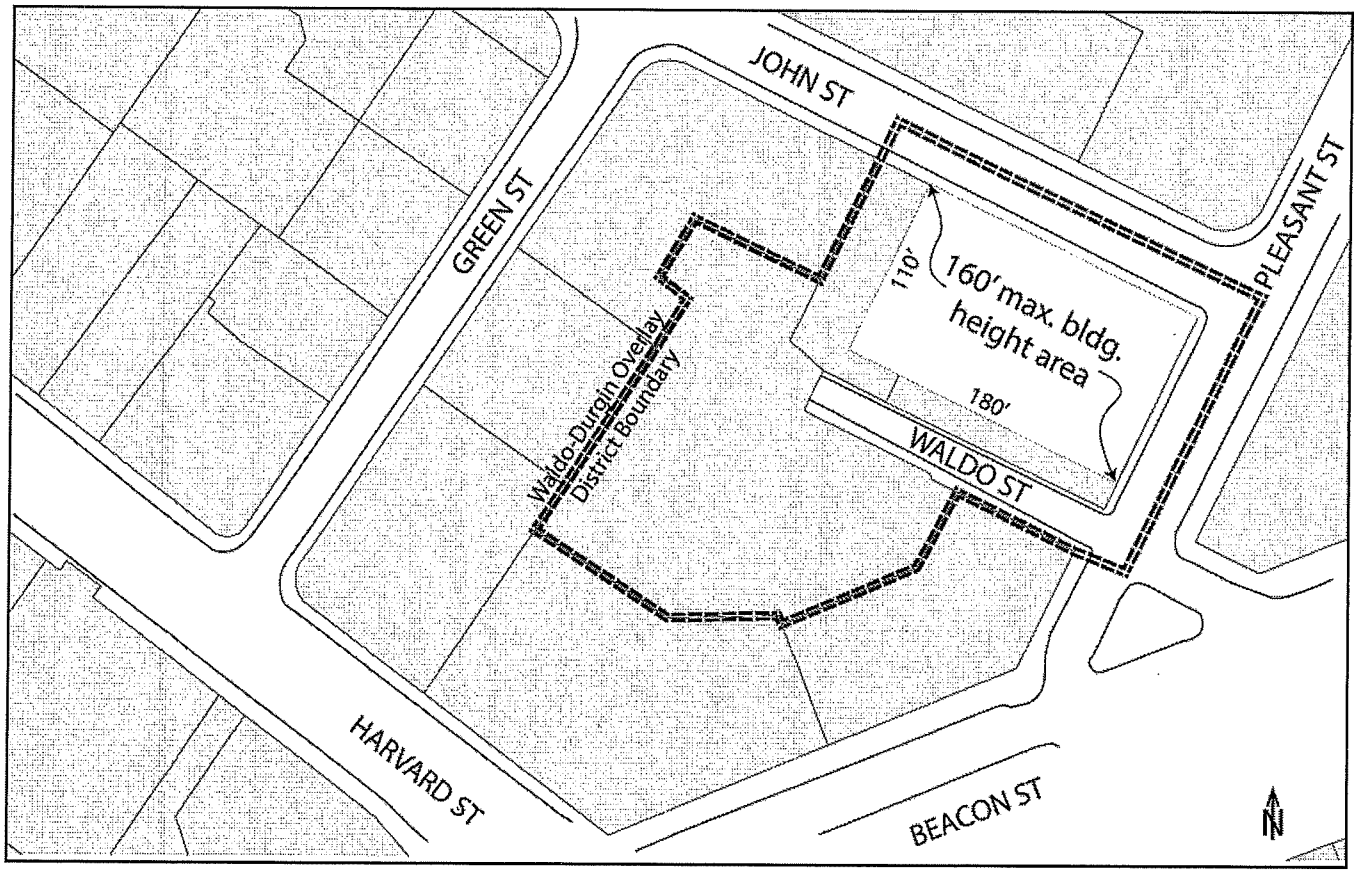
Warrant Article 13 proposes to amend the Town's zoning map to create the Waldo-Durgin Overlay District under Section 5.06 of the Zoning By-law. Section 5.06 permits the creation of Special Zoning Districts in recognition that conditions present within the Town may require detailed neighborhood, district or site planning and design review. Special Zoning Districts are able to insure: orderly and planned growth and development; historic and natural resource conservation; residential neighborhood preservation; economic viability of commercial areas; and concurrent planning for transportation, infrastructure and related public improvements.

The proposed zoning language begins by stating that a mix of residential and commercial uses are appropriate given the circulation patterns, adjacency to cultural anchors, retail businesses, transit systems and residential neighborhoods. Additionally, significant improvements to the pedestrian realm, the provision of publicly accessible amenities for the neighborhood, sustainability improvements and the preference for parking infrastructure to be located underground are all reasons why additional density may be allowed under the criteria of this Overlay District.

The Waldo-Durgin Overlay District includes three contiguous tax parcels all owned by Chestnut Hill Realty entities (CHR): 8-10 Waldo Street, 10-18 Pleasant Street, and 16 John Street. These parcels total approximately 1.3 acres and include the underutilized Waldo and Durgin garage structures and a surface parking lot used primarily by adjacent condominium owners.

Minimum requirements for any project proponent to utilize the Overlay District provisions include: a site that is at least 57,000 square feet (1.3 acres) of contiguous land and a hotel component that is at least 160 rooms. Following consistent feedback from nearby Town Meeting Members and other residents, the proposed zoning limits the ground floor use of any building along Pleasant Street to one or more of the following uses: entertainment and recreation facility, retail uses, restaurants, and/or office space. Additionally, the Pleasant Street frontage must include at least one retail or restaurant space at least 30' wide and 1,200 square feet in floor space.

The Waldo-Durgin Overlay District permits a Floor Area Ratio of 6.0, requires a minimum of 12% Open Space, a 10' setback from John Street, and restricts the number of stories of any non-residential building to 10 stories and the number of primarily residential floors to 13. As noted in 7(k)(3)(d), there are two maximum heights allowed in the Overlay District: 125' and 160'. The taller height is limited to an area adjacent to Pleasant & John Streets, as further demonstrated in the diagram below.



160' Maximum Building Height Area

Similar to other recent commercial area rezoning efforts, parking requirements may be reduced following review and favorable recommendation by the Planning Board. The proposed zoning sets a maximum to the parking infrastructure by square footage, and

encourages the reduction of vehicle use over time by allowing the conversion of the parking infrastructure to other allowed uses.

The Planning Board recently adopted Design Guidelines for the Waldo-Durgin Overlay District, drafted by the Coolidge Corner Study Committee and available at the Planning & Community Development Department and online at:
https://www.brooklinema.gov/1367/Coolidge-Corner-Study-Committee

The Guidelines reflect further design direction that the Planning Board and Coolidge Corner Study Committee would like to see addressed during the Special Permit and Site Plan Review process. With these Guidelines in place, the proposed zoning does allow relief by special permit from the current Sign By-Law.

Contingent on Town Meeting approval of the proposed zoning, Chestnut Hill Realty proposes a mixed-use development including a 210-room hotel and a 143-unit residential building with ground floor commercial space, and 1.5 stories of underground parking. If a proponent were to propose significantly less underground parking infrastructure than the 1.5 stories of underground parking studied by the Coolidge Corner Study Committee, the proposed zoning requires provisions for an Economic Development Advisory Board public hearing to review the financial feasibility of the project, and make a recommendation to the Planning Board and Board of Appeals as to whether the proposed Floor Area Ratio is still justified.

Finally, the proposed overlay zoning effectively expires on June 1, 2020 if the special permit process has not begun. Additionally, once the Zoning Board of Appeals (ZBA) opens a public hearing for the special permit, the ZBA may deny the permit if more than two years has elapsed since the opening of the public hearing and if, in the discretion of the Board, the amount of time that elapsed is excessive and contravenes the planning objectives of the proposed zoning.

The Coolidge Corner Study Committee's work has resulted in a special district zoning overlay that responds to this site's highly visible location in the commercial heart of Brookline. Without this zoning in place, the 40B Comprehensive Permit process will resume for this site. The Planning Board supports the mixed-use approach that the proposed overlay establishes, allowing for a feasible redevelopment while protecting neighboring properties and enhancing the neighborhood as a whole.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article XIII as submitted.

SELECT BOARD'S RECOMMENDATION

Select Board member Neil Wishinsky chaired the Select Board-appointed Coolidge Corner Study Committee (CCSC), and is proud of the extensive work that led to zoning Warrant Article 13. Other CCSC members included Lauren Bernard, Roger Blood, Frank Caro, Alan Christ, Catherine Donaher, Elton Elperin, Linda Hamlin, Steve Kanes, Ken Lewis, Anne Meyers, Sergio Modigliani, Linda Olson Pehlke, Susan Roberts, and Maura Toomey. The Committee members included representatives from the Select Board, Planning Board, Preservation Commission, Economic Development Advisory Board, Housing Advisory Board, Town Meeting Members, and neighborhood representatives. CCSC members were architects, attorney, urban planners, real estate professionals, and neighborhood advocates.

Coolidge Corner Study Committee Process

The Committee met 37 times, including site visits and neighborhood-focused update meetings on site. More than a dozen different massing models were studied by the Committee. This massing study process led to a zoning Warrant Article that steps down the allowable building height to reduce shadow impacts to adjacent residents and requiring a 10' building setback from the property line adjacent to John Street. The John Street setback allows for the streetscape pattern we see at the adjacent John Street condominiums (street trees – sidewalk - landscaped area - building façade) to be extended into the proposed development. Variations of parking infrastructure (one level of underground parking, mechanical parking, etc.) were also explored; the Committee concluded that these alternatives would not further reduce the height of the residential building while still having a financially feasible development with a mixed use program and no above-ground parking structure.

Town Meeting Members in Precincts 2, 8, 9, and 10 held an information session last December. They asked where the Town is relative to the State's Subsidized Housing Inventory (SHI), as the state's Housing Appeals Committee will uphold a Zoning Board of Appeals denial of any newly submitted Comprehensive Permit (commonly referred to as "40B") application once 10% of our housing stock is listed on the SHI. As of April 30, 2019, the Town needs 33 more units to be added to the SHI to reach the 10% threshold. The Town's status relative to 40B is currently very fluid; since so many variables are at play, it is very difficult to predict what will and will not happen – and when.

Chestnut Hill Realty (CHR) is the owner/developer of the proposed mixed use development at the Waldo-Durgin site. CHR also has two approved Comprehensive

Permits at Hancock Village and has 40B applications pending with the Zoning Board of Appeals (irrespective of the Town's current so-called "temporary safe harbor" status) for both the Hampton Court site at 1223 Beacon Street and at the Waldo-Durgin site. As noted in the explanation for Article 14, CHR would withdraw their 40B application at the Waldo-Durgin site if/when the mixed use program is zoned, permitted and developed.

There is not currently a path for the Town to reach and stay above the 10% threshold without one or more of Chestnut Hill Realty's Comprehensive Permits moving forward all the way to a Certificate of Occupancy, which is issued after the buildings are fully constructed. Of the potential SHI units under Chestnut Hill Realty's control, the number of units at the Waldo-Durgin site that contribute to the SHI is likely inconsequential unless Chestnut Hill Realty decided to not move forward with either Comprehensive Permit at Hancock Village (Residences of South Brookline and Puddingstone). A longer explanation is provided as a FAQ at the CCSC's webpage: https://www.brooklinema.gov/1367/Coolidge-Corner-Study-Committee

Town Meeting Members also asked the Committee to test how tall the residential building would have to grow to have a financially feasible mixed use development that also has a higher percentage of on-site affordable units such that all the residential units would count on the SHI. Pam McKinney, the Town's independent real estate consultant noted that the residential building would need to grow in height by three to four stories in order to accommodate the higher percentage of on-site affordable units. The Committee decided to not require this additional on-site affordability requirement and building height, instead utilizing the Town's existing Affordable Housing Zoning By-Law as a standard. More information on Affordable Housing can be found in the explanation of Warrant Article 13. Select Board member Bernard Greene also noted at the Select Board hearing on this Warrant Article that he would like to see future developments of this scale include provisions for middle-class households.

While individual Town Meeting Members in Precincts 2, 8, 9, and 10 voiced a variety of preferences for either a higher or lower percentage of affordable housing units at the Waldo-Durgin site, there was a very strong, consistent desire for a café or retail space on the ground floor of the residential building that could be enjoyed by the entire neighborhood. They additionally asked for a community access to the meeting rooms in the hotel. Finally, the Town Meeting Members and nearby residents asked that CHR consider additional provisions to assist the existing restaurant and convenience store tenants at the Durgin garage on Pleasant Street. Regulations requiring the café/retail space is included in the zoning Warrant Article 13 as well as the Memorandum of Agreement associated with Warrant Article 14. The community access to the hotel meeting rooms and existing retail tenant provisions are further described in the Select Board report for Warrant Article 14.

Waldo-Durgin Overlay District Design Guidelines

In addition to the zoning Warrant Article, Committee work is also reflected in the Waldo-Durgin Overlay District Design Guidelines, adopted by the Planning Board on March 20, 2019. For example, this document captures revisions that were made to the conceptual site and circulation plan, which would be further refined in the permitting processes that would follow a positive Town Meeting vote on Article 13. In addition to landscape and signage guidelines, this document also describes how the buildings should be designed, including: human-scaled elements; high quality materials; specific guidelines for the roofs, window fenestration and building entries; massing guidelines; and sustainable building design elements. The Waldo-Durgin Overlay District Design Guidelines are available for review at the Planning & Community Development Department and on the Coolidge Corner Study Committee's website at:
https://www.brooklinema.gov/1367/Coolidge-Corner-Study-Committee

At the Select Board hearing for Warrant Article 13, Ben Franco noted that the zoning and Design Guidelines continue the Town's trend of using form-based tools in addition to more traditional, blunt zoning tools such as a single height maximum, uniform building setback requirements, and Floor Area Ratio.

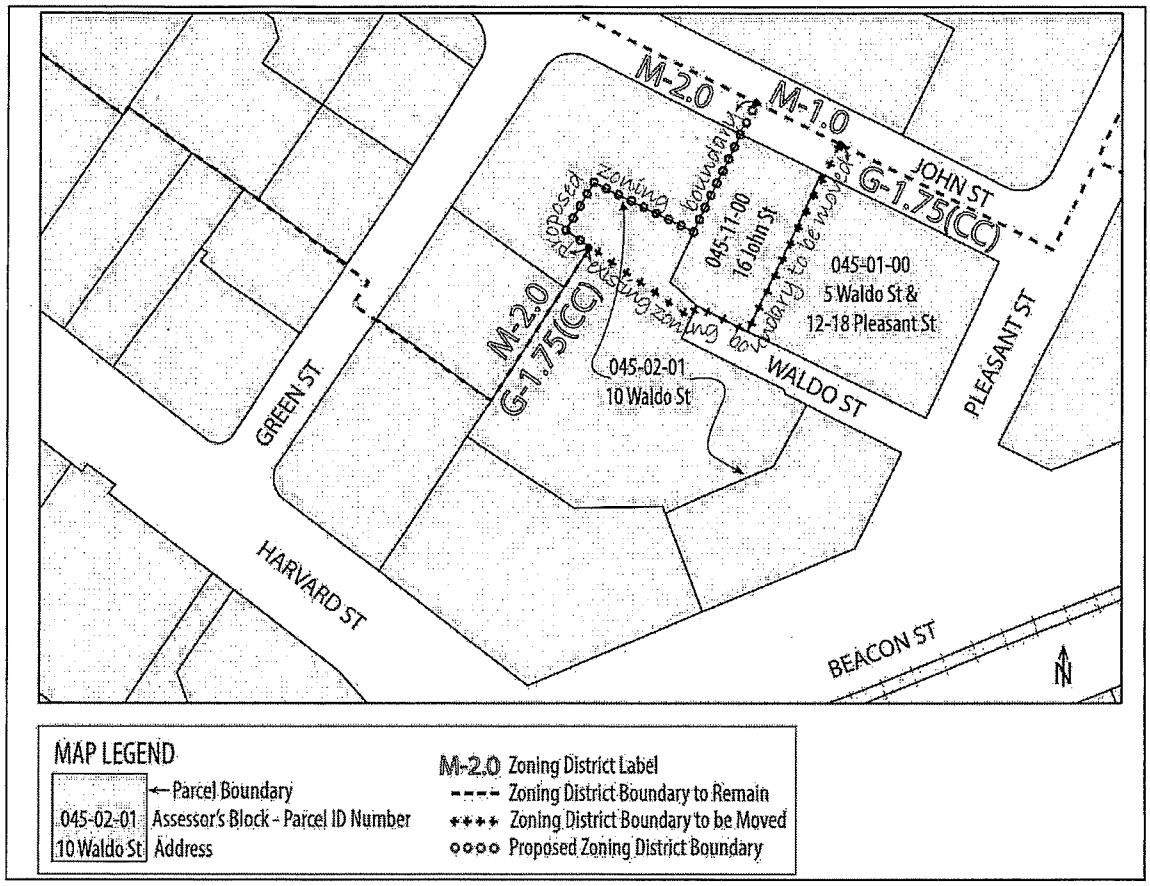
Feedback from the community during the public hearings at Planning Board, Advisory Committee, and the Select Board related to Warrant Articles 13, 14, and 15 has been overwhelmingly positive. Although members of the Coolidge Corner Study Committee and other residents have noted their desire for shorter buildings, less massing, and less vehicle trip generation, they feel that the CCSC has produced a combination of zoning and non-zoning tools that, if passed at Town Meeting, will optimize the Town's goals and values while minimizing the potential adverse impacts of redevelopment at the Waldo-Durgin site. The Select Board heard from Committee members, Town Meeting Members of nearby Precincts, nearby business owners, and abutting residents that all expressed support for Warrant Article 13.

RECOMMENDATION:

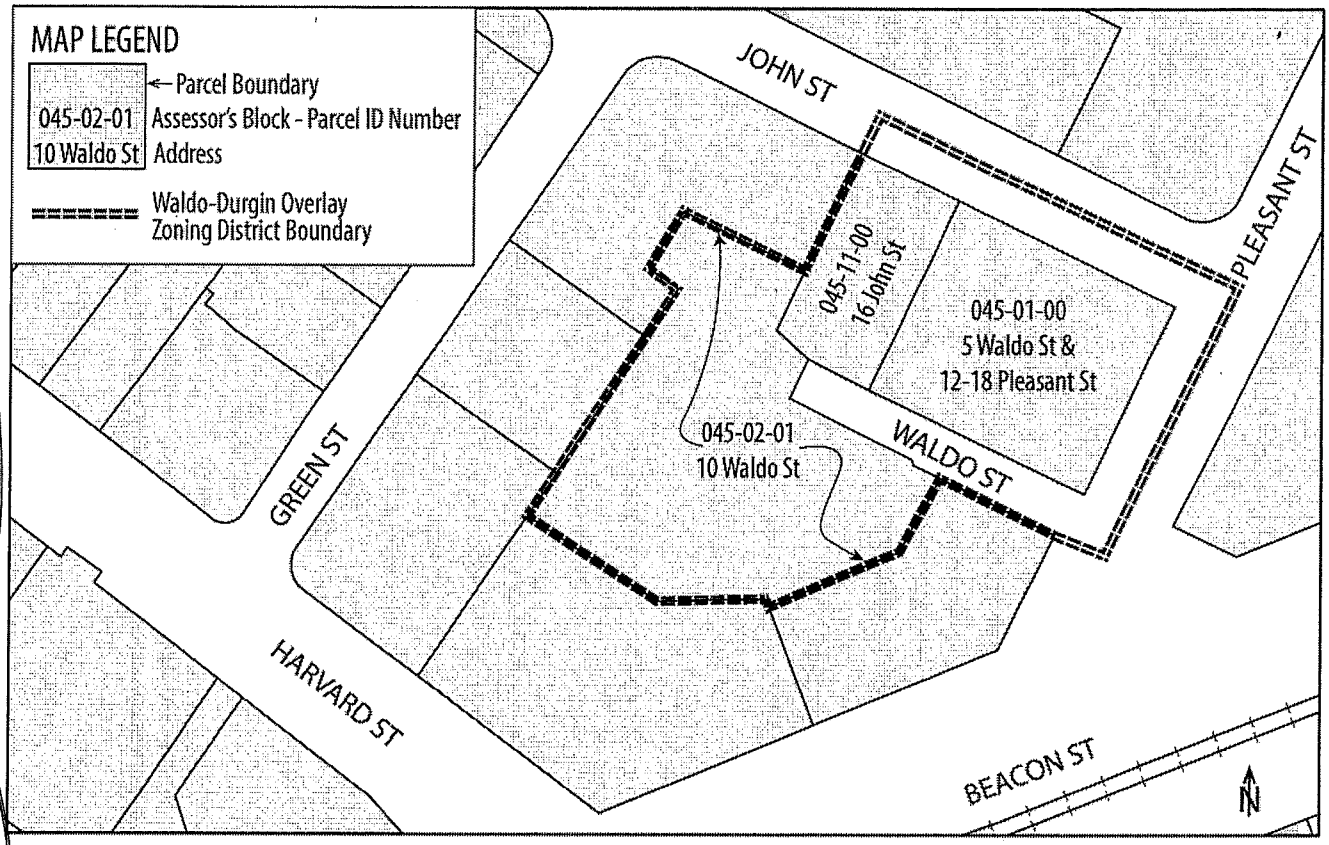
The Select Board by a unanimous vote recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the Zoning By-Law and Zoning Map as follows:

10. By adopting the following map change adjusting the boundary between the G-1.75(CC) and M-2.0 districts, such that the entirety of parcels with Tax Parcel Identifications 045-02-01 (10 Waldo Street, currently located in both districts) and 045-11-00 (16 John Street, currently located in the M-2.0 district) would both be fully located within the G-1.75(CC) district.



11. By adopting the following map change, adding a Waldo-Durgin Overlay District as shown below, including: parcels with Tax Parcel Identifications 045-02-01 (10 Waldo Street), 045-11-00 (16 John Street), and 045-01-00 (5 Waldo Street & 12-18 Pleasant Street); all of Waldo Street; and portions of John and Pleasant Street.



12. By amending Section 3.01.4 by adding a new item at the end:

"f. Waldo-Durgin Overlay District"

13. By amending Section 4.07 – Table of Use Regulations – to allow for greater design flexibility for mixed-use buildings in the Waldo-Durgin Overlay District, by adding a sentence at the end of the description of Use 6 in the Use Table, underlined below:

Use 6, Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.

*Compliance with §4.08 required if containing 6 or more dwelling units.

Permitted by special permit in S-0.5P and S-0.75P Districts subject to §5.06.

In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated

parking or lobby space. Within the Waldo-Durgin Overlay District, the percentage of such frontage devoted to residential use may be increased by special permit in accordance with §5.06.4.k.

14. By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 21 after the words "G-1.75" in the row for the G-1.75 District which Footnote 21 shall read as follows:

"21. See Section 5.06.4 – Special Districts, subsections b. Coolidge Corner General Business District G-1.75(CC) and k. Waldo-Durgin Overlay District with respect to uses and all dimensional requirements."

15. By amending Section 5.06.4.b – Coolidge Corner General Business District G-1.75(CC) – by adding a new item at the end:

"6. For such applications within the Waldo-Durgin Overlay District, the Board of Appeals may grant by special permit an increase in gross floor area or height subject to the procedures, limitations, and conditions of §5.06.4.k."

16. By amending Section 5.06.4 – Special Districts – by adding a new item as follows:

"k. Waldo-Durgin Overlay District

1) It has been determined through study of the northeast block of Coolidge Corner that potential exists for careful, planned redevelopment. It has further been determined that, due to the circulation patterns as well as the adjacency of this area to cultural anchors, retail businesses, transit systems and residential neighborhoods, a mix of residential and commercial uses are appropriate. Significant improvements to the pedestrian realm, the provision of publicly accessible amenities for the neighborhood, sustainability improvements and the preference for parking infrastructure to be located underground are all reasons why additional density may be allowed by Special Permit under the criteria of this section.

2) At any point prior to June 1, 2020, an applicant may seek relief by Special Permit under this Overlay District by completing the Design Review preapplication process as set forth in Section 5.09 (3)(a)(2) provided the proposed project includes the following requirements and limitations:

a. Includes a minimum of 57,000 square feet of contiguous land

b. Includes a Hotel component with at least 160 rooms.

3) The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and

limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.

a. The project must contain a minimum of 12% Open Space. For the purposes of this requirement, Open Space shall include parts of a Lot at ground level that meet one or more of the following criteria: contiguous landscaped areas that are at the least 200 square feet in size; and walkways open to the public that include planted containers, landscaped beds, and/or street trees.

b. Parking

i. All parking structures shall be located underground and shall be a maximum of 115,000 gross square feet in size.

ii. The number of parking spaces required per Article 6 of the Zoning By-Law may be reduced at the request of the applicant, following review of a parking study and favorable recommendation by the Planning Board.

iii. Parking Infrastructure Flexibility – To encourage the reduction of vehicle use over time, an applicant may seek a modification to any Special Permit granted under Section 5.06.4.k to both reduce the number of required spaces and convert the use from underground parking to other allowed uses, subject to all other provisions of the By-Law with respect to use, as long as updated traffic and parking studies demonstrate those parking spaces are no longer needed. Any such below ground space, whether or not it is habitable, shall be excluded from the maximum Floor Area Ratio calculations.

iv. Any fees charged for parking must be separate from any rental, lease, sale, employment, contract or other arrangement permitting a user to occupy the building.

c. The Gross Floor Area Ratio for a project permitted pursuant to this section shall not exceed 6.0.If a Special Permit application includes less than 86,250 square feet of underground parking infrastructure, then, in addition to the review processes described in Section 5.09 (Design Review) the applicant shall, prior to submitting a Special Permit application, request a public hearing with the Economic Development Advisory Board (EDAB) to review the financial feasibility of the project. Based on the information presented by the applicant and/or EDAB's consultant(s), if any, EDAB may make a recommendation to the Planning Board and Board of Appeals as to whether the Floor Area Ratio is justified.

d. The maximum building height may be 160' for portions of a building that are within 180' of Pleasant Street and 110' of John Street; otherwise, the maximum building height is 125'. These maximum building heights do not include rooftop structures such as elevator penthouses and mechanical equipment. Building heights shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of Pleasant Street at the edge of pavement opposite the midpoint of the Pleasant Street boundary of the Waldo-Durgin Overlay District .

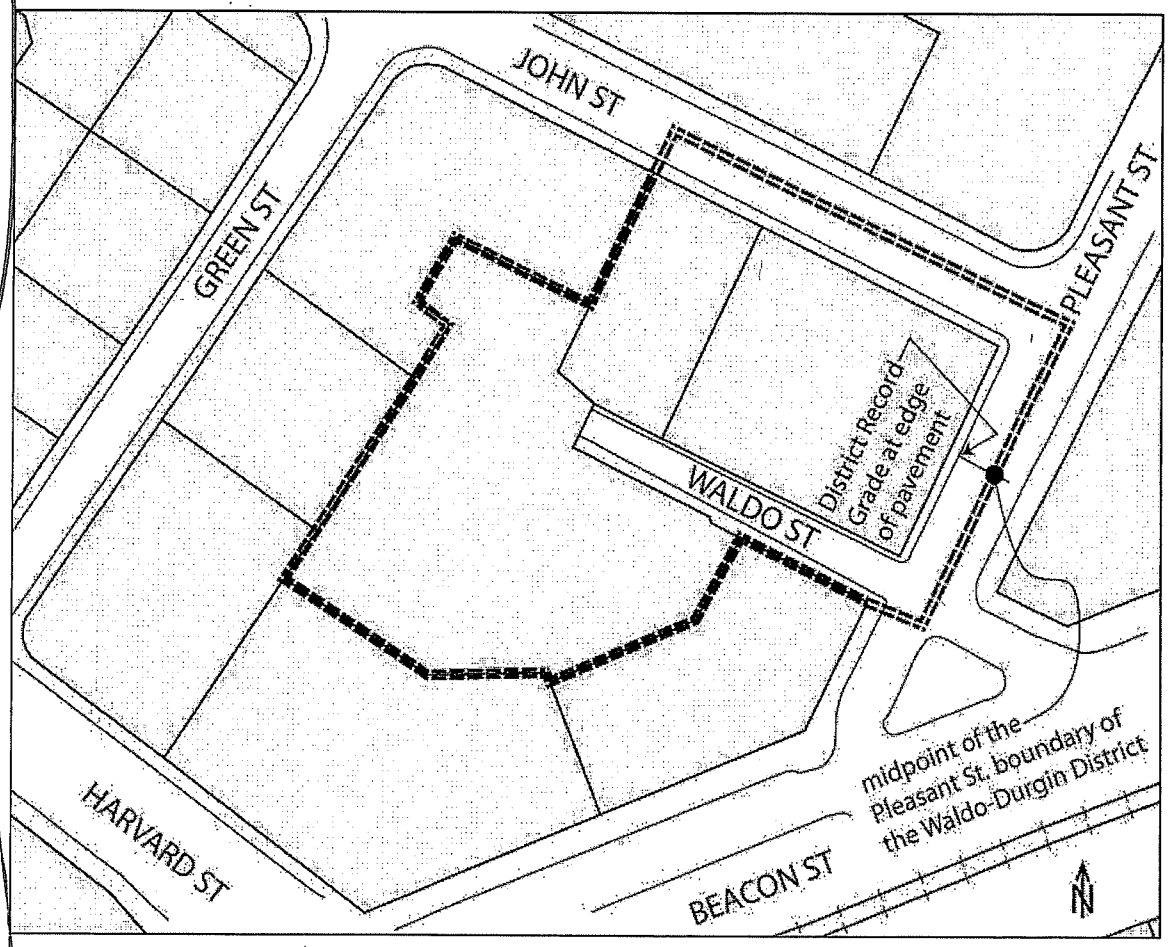


Figure 5.06.4.k.1 – Height of Building Measurements in the Waldo-Durgin Overlay District

e. The residential component of the project shall not include more than 132 units that do not meet the Affordable Unit definition in Section 4.08(2)(c) nor shall it contain more than 13 habitable, above-ground stories of primarily residential use.

f. The non-residential component of the project shall not contain more than 10 habitable, above-ground stories.

g. No rear yard is required. The above-ground portion of any building shall be setback at least 10' from the property line bordering John Street.

h. Use Flexibility

i. The ground floor use along the entire length of Pleasant Street may only include the following uses as defined and regulated in Section 4.07, Table of Use Regulations: entertainment and recreation facility (Use 16), certain retail uses (Uses 29, 33, 33A), restaurants (Uses 30 and 34), and office (Use 35). Additionally, the building use along Pleasant Street must include at least one retail (Use 29, 33, or 33A), or restaurant (Use 30 or 34) space that is at least 30' wide along Pleasant Street and a minimum of 1,200 square feet in floor space.

ii. The ground floor of a residential building may have maximum frontage along a street that exceeds the 40% maximum in Use 6 in Section 4.07 - Table of Use Regulations, if the applicant adequately demonstrates that: (i) the location of residential and non-residential uses of the ground floor are appropriate given the transition between residential and commercial neighborhoods; and (ii) the average frontage for the first floor is no more than 75% residential.

iii. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential or hotel use without being considered an accessory use.

4) Any application including new structures that seeks relief under this Overlay District Special Permit shall:

a) be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading and passenger pick-up zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on□site disposal of hazardous substances; maximize

pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By□Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

i. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;

ii. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site; and

iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.

b) be deemed a Major Impact Project with respect to Section 5.09, Design Review.

c) include as a condition of the special permit a Transportation Access Plan Agreement ("TAPA") approved by the Director of Transportation that includes Transportation Demand Management ("TDM") programs and an annual report review process. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within 60 days after they issue their determination. Failure to issue such a determination within 60 days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination."

5) Allowing the additional density through the Special Permit contemplated by this Section has a potential benefit contemporaneous with its inclusion in the By-Law. However, planning objectives potentially achieved by this Section may not be met if substantial time elapses. Therefore, if upon closing the public hearing on a Special Permit under Section 5.06.4.k, the Board of Appeals finds: (a) more than two years has elapsed since the opening of the public hearing; and (b) the amount of elapsed time is, in the discretion of the Board, excessive and contravenes the planning objectives of Section 5.06.4.k, the Board may deny the request for a Waldo-Durgin Overlay District Special Permit.

17. By amending Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements – by adding a new footnote as follows:

"3. For the Waldo-Durgin Overlay Special District, parking requirements shall be the same as those districts with a maximum floor area ratio of 1.75, except as otherwise provided for in Section 5.06.4.k".

18. By amending Section 7.07 – Sign By-Law – Exceptions to the Above – by adding to Section 7.07.1 a new item at the end:

"e. The Board of Appeals may be special permit grant relief to the requirements of Section 7.01 for signage for the buildings in the Waldo-Durgin Overlay Special District subject, however, to compliance with the Design Review Procedures set forth in Section 7.08."

Passed by an Electronic Recorded Vote
of 208 In Favor, 4 Opposed and 12
Abstentions

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:

Warrant Articles 13, 14, and 15 are an interrelated group of Articles concerning the development site described as 8–10 Waldo Street, 10–18 Pleasant Street and 16 John Street in Coolidge Corner and referred to as "Waldo Durgin." These Articles are the culmination of a two-year effort by the Town, as represented by the Coolidge Corner Study Committee, and Chestnut Hill Realty (CHR) the developer. The Advisory Committee believes Warrant Articles 13, 14, and 15 are the best possible outcome for the Town, the Coolidge Corner neighborhood and the business community. By a vote of 19–0–3, the Advisory Committee recommends FAVORABLE ACTION on Warrant Articles 13, 14, and 15.

BACKGROUND:

The Town of Brookline has undertaken multiple planning efforts and studies for this area of Coolidge Corner dating back to 2005. The Coolidge Corner Study Committee (CCSC) was formed in 2016 by the Select Board in response to proposals to construct major new

developments at the sites of the current Holiday Inn and the Waldo Durgin garages. The Select Board recognized that the redevelopment at either of the sites would have a significant impact on the surrounding neighborhoods. The CCSC was authorized to work to draft "proposed terms for a Memorandum of Agreement with either Developer to address design, financial, operational, environmental and other matters relative to their respective projects and the Sites so that the net results benefit both the Town and the Developers." The Holiday Inn proposal was withdrawn, although the owners of that property are undertaking some improvements to the existing hotel building, and since the fall of 2017 the CCSC focused its efforts on Waldo Durgin.

The CCSC consists of 15 members including representatives from the Economic Development Advisory Board (EDAB), the Planning Board, the Housing Advisory Board (HAB), and the neighborhood, and having backgrounds in architecture, development, housing and law. The CCSC met 37 times, with all meetings including public comment. Two of these meetings were held at the Waldo Garage and enjoyed a high attendance by local residents and business owners. The CCSC was aided in its work by outside professional consultants including Pam McKinney, the Town's development consultant; Environmental Partners, which performed the initial traffic study; and a 2013 report the Town commissioned from Structures North titled "Existing Conditions & Re-Use Feasibility Report of the Durgin Garage."

Objectives of the CCSC

The CCSC sought to mitigate any adverse impacts a development might have on the community, while encouraging development that supports other goals and characteristics valued by the Town. Consideration was given, but not limited, to:

- Building massing and density
- Public realm enhancements and Open Space creation/connectivity
- Environmentally friendly design elements and materials
- Existing zoning
- Legal considerations
- Locations, size, and design of parking facilities
- Physical and economic conditions
- Financial feasibility
- Feasibility of uses including those proposed by the Developers
- Historic preservation/character of the surrounding neighborhood
- Transportation/circulation of pedestrians and bicycles
- Synergy with other potential mixed-use redevelopments in the district
- Public benefits proffered to the Town
- Net fiscal impact to the Town
- The Coolidge Corner business community
- Affordable housing.

The resulting three Warrant Articles are thought to achieve an optimization of the Town's goals and values, while minimizing the potential adverse impacts of the redevelopment of the Waldo Durgin Site.

Description of Articles 13, 14, and 15

Warrant Article 13 seeks to amend the Town's Zoning By-Law to create the Waldo Durgin Overlay Zoning District. It establishes criteria under which a Special Permit may be granted to allow the construction of an 8 and 10 story, 210 room hotel building; a 13 story, 143-unit residential building with ground floor and mezzanine commercial space; and a 289-space underground parking garage.

Warrant Article 14 will authorize the Select Board to enter into and/or amend as necessary, any new or existing agreements to realize the full benefits and protections stipulated in the draft Memorandum of Agreement (MOA) included in this Article and the related Tax Certainty Agreement. CHR has indicated they will not consider amendments to the draft MOA which is included in the explanation of Warrant Article 14.

Warrant Article 15 will authorize the Town to accept a Restrictive Covenant to be recorded on the land, entitled "Tax Certainty Agreement." The Tax Certainty Agreement will protect the tax benefits flowing to the Town from this development for 95 years.

DISCUSSION:

Benefits to the Town

CHR has filed a proposal to develop a 299-unit residential building via a Comprehensive Permit under MGL Chapter 40B for the Waldo Durgin site. The 40B project does not have to conform to current zoning, and the Town has limited control over the final project. In contrast, the Zoning Overlay District process gives the Town a great deal of influence over the final mixed-use development and presents the opportunity to create a variety of benefits to the Town unavailable under the 40B. The following is a partial list of the benefits to the Town under the mixed-use development permitted by Articles 13, 14, and 15, as compared to the proposed 40B project (see table: Waldo Durgin Overlay/40B Comparison):

a. **Size**: The mixed-use development will total 350,000 square feet, a reduction of 50,000 square feet from the 40B.
b. **Building Height:** A single 8- and 10-story hotel building and a 13-story residential building compared to a single 12-story residential building.
c. **Massing:** The buildings have been positioned on the site so as to minimize the shadows cast on the existing abutting residential units. There is no opportunity to influence the siting under 40B.
d. **Parking:** 289 "unbundled" underground parking spaces with a certain number designated for abutters and members of the general public to replace existing surface lots. This number is lower than permitted under current zoning. Under the

40B there are 41 surface and 292 underground spaces for the exclusive use of the residential building. In addition, in the event of a decrease in future demand for parking, the MOA provides for retrofitting a portion of the underground garage for other uses.

e. **Residential Units & Affordable Housing:** 143 one- and two-bedroom units (199 total bedrooms) of which 11 will be designated affordable, plus a $3,275,000 payment to the Town's Affordable Housing Trust Fund. This payment has the potential to create approximately 40 to 60 additional units depending on market conditions, in a location and configuration best suited to the Town's needs. Under the 40B the comparable statistics are: 299 studio, one, two, and three bedroom units (463 bedrooms).

f. **Public Realm Improvements**: Widening of the John Street sidewalk, conversion of the 14-space John Street lot and the Town lot at the corner of John and Green Streets to parks/sitting space, landscaping at the Coolidge Corner Library, on-site bicycle storage, active ground floor space on Pleasant Street, a public use easement allowing for pedestrian passage through the site, and a potential pedestrian connection to the Brookline Booksmith. None of these public realm improvements are possible under the 40B.

g. **Fiscal Impact:** The mixed-use development will have a greater positive fiscal impact on the town as compared to the 40B. The mixed-use development will generate $1.65 million in annual additional tax revenue to the Town as projected from the 40B. This is due to:
    a. 43% of the project area being taxed at the Commercial Tax Rate which is 64% higher than the Residential Tax Rate;
    b. A higher assessed value for the residential component due to the higher proportion of market rate units;
    c. The Hotel Room Occupancy Excise Tax equal to 6% of room revenues.

    In addition, the mixed-use development will have a lower demand for municipal services since it will have approximately half the number of residential units.

h. Financial Stability: A 95-year Tax Certainty Agreement will insure the Town continues to receive the enhanced tax revenue stream from the project even if there is a change in use or change in ownership to a non-profit entity.

i. **Environmental Sustainability**: The mixed-use development will be built to the newest version of LEED (Leadership in Energy & Environmental Design) Silver certification, and to energy use intensity targets which exceed current building codes. CHR has committed to pursuing a zero emissions goal by 2050 and is exploring both geothermal and all electric HVAC systems.

j. **Control:** The Town has greater influence over the design of the site plan and buildings due to the Special Permit process, the required Site Plan Review by the Planning Board, the requirement of a Design Advisory Team as required by the mixed-use project's designation as a Major Impact Project, and the Design Guidelines, Memorandum of Agreement and Tax Certainty Agreement supplementing the zoning changes. In addition, the Town will have the ability to require ongoing conditions after the project is constructed, including annual

Transportation Demand Management (TDM) reports for the hotel, parking and operations management. This is not possible in the 40B.

Waldo Durgin Overlay/40B Comparison

	Mixed-use	40B
Size	350,000 sq. ft.	400,000 sq. ft.
Height	Hotel: 8- and 10-story; Apartments: 13-story	12-story building
Units	143 one- and two-BR	299 studio, one- two- and three BR
Bedrooms	199	463
Affordable Units	11 plus $3.275M paid to Affordable Housing Trust producing appx. 40 -60 units	60
Parking	289 unbundled underground spaces	41 surface and 292 underground for occupant use only
Public Realm Improvements	Yes	No
On-going	Yes	No

Protections to the Town

It is in the Town's best interest to insure the mixed-use development contemplated by these three Warrant Articles becomes a reality and does so in a timely fashion. The following provisions are included in the Warrant Articles to protect the Town's interest.

a. Sunset Provision: CHR must complete the Design Review pre-application process as required under the Special Permit by June 1, 2020.

b. Time is of importance: The Planning Board will have the discretion to deny the Special Permit if more than two years have elapsed from the opening of the public hearing on the Special Permits to the closing.

The additional tax revenues generated by the mixed-use development are an important benefit to the Town. To protect this revenue stream against a future change in use or

transfer of ownership to a non-profit entity, Warrant Article 15 provides for a 95-year Tax Certainty Agreement that will be recorded with the land.

The design elements of the proposed mixed-use project represent a substantial portion of the benefits accruing to the Town. The Waldo Durgin Overlay District zoning is accompanied by a set of detailed Design Guidelines and a MOA (to be authorized by Warrant Article 14), and Site Plan Review by the Planning Board.

Collectively these land use regulations, developer agreements, and design guidelines will provide the Town, abutters, and Coolidge Corner residents and business owners with far greater controls, public benefits, and mitigation than would be available under the 40B option.

Community Support

Although members of the CCSC indicated they would have preferred shorter buildings with less massing, no one who attended the Planning and Regulation Subcommittee hearing or the Advisory Committee meeting expressed opposition to the proposed mixed-use project. Lauren Bernard (Precinct 8 Town Meeting Member) reported the Trustees of the Coolidge Green Condominium Association (abutting the project on John Street) unanimously support the project. David Leschinsky, owner of Eureka Puzzles and President of the Coolidge Corner Merchants Association, opined that the hotel will be good for both retailers and restaurants. He cited previous studies in which retail revenues were highly correlated with the Marriott Courtyard's occupancy rates. Frank Caro (Precinct 10 Town Meeting Member and member of the CCSC), noted that the project builds on North Brookline's strong suit: density and walkability—and will benefit the Town's main commercial area. David Lescohier (Precinct 11 Town Meeting Member), reported the precinct had a meeting on the project and 100% of those in attendance voted favorably. Some reservations were expressed about the robustness of the Town's long-term planning process. Another neighborhood concern is the increase in traffic from a hotel relative to the 40B development.

Development Process Post Warrant Approval

Subsequent to the approval of these Warrant Articles by Town Meeting, the Zoning Overlay District must be reviewed and approved by the Massachusetts Attorney General, which can take up to six months. Upon approval, the Special Permit process will begin and is estimated to require 12 to 18 months to complete. The Special Permit process will incorporate the requirements and limits of the Zoning Overlay District, along with the Design Guidelines and MOA.

The success of the Special Permit process will be dependent on the continued positive collaborative process between CHR and the Town. As has been noted by CCSC member Sergio Modigliani:

In the course of working with CHR on the Waldo Durgin site, I found them and their design and legal teams to be dependable and responsive partners in the give and take process, listening and responding to Committee requests and trying to find ways to accommodate and address community concerns. There were many examples, but some of the more important ones include the addition of both the cafe and shared work spaces; commitment to green and sustainable standards sought by Town Meeting and community groups; the in kind payment to the Housing Trust Fund, which both reduced the building's height and provides the Town with a needed infusion for more affordable housing bridge financing; the inclusion of off-site green space improvements; the Booksmith connection; and, a more thoughtful approach to parking matters.

Questions and Issues Raised During Advisory Committee Discussion

The Advisory Committee's discussion opened with a question on potential sources of opposition to the mixed-use development proposal. Town Meeting Members in attendance noted that there existed a diversity of opinions on specific points of the proposal, such as the affordable housing component, traffic impacts, parking and the practice of spot zoning, but the consensus was that the overall plan did an excellent job of balancing competing concerns. The willingness of CHR to respond to and work with community concerns was also noted, including, but not limited to, environmental sustainability, parking, and the inclusion of retail space on Pleasant Street.

Additional questions focused on the 40B development proposal and the amount of Affordable Housing provided under that process versus the amount proposed in the mixed-use development. Roger Blood (HAB) noted that the required $3.275 million payment to the Housing Trust Fund in lieu of 10 additional affordable units on site results in the residential development being one story shorter. The Housing Trust Fund has an excellent record in developing affordable housing at a lower cost than a for-profit developer, averaging $50,000 per unit in its last five projects. The payment to the fund would result in an additional 40 to 60 affordable units in locations that are better suited to the Town's needs.

Further discussion focused on specifics of the environmental sustainability commitment by CHR. CHR indicated the garage will contain electric vehicle charging stations, with the ability to increase the number of chargers as demand warrants. In addition, the commitment to obtain the LEED (Leadership in Energy & Environmental Design) Silver designation is also a minimum, with higher standards to be explored during the design process, including the potential for solar panels, although initial studies on that matter are discouraging. Finally, it was noted that the Energy Unit Index of the project will be higher than the LEED Silver requirement.

Concern was expressed by some Advisory Committee members about potential damage to abutting structures during the construction process. CHR noted the absence of blasting for this development minimizes this risk. In its report to the Advisory Committee, the Planning

and Regulation Subcommittee noted that a Construction Management Agreement will be drafted which will address many of the neighborhood concerns, including parking demand by the construction workers. CHR indicated that once the underground garage is completed the workers will utilize that parking.

Clarification was requested and provided on the cost of the underground parking (to be determined), the development timetable (as previously noted), and the amount of change that might occur in the final design. Regarding this last point, the proposed Zoning Overlay District will restrict the height, setbacks, and mass. The aesthetics of the project have not been determined, but the Design Guidelines included in the MOA, will be referenced by the Design Advisory Team (DAT), which is part of the Special Permit process.

Additional important points noted by the subcommittee in its report to the AC include: 1) the availability of the Town's Façade Improvement Program to provide interest-free loans to abutting businesses for façade improvements so they will not look "shabby" in comparison to the new development; and 2) a reminder by Paul Saner (EDAB Chair and member of the CCSC) that a majority of the 40B proposals in process are located on commercial sites and will have a negative impact on the Town's commercial tax base. Mr. Saner further noted that if these Warrant Articles are not approved, the 40B development for this site will proceed.

RECOMMENDATION:
The Advisory Committee by a vote of 19–0–3 recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 14

FOURTEENTH ARTICLE
Submitted by: Select Board

To see if the Town will authorize the Select Board to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required to carry out the terms and conditions set forth in that certain Memorandum of Agreement and related Tax Certainty Agreement, between the Town of Brookline (hereinafter referred to as the "Town") and CHR Pleasant, LLC, 16 John Street Realty Trust U/D/T and Waldo Street, LLC, their successors and assigns (hereinafter collectively referred to as "CHR"). CHR owns the parcels of land commonly referred to as 8-10 Waldo Street, 10-18 Pleasant Street and 16 John Street in Brookline, Massachusetts (hereinafter collectively referred to as the "Site") as further described in the legal description below, and all in connection with a proposed mixed-use development including: a 210-room hotel, 143 residential units, and underground parking of approximately 289 parking spaces (hereinafter referred to as the "Mixed Use Project"); as further described below, said Memorandum of Agreement to include the following terms at a minimum:

1) requiring CHR to continue the public hearings on the 40B Project at the Site until all approvals for the Mixed Use Project are received;

2) requiring CHR to offer an Access Agreement with the existing tenant of 279 Harvard Street (known by the community as "the Booksmith" or "the Brookline Booksmith") prior to applying for Special Permits for the Mixed Use Project;

3) requiring CHR to not object to certain conditions of the Special Permits related to the Mixed Use Project, including:

a) required retail or restaurant space on Pleasant Street;

b) providing meeting space in the hotel for occasional use by the Town and Brookline community non-profits for a nominal custodial fee;

c) providing a minimum of 11 residential units on-site serving households earning up to 80% of the area median income;

d) making a payment to the Town's Affordable Housing Trust Fund in the amount of $3,275,000;

e) commitments to sustainable design elements;

f) historic documentation of the Durgin Garage at 10-18 Pleasant Street;

g) providing public benefits to mitigate the impact of the proposed project including but not limited to the installation of landscaping and plaza space at a Town-owned parcel with an address of 37 John Street on the northwest corner of John and Green Streets currently used for parking and a small seating area; the

installation of landscaping and seating at the Town-owned Coolidge Corner Library; bicycle, pedestrian and landscaping improvements; and a traffic impact study and mitigation measures that include annual monitoring;

h) agreement to grant the Town a future pedestrian access easement on the property running from John Street through the property to Waldo Street and on to Pleasant Street;

4) providing a 95-year Tax Certainty Agreement which shall be a restrictive covenant; and

5) requiring that the agreement(s) be recorded in the chain of title; and upon any further terms and conditions that the Board deems in the best interest of the Town with respect to the proposed development of the said Site.

6) and other terms and conditions that the Select Board deem in the best interest of the Town.

The legal descriptions of the parcels for the Site are as follows:

EXHIBIT A

Tract One — 16 John Street, Brookline, MA

The land, with the buildings thereon, situated on John Street in Brookline bounded and measured as follows:

NORTHEASTERLY: by said John Street, Sixty-five (65) feet;

SOUTHEASTERLY: by land of John G. Stearns et al, One hundred twenty-three and 56/100 (123.56) feet;

SOUTHWESTERLY: on the Northeasterly line of Waldo Street so called, Thirty-six and 17/100 (36.17) feet;

SOUTHWESTERLY: again but a little more Westerly on land formerly of John G, Stearns et al, Twenty-seven and 80/100 (27.80) feet; and

NORTHWESTERLY: on other land formerly of John G. Stearns et al, One Hundred nineteen and 12/100 (119.12) feet.

Containing 7873 square feet of land and being the parcel shown enclosed in red lines on a "Plan of land in Brookline" by Aspinwall and Lincoln, Civil Engineers, dated March 9, 1895.

Tract Two — 8-10 Waldo Street, Brookline, MA

Two certain parcels of land with the buildings thereon situated in Brookline, Norfolk County, Massachusetts, bounded and described as follows:

PARCEL I

NORTHEASTERLY: by Waldo Street, one hundred and one and 96/100 (101.96) feet;

SOUTHEASTERLY: by a twenty (20) foot passageway, shown as Lot C on a plan hereinafter mentioned by two lines measuring fifty and 19/100 (50.19) feet, and eighty-eight and 03/100 (88.03) feet, each respectively;

SOUTHWESTERLY: five (5) feet;

SOUTHERLY: seventy and 35/100 (70.35) feet; and

SOUTHWESTERLY: ninety-two and 03/100 (92.03) feet, by land of Trustees of Tufts College, as shown on said plan;

NORTHWESTERLY: by land now or formerly of Eisenburg et al Trustees and land now or formerly of Helpern Procter & Lowenstein, as shown on said plan, by two lines measuring thirty and 20/100 (30.20) feet and one hundred thirty-four and 96/100 (134.96) feet, each respectively;

NORTHEASTERLY: by Lot A, as shown on said plan, being the second parcel hereinafter described by two lines measuring sixty-seven and 85/100 (67.85) feet and twenty-seven and 16/100 (27.16) feet, each respectively;

SOUTHEASTERLY: by the end line of Waldo Street, as shown on said plan, fifteen and 03/100 (15.03) feet;

Containing 27,215 square feet of land and being shown as Lot B on a plan entitled "Plan of Land in Brookline, Mass." drawn by Everett M. Brooks Co., Civil Engineers, dated June 29, 1950 and recorded in Norfolk County Registry of Deeds at Book 3452, Page 470.

PARCEL II

SOUTHEASTERLY: by the end line of Waldo Street, fourteen and 98/100 (14.98) feet;

SOUTHWESTERLY: by Lot B and land of Lowenstein, as shown on a plan hereinafter mentioned, being the first parcel hereinafter described by two lines measuring twenty-seven and 16/100 (27.16) feet and eighty-nine and 58/100 (89.58) feet, each respectively;

NORTHWESTERLY: by Lot 5, as indicated on said plan, forty-one and 18/100 (41.18) feet;

NORTHEASTERLY: by Lots 3, 2 and 1 as indicated on said plan eighty-two and 36/100 (82.36) feet;

SOUTHEASTERLY: by land now or formerly of Kemp, as shown on said plan, thirty-nine and 12/100 (39.12) feet;

NORTHEASTERLY: by land now or formerly of said Kemp, as shown on said plan, twenty-seven and 80/100 (27.80) feet;

Said parcel being shown as Lot A on plan hereinabove mentioned and containing 4,474 square feet of land.

Together with right to use Waldo Street as recited in deed dated March 1, 1913, recorded in Book 1241, Page 499 and deed dated July 1, 1914, recorded in Book 1285, Page 11 and as shown on plan in Book 1241, Page 499.

Together with passageway rights as shown on plan in Book 1546, Page 112 and recited in deed dated November 27, 1939, recorded in Book 2258, Page 331,

Together with the rights to use the 20 foot passageway (Lot C) shown on plan recorded in Book 1241, Page 499 and recited in deed in Book 1241, Page 499,

Together with any and all rights in and to passageways, including but not limited to, rights to use passageways.

PARCEL III — Waldo Street

Also including that portion of Waldo Street, owned by Optionor , subject to the passageway rights of others in a portion thereof, insofar as in force and applicable.

Tract Three — 10-18 Pleasant Street, Brookline, MA

A certain parcel of land with the buildings thereon situated in Brookline, Norfolk County, bounded and described as follows:

SOUTHEASTERLY: by Pleasant Street, 125.68 feet;

NORTHEASTERLY: by John Street, 155 feet;

NORTHWESTERLY: by land now or formerly of Daniel H. Brewer, 123.56 feet; and

SOUTHWESTERLY by Waldo Street, 155 feet.

Excepting therefrom, however, such portion thereof as is described in a release given by Arthur Russell to the Town of Brookline for the alteration and widening of Pleasant Street dated November 14, 1926, recorded with the Norfolk County Registry of Deeds in Book 1725, Page 232, and shown on a plan entitled "Plan of Alteration and Widening of Pleasant Street Between Waldo Street and John Street Brookline, Mass.", dated November 15, 1926 and recorded with said Deeds in Book 1726, Page 637.

Said parcel is shown on a plan by Aspinwall and Lincoln, Civil Engineers, dated July 9, 1889 and recorded with said Deeds in Book 625, Page 205.

OR ACT ON ANYTHING RELATIVE THERETO.

PETITIONER'S ARTICLE DESCRIPTION

This Article, if approved, will authorize the Select Board to enter into and/or amend as

necessary any new or existing agreements so that the Town receives the full benefits and protections as set forth in the Memorandum of Agreement pertaining to the proposed development at the site described as 8-10 Waldo street, 10-18 Pleasant Street and 16 John Street in Brookline.

A draft of the Memorandum of Agreement and draft exhibits follows. While the exact language is still being negotiated, the agreed-to terms are summarized in the article and reflected in the following draft.

Reading the longer explanation for the related Waldo Durgin Overlay District Zoning Article will be helpful to understand how this article works in concert with other related articles.

It is the intention of the Select Board to have the 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 warrant articles related to this site. Copies of said Memorandum of Agreement, once executed, will be available at the Select Board's Office.

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MEMORANDUM OF AGREEMENT
BY AND BETWEEN
THE TOWN OF BROOKLINE AND CHR PLEASANT, LLC, WALDO STREET, LLC, AND 16 JOHN STREET REALTY TRUST

This Memorandum of Agreement between CHR Pleasant, LLC and Waldo Street, LLC, Massachusetts limited liability companies with a principal place of business at Chestnut Hill Realty Corp., Inc., 300 Independence Drive, Chestnut Hill MA 02467 and 16 John Street Realty Trust, their successors and assigns ("hereinafter collectively referred to as "CHR") and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Select Board (the "Board"), (collectively referred to as the "Parties") is made and entered into this ___ day of _____, 2019, upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

WHEREAS, CHR seeks to construct a mixed use project, including a select service hotel with up to 210 rooms (the "Hotel Project") and a primarily residential building with up to 143 units with retail or restaurant space on the ground floor and potentially a shared office use on the first and second floors (the "Residential Project") and underground parking of approximately 289 parking spaces (the "Parking Garage")(hereinafter collectively referred to as the "Mixed Use Project") a summary of the proposed Mixed Use Project and associated concept site and building plans and elevations are attached hereto as Exhibit A;

WHEREAS, the proposed location for the Mixed Use Project is made up of several parcels located at 8-10 Waldo Street, 10-18 Pleasant Street and 16 John Street all as more particularly described in the legal descriptions contained in Exhibit B, attached hereto and incorporated herein by reference (collectively referred to as the "Property" or the "Site" unless otherwise indicated);

WHEREAS, CHR received a project eligibility letter from Mass Development and currently has an application for a Comprehensive Permit for the same Property pursuant to G.L.c.40B pending before the Zoning Board of Appeals to build 299 residential units and 333 parking spaces (the "40B Project");

WHEREAS, the Parties agree that the Mixed Use Project will benefit the Town in many ways including but not limited to: providing eleven (11) affordable units on-site in the Residential Building; a cash-payment in the amount of $3.275 Million for ten (10) of the twenty-one (21) required affordable units made payable to the Affordable Housing

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Trust Fund; a 95-year Tax Certainty Agreement; improvements to the public realm including a public area easement connecting the Site from John Street through the Property to Pleasant Street (the "Public Easement"), increased open and green space, improved pedestrian and bike amenities and improved design and aesthetics; and access to meeting space for non-profit Brookline community groups;

WHEREAS, the Coolidge Corner Study Committee ("the Committee") intends to submit a zoning by-law amendment for consideration at the Town Meeting commencing May 21, 2019 that if approved would permit the Mixed Use Project to proceed; and in recognition of the intent and spirit of the vision of the Committee as expressed in the Proposed Zoning Amendment and draft Design Guidelines submitted to the Planning Board for adoption, CHR has expressed its commitment to work with the Town to provide a project with buildings of high quality architecture, urban and sustainable design;

WHEREAS, the Parties agree that the Mixed Use Project is beneficial to the Coolidge Corner neighborhood and Town, but will also have impacts on the Town; accordingly, if CHR proceeds with the Mixed Use Project it agrees to take steps to mitigate the impacts of the Mixed Use Project on the Town, as hereinafter set forth;

WHEREAS, the provisions of this Agreement are available for consideration by the Planning Board and the Board of Appeals in reviewing any application for a special permit(s) for the Mixed Use Project;

WHEREAS, the Parties wish to enter into this Agreement to memorialize their mutual understandings and obligations with respect to the Mixed Use Project and those certain permits and approvals required for the Mixed Use Project, as well as any other agreements between CHR and the Town pertaining to the Mixed Use Project, including a 95-year Tax Certainty Agreement, the Public Easement, all on the terms and conditions hereinafter set forth;

WHEREAS, the Parties contemplate entering into such further binding agreements as reasonably appropriate and approved by both Parties to proceed with the Mixed Use Project and to satisfy the mutual obligations contained herein;

WHEREAS, the Parties have discussed the terms and conditions to be included in the Agreement in connection with the Mixed Use Project and in order to mitigate impact(s) upon the Town;

NOW THEREFORE, in consideration of the promises and mutual obligations of the Parties hereto and upon good and valuable consideration the receipt and sufficiency of which the Parties acknowledge, each of them does hereby covenant and agree as follows:

1. All references herein to the following terms shall have the meanings hereinafter set forth:

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a. All references to the "Proposed Zoning Amendment" shall be construed as a reference to the text of a Warrant Article prepared for the Town Meeting commencing May 21, 2019, a copy of which is attached hereto as Exhibit C, as such text may be amended at Town Meeting, provided that such amendments do not impose burdens on the Mixed Use Project which are materially adverse to the feasibility of construction or to the operational or financial feasibility of the Project in the reasonable judgement of CHR. If any such amendment/s to the text of the Proposed Zoning Warrant Article (Exhibit C) do impose burdens on the Mixed Use Project which are materially adverse to the feasibility of construction or to the operational or financial feasibility of the Project in the reasonable judgment of CHR, and as a result CHR decides in its sole discretion not to proceed with the Mixed Use Project or that the amendment/s prohibits CHR from proceeding with the Mixed Use Project as proposed then CHR shall so notify the Town in writing within forty-five (45) days of the conclusion of Town Meeting, and in such case this Agreement shall immediately become null and void and of no force and effect.

b. All references to the "Town Meeting Approval Conditions" shall be construed as references to: (i) approval by Town Meeting and the Attorney General of the Proposed Zoning Amendment; (ii) authorization by Town Meeting of the acceptance of the 95-year Tax Certainty Agreement attached hereto as Exhibit E; (iii) authorization by Town Meeting for the Select Board to execute this Agreement and of any other documents or agreements necessary or appropriate for implementation of the Mixed Use Project; (iv) written confirmation from CHR to the Town that the Proposed Zoning Amendment as passed and approved by Town Meeting and the Attorney General will allow it to proceed with the Mixed Use Project, and in each case with challenge periods to all such Town Meeting actions having passed (which, in the case of the Proposed Zoning Amendment, shall be the challenge period under G.L. c. 40, Secs. 32 and 32A) with no challenges by unrelated third parties pending or, if any of such actions is challenged, the same having been finally disposed of in a manner favorable to the Town Meeting action, not later than June 1, 2021.

c. All references to the "Special Permit and Other Required Approvals" shall be construed as references to such other special permits, variances, licenses and/or other approvals, including but not limited to the acceptance and approval of the Public Easement at a future Town Meeting and any additional special permits under the existing Zoning By-Law and Proposed Zoning Amendment, including building permits and certificates of occupancy, which are necessary, in CHR's reasonable determination, to allow for the construction and operation of the Mixed Use Project, with all the appeal periods having passed, with no appeals pending or, if any such permit or approval is appealed, the same having been finally disposed of favorably to CHR not later than two

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(2) years from the date of issuance of the permit or approval which is the subject of the appeal.

2. CHR agrees to request continuations of the public hearings on the 40B Project until all Special Permit and Other Required Approvals have been met.

3. Upon satisfaction of the Town Meeting Approval Conditions, i) CHR shall immediately record this Agreement with the Norfolk Registry of Deeds and/or Norfolk Registry District of the Land Court, as appropriate and at its own expense and shall provide evidence of such recording to Town Counsel; and ii) CHR and the Town shall execute the 95-year Tax Certainty Agreement and the Public Easement and CHR shall deliver the same to Town Counsel or a mutually agreed upon escrow agent to be held in escrow pursuant to mutually agreed upon conditions under the provisions of this Agreement (the "Escrow Agent"). In the event the Town Meeting Approval Conditions are not satisfied by June 1, 2021, this Agreement and the obligations set forth in the 95-year Tax Certainty Agreement and Public Easement shall become null and void and of no force and effect.

4. If CHR decides to apply for a Special Permit for the Site that includes less than 86,250 square feet of underground parking infrastructure ("Smaller Parking Area"), then CHR agrees to appear at a duly noticed public hearing before the Economic Development Advisory Board (EDAB) to review the financially feasibility of the Mixed Use Project with Smaller Parking Area prior to applying for a Special Permit. Based on the information presented by CHR and/or EDAB's consultant(s), if any, EDAB may make a recommendation to the Planning Board and Board of Appeals as to whether the size of the building area (not including parking) is reasonable or not.

5. Upon satisfaction of the Town Meeting Approval Conditions, CHR agrees to use best efforts to diligently apply for all permits and approvals necessary to proceed with the Mixed Use Project subject to financing and economic conditions.

6. In the event that the Special Permit and Other Required Approvals are satisfied, CHR shall deliver notice thereof to Town Counsel or the Escrow Agent, as the case may be, who shall thereafter record with Norfolk Registry of Deeds and/or the Norfolk Registry District of the Land Court, as appropriate, the 95-year Tax Certainty Agreement and the Public Area Easement. In the event that the Special Permit and Other Required Approvals are not satisfied, or CHR does not proceed with the Mixed Use Project, CHR or the Town may deliver notice to the Escrow Agent who shall thereafter immediately return the original copy of the Tax Certainty Agreement and the Public Area Easement and simultaneously notify the Town that such original was returned to CHR. In such case where the Tax Agreement and Public Area Easement are returned to CHR, all obligations set forth in this Agreement shall become null and void and of no force and effect.

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7. In the event that the Special Permit and Other Required Approvals are satisfied, CHR shall immediately deliver notice to the Zoning Board of Appeals with a copy to Town Counsel withdrawing its Comprehensive Permit application for the Property.

8. Voluntary Special Permit Conditions: CHR hereby acknowledges that the following conditions of the Special Permits for the Mixed Use Project shall be acceptable to CHR and shall not be grounds for objection to the Special Permits granted by the Brookline Zoning Board of Appeals:

    a) The approved Special Permit plans are titled X, and dated Y. Related to these plans, the following use restrictions are noted:

        i. The required 1,200 sq. ft. minimum retail or restaurant space on Pleasant Street shall be open to the general public without requiring a membership fee, so long as economically viable (Pleasant Street Retail Area). If this Pleasant Street Retail Area, or any portion thereof, remains vacant and not under agreement for more than a year, the space shall be made available to the Town of Brookline for an art gallery or other Town use approved in advance by CHR with a short-term Use and Occupancy Agreement not to exceed six (6) months, at a maximum fee to cover the property taxes, insurance, and utilities.

        ii. The Residential Project does not include more than 132 market-rate units (hereinafter defined as units not subject to the requirements of Section 4.08 of the Zoning By-Law).

        iii. The duration of overnight occupancy of the hotel rooms shall not exceed ninety (90) consecutive days as to each hotel room.

        iv. Public meeting space in the hotel will be made available to the Town and Brookline community non-profits upon payment of related custodial fees, as scheduling permits. In addition to other arrangements mutually agreed to, the manager of the hotel building shall accommodate a minimum of 6 times per year reservation requests by Brookline community non-profits made more than six (6) weeks.

        v. For all users of the Mixed Use Project, parking fees must be separate (unbundled) from any rental, lease, sale, employment, contract, or other arrangement that permits a user to occupy the building.

        vi. In order to convert any of the parking area(s) to another use will require a modification to the Special Permit/s.

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vii. In addition to the one hundred and thirty two (132) Market Rate Units, eleven (11) residential units shall be provided on-site serving households earning up to 80% of area median income. In compliance with Section 4.08(5)(b) of the Town's Zoning By-Law, these on-site units shall consist of six one-bedroom units and five two-bedroom units, all of which will shall meet the requirements of Zoning By-Law Section 4.08 and shall follow the Department of Housing and Community Development Local Initiative Petition (LIP) Guidelines, and adhere to all requirements necessary to ensure that these 11 on-site units are included on the State's Subsidized Housing Inventory (SHI) and are permanently affordable.

b) CHR shall make a payment to the Town's Affordable Housing Trust Fund in the amount of $3,275,000 for the buy-out of ten (10) of the twenty-one (21) required on-site affordable units (the "Partial Buy-Out"). Per Section 4.08 of the Town's Zoning By-Law, this obligation shall be secured via a recorded legal instrument or letter of credit satisfactory to the Community Development Division prior to issuance of a building permit. Twenty-Five percent (25%) of the total Cash Payment will be made upon issuance of a non-appealable building permit with the balance due prior to the issuance of the Certificate of Occupancy. Early advances on the 75% final payment may be made on a mutually agreed upon basis between the Housing Advisory Board and CHR with incentives for early payments to be negotiated in good faith. Any unpaid balance 48 months following an appeal-free Special Permit shall accrue at an annual interest equivalent to the most recently published 10-year U.S. Treasury index.

As agreed to by the Housing Advisory Board on October 20, 2018, the Partial Buy-Out will serve as full compliance with the affordable housing requirements relating to on-site units under Section 4.08 of the Zoning Bylaw, subject to the following buy-out schedule:

Buy-Out for each Unit not provided on-site	Household Income 100% of Area Median	Household Income 80% of Area Median
1 Bedroom	Four units @ $300,000 per unit ea. = $1,200,000	Two units @ $325,000 per unit ea. = $650,000
2 Bedroom	Three units @ $350,000 per unit ea. = $1,050,000	One unit @ $375,000 per unit ea. = 375,000

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Other than the above onsite affordable unit 'buyout' provision, the proposed development will comply with all other provisions of Section 4.08 of the Zoning By-Law (Inclusionary Zoning).

c) All illuminated exterior signage shall be designed and installed with the ability to be automatically dimmed after Midnight.

d) CHR shall not commence demolition of any existing structure at the Site, until a building permit or permits of the proposed project is issued with evidence reasonably satisfactory to the Planning Director and Town Counsel, provided on a confidential basis, that financing is, or will be in place for construction of the entire Mixed Use project.

e) Prior to issuing a Building Permit CHR shall provide evidence to the Building Commissioner that the following sustainable design elements have been incorporated into the Project: (i) LEED Silver Certifiable; and (ii) Energy Use Intensity ("EUI") building efficiency target ranges that are more efficient than otherwise required by the building code applicable to the Town.

f) Two (2) years from the date the last Certificate of Occupancy for the Mixed Use Project is issued CHR shall provide a letter from a qualified licensed professional to the Building Commissioner that reports the EUI for the Mixed Use Project.

g) Unless otherwise agreed to by Preservation Staff, prior to the issuance of a demolition or other building permit, the applicant shall provide historic documentation of the Durgin Garage at 10-18 Pleasant Street to Brookline Preservation staff.

i. This documentation shall include:

1. background information: the historic and common names of the property, documentation of date of construction, complete stylistic and/or architectural description of the resource including documentation of changes that have occurred over time, description of architectural and/or associative significance using reliable sources, contextual information that equates the significance of the property, original and current function, ownership/occupancy history, and the name and biographical information of architect and/or builder.

2. drawings, maps, and historic images: site plan showing footprint of the subject resource and surrounding buildings; sketch floor plans of existing conditions of all levels of each building, or copies of original plans if available (8 ½ x 11

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format or digital format); if available, clear copies of historic photographs; USGS quad/topo map indicating location of property with UTM's;

3. photographs of: overall site showing context and setting; each exterior elevation of subject property; detail images of significant character-defining features, such as windows, doors, eave details, porches, balconies, etc.; general views of all significant interior spaces; detail images of significant structural details if building is of a rare construction method (i.e. post and beam, balloon framing, mortise and tenon joinery, etc.). All photos must be identified with a list of the photographs indicating property name, address (city, county), date of photograph(s), and view; unmounted.

ii. All non-photographic documentation shall be submitted in 8 ½ x 11 format and printed on archivally stable paper (25% cotton bond or better) and provided in digital format (min 300dpi).

iii. All photographic documentation shall be provided in 5x7 or 8x10 format using archival quality (hand-processed and/or printed on Fiber-based paper or Resin-coated paper which has been washed with a hypo-clearing or neutralizing agent) paper meeting a 75 year standard, and provided in digital format (min 300 dpi).

h) To ensure compliance with the Town's Transportation Demand Management Policy, the property owner shall be subject to traffic monitoring and annual reporting to the Town of Brookline, including the following features: (i) No later than thirty (30) days prior to the anticipated issuance of a building permit for the Proposed Project, a TDM plan shall be submitted to the Town, for review and approval by the Director of Transportation/Engineering and the Planning and Community Development Director (or designee); (ii) In connection with preparation of the TDM plan, CHR shall provide information as to its existing policies relating to employee transportation then in effect, and the mode use resulting from such existing policies; (iii) in connection with preparation of the TDM plan, CHR shall propose vehicular mode share goals for each user type; (iv) An annual monitoring and reporting program will commence after receipt of the final Certificate of Occupancy for the Proposed Project. If the final Certificate of Occupancy for the Proposed Project is issued between September 1 and February 29, the monitoring will take place during the months of September or October and a report provided to the Town no later than November 30. If the final Certificate of Occupancy for the Proposed Project is issued between March 1 and August 31, monitoring will

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take place during the months of April or May and be reported to the Town no later than June 30; (v) The monitoring program will be based on traffic counts and employee surveys as to vehicle, transit, pedestrian, and bicycle usage to the Proposed Project. The monitoring program will provide detailed information on the travel modes to work and overall transportation characteristics by type of traveler (employee, visitor, etc.). The survey instrument to be used for mode share monitoring will be provided to the Director of Transportation/Engineering for approval prior to conducting the survey. The employee survey (which may be conducted through electronic means) will be sent out to all employees, with a goal of securing a 60 percent minimum response rate. A guest/visitor survey shall be conducted during normal business hours, with a goal of securing at least 200 guest/visitor surveys. Notwithstanding the foregoing, any annual monitoring requirements shall apply only to non-residential uses.

i) In the event the employee vehicular mode share is greater than the target vehicular modes in the TDM plan, then the TDM plan shall be modified to incorporate any reasonable requests of the Director of Engineering/Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the Annual Report shall be deemed acceptance of the Annual Report and the existing provisions of the TDM plan. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination, and during such process the applicant will not be considered out of compliance with Section 5.09 of the Zoning By-law. Following the issuance (or deemed issuance) of the foregoing determination, the Building Department shall

use its best efforts to issue the annual permit for the Transportation Access Plan Agreement under Section 5.09 of the Zoning By-law with appropriate due diligence.

j) The Project shall contain 14 underground parking spaces reserved for commercial merchant parking during the day and Brookline residents during the evening. In addition to these spaces, up to 33 underground parking spaces may be rented to users of abutting properties. Following the first annual TAPA report, and upon positive recommendation by the Transportation Division, additional spaces may be rented to offsite users.

k) A Certificate of Occupancy for the Residential Project shall not be issued until the Hotel Project is [weather-tight].

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9. Additional Voluntary Special Permit Conditions: In the event that any and all Town approvals required for improvements on public property and public rights-of-way are received, including the Town's acceptance of the Public Area Easement and the Board's execution of same when requested by CHR (the "Additional Public Benefits") then CHR agrees to the following additional Special Permit Conditions to provide the Additional Public Benefits in order to mitigate the impacts to the Town and the public from the Proposed Project :

    a) On-site and off-site pedestrian and landscaping improvements equivalent to those shown and diagrammed on Exhibit A;

    b) Additional pedestrian, bicycle, and traffic infrastructure mitigation may be required subject to further study and analysis during the Major Impact Project process. Such mitigation is anticipated by CHR to include the following: (i) providing a space on private property for a shared bicycle share station; (ii) funding such shared bicycle station for two years; (iii) providing 25% level concept plans for expanding the sidewalk on the east side of Harvard street from Beacon to Green Streets; (iv) providing 25% level concept plans for bike lanes on John Street between Babcock and Pleasant Streets

    c) Enter into a Memorandum of Understanding with Revocable License and granting a license to CHR to: (i) install a landscaping irrigation system and landscaped area at the Coolidge Corner Branch of the Public Library on Pleasant Street as proposed on Exhibit X, and (ii) remove the 14 parking meters and hardscape at the municipal parking lot on the corner of John and Green Streets and provide landscaping (or equivalent funding to be determined by the Director of Public Works) in order to create a small park as proposed on Exhibit Y. The work required as stated above is currently estimated at $300,000.

    d) Prior to receiving a Certificate of Occupancy for the Residential Project CHR shall provide a permanent Public Area Easement to the Town totaling approximately 1,000 +/- square feet in the location on the Property as generally depicted on Exhibit E with terms and conditions that retain reasonable site control for CHR (the "Public Area Easement ");

10. Access Agreement:

    a. No later than 60 days prior to applying for the Special Permit(s) for the Proposed Project, and using best efforts CHR shall offer an Access Agreement with the existing tenant of 279 Harvard Street subject to terms and conditions agreed to by CHR and the Brookline Booksmith or other similar commercial bookstore tenant operating its business at 279 Harvard Street (the "Adjacent Tenant") in order to facilitate a connection to the

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proposed hotel from and through this commercial property that permits the Adjacent Tenant to utilize the connection for its customers and also to provide access for the hotel guests through the Bookstore to Harvard Street ("Hotel and Bookstore Access"). If an Access Agreement is signed by all required parties to pursue a Hotel and Bookstore Access, then plans submitted as part of the Special Permit shall reflect this Hotel and Bookstore Access.

b. It is understood that the Adjacent Tenant shall be required to get any necessary approvals from the Landlord/Owner of 279 Harvard Street or any of its mortgagee(s)as may be required to utilize or accept the Access Agreement. CHR agrees to include a mutual cooperation clause in the Access Agreement requiring that CHR and the Adjacent Tenant shall at all times cooperate in good faith with respect to both the development of the Mixed-Use Project; and in obtaining all permits or other approvals necessary to utilize the Hotel and Bookstore Access, including, but not limited to, a special permit for use of a common entrance or exit.

c. Any Access Agreement shall be registered at the Registry of Deeds for both properties and shall take effect at the time of a Certificate of Occupancy for the Hotel Project, and remain in place for a minimum of two years from Certificate of Occupancy.

11. Undertakings of the Town:

On _____, 2019 the Select Board voted favorable action on the Proposed Zoning Amendment, 95-year Tax Certainty Agreement and a Warrant Article related to the general authorization for this Memorandum of Agreement subject to the terms and conditions of this Agreement and shall convey its vote(s) and favorable report to the Advisory Committee and in the Combined Reports which shall be delivered to all Town Meeting Members. The Select

Board or its designee shall also file a Warrant Article for consideration at a future Town Meeting in order for the Board to accept the Public Easement offered by CHR. The Select Board shall also, to the extent appropriate, cooperate with CHR and shall encourage Town staff to cooperate with CHR in reviewing in a timely and expeditious manner any required permits and approvals for the Project. The Select Board shall support and undertake action necessary to obtain the approval of the Attorney General of The Commonwealth of Massachusetts of the Proposed Zoning Amendment by Town Meeting.

11. Miscellaneous:

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a) It is the intent of the Parties that the obligations in this Agreement shall run with the land comprising the Property and be binding upon and inure to the benefit and burden of CHR and its heirs, successors and assigns during their respective periods of ownership of the Property and shall survive any transfer of the Property or any portion thereof. CHR agrees to provide a copy of this Agreement to any transferee of the Property or any portion thereof.

b) Each of the Parties signing below hereby represents and warrants that it is authorized to enter into this Agreement and execute the same on behalf of, and to bind legally, such Party.

c) All notices or requests required or permitted hereunder shall be in writing and addressed, if to the Town as follows:

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

with a copy to:

Town Counsel
Office of Town Counsel
333 Washington Street
Brookline, MA 02445

If to CHR addressed as follows:

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Ed Zuker, President
Chestnut Hill Realty Corp., Inc.
300 Independence Drive
Chestnut Hill, MA 02467

And a copy to:

Jennifer Dopazo Gilbert, Esq.
Law Office of Robert L. Allen, LLP
300 Washington Street
Brookline, MA 02445

Each of the Parties shall have the right by notice to the other to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if mailed to such address postage prepaid, registered or certified mail, return receipt requested, on the date the same is received or when delivery is refused, or if delivered to such address by hand or by nationally recognized overnight courier service, fees prepaid, when delivery is received or when delivery is refused, or if transmitted by facsimile or other electronic means with confirmatory original by one of the other methods of delivery herein described, on the date so transmitted by facsimile or other electronic means. If and to the extent that either of the Parties is prevented from performing its obligations hereunder by an event of force majeure, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the Parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof. For purposes of this Agreement, the term force majeure shall mean any cause beyond the reasonable control of the affected party, including without limitation: acts of God, fire, earthquake, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation, strikes, lockouts; actions of labor unions; condemnation, laws or orders of governmental or military authorities, requirement of statute or regulation, action of any court, regulatory authority, or public authority having jurisdiction; or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation. With respect to any particular obligation of CHR only, the term force majeure shall include the denial of, refusal to grant or appeals of any permit or approval of any public (including any required Town Meeting

approvals) or quasi-public authority, official, agency or subdivision and any litigation brought by a third party relating to such particular obligation.

d) Failure by CHR to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until CHR fails to commence to cure, correct or remedy such failure within sixty (60) days of the receipt of written notice of such failure from the Town to CHR and thereafter fails to complete such cure, correction or remedy within ninety (90) days of receipt of such written notice or, with respect to defaults which cannot reasonably be cured, corrected or remedied within such ninety (90) day period, within such additional period of time as is reasonably required to remedy such default, provided CHR exercises due diligence in the remedying of such default and notifies the Town of the steps being taken to remedy the default.

e) The Parties agree that time is of the essence with respect to the obligations of the Parties as set forth herein. Subject to market conditions and financing availability CHR agrees to use best efforts to diligently apply for the necessary special permits and then expeditiously as possible after the issuance of the Special Permit(s) for the Proposed Project to apply for all necessary building permit(s) and to diligently commence work on the Proposed Project. The Town agrees to request an expedited determination from the Office of the Attorney General with respect to any Proposed Zoning Amendment.

f) The obligations of CHR do not constitute the personal obligations of CHR's employees, directors or officers and the Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. In no event shall CHR be liable for any incidental, indirect, punitive or special or consequential damages.

g) Each Party agrees from time to time, upon not less than ten (10) days' prior written request from the other, to execute and deliver a statement in writing certifying that this Agreement is in full force and effect (or if there have been any modifications, setting them forth in reasonable detail), and that there are no uncured defaults of either Party under this Agreement (or, if not, specifying the respects in which the requesting party is not in compliance in reasonable detail), in form reasonably acceptable to and which may be relied upon by any prospective purchaser, tenant, mortgagee or other party having an interest in the Property and any component of the Proposed Project. Upon full performance by CHR of its obligations hereunder, the Town, at CHR's request shall issue a statement in a form appropriate for recording with the Norfolk County Registry of Deeds and filing with the Norfolk Registry District stating that all of the terms of this Agreement have been satisfied.

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h) Whenever the consent or approval of any party is required under this Agreement, such consent or approval shall not unreasonably be withheld, delayed or conditioned.

i) This Agreement shall be deemed to have been executed within the Commonwealth of Massachusetts and the rights and obligations of the Parties shall be governed by Massachusetts law. Any action to enforce the terms of this Agreement shall be brought in Norfolk County Superior Court.

j) If any provision of this Agreement or the application of such provision to any person or circumstances shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of the provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected and shall be valid and enforceable to the fullest extent.

k) This Agreement and the accompanying PILOT Agreement set forth the entire agreement of the Parties with respect to the subject matter thereto. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This Agreement may be modified only in a written instrument signed by the Selectmen and CHR. The Parties do not intend for any third party to be benefited hereby.

l) This Agreement and the accompanying PILOT shall be deemed null and void and of no force and effect if Town Meeting Approval Conditions are not met.

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IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date first written above.

CHR (all legal entities will be added)

By_____
President

Dated:_____

Town of Brookline
Board of Selectmen,

_____

_____

_____

_____

_____

Dated:_____

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this _____day of _____, 2019, personally appeared the above named _____, _____, and provided identification in the form of _____, and who executed the foregoing as his free act and deed as Manager of _____, LLC.

_____
Notary Public
My Commission Expires:

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COMMONWEALTH OF MASSACHUSETTS

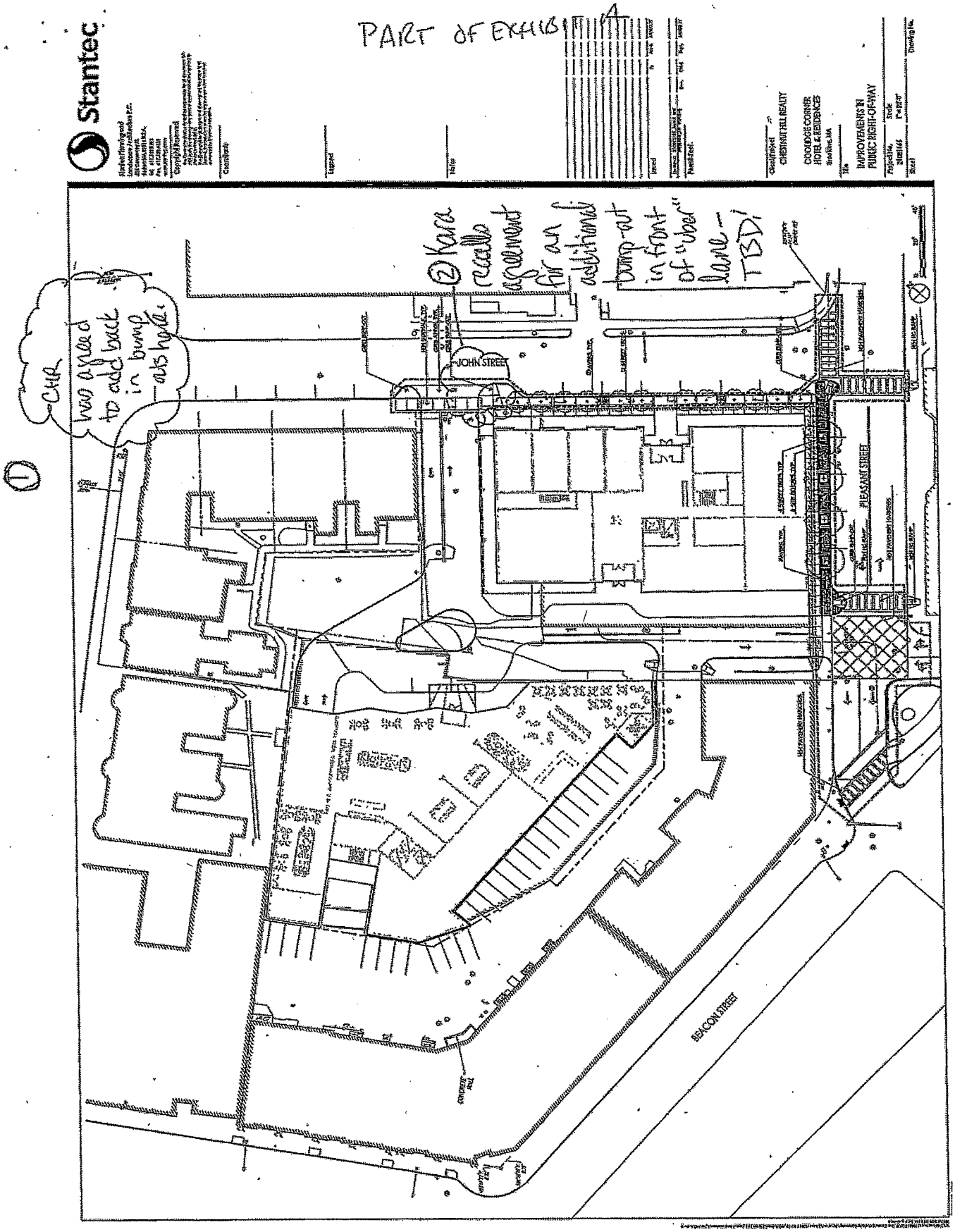
NORFOLK, ss

I hereby certify that on this _____day of _____, 2019, personally appeared the above named _____, _____, _____, _____, and _____, personally known to me and who executed the foregoing as their free act and deed as members of the Board of Selectmen of the Town of Brookline acting on behalf of the Town of Brookline.

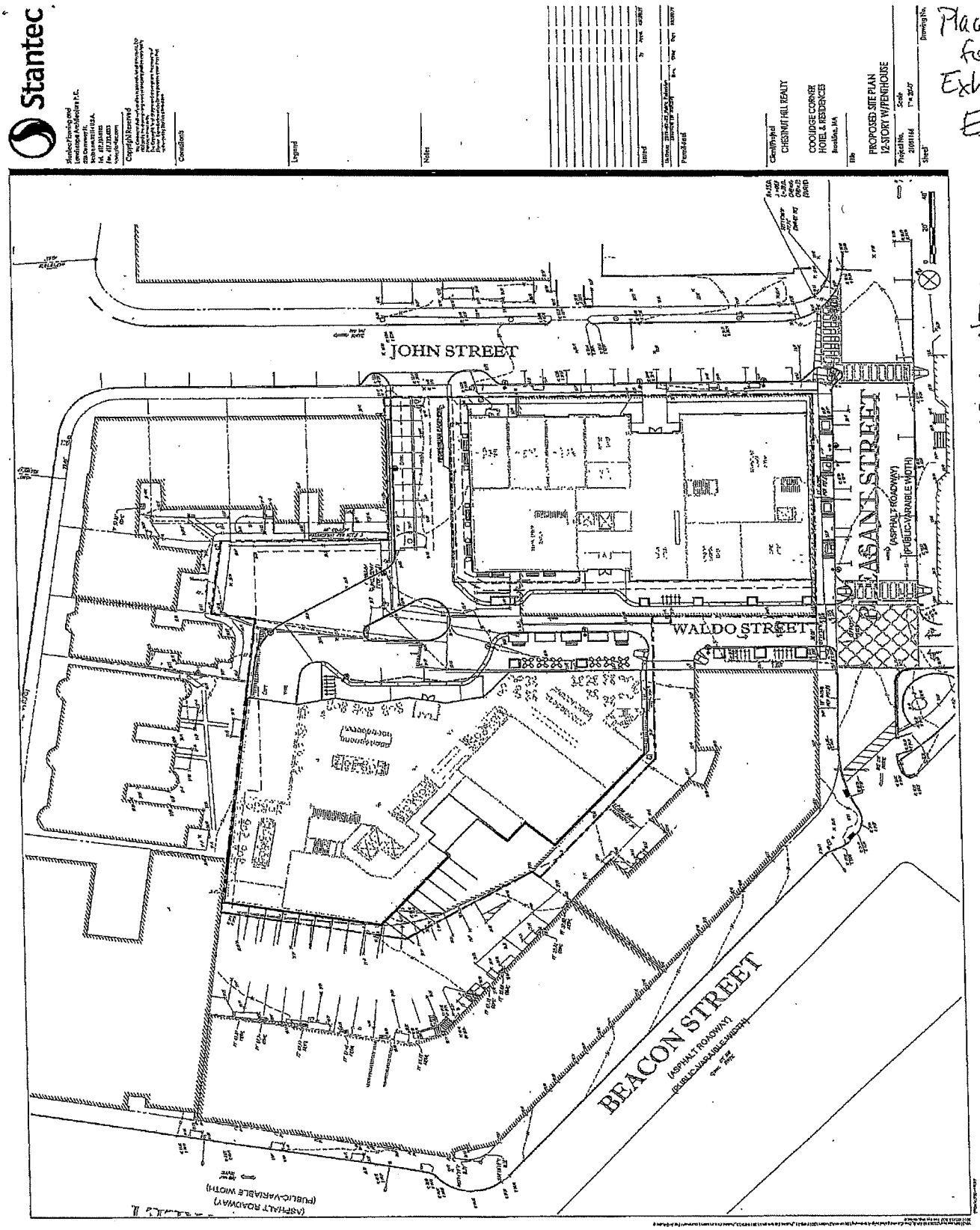
Witness our hands and seals at Norfolk County, Brookline, Massachusetts, this ____ of _____, 2019.

_____
Notary Public
My Commission Expires:

NOTE: FOLLOWING ARE DRAFT EXHIBITS AND/OR PLACEHOLDERS TO BE REPLACED AND/OR ADDED TO PRIOR TO FINAL EXECUTION.

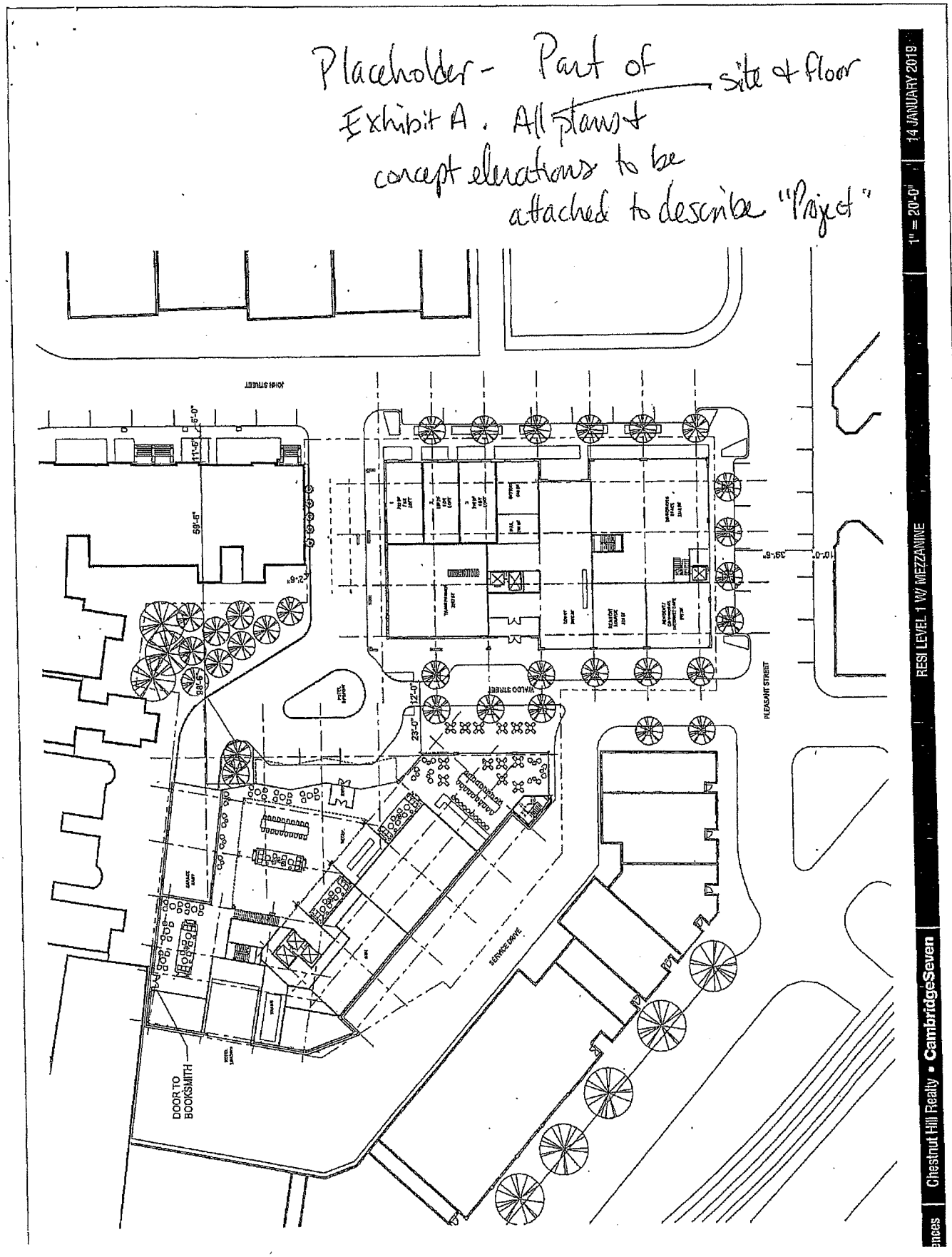

PART OF EXHIBIT A
Stantec
CHR has agreed to add back in bump outs here.
①
② Kara recalls agreement for an additional bump-out in front of "uber" lane - TBD!
JOHN STREET
PLEASANT STREET
BEACON STREET
CHESTNUT HILL REALTY
COOLIDGE CORNER HOTEL & RESIDENCES
IMPROVEMENTS IN PUBLIC RIGHT-OF-WAY

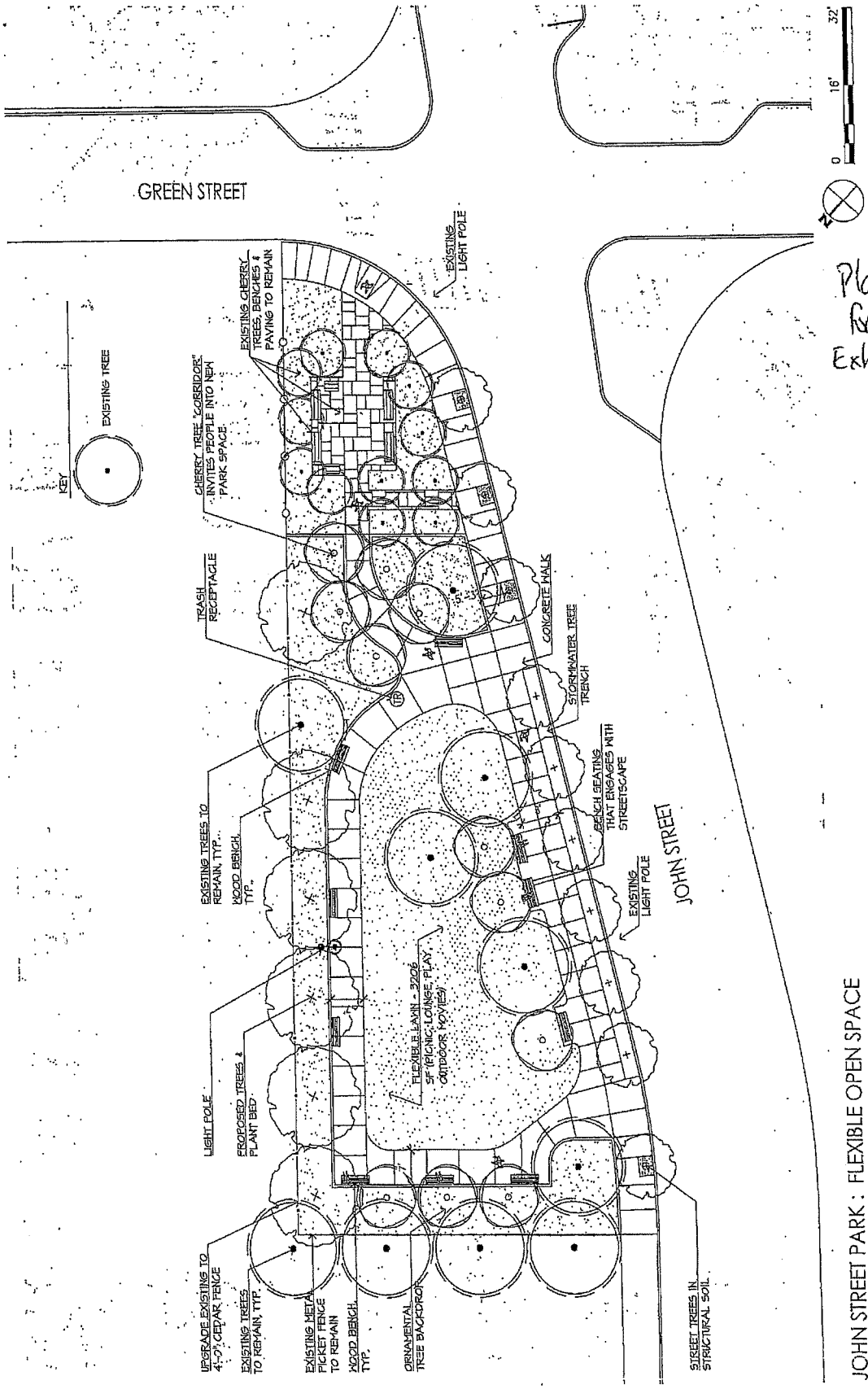
Placeholder for Exhibit E



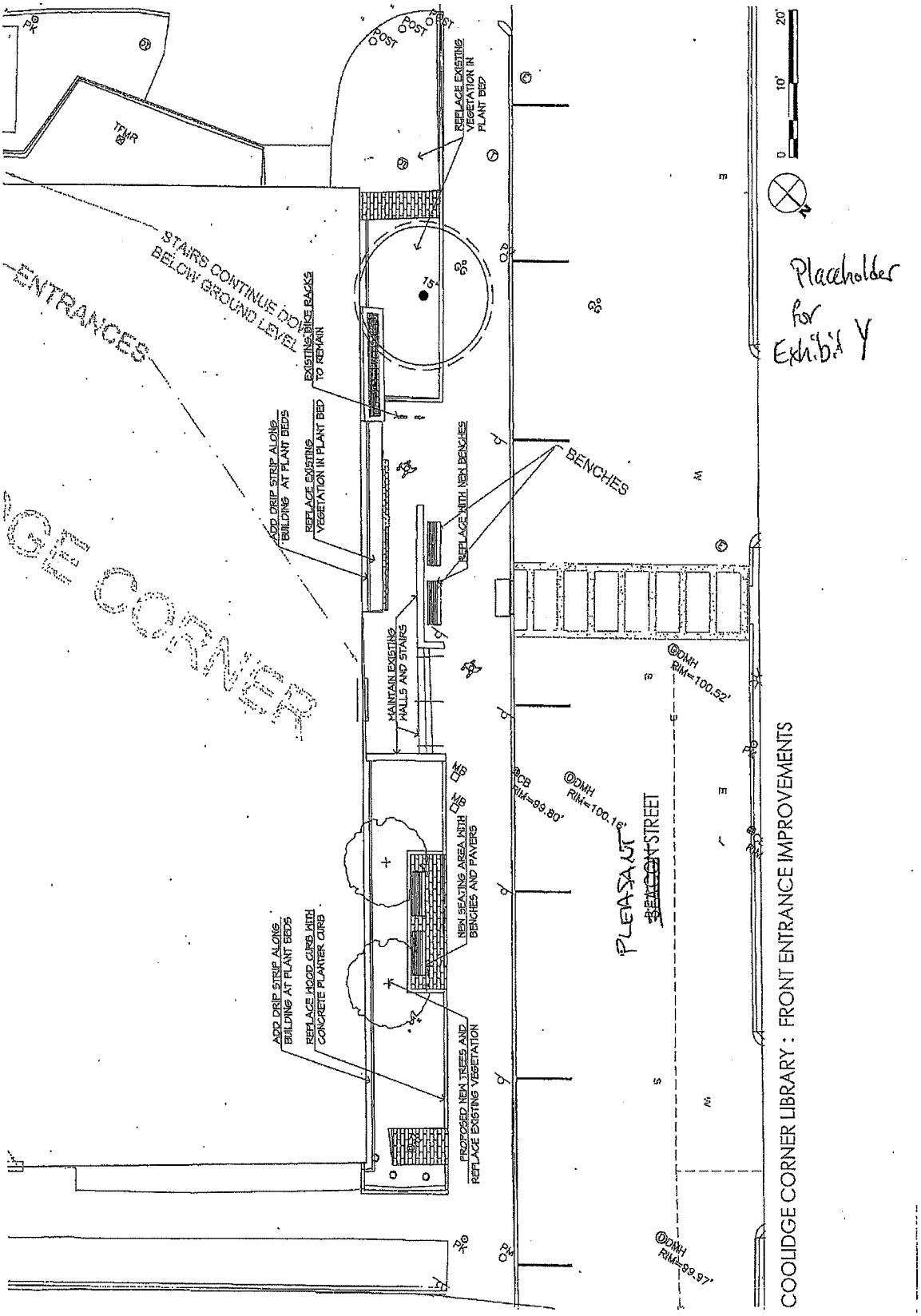
PUBLIC AREA EASEMENT

Placeholder - Part of site & floor Exhibit A. All stand-alone concept elevations to be attached to describe "Project"





JOHN STREET PARK : FLEXIBLE OPEN SPACE


ENTRANCES
STAIRS CONTINUE DOWN BELOW GROUND LEVEL
EXISTING BIKE RACKS TO REMAIN
REPLACE EXISTING VEGETATION IN PLANT BED
ADD DRIP STRIP ALONG BUILDING AT PLANT BEDS
REPLACE EXISTING VEGETATION IN PLANT BED
BENCHES
REPLACE WITH NEW BENCHES
MAINTAIN EXISTING WALLS AND STAIRS
NEW SEATING AREA WITH BENCHES AND PAVERS
ADD DRIP STRIP ALONG BUILDING AT PLANT BEDS
REPLACE WOOD CURB WITH CONCRETE PLANTER CURB
PROPOSED NEW TREES AND REPLACE EXISTING VEGETATION
PLEASANT STREET
BEACON STREET
DMH RIM=100.52'
CB RIM=99.80'
DMH RIM=100.16'
DMH RIM=99.97'
TMR
POST
POST
POST
20'
10'
0
Placeholder for Exhibit Y
COOLIDGE CORNER LIBRARY : FRONT ENTRANCE IMPROVEMENTS

SELECT BOARD'S RECOMMENDATION

Since the filing of Warrant Article 14, the Select Board further negotiated and signed a Memorandum of Agreement (MOA) with Chestnut Hill Realty (CHR), which would become effective following a positive Town Meeting vote of Warrant Articles 13, 14, and 15. The executed copy is attached on the following pages. A redline version tracking the changes from the original draft provided in the explanation of Warrant Article 14 is available at the Select Board's office and on the Coolidge Corner Study Committee's website at: https://www.brooklinema.gov/1367/Coolidge-Corner-Study-Committee

Summary of Revisions to the MOA since the filing of Warrant Article 14

► Clarification of the timing of MOA terms to the Town's benefit

There are two terms in the MOA that will be triggered once CHR receives a "Special Permit and Other Required Approvals": (i) CHR will withdraw their Comprehensive Permit/40B permit application, which is active but on hold with the Zoning Board of Appeals; and (ii) the 95-year Tax Certainty Agreement will be released from Escrow and recorded at the Registry of Deeds.

The definition of "Special Permit and Other Required Approvals" has been modified, because the Select Board wanted to ensure that both of these items did not need to wait, for example, for a restaurant tenant in one of the buildings to be fully fitted-out, licensed by the state for any alcohol licenses, etc. Often mixed-use buildings are operational and open, but a smaller tenant space may lag behind in opening.

Similarly, because the Public Area Easement would need to be accepted by a future Town Meeting to be in effect, the Select Board did not want to potentially hold up the 40B withdrawal nor the Tax Certainty Agreement. The provision of recordable language for the Public Area Easement is now moved to be concurrent with the issuance of the Certificate of Occupancy. Because the easement is contemplated to be concurrent with an internal sidewalk on private property, it makes sense that the description of this easement be provided following permitting and the construction of the building foundation.

► New MOA term related to CHR assistance to existing Pleasant Street storefront businesses

CHR has clearly stated that irrespective of the permitting timeline for either the mixed use project or the Comprehensive Permit, they anticipate applying for a demolition permit for the Durgin Garage in the coming months. In response to neighborhood concerns for the storefront tenants along Pleasant Street (Jerusalem Pita and Brookline Superette), CHR has agreed to allow the tenants to stay rent free starting April 1, 2019, for six months, or as long as Village Collision remains in the building, whichever occurs earlier. Additionally, CHR agreed that *if for any reason* the tenants leave before October 1, 2019, CHR will *pay the tenants* the equivalent of what the tenant would have under their original lease terms been paying CHR, for each month prior to October 1st that they are not occupying the space. The Select Board has determined that this additional MOA term is in the best interest of the Town, as the two tenants provide services to the immediate neighborhood and would like for them to have additional resources to consider relocation within the neighborhood.

► Additional MOA terms related to sustainability design commitments

CHR has agreed to a "Voluntary Sustainability Partnership" with the Town's Sustainability Office to explore, pilot and innovate sustainable practices from conceptual design through full occupancy. This effort allows for an iterative design process before the end of design development, to the benefit of both parties, furthering both parties' sustainability goals and outcomes.

Additionally, CHR has agreed to explore sustainable facility operation goals including purchasing additional renewable energy and working to identify a hotel operator willing to integrate sustainable practices in their facility and business operations.

If CHR is able to design their development to receive any certification from the International Living Future Institute (ILFI), the Select Board and Town's Sustainability Office will work to identify funding to reimburse any registration, audit/certification costs paid to ILFI and their independent auditors, up to $20,000. Additionally, in the event CHR receives an ILFI certification, the Select Board and Sustainability Office agrees to host a community ceremony to recognize CHR's leadership with this accomplishment.

► Additional detail in the MOA term related to replacement parking

Related to the 14 Town-owned spaces on the corner of John/Green Streets that will be converted to landscaped space, CHR has agreed that the parking rates for those users will be at reduced rates compared to market conditions.

► Miscellaneous:

- Trustee name added for the 16 John Street Realty Trust
- Final versions of the exhibits are now attached to the MOA
- Minor edits for consistency of defined terms in the MOA

The executed copy of the Memorandum of Agreement is attached on the following pages.

EXECUTION COPY

MEMORANDUM OF AGREEMENT
BY AND BETWEEN
THE TOWN OF BROOKLINE AND CHR PLEASANT, LLC, WALDO STREET, LLC, AND CM-WS CORP TRUSTEE OF 16 JOHN STREET REALTY TRUST U/D/T

This Memorandum of Agreement between CHR Pleasant, LLC and Waldo Street, LLC, Massachusetts limited liability companies with a principal place of business at Chestnut Hill Realty Corp., Inc., 300 Independence Drive, Chestnut Hill MA 02467 and CM-WS CORP, Trustee of 16 John Street Realty Trust U/D/T, their successors and assigns ("hereinafter collectively referred to as "CHR") and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Select Board (the "Board"), (collectively referred to as the "Parties") is made and entered into this 23rd day of April, 2019, upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

WHEREAS, CHR seeks to construct a mixed use project, including a select service hotel with up to 210 rooms (the "Hotel Building") and a primarily residential building with up to 143 units with retail or restaurant space on the ground floor and potentially a shared office use on the first and second floors (the "Residential Building") and underground parking of approximately 289 parking spaces (the "Parking Garage") (hereinafter collectively referred to as the "Mixed Use Project") a summary of the proposed Mixed Use Project and associated concept site plan, and concept building massing are attached hereto as Exhibit A;

WHEREAS, the proposed location for the Mixed Use Project is made up of several parcels located at 8-10 Waldo Street, 10-18 Pleasant Street and 16 John Street all as more particularly described in the legal descriptions contained in Exhibit B, attached hereto and incorporated herein by reference (collectively referred to as the "Property" or the "Site" unless otherwise indicated);

WHEREAS, CHR received a project eligibility letter from Mass Development and currently has an application for a Comprehensive Permit for the same Property pursuant to G.L.c.40B pending before the Zoning Board of Appeals to build 299 residential units and 333 parking spaces (the "40B Project");

WHEREAS, the Parties agree that the Mixed Use Project will benefit the Town in many ways including but not limited to: providing eleven (11) affordable units on-site in the Residential Building; a cash-payment in the amount of $3.275 Million for ten (10) of the twenty-one (21) required affordable units made payable to the Affordable Housing Trust Fund; a 95-year Tax Certainty Agreement; improvements to the public realm including a public area easement connecting the Site from John Street through the Property to Pleasant Street (the "Public Area Easement"), increased open and green space, improved pedestrian and bike amenities and improved design and aesthetics;

and access to meeting space for non-profit Brookline community groups;

WHEREAS, the Coolidge Corner Study Committee ("the Committee") intends to submit a zoning by-law amendment (the "Proposed Zoning Amendment") for consideration at the Town Meeting commencing May 21, 2019 that if approved would permit the Mixed Use Project to proceed; and in recognition of the intent and spirit of the vision of the Committee as expressed in the Proposed Zoning Amendment and the adopted Waldo-Durgin Overlay District Design Guidelines, CHR has expressed its commitment to work with the Town to provide a project with buildings of high quality architecture, urban and sustainable design;

WHEREAS, the Parties agree that the Mixed Use Project is beneficial to the Coolidge Corner neighborhood and Town, but will also have impacts on the Town; accordingly, if CHR proceeds with the Mixed Use Project it agrees to take steps to mitigate the impacts of the Mixed Use Project on the Town as hereinafter set forth;

WHEREAS, the provisions of this Agreement are available for consideration by the Planning Board and the Board of Appeals in reviewing any application for a special permit(s) for the Mixed Use Project;

WHEREAS, the Parties wish to enter into this Agreement to memorialize their mutual understandings and obligations with respect to the Mixed Use Project and those certain permits and approvals required for the Mixed Use Project, as well as any other agreements between CHR and the Town pertaining to the Mixed Use Project, including a 95-year Tax Certainty Agreement, the Public Area Easement, all on the terms and conditions hereinafter set forth;

WHEREAS, the Parties contemplate entering into such further binding agreements as reasonably appropriate and approved by both Parties to proceed with the Mixed Use Project and to satisfy the mutual obligations contained herein;

WHEREAS, the Parties have discussed the terms and conditions to be included in the Agreement in connection with the Mixed Use Project and in order to mitigate impacts upon the Town;

NOW THEREFORE, in consideration of the promises and mutual obligations of the Parties hereto and upon good and valuable consideration the receipt and sufficiency of which the Parties acknowledge, each of them does hereby covenant and agree as follows:

1. All references herein to the following terms shall have the meanings hereinafter set forth:

   a) All references to the "Proposed Zoning Amendment" shall be construed as a reference to the text of a Warrant Article prepared for the Town Meeting

commencing May 21, 2019, a copy of which is attached hereto as Exhibit C, as such text may be amended at Town Meeting, provided that such amendments do not impose burdens on the Mixed Use Project which are materially adverse to the financial feasibility of the Project in the reasonable judgement of CHR (which may include construction or operation costs). If any such amendment/s to the text of the Proposed Zoning Warrant Article (Exhibit C) do impose burdens on the Mixed Use Project which are materially adverse to the financial feasibility of the Project in the reasonable judgment of CHR, and as a result CHR decides in its sole discretion not to proceed with the Mixed Use Project or that the amendment/s prohibits CHR from proceeding with the Mixed Use Project as proposed then CHR shall so notify the Town in writing within forty-five (45) days of the conclusion of Town Meeting, and in such case this Agreement shall immediately become null and void and of no force and effect.

b) All references to the "Town Meeting Approval Conditions" shall be construed as references to: (i) approval by the May 2019 Town Meeting and the Attorney General of the Proposed Zoning Amendment; (ii) authorization by Town Meeting of the acceptance of the 95-year Tax Certainty Agreement attached hereto as Exhibit D; (iii) authorization by Town Meeting for the Select Board to execute this Agreement and any other documents or agreements necessary or appropriate for implementation of the proposed Mixed Use Project; (iv) written confirmation from CHR to the Town that the Proposed Zoning Amendment as passed and approved by Town Meeting and the Attorney General will allow it to proceed with the Mixed Use Project as currently contemplated including as modified with CHR's approval, and in each case with challenge periods to all such Town Meeting actions having passed (which, in the case of the Proposed Zoning Amendment, shall be the challenge period under G.L. c. 40, Secs. 32 and 32A) with no challenges by unrelated third parties pending or, if any of such actions is/are challenged, the same having been finally disposed of in a manner favorable to the Town Meeting action, not later than June 1, 2021.

c) All references to the "Special Permit and Other Required Approvals" shall be construed as references to such other special permits, variances, licenses and/or other approvals, including but not limited to any additional special permits under the existing Zoning By-Law and Proposed Zoning Amendment, including building permits and certificates of occupancy, which are necessary, in CHR's reasonable determination, to allow for the construction and operation of the Mixed Use Project such that a majority of the ground floor area of each of the Residential and Hotel Buildings are open and operating, with all the appeal periods having passed, with no appeals pending or, if any such permit or approval is appealed, the same having been finally disposed of favorably to CHR not later than two (2) years from the date of issuance of the permit or approval which is the subject of the appeal.

2. Unless this Agreement has been terminated CHR agrees to request continuations of the public hearings on the 40B Project until all Special Permit and Other Required Approvals have been met.

3. Upon satisfaction of the Town Meeting Approval Conditions, i) CHR shall immediately record this Agreement with the Norfolk Registry of Deeds and/or Norfolk Registry District of the Land Court, as appropriate and at its own expense and shall provide evidence of such recording to Town Counsel; and ii) CHR and the Town shall execute the 95-year Tax Certainty Agreement and CHR shall deliver the same to Town Counsel or a mutually agreed upon escrow agent to be held in escrow pursuant to mutually agreed upon conditions under the provisions of this Agreement (the "Escrow Agent"). In the event the Town Meeting Approval Conditions are not satisfied by June 1, 2021, this Agreement and the obligations set forth in the 95-year Tax Certainty Agreement shall become null and void and of no force and effect.

4. If CHR decides to apply for a Special Permit for the Site that includes less than 86,250 square feet of underground parking infrastructure ("Smaller Parking Area"), then CHR agrees to appear at a duly noticed public hearing before the Economic Development Advisory Board (EDAB) to review the financial feasibility of the Mixed Use Project with Smaller Parking Area prior to applying for a Special Permit. Based on the information presented by CHR and/or EDAB's consultant(s), if any, EDAB may make a recommendation to the Planning Board and Board of Appeals as to whether the size of the building area (not including parking) is reasonable or not.

5. Upon satisfaction of the Town Meeting Approval Conditions, CHR agrees to use best efforts to diligently apply for all permits and approvals necessary to proceed with the Mixed Use Project subject to financing and economic conditions.

6. In the event that the Special Permit and Other Required Approvals are satisfied, CHR shall deliver notice thereof to Town Counsel or the Escrow Agent, as the case may be, who shall thereafter record with Norfolk Registry of Deeds and/or the Norfolk Registry District of the Land Court, as appropriate, the 95-year Tax Certainty Agreement. In the event that the Special Permit and Other Required Approvals are not satisfied, or CHR does not proceed with the Mixed Use Project, CHR or the Town may deliver notice to the Escrow Agent who shall thereafter immediately return the original copy of the Tax Certainty Agreement and simultaneously notify the Town that such original was returned to CHR. In such case where the Tax Agreement is returned to CHR, all obligations set forth in this Agreement shall become null and void and of no force and effect.

7. In the event that the Special Permit and Other Required Approvals are satisfied, CHR shall immediately deliver notice to the Zoning Board of Appeals with a copy

to Town Counsel withdrawing its Comprehensive Permit application for the Property with prejudice.

8. Upon execution of this Agreement CHR will negotiate in good faith with the two tenants currently occupying the space fronting on the first floor of Pleasant Street (Jerusalem Pita and Brookline Superette) in order to enter into a written agreement which will, among other terms and conditions negotiated by the parties, provide six months' rent free occupancy starting April 1, 2019 after which time the tenant(s) shall vacate the property. If the tenant(s) vacate prior to the end of the 6-month extended tenancy then CHR will pay the tenant(s) the cash equivalent of the rent they would have had to pay to CHR under their prior lease agreements for the remainder of that 6-month period. Should Village Collision vacate the building then all remaining tenancies shall immediately terminate and CHR shall make payments as stated for the remainder of the 6-month period. Notwithstanding the foregoing commitment, if at any time the Building Commissioner deems the property unsafe for habitation all tenancies shall terminate.

9. Upon execution of this Agreement, the Town and CHR agree to work in a voluntary partnership such that the development process of the Mixed Use Project will explore, pilot and innovate sustainable practices from conceptual design through full occupancy ("Voluntary Sustainability Partnership"). The purpose of this Voluntary Sustainability Partnership is to create replicable best practices that will be shared by the Town and CHR, to the benefit of the Town, CHR, and the larger community. Both parties envision a time commitment of at least 4 to 5 meetings with the Town's Sustainability Office and CHR. Goals and potential benefits of the Voluntary Sustainability Partnership to be discussed include:

    a) Reducing building electrical and thermal energy demand and consumption, and greenhouse gas emissions, by implementing cost-effective design alternatives early, before the end of design development, when changes are still feasible.
    b) Fostering an integrated, iterative and collaborative development process, to the benefit of all parties, furthering their sustainability goals and outcomes.
    c) Designing the Mixed Use Project, including future facility operations, such that by 2050, 100% of the operational energy use associated with the Mixed Use Project will be offset by new on- or off-site renewable energy.
    d) The goal that the Mixed Use Project will not rely on fossil fuels by 2050.

10. Voluntary Special Permit Conditions: CHR hereby acknowledges that the following conditions of the Special Permits for the Mixed Use Project shall be acceptable to

CHR and shall not be grounds for objection to the Special Permits granted by the Brookline Zoning Board of Appeals (Board of Appeals):

a) The approved Special Permit plans are titled _____, and dated _____. Related to these plans, the following use restrictions are noted:

i. The required 1,200 sq. ft. minimum retail or restaurant space on Pleasant Street shall be open to the general public without requiring a membership fee, so long as economically viable ("Pleasant Street Retail Area"). If this Pleasant Street Retail Area, or any portion thereof, remains vacant and not under agreement for more than a year, the space shall be made available to the Town of Brookline for an art gallery or other Town use approved in advance by CHR with a short-term Use and Occupancy Agreement not to exceed six (6) months, at a maximum fee to cover the property taxes, insurance, and utilities.

ii. The Residential Project does not include more than 132 Market-Rate Units (hereinafter defined as units that are not Affordable Units as defined by Section 4.08 of the Zoning By-Law).

iii. The duration of overnight occupancy of the hotel rooms to individual hotel patrons shall not exceed ninety (90) consecutive days as to each hotel room.

iv. Meeting space in the Hotel Building will be made available to the Town and Brookline community non-profits upon a cost reimbursement basis including payment of related custodial fees, as scheduling permits. In addition to other arrangements mutually agreed to, the manager of the hotel building shall accommodate a minimum of 6 times per year reservation requests by Brookline community non-profits made more than six (6) weeks in advance.

v. For all users of the Mixed Use Project, parking fees must be separate (unbundled) from any rental, lease, sale, employment, contract, or other arrangement that permits a user to occupy the building.

vi. Conversion of the parking area(s) to another use will require modification to the Special Permit(s).

vii. In addition to the one hundred and thirty two (132) Market Rate Units, eleven (11) residential units shall be provided on-site serving households earning up to 80% of area median income. In

compliance with Section 4.08(5)(b) of the Town's Zoning By-Law, these on-site units shall consist of six one-bedroom units and five two-bedroom units, all of which shall meet the requirements of Zoning By-Law Section 4.08 and shall follow the Department of Housing and Community Development Local Initiative Petition (LIP) Guidelines, and adhere to all requirements necessary to ensure that these 11 on-site units are included on the State's Subsidized Housing Inventory (SHI) and are permanently affordable.

b) CHR shall make a payment to the Town's Housing Trust Fund in the amount of $3,275,000 for the buy-out of ten (10) of the twenty-one (21) required on-site affordable units (the "Partial Buy-Out"). Per Section 4.08 of the Town's Zoning By-Law, this obligation (minus the initial 25% payment if paid in advance) shall be secured via a recorded legal instrument or letter of credit satisfactory to the Community Development Division prior to issuance of a building permit for the Residential Building. Twenty-five percent (25%) of the Partial Buy-Out will be paid upon issuance of a non-appealable building permit for the Residential Building with the balance due prior to the issuance of the Certificate of Occupancy of the Residential Building. Early advances on the 75% final payment may be made on a mutually agreed upon basis between the Housing Advisory Board and CHR with incentives for early payments to be negotiated in good faith. Any unpaid balance 48 months following an appeal-free Special Permit shall accrue interest at an annual rate equal to the monthly 10-year U.S. Treasury rate.

As agreed to by the Housing Advisory Board on October 20, 2018, the Partial Buy-Out will serve as full compliance with the affordable housing requirements relating to Section 4.08(7)(c) of the Zoning Bylaw, subject to the following buy-out schedule:

Buy-Out for each Unit not provided on-site	Household Income 100% of Area Median	Household Income 80% of Area Median
1 Bedroom	Four units @ $300,000 per unit ea. = $1,200,000	Two units @ $325,000 per unit ea. = $650,000
2 Bedroom	Three units @ $350,000 per unit ea. = $1,050,000	One unit @ $375,000 per unit ea. = 375,000

Other than the above Partial Buy-Out provision, the proposed development shall be required to comply with all other provisions of Section 4.08 of the Zoning By-Law (Inclusionary Zoning).

c) All illuminated exterior signage shall be designed and installed with the ability to be automatically dimmed after midnight.

d) Unless demolition is ordered by the Building Commissioner of any of the existing structures CHR shall not commence demolition of any existing structure at the Site, until a building permit for either the Garage, the Hotel or Residential Building has been applied for and evidence has been submitted by CHR on a confidential basis to the Planning and Community Development Director and Town Counsel for each phase of the Mixed Use Project, that shows that financing is, or will be in place for that phase of construction for which the application is pending. Notwithstanding the foregoing, building permit(s) for the Residential Building will not be issued until evidence of financing for the Hotel Building is provided to the Town.

e) CHR supports the 2018 Brookline Climate Action Plan goal to prioritize planning to achieve zero emissions by 2050 (no reliance on fossil fuels) Town and community-wide. Taking this goal into account, prior to issuing a Building Permit, CHR shall provide evidence to the Building Commissioner that the following sustainable design strategies have been incorporated into the Mixed Use Project:

   i. That the Mixed Use Project is LEED Silver Certifiable; Energy Use Intensity ("EUI") building efficiency target ranges that are more efficient than otherwise required by the applicable State Building Codes at the time of the building permit application, and any locally adopted Stretch Energy Code in effect as of the date of this Agreement; and documenting the economic viability of all electric HVAC systems including Variable Refrigerant Flow and Water Sourced Heat Pumps potentially coupled with ground source heating through wells.
   ii. That the Mixed Use Project has been developed to incorporate, to the extent economically feasible as determined by CHR, best practices identified during the Voluntary Sustainability Partnership's iterative design process.

f) Two (2) years from the date of the last Certificate of Occupancy for the Mixed Use Project is issued CHR shall provide a letter from a qualified

licensed professional to the Building Commissioner that reports the EUI for the Mixed Use Project.

g) Unless otherwise agreed to by Preservation Staff prior to the issuance of a demolition or other building permit, the applicant shall provide historic documentation of the Durgin Garage at 10-18 Pleasant Street to Brookline Preservation staff. Issuance of the demolition permit shall be evidence that this condition has been satisfied.

i. This documentation shall include:

1. background information: the historic and common names of the property, documentation of date of construction, complete stylistic and/or architectural description of the resource including documentation of changes that have occurred over time, description of architectural and/or associative significance using reliable sources, contextual information that equates the significance of the property, original and current function, ownership/occupancy history, and the name and biographical information of architect and/or builder.

2. drawings, maps, and historic images: site plan showing footprint of the subject resource and surrounding buildings; sketch floor plans of existing conditions of all levels of each building, or copies of original plans if available (8 ½ x 11 format or digital format); if available, clear copies of historic photographs; USGS quad/topo map indicating location of property with UTM's;

3. photographs of: overall site showing context and setting; each exterior elevation of subject property; detail images of significant character-defining features, such as windows, doors, eave details, porches, balconies, etc.; general views of all significant interior spaces; detail images of significant structural details if building is of a rare construction method (i.e. post and beam, balloon framing, mortise and tenon joinery, etc.). All photos must be identified with a list of the photographs indicating property name, address (city, county), date of photograph(s), and view; unmounted.

ii. All non-photographic documentation shall be submitted in 8 ½ x 11 format and printed on archivally stable paper (25% cotton bond or better) and provided in digital format (min 300dpi).

iii. All photographic documentation shall be provided in 5x7 or 8x10 format using archival quality (hand-processed and/or printed on Fiber-based paper or Resin-coated paper which has been washed with a hypo-clearing or neutralizing agent) paper meeting a 75 year standard, and provided in digital format (min 300 dpi).

h) To ensure compliance with the Town's Transportation Demand Management Policy, the property owner shall be subject to traffic monitoring and annual reporting to the Town of Brookline, including the following features: (i) No later than thirty (30) days prior to the anticipated issuance of a building permit for the Proposed Project, a TDM plan shall be submitted to the Town, for review and approval by the Director of Engineering & Transportation and the Planning and Community Development Director (or designee); (ii) In connection with preparation of the TDM plan, CHR shall provide information as to its existing policies relating to employee transportation then in effect, and the mode use resulting from such existing policies; (iii) In connection with preparation of the TDM plan, CHR shall propose vehicular mode share goals for each user type; (iv) An annual monitoring and reporting program will commence after receipt of the final Certificate of Occupancy for the Mixed Use Project. If the final Certificate of Occupancy for the Mixed Use Project is issued between September 1 and February 29, the monitoring will take place during the months of September or October and a report provided to the Town no later than November 30. If the final Certificate of Occupancy for the Mixed Use Project is issued between March 1 and August 31, monitoring will take place during the months of April or May and be reported to the Town no later than June 30; (v) The monitoring program will be based on traffic counts and employee surveys as to vehicle, transit, pedestrian, and bicycle usage to the Mixed Use Project. The monitoring program will provide detailed information on the travel modes to work and overall transportation characteristics by type of traveler (employee, visitor, etc.). The survey instrument to be used for mode share monitoring will be provided to the Director of Engineering & Transportation for approval prior to conducting the survey. The employee survey (which may be conducted through electronic means) will be sent out to all employees, with a goal of securing a 60 percent minimum response rate. A hotel guest/visitor survey shall be conducted during normal business hours, with a goal of securing at least 200 hotel guest/visitor surveys. Notwithstanding the foregoing, any annual monitoring requirements shall apply only to non-residential uses.

i) In the event the employee vehicular mode share is greater than the target vehicular modes in the TDM plan, then the TDM plan shall be modified to incorporate any reasonable requests of the Director of Engineering &

Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the Annual Report shall be deemed acceptance of the Annual Report and the existing provisions of the TDM plan. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination, and during such process the applicant will not be considered out of compliance with Section 5.09.3.c.6.d of the Zoning By-law. Following the issuance (or deemed issuance) of the foregoing determination, the Building Department shall use its best efforts to issue the annual permit for the Transportation Access Plan Agreement (TAPA) under Section 5.09.3.c.6.d of the Zoning By-law with appropriate due diligence.

j) The Project shall contain 14 underground parking spaces which shall be made available for commercial merchant parking during the day at a reduction of at least twenty percent (20%) from the prevailing market rate for all-day garaged parking and to Brookline residents for evening and overnight parking at a reduction of at least fifteen percent (15%) from the rate paid by the tenants in the Residential Building. In addition to these spaces, up to 33 underground parking spaces may be rented to users of abutting properties. Following the first annual TAPA permit, including a positive recommendation by the Transportation Division, additional spaces may be rented to offsite users.

k) A Certificate of Occupancy for the Residential Building shall not be issued until the Hotel Building is weather-tight.

11. Additional Voluntary Special Permit Conditions: CHR hereby acknowledges that the following additional conditions of the Special Permits for the Mixed Use Project shall be acceptable to CHR and shall not be grounds for objection to the Special Permits granted by the Board of Appeals, as long as the following conditions are only required if any and all Town approvals are received for CHR to provide a Public Area Easement on private property and to make improvements on public property and public rights-of-way:

a) On-site and off-site pedestrian and landscaping improvements equivalent to those shown and diagrammed on Exhibit E;

b) Additional pedestrian, bicycle, and traffic infrastructure mitigation may be required subject to further study and analysis during the Major Impact Project review process. Such mitigation is anticipated by CHR to include the following: (i) providing a space on private property for a shared bicycle share station; (ii) funding such shared bicycle station for two years;

(iii) providing 25% level concept plans for expanding the sidewalk on the east side of Harvard Street from Beacon to Green Streets; (iv) providing 25% level concept plans for bike lanes on John Street between Babcock and Pleasant Streets.

c) Prior to issuance of a building permit CHR shall enter into a Memorandum of Understanding with Revocable License with the Town, which will grant CHR a license to: (i) install a landscaping irrigation system and landscaped area at the Coolidge Corner Branch of the Public Library on Pleasant Street as proposed on Exhibit F, and (ii) remove the 14 parking meters and hardscape at the municipal parking lot on the corner of John and Green Streets and provide landscaping and irrigation in order to create a small park as proposed on Exhibit G. If preferred by the Director of Public Works, a payment to the Town equivalent to the work at the Library and John/Green Street municipal lot may be paid to the Town in lieu of this work, currently estimated by CHR at $300,000.

d) Concurrent with the issuance of the Certificate of Occupancy, CHR shall provide a permanent Public Area Easement to the Town totaling approximately 1,000 +/- square feet in the location on the Property as generally depicted on Exhibit H with terms and conditions that retain reasonable site control for CHR.

12. Access Agreement:

a) No later than 60 days prior to applying for the Special Permit(s) for the Mixed Use Project and using best efforts, CHR shall offer an Access Agreement with the existing tenant of 279 Harvard Street subject to terms and conditions agreed to by CHR and the Brookline Booksmith or other similar commercial bookstore tenant operating its business at 279 Harvard Street (the "Adjacent Tenant") in order to facilitate a connection to the proposed Hotel Building from and through this commercial property that permits the Adjacent Tenant to utilize the connection for its customers and also to provide access for the hotel guests through the Bookstore to Harvard Street ("Hotel and Bookstore Access"). If an Access Agreement is signed by all required parties to pursue the Hotel and Bookstore Access, then plans submitted as part of the Special Permit shall reflect this Hotel and Bookstore Access.

b) It is understood that the Adjacent Tenant shall be required to get any necessary approvals from the Landlord/Owner of 279 Harvard Street or any of its mortgagee(s) as may be required to utilize or accept the Access Agreement. CHR agrees to include a mutual cooperation clause in the Access Agreement requiring that CHR and the Adjacent Tenant shall at all times cooperate in good faith with respect to both the development of the

Mixed Use Project; and in obtaining all permits or other approvals necessary to utilize the Hotel and Bookstore Access, including, but not limited to, a special permit for use of a common entrance or exit.

c) Any Access Agreement shall be registered at the Registry of Deeds for both properties and shall take effect at the time of a Certificate of Occupancy for the Hotel Project, and remain in place for a minimum of two years from Certificate of Occupancy.

d) After using reasonable efforts to provide the Adjacent Tenant and Owner with a mutually agreeable Hotel and Bookstore Access Agreement, CHR shall have no further obligation to provide such access.

13. Goals for Sustainable Facility Operations:

a) CHR is committed to exploring ways to increase its percentage of renewable energy for the Residential Building common areas electricity use by any of the following: (i) incrementally purchasing additional renewable energy, in order to try to achieve 100% renewable electricity by 2050; (ii) at the time of renewing electricity contracts, CHR will consider matching the Town's percentage and quality of renewable electricity used for its municipal facilities; or (iii) considering phasing in by 2050 renewable energy generation (including power purchase agreements).

b) As part of CHR's selection of an appropriate hotel operator for the Hotel Building, CHR will in good faith work to recruit and identify an operator willing to integrate sustainable practices in their facility and business operations.

14. Undertakings of the Town:

On April 23rd, 2019 the Select Board voted favorable action on the Proposed Zoning Amendment, 95-year Tax Certainty Agreement and a Warrant Article related to the general authorization for this Memorandum of Agreement subject to the terms and conditions of this Agreement and shall convey its votes and favorable report to the Advisory Committee and in the Combined Reports which shall be delivered to all Town Meeting Members. The Select Board shall support and undertake action necessary to obtain the approval of the Attorney General of The Commonwealth of Massachusetts of the Proposed Zoning Amendment by Town Meeting. The Select Board shall also, to the extent appropriate, cooperate with CHR and shall encourage Town staff to cooperate with CHR in reviewing in a timely and expeditious manner any required permits and approvals for the Project. The Select Board or its designee shall also file a Warrant Article for consideration at a future Town Meeting in order for the Board to accept the Public Area Easement offered by CHR.

As part of the Voluntary Sustainability Partnership, if the Residential or Hotel Building is the first in Brookline to receive any certification from the International Living Future Institute (ILFI), the Select Board and the Town's Sustainability Office will: (i) in good faith, work to identify funding to reimburse CHR for any registration, audit/certification costs paid to ILFI and their independent auditors, up to $20,000; and (ii) host a community ceremony to recognize CHR's leadership and extraordinary accomplishment in sustainability.

15. Miscellaneous:

a) It is the intent of the Parties that the obligations in this Agreement shall run with the land comprising the Mixed Use Project and be binding upon and inure to the benefit and burden of CHR and its mortgage lenders and their heirs, successors and assigns during their respective periods of ownership of and/or interests in the Mixed Use Project and its components and shall survive any transfer of the Property or any portion thereof. CHR agrees to provide a copy of this Agreement to any transferee of the Property or any portion thereof.

b) Each of the Parties signing below hereby represents and warrants that it is authorized to enter into this Agreement and execute the same on behalf of, and to bind legally, such Party.

c) All notices or requests required or permitted hereunder shall be in writing and addressed, if to the Town as follows:

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

with a copy to:

Town Counsel
Office of Town Counsel
333 Washington Street
Brookline, MA 02445

If to CHR addressed as follows:

Ed Zuker, President
Chestnut Hill Realty Corp., Inc.
300 Independence Drive
Chestnut Hill, MA 02467

And a copy to:

Jennifer Dopazo Gilbert, Esq.
Law Office of Robert L. Allen, LLP
300 Washington Street
Brookline, MA 02445

Each of the Parties shall have the right by notice to the other to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if mailed to such address postage prepaid, registered or certified mail, return receipt requested, on the date the same is received or when delivery is refused, or if delivered to such address by hand or by nationally recognized overnight courier service, fees prepaid, when delivery is received or when delivery is refused, or if transmitted by facsimile or other electronic means with confirmatory original by one of the other methods of delivery herein described, on the date so transmitted by facsimile or other electronic means. If and to the extent that either of the Parties is prevented from performing its obligations hereunder by an event of force majeure, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the Parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof to confer the benefits to each respective party as contemplated by this Agreement. For purposes of this Agreement, the term force majeure shall mean any cause beyond the reasonable control of the affected party, including without limitation: acts of God, fire, earthquake, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation, strikes, lockouts; actions of labor unions; condemnation, laws or orders of governmental or military authorities, requirement of statute or regulation, action of any court, regulatory authority, or public authority having jurisdiction; or any other cause similar to the foregoing, not within the reasonable control of such party obligated to perform such obligation. With respect to any particular obligation of CHR only, the term force majeure shall include the denial of, refusal to grant or appeals of any permit or approval of any public or quasi-public authority related to Town Meeting Approval Conditions and Special Permit and Other Required Approvals, official, agency or subdivision and any litigation brought by a third party relating to such particular obligation.

d) Failure by CHR to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until CHR fails to commence to cure, correct or remedy such failure within sixty (60) days of the receipt of written notice of such failure from the Town to CHR and thereafter fails to complete such cure, correction or remedy within ninety (90) days of receipt of such written notice or, with respect to defaults which cannot reasonably be cured, corrected or remedied within such ninety (90) day period, within such additional period of time as is reasonably required to remedy such default, provided CHR exercises due diligence in the remedying of such default and notifies the Town of the steps being taken to remedy the default.

e) The Parties agree that time is of the essence with respect to the obligations of the Parties as set forth herein. Subject to market conditions and financing availability, CHR agrees to use best efforts to diligently apply for the necessary special permits and then expeditiously as possible after the issuance of the Special Permit(s) for the Mixed Use Project to apply for all necessary building permit(s) and to diligently commence work on the Mixed Use Project subject to the terms herein. The Town agrees to request an expedited determination from the Office of the Attorney General with respect to any Proposed Zoning Amendment.

f) The obligations of CHR do not constitute the personal obligations of CHR's employees, directors or officers and the Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. In no event shall CHR be liable for any incidental, indirect, punitive or special or consequential damages.

g) Each Party agrees from time to time, upon not less than ten (10) days' prior written request from the other, to execute and deliver a statement in writing certifying that this Agreement is in full force and effect (or if there have been any modifications, setting them forth in reasonable detail), and that there are no uncured defaults of either Party under this Agreement (or, if not, specifying the respects in which the requesting party is not in compliance in reasonable detail), in form reasonably acceptable to and which may be relied upon by any prospective purchaser, tenant, mortgagee or other party having an interest in the Property and any component of the Mixed Use Project. Upon full performance by CHR of its obligations hereunder, the Town, at CHR's request shall issue a statement in a form appropriate for recording with the Norfolk County Registry of Deeds and filing with the Norfolk Registry District stating that all of the terms of this Agreement have been satisfied.

h) Whenever the consent or approval of any party is required under this Agreement, such consent or approval shall not unreasonably be withheld, delayed or conditioned.

i) This Agreement shall be deemed to have been executed within the Commonwealth of Massachusetts and the rights and obligations of the Parties shall be governed by Massachusetts law. Any action to enforce the terms of this Agreement shall be brought in Norfolk County Superior Court.

j) If any provision of this Agreement or the application of such provision to any person or circumstances shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of the provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected and shall be valid and enforceable to the fullest extent.

k) This Agreement and the accompanying 95-year Tax Certainty Agreement set forth the entire agreement of the Parties with respect to the subject matter thereto. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This Agreement may be modified only in a written instrument signed by the Select Board and CHR. The Parties do not intend for any third party to be benefited hereby.

l) This Agreement and the accompanying 95-year Tax Certainty Agreement shall be deemed null and void and of no force and effect if Town Meeting Approval Conditions are not met.

(The Remainder of this Page is Intentionally Left Blank – Signature Pages follow)

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date first written above.

CHR Pleasant, LLC

By_____

Peter Poras, Treasurer

Duly Authorized on behalf of

CM-WS Corp. its Manager

Dated: 4/18/19

Town of Brookline Select Board

Dated: 4/23/19

Waldo Street, LLC,

By_____ Dated: 4/18/19

Peter Poras, Treasurer

Duly Authorized on behalf of CM-WS Corp. its Manager

16 John Street Realty Trust,

By_____ Dated: 4/18/19

Peter Poras, Treasurer of CM-WS Corp., Trustee of the

16 John Street Realty Trust

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this 18 day of April, 2019, personally appeared the above named Peter Poras, and provided identification in the form of personally known, and who executed the foregoing as his free act and deed as Treasurer of the CM-WS Corp. the Manager of CHR Pleasant, LLC.

Notary Public
My Commission Expires:

AMELIA IRENE CAROL ANN LOPEZ
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires On
May 16, 2025

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this 18 day of April, 2019, personally appeared the above named Peter Poras, and provided identification in the form of personally known, and who executed the foregoing as his free act and deed as Treasurer of the CM-WS Corp. the Manager of Waldo Street, LLC.

Notary Public
My Commission Expires:

AMELIA IRENE CAROL ANN LOPEZ
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires On
May 16, 2025

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

I hereby certify that on this 18 day of April, 2019, personally appeared the above named Peter Poras, and provided identification in the form of personally known, and who executed the foregoing as his free act and deed as Treasurer of CM-WS Corp. the Trustee of 16 John Street Realty Trust.

Notary Public
My Commission Expires:

AMELIA IRENE CAROL ANN LOPEZ
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires On
May 16, 2025

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

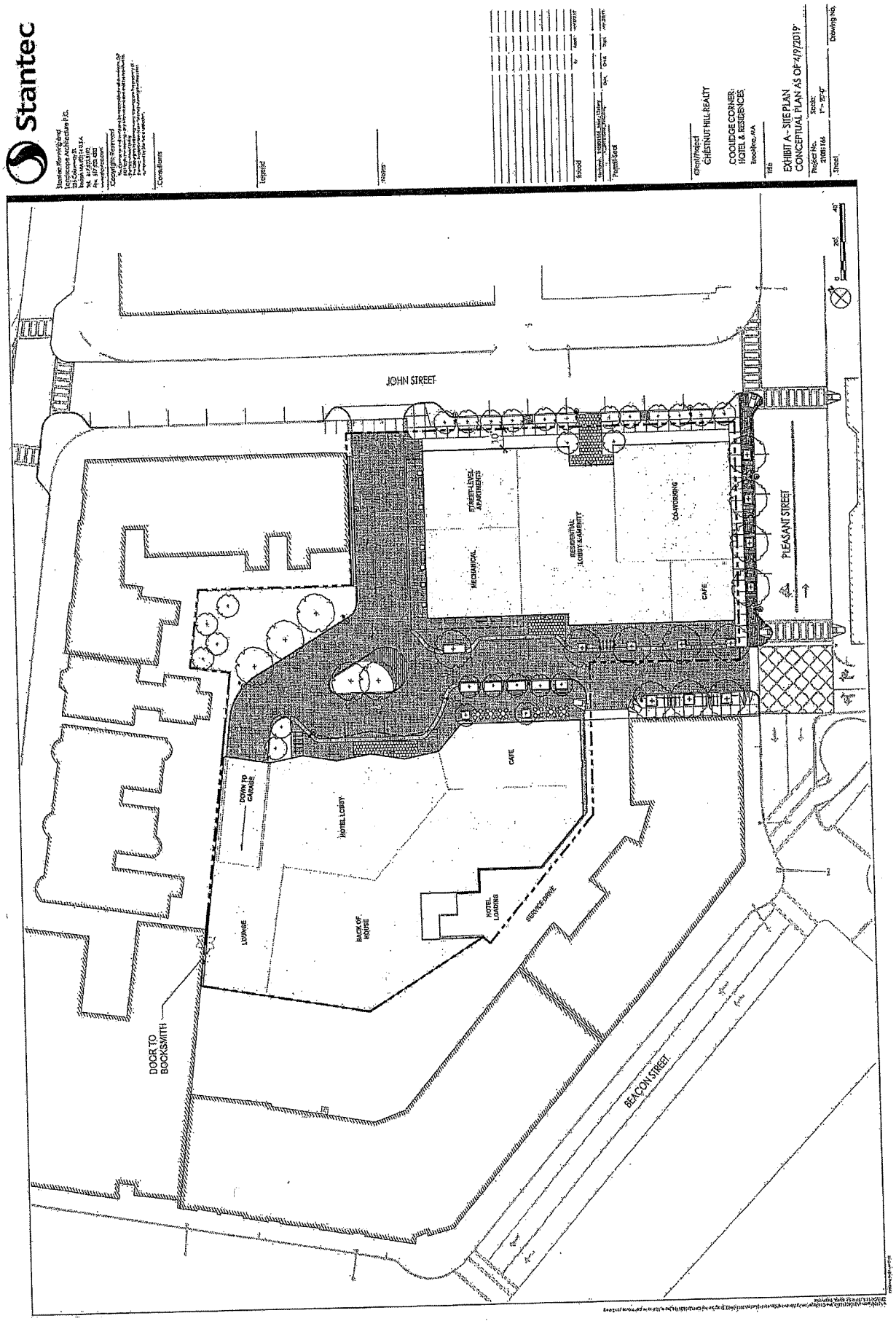
I hereby certify that on this 23 day of April, 2019, personally appeared the above named Neil Wishinsky, Benjamin Franco, Nancy Heller, Bernard Greene, and Heather Hamilton, personally known to me and who executed the foregoing as their free act and deed as members of the Select Board of the Town of Brookline acting on behalf of the Town of Brookline.

Witness our hands and seals at Norfolk County, Brookline, Massachusetts, this 23 of April, 2019.

KATE MACGILLIVRAY
Notary Public, Commonwealth of Massachusetts
My Commission Expires August 08, 2025

Kate MacGillivray
Notary Public
My Commission Expires:

EXHIBIT A


Stantec
EXHIBIT A - SITE PLAN
CONCEPTUAL PLAN AS OF 4/9/2019
COOLIDGE CORNER:
HOTEL & RESIDENCES
CHESTNUT HILL REALTY
JOHN STREET
PLEASANT STREET
BEACON STREET
DOOR TO BOOKSMITH
DOWN TO GARAGE
HOTEL LOBBY
LOUNGE
BACK OF HOUSE
HOTEL LOADING
SERVICE DRIVE
CAFE
MECHANICAL
RESIDENTIAL LOBBY & AMENITY
STREET-LEVEL APARTMENTS
CONDOMINIUMS

160'
125'
CambridgeSeven
Stantec
CONCEPTUAL MASSING AS OF 4/9/19

Coolidge Corner - Mixed Use
Chestnut Hill Realty Group
4 February 2019

Program Summary

Site Area	**61,000 SF**

HOTEL	
Guestroom Floors	116,300 GSF
210 Keys	
Circulation & BOH	
Public Spaces	6,500 GSF
Reception	
Seating	
Restrooms	
Bookstore Connection	
Food & Beverage	5,000 GSF
Café	
Kitchen	
Food Storage	
Meeting Rooms	3,000 GSF
Recreation	3,500 GSF
Pool	
Fitness	
Administrative Offices	2,300 GSF
BOH	8,200 GSF
MEP	
Offices	
Employee Spaces	
Housekeeping	
Storage	
TOTAL HOTEL	**144,800 GSF**

RESIDENTIAL	
Residential Floors	179,100 GSF
143 Apartments	
Circulation & Support	
Ground Floor Apartments	2,300 GSF
Lobby	4,200 GSF
Co-Working Space	8,300 GSF
Café	1,000 GSF
Amenity	7,000 GSF
BOH & MEP	3,100 GSF
TOTAL RESIDENTIAL	**205,000 GSF**
TOTAL	**349,800 GSF**

PARKING	**115,000 GSF**
Hotel .35 car / Key x 201 Keys	74 cars
Resi 1.1 car / Unit x 143 Units	158 cars
John St. Condos	23 cars
Alley Parking Replacement	10 cars
Pocket Park	14 cars
Co-Working Space	10 cars
TOTAL	**289 cars**

CambridgeSeven
1050 Massachusetts Avenue
Cambridge, MA 02138

EXHIBIT B

EXHIBIT B (3 pages)

Tract One – 16 John Street, Brookline, MA

The land, with the buildings thereon, situated on John Street in Brookline bounded and measured s follows:

NORTHEASTERLY:	by said John Street, Sixty-five (65) feet;
SOUTHEASTERNLY:	by land of John G. Stearns et al, One hundred twenty-three and 56/100 (123.56) feet;
SOUTHWESTERLY:	on the Northeasterly line of Waldo Street so called, Thirty-six and 17/100 (36.17) feet;
SOUTHWESTERLY:	again but a little more Westerly on land formerly of John G. Stearns et al, Twenty-seven and 80/100 (27.80) feet; and
NORTHWESTERLY:	on other land formerly of John G. Stearns et al, One Hundred nineteen and 12/100 (119.12) feet.

Containing 7873 square feet of land and being the parcel shown enclosed in red lines on a "Plan of land in Brookline" by Aspinwall and Lincoln, Civil Engineers, dated March 9, 1895.

Tract Two – 8-10 Waldo Street, Brookline, MA

Two certain parcels of land with the buildings thereon situated in Brookline, Norfolk County, Massachusetts, bounded and described as follows:

PARCEL I

NORTHEASTERLY	by Waldo Street, one hundred and one and 96/100 (101.96) feet;
SOUTHEASTERLY	by a twenty (20) foot passageway, shown as Lot C on a plan hereinafter mentioned by two lines measuring fifty and 19/100 (50.19) feet, and eighty-eight and 03/100 (88.03) feet, each respectively;
SOUTHWESTERLY	five (5) feet;
SOUTHERLY	seventy and 35/100 (70.35) feet; and
SOUTHWESTERLY	ninety-two and 03/100 (92.03) feet, by land of Trustees of Tufts College, as shown on said plan;
NORTHWESTERLY	by land now or formerly of Eisenburg et al Trustees and land now or formerly of Helpern Procter & Lowenstein, as shown on said plan, by two lines measuring thirty and 20/100 (30.20) feet and one hundred thirty-four and 96/100 (134.96) feet, each respectively;
NORTHEASTERLY	by Lot A, as shown on said plan, being the second parcel hereinafter described by two lines measuring sixty-seven and 85/100 (67.85) feet and twenty-seven and 16/100 (27.16) feet, each respectively;
SOUTHEASTERLY	by the end line of Waldo Street, as shown on said plan, fifteen and 03/100 (15.03) feet;

Containing 27,215 square feet of land and being shown as Lot B on a plan entitled "Plan of Land in Brookline, Mass." drawn by Everett M. Brooks Co., Civil Engineers, dated June 29, 1950 and recorded in Norfolk County Registry of Deeds at Book 3452, Page 470.

PARCEL II

SOUTHEASTERLY	by the end line of Waldo Street, fourteen and 98/100 (14.98) feet;
SOUTHWESTERLY	by Lot B and land of Lowenstein, as shown on a plan hereinafter mentioned, being the first parcel hereinafter described by two lines measuring twenty-seven and 16/100 feet and eighty-nine and 58/100 (89.58) feet, each respectively;
NORTHWESTERLY	by Lot 5, as indicated on said plan, forty-one and 18/100 (41.18) feet;
NORTHEASTERLY	by Lots 3, 2 and 1 as indicated on said plan eighty-two and 36/100 (82.36) feet;
SOUTHEASTERLY	by land now or formerly of Kemp, as shown on said plan, thirty-nine and 12/100 (39.12) feet;
NORTHEASTERLY	by land now or formerly of said Kemp, as shown on said plan, twenty-seven and 80/100 (27.80) feet;

Said parcel being shown as Lot A on plan hereinabove mentioned and containing 4,474 square feet of land.

Together with right to use Waldo Street as recited in deed dated March 1, 1913, recorded in Book 1241, Page 499 and deed dated July 1, 1914, recorded in Book 1285, Page 11 and as shown on plan in Book 1241, Page 499.

Together with passageway rights as shown on plan in Book 1546, Page 112 and recited in deed dated November 27, 1939, recorded in Book 2258, Page 331.

Together with the rights to use the 20 foot passageway (Lot C) shown on plan recorded in Book 1241, Page 499 and recited in deed in Book 1241, Page 499.

Together with any and all rights in and to passageways, including but not limited to, rights to use passageways.

PARCEL III – Waldo Street

Also including that portion of Waldo Street, owned by Optionor , subject to the passageway rights of others in a portion thereof, insofar as in force and applicable.

Tract Three – 10-18 Pleasant Street, Brookline, MA

A certain parcel of land with the buildings thereon situated in Brookline, Norfolk County, bounded and described as follows:

SOUTHEASTERLY	by Pleasant Street, 125.68 feet;
NORTHEASTERLY	by John Street, 155 feet;
NORTHWESTERLY	by land now or formerly of Daniel H. Brewer, 123.56 feet; and
SOUTHWESTERLY	by Waldo Street, 155 feet.

Excepting therefrom, however, such portion thereof as is described in a release given by Arthur Russell to the Town of Brookline for the alteration and widening of Pleasant Street dated

November 14, 1926, recorded with the Norfolk County Registry of Deeds in Book 1725, Page 232, and shown on a plan entitled "Plan of Alteration and Widening of Pleasant Street Between Waldo Street and John Street Brookline, Mass.", dated November 15, 1926 and recorded with said Deeds in Book 1726, Page 637.

Said parcel is shown on a plan by Aspinwall and Lincoln, Civil Engineers, dated July 9, 1889 and recorded with said Deeds in Book 625, Page 205.

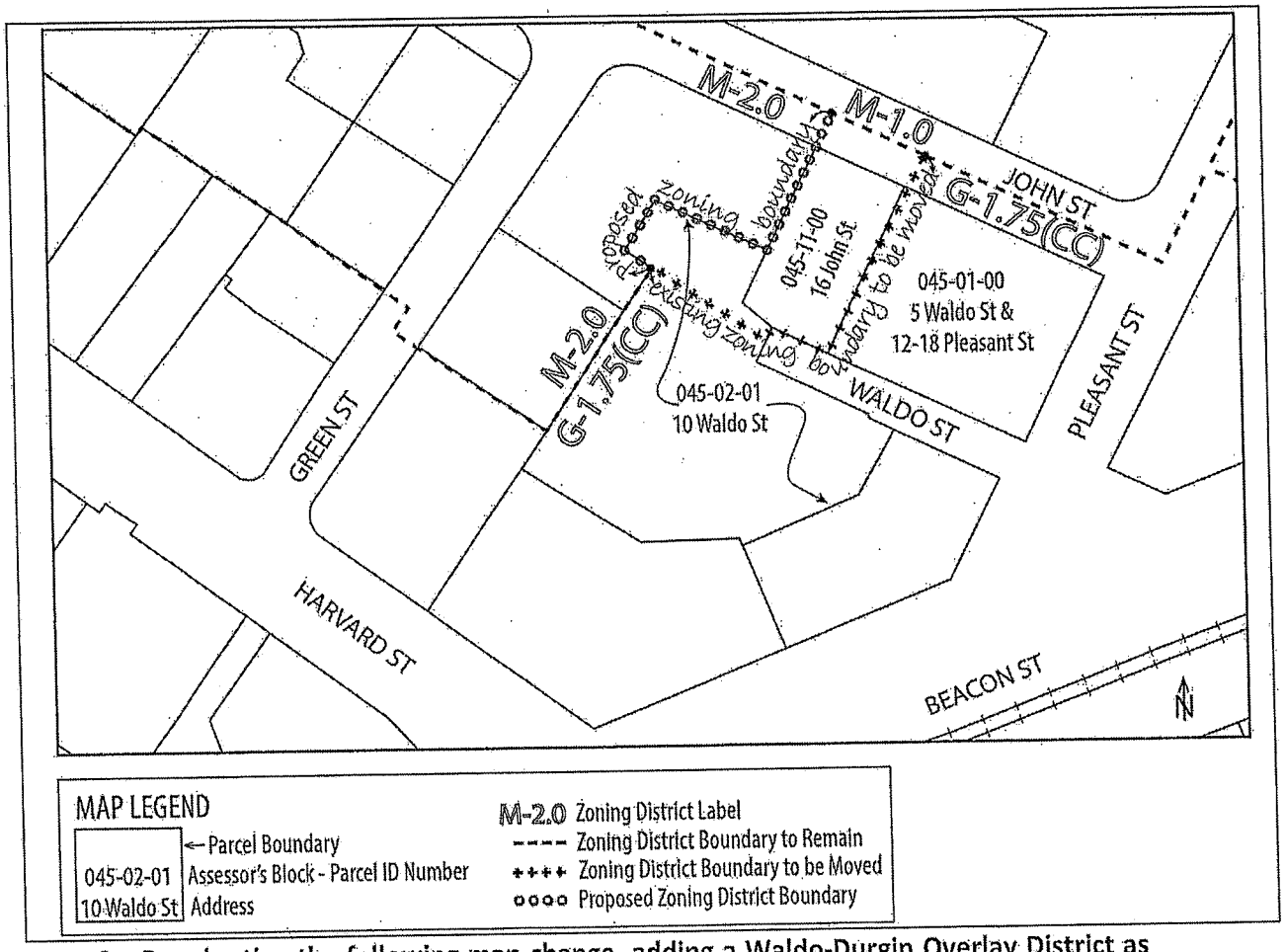
EXHIBIT C

ARTICLE 13

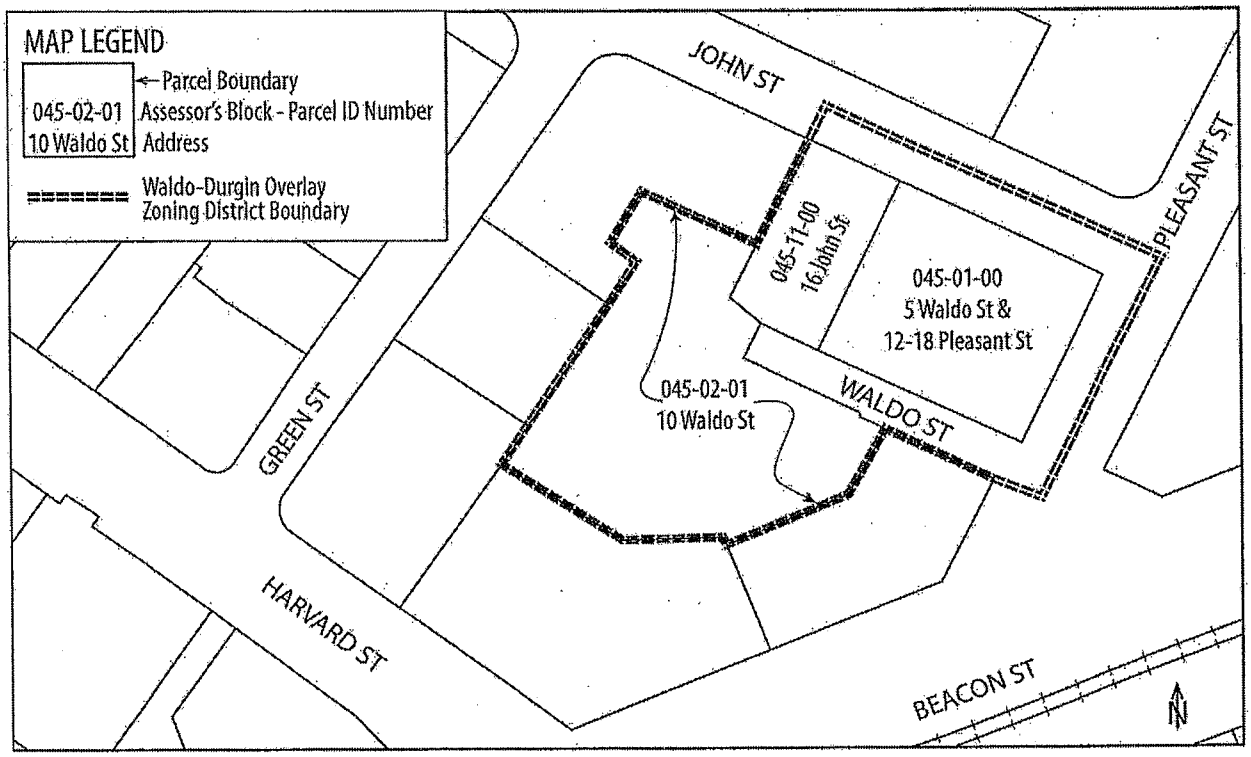
Submitted by: Neil Wishinsky on behalf of the Coolidge Corner Study Committee and other residents

To see if the Town will amend the Zoning By-Law and Zoning Map as follows:

1. **By adopting the following map change adjusting the boundary between the G-1.75(CC) and M-2.0 districts, such that the entirety of parcels with Tax Parcel Identifications 045-02-01 (10 Waldo Street, currently located in both districts) and 045-11-00 (16 John Street, currently located in the M-2.0 district) would both be fully located within the G-1.75(CC) district.**



2. **By adopting the following map change, adding a Waldo-Durgin Overlay District as shown below, including: parcels with Tax Parcel Identifications 045-02-01 (10 Waldo Street), 045-11-00 (16 John Street), and 045-01-00 (5 Waldo Street & 12-18 Pleasant Street); all of Waldo Street; and portions of John and Pleasant Street.**



3. **By amending Section 3.01.4 by adding a new item at the end:**

   "f. Waldo-Durgin Overlay District"

4. **By amending Section 4.07 – Table of Use Regulations – to allow for greater design flexibility for mixed-use buildings in the Waldo-Durgin Overlay District, by adding a sentence at the end of the description of Use 6 in the Use Table, underlined below:**

   Use 6, Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.

   *Compliance with §4.08 required if containing 6 or more dwelling units.

   Permitted by special permit in S-0.5P and S-0.75P Districts subject to §5.06.

   In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby space. Within the Waldo-Durgin Overlay District, the percentage of such frontage devoted to residential use may be increased by special permit in accordance with §5.06.4.k.

5. **By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 21 after the words "G-1.75" in the row for the G-1.75 District which Footnote 21 shall read as follows:**

   "21. See Section 5.06.4 – Special Districts, subsections b. Coolidge Corner General Business District G-1.75(CC) and k. Waldo-Durgin Overlay District with respect to uses and all dimensional requirements."

6. **By amending Section 5.06.4.b – Coolidge Corner General Business District G-1.75(CC) – by adding a new item at the end:**

   "6. For such applications within the Waldo-Durgin Overlay District, the Board of Appeals may grant by special permit an increase in gross floor area or height subject to the procedures, limitations, and conditions of §5.06.4.k."

7. **By amending Section 5.06.4 – Special Districts – by adding a new item as follows:**

   "k. Waldo-Durgin Overlay District

   1) It has been determined through study of the northeast block of Coolidge Corner that potential exists for careful, planned redevelopment. It has further been determined that, due to the circulation patterns as well as the adjacency of this area to cultural anchors, retail businesses, transit systems and residential neighborhoods, a mix of residential and commercial uses are appropriate. Significant improvements to the pedestrian realm, the provision of publicly accessible amenities for the neighborhood, sustainability improvements and the preference for parking infrastructure to be located underground are all reasons why additional density may be allowed by Special Permit under the criteria of this section.

   2) At any point prior to June 1, 2020, an applicant may seek relief by Special Permit under this Overlay District by completing the Design Review preapplication process as set forth in Section 5.09 (3)(a)(2) provided the proposed project includes the following requirements and limitations:

      a. Includes a minimum of 57,000 square feet of contiguous land

      b. Includes a Hotel component with at least 160 rooms.

   3) The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.

      a. The project must contain a minimum of 12% Open Space. For the purposes of this requirement, Open Space shall include parts of a Lot at ground level that meet one or more of the following criteria: contiguous landscaped areas that are at the least 200 square feet in size; and walkways open to the public that include planted containers, landscaped beds, and/or street trees.

b. Parking

i. All parking structures shall be located underground and shall be a maximum of 115,000 gross square feet in size.

ii. The number of parking spaces required per Article 6 of the Zoning By-Law may be reduced at the request of the applicant, following review of a parking study and favorable recommendation by the Planning Board.

iii. Parking Infrastructure Flexibility – To encourage the reduction of vehicle use over time, an applicant may seek a modification to any Special Permit granted under Section 5.06.4.k to both reduce the number of required spaces and convert the use from underground parking to other allowed uses, subject to all other provisions of the By-Law with respect to use, as long as updated traffic and parking studies demonstrate those parking spaces are no longer needed. Any such below ground space, whether or not it is habitable, shall be excluded from the maximum Floor Area Ratio calculations.

iv. Any fees charged for parking must be separate from any rental, lease, sale, employment, contract or other arrangement permitting a user to occupy the building.

c. The Gross Floor Area Ratio for a project permitted pursuant to this section shall not exceed 6.0.If a Special Permit application includes less than 86,250 square feet of underground parking infrastructure, then, in addition to the review processes described in Section 5.09 (Design Review) the applicant shall, prior to submitting a Special Permit application, request a public hearing with the Economic Development Advisory Board (EDAB) to review the financial feasibility of the project. Based on the information presented by the applicant and/or EDAB's consultant(s), if any, EDAB may make a recommendation to the Planning Board and Board of Appeals as to whether the Floor Area Ratio is justified.

d. The maximum building height may be 160' for portions of a building that are within 180' of Pleasant Street and 110' of John Street; otherwise, the maximum building height is 125'. These maximum building heights do not include rooftop structures such as elevator penthouses and mechanical equipment. Building heights shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of Pleasant Street at the edge of pavement opposite the midpoint of the Pleasant Street boundary of the Waldo-Durgin Overlay District .

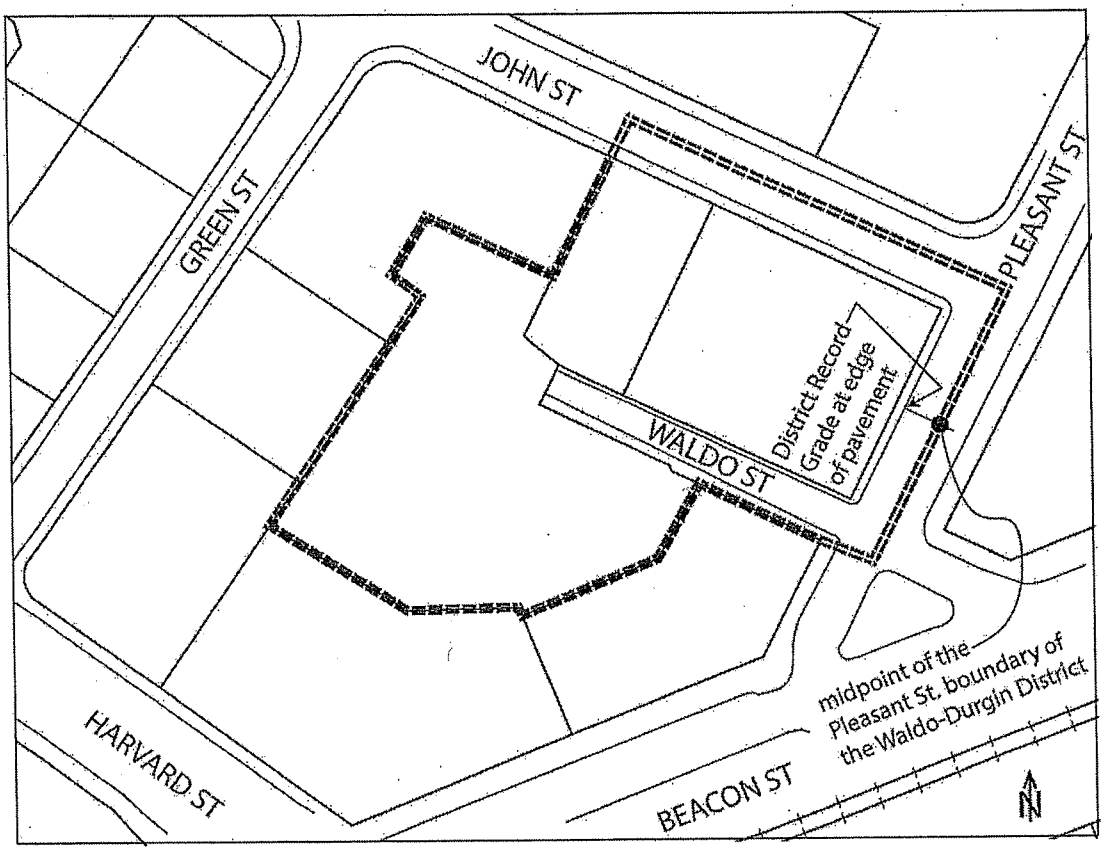


Figure 5.06.4.k.1 – Height of Building Measurements in the Waldo-Durgin Overlay District

e. The residential component of the project shall not include more than 132 units that do not meet the Affordable Unit definition in Section 4.08(2)(c) nor shall it contain more than 13 habitable, above-ground stories of primarily residential use.

f. The non-residential component of the project shall not contain more than 10 habitable, above-ground stories.

g. No rear yard is required. The above-ground portion of any building shall be setback at least 10' from the property line bordering John Street.

h. Use Flexibility

i. The ground floor use along the entire length of Pleasant Street may only include the following uses as defined and regulated in Section 4.07, Table of Use Regulations: entertainment and recreation facility (Use 16), certain retail uses (Uses 29, 33, 33A), restaurants (Uses 30 and 34), and office (Use 35). Additionally, the building use along Pleasant Street must include at least one retail (Use 29, 33, or 33A), or restaurant (Use 30 or 34) space that is at least 30' wide

along Pleasant Street and a minimum of 1,200 square feet in floor space.

ii. The ground floor of a residential building may have maximum frontage along a street that exceeds the 40% maximum in Use 6 in Section 4.07 - Table of Use Regulations, if the applicant adequately demonstrates that: (i) the location of residential and non-residential uses of the ground floor are appropriate given the transition between residential and commercial neighborhoods; and (ii) the average frontage for the first floor is no more than 75% residential.

iii. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential or hotel use without being considered an accessory use.

4) Any application including new structures that seeks relief under this Overlay District Special Permit shall:

a) be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading and passenger pick-up zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

i. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;

ii. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site; and

iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.

b) be deemed a Major Impact Project with respect to Section 5.09, Design Review.

c) include as a condition of the special permit a Transportation Access Plan Agreement ("TAPA") approved by the Director of Transportation that includes Transportation Demand Management ("TDM") programs and an annual report review process. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within 60 days after they issue their determination. Failure to issue such a determination within 60 days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination."

5) Allowing the additional density through the Special Permit contemplated by this Section has a potential benefit contemporaneous with its inclusion in the By-Law. However, planning objectives potentially achieved by this Section may not be met if substantial time elapses. Therefore, if upon closing the public hearing on a Special Permit under Section 5.06.4.k, the Board of Appeals finds: (a) more than two years has elapsed since the opening of the public hearing; and (b) the amount of elapsed time is, in the discretion of the Board, excessive and contravenes the planning objectives of Section 5.06.4.k, the Board may deny the request for a Waldo-Durgin Overlay District Special Permit.

8. By amending Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements – by adding a new footnote as follows:

"3. For the Waldo-Durgin Overlay Special District, parking requirements shall be the same as those districts with a maximum floor area ratio of 1.75, except as otherwise provided for in Section 5.06.4.k".

9. By amending Section 7.07 – Sign By-Law – Exceptions to the Above – by adding to Section 7.07.1 a new item at the end:

"e. The Board of Appeals may be special permit grant relief to the requirements of Section 7.01 for signage for the buildings in the Waldo-Durgin Overlay Special District subject, however, to compliance with the Design Review Procedures set forth in Section 7.08."

...or act upon anything else relative thereto.

EXHIBIT D

May 21, 2019 Annual Town Meeting
14-70

IN RE: the several parcels known as 8-10 Waldo Street (Parcel I.D. No. 045-02-01); 16 John Street (Parcel I.D. 045-11-00) and 10-18 Pleasant Street (Parcel I.D. No. 045-01-00)
BROOKLINE, MASSACHUSETTS
TAX CERTAINTY AGREEMENT

This Agreement between _ CHR Pleasant, LLC and Waldo Street, LLC, Massachusetts limited liability companies, with a principal place of business at Chestnut Hill Realty Corp., 300 Independence Drive, Chestnut Hill, MA 02467, and CM-WS Corp., Trustee of the 16 John Street Trust u/d/t, and their successors and assigns ("CHR") and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Select Board (the "Board"), is made and entered into this ___ day of _____, _____, upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

PREAMBLE

WHEREAS, the Town through its comprehensive plan seeks to encourage the redevelopment of underutilized, vacant and/or abandoned buildings and land in the Coolidge Corner area and to be assured that such redevelopment results in the improvements remaining as taxable properties within the Town to help protect the Town's existing property tax revenue; and

WHEREAS, CHR owns the several parcels of real property known as and numbered as 8-10 Waldo Street (Parcel I.D. No. 045-02-01); 16 John Street (Parcel I.D. 045-11-00) and 10-18 Pleasant Street (Parcel I.D. No. 045-01-00) (collectively hereinafter the "Premises"), the legal descriptions of which are attached hereto as Exhibit 1, which currently consists of a garage, vacant lot and commercial building; and

WHEREAS, CHR has proposed a mixed use development on the Premises including a modern Select-Service hotel and luxury residential building with underground parking (the "Project"); and

WHEREAS, the Town requires a public area easement of approximately 1,000 +/- square feet of land in order to connect the site from John Street through the Premises to Pleasant Street in the area which is more particularly shown on a sketch plan provided by the Town and attached hereto as Exhibit 2 (hereinafter the "the Public Easement"); and

WHEREAS, CHR requires a zoning amendment to construct the Project; and

WHEREAS, CHR acknowledges the value of the Public Easement to the Project; and

WHEREAS, CHR has stated to the Town that the Project is not likely to result in a loss of the Town's taxable property, and in order to assure that the Premises will pay taxes or the equivalent thereof in the future it has offered to enter into this Agreement; and

WHEREAS, the Town intends to file a Warrant Article for consideration by Town Meeting to accept the Pedestrian Easement and authorize the Board of Selectmen to execute and record the Pedestrian Easement from CHR on certain terms and conditions and upon the assurance that CHR would enter into an agreement binding upon its successors and assigns with respect to the future payment of taxes or the equivalent thereof; and

WHEREAS, the Town and CHR seek to confirm their shared commitment to keeping the Premises upon which the Project may be constructed as a taxable parcel notwithstanding that by virtue of its potential use, it may be exempt from the payment of real estate taxes as nontaxable real property under Massachusetts General Laws, Chapter 59, §5, Clause Third or other applicable exemption; and

WHEREAS, for the reasons stated above and pursuant to the terms of this Agreement, the Town and CHR have agreed that CHR and its successors and assigns in title to the Premises will make, during the term of this Agreement, as that term is explicitly defined below, voluntary payments to the Town in lieu of real estate and hotel room excise taxes in circumstances in which CHR or its successors and assigns in title would not otherwise be obligated to pay on the Premises to the Town under applicable law. Voluntary in-lieu of tax payments are in addition to other economic enhancements provided by CHR in developing the Premises as may be mutually agreed between the Town, acting through its Select Board, and CHR;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, CHR and the Town agree as follows:

1. **CHR Commitment to Voluntary Annual Payment to the Town**. This Agreement shall become effective on the date of its recording with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court as may be required ("the Effective Date"). Subsequently, commencing with the first fiscal tax year next following the first assessment date on which the Project has been constructed by CHR on the Premises and has received a final Certificate of Occupancy from the Town, in the fiscal years thereafter during which the Premises is being used for an Exempt Use or Uses, as hereinafter defined, and expiring ninety-five years from the Effective Date of this Agreement (the "Term"), CHR shall make a direct financial contribution to the Town (the "Annual Payment"), and the Town shall accept the Annual Payment in full satisfaction of CHR's obligations to make payments to the Town under this Agreement and/or applicable law (whether now in effect or, subject to Section 4, hereafter amended or adopted) on account of the Premises being used for an Exempt Use or Uses. During the Term, the Annual Payment shall be paid by CHR to the Town pursuant to this Agreement, consisting of the "Voluntary Real Estate Tax Payment" more particularly described in Section 2 below and the "Voluntary Hotel Room Tax Payment" more particularly described in Section 3 below. The assessment date shall mean January 1st or another date on which the Town Assessors by statute determine the value of real property for the next following fiscal year.

2. **Voluntary Payment in Lieu of Real Estate Tax to the Town.** The "Voluntary Real Estate Tax Payment" shall be paid to the Town by CHR and its successors-in-title pursuant to

this Agreement in quarterly installments on the date real property taxes are due and payable in the Town in each applicable fiscal tax year during the Term. The total Voluntary Payment shall be equal to the amount of real property taxes that would otherwise have been levied by and owed to the Town for all or any portion of the Premises were it not used for an Exempt Use or Uses and thus not exempt from real property taxes under applicable law in the relevant fiscal tax year. CHR shall have the right to contest the amount of the Voluntary Payment on the basis of over valuation or disproportionate valuation in comparison to similar properties, provided CHR shall before commencing legal action first use good faith efforts to mediate the issue of valuation with the Assessors. An Exempt Use or Uses shall mean those uses of real property that render such property eligible for exemption from real property taxation pursuant to Massachusetts General Laws Chapter 59, Section 5, Clause Third or other similar law, whether currently in existence or adopted during the Term of this Agreement. The Town shall provide CHR with a written statement of the amount due not less than thirty (30) days prior to the due date.

3. **Voluntary Payment in Lieu of Excise Taxes to the Town.** Currently, the Town of Brookline imposes an occupancy excise tax charged against hotel revenues in accordance with Massachusetts General Laws, Chapter 64G, Sections 3 and 3A. CHR agrees that in the event the Project no longer includes the hotel use subject to occupancy excise taxes, then pursuant to this Agreement, it and its successors-in-title, shall make a voluntary payment in lieu of excise taxes ("Voluntary Hotel Room Tax Payment") in quarterly installments on the date real property taxes are due and payable in the Town in each applicable fiscal tax year during the Term. If the hotel use is paying an occupancy excise tax for all hotel rooms in the Project at the time of the final Certificate of Occupancy ("Project Hotel Rooms") in accordance with Massachusetts General Laws, Chapter 64G, Sections 3 and 3A, then there will be no Voluntary Room Tax Payment owed to the Town. If, however, the hotel use is no longer subject to Massachusetts General Laws, Chapter 64G, Sections 3 and 3A, or if the hotel use changes to any other use not subject to local occupancy excise tax, CHR shall be obligated to make the Voluntary Room Tax Payment based upon the following formula:

a. (Audited Total Room Revenue of Premises) x (Local Option Hotel tax), or if hotel operations cease:

b. (REVPAR) x (Project Hotel Rooms) x (Local Option Hotel tax), where REVPAR, or Revenue Per Available Room, is the annual Boston Average for Limited Service Hotels, as reported by STR Analytics (formerly Smith Travel Research) or similar industry leader in reporting hotel performance metrics, and, if needed, updated by the Town's annual assessment date for the following fiscal year.

4. **Termination of Agreement.** The Town or CHR shall have the right to terminate this Agreement by, and effective upon, written notice of such termination delivered to the other in accordance with Section 9(a), in the event that, at any time after the Effective Date the federal or state laws, regulations, ordinances and/or other government requirements applicable to the payment by CHR of taxes, similar assessments or payments in lieu of such

taxes on the Premises used for an Exempt Use or Uses and/or any judicial or administrative interpretation of any of them (other than by the Town), change in any manner, the direct or indirect effect of which is to change the terms, conditions, and/or benefits of this Agreement in any way that is materially adverse to the Town or CHR, with the exception of a change that would have the effect of expanding the uses covered by the term Exempt Uses in this Agreement. This Agreement shall not in any manner whatsoever restrict the Town's exercise of its police power. Upon transfer of title of the Premises CHR's obligations under the Agreement shall automatically terminate and the successor owner of the Premises shall be bound by the terms of this Agreement in accordance with the Successor Affirmation set forth in Sections 8 and 9 of this Agreement.

5. **Period of Restrictions.** It is the intent of the parties that the restrictions set forth herein be imposed for a term of ninety-five (95) years from the Effective Date hereof, and CHR hereby agrees and acknowledges that the restrictions shall not be deemed to be "unlimited as to time" within the meaning of Massachusetts General Laws, Chapter 184, Section 23, and that prior to the expiration of the initial thirty (30) years and prior to the expiration of any subsequent renewal period, such restrictions may be renewed from time to time thereafter for additional periods not in excess of twenty (20) years each, in accordance with the provisions of Massachusetts General Laws, Chapter 184, Section 27 or any successor statute.

6. **Representations as to Authority**. *The Town's Authority.* The Town represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite municipal power and authority under the Town's Bylaws and under the laws of Massachusetts to execute, deliver, perform and be bound by this Agreement. The Town represents that (i) the individuals executing and delivering this Agreement on the Town's behalf are the incumbents of the offices stated under their names, and such offices have been duly authorized to do so by all necessary municipal action taken by and on the part of the Town, (ii) the Agreement has been duly and validly authorized, executed and delivered by the Town, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which the Town will not instigate and has no reason to believe will be forthcoming), the Agreement constitutes the valid and binding obligation of the Town, enforceable against the Town in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against the Town, the Town agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

CHR's Authority. CHR represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite power and authority to execute, deliver, perform and be bound by this Agreement. CHR represents that (i) the individual executing and delivering this Agreement on CHR's behalf is the incumbent of the office stated under his name, and such offices has been authorized to do so by all necessary corporate action taken by and on the part of CHR, (ii) the Agreement has been duly and validly authorized, executed and delivered by CHR, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which CHR will not instigate and has no reason to believe will be

forthcoming), the Agreement constitutes the valid and binding obligation of CHR, enforceable against CHR in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against CHR, CHR agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

7. **Lien/Collection Remedies.** Upon the failure to make any Voluntary Payment to the Town, the Town may take whatever action it deems feasible to collect said payment whether in law or equity. The parties agree that the Voluntary Payment may constitute a fee for collection proceedings and may constitute a lien on the property for collection purposes. Upon written request from time to time to the Town Tax Collector, the Tax Collector shall provide the record owner of the Premises with a written statement certifying compliance with this Agreement as of said date and otherwise stating any amounts due and payable and the amount of the Voluntary Payment.

8. **Deed Reference and Affirmation of Successor In Title.** CHR and its successors in title agree that during the Term, that each successive deed to the Premises executed and delivered by the grantor shall contain the following statement:

> "Reference is made to an Agreement by and between CHR (add entities as necessary) and the Town of Brookline dated _____, _____, recorded with Norfolk County Registry of Deeds in Book _____, Page _____ (the 'Tax Certainty Agreement'), as well as all amendments duly made and recorded. By acceptance and recording of this deed, the Grantee acknowledges and accepts the Tax Certainty Agreement and all relevant amendments and agrees that the same shall be binding and enforceable against the Grantee in accordance with its terms."

CHR and such successors in title shall notify the Town in the manner provided in Section 9 hereof of the conveyance of the Premises and shall provide the Town with a copy of the deed evidencing the same conforming to this Section 8. The Town shall not be required to issue the certification provided for in Section 7 hereof absent compliance with Section 8, where applicable.

9. **Miscellaneous Provisions.**

(a) Notices. All notices, consents, directions, approvals, waivers, submissions, requests and other communications under this Agreement shall be effective only if made in writing with all delivery charges prepaid by a method set forth below, shall be effective at the times specified below, and shall be addressed to:

Chestnut Hill Realty Corp.
300 Independence Drive
Chestnut Hill, MA 02467

With a copy to:

Robert L. Allen Jr., Esq.
Law Office of Robert L. Allen Jr., LLP
300 Washington Street
Brookline, MA 02445

Town of Brookline
Attn: Town Administrator
Brookline Town Hall
333 Washington Street
Brookline, MA 02445

With a copy to:

Town of Brookline
Attn: Town Counsel
333 Washington Street
Brookline, MA 02445

___ By commercially recognized overnight or expedited commercial courier service, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the delivery receipt;

___ By hand delivery, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the messenger's receipt; or

___ By US certified or registered mail, return receipt requested, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the return receipt.

Any party may change or add to the addressees and/or addresses for notice by giving notice of such change or addition to the other party in accordance with this paragraph.

(b) Severability/Captions. The provisions of this Agreement are severable and, if any provision, or any portion thereof, is deemed by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remaining provisions, or remaining portions thereof, shall remain valid and enforceable to the fullest extent permitted by law, provided that (as determined by agreement of the parties or by a court or arbitrator of competent jurisdiction) such continuing validity and enforceability results in neither the loss of any material benefit to, nor the increase of any material burden on, either party or both of them, as such benefits and burdens are originally provided in this Agreement.

If this Agreement is terminated or rendered of no effect due to the invalidity, illegality, or unenforceability of any of its provisions, those CHR obligations that otherwise would survive the Term shall end. The captions used in this Agreement are for convenience only and shall not be deemed to have any relevance to the meaning of any of the provisions.

(c) Waivers/Time of Essence. The provisions and any breach of this Agreement shall not be waived, except expressly in writing signed by the waiving party. A waiver on one occasion or of one provision or breach shall not constitute a waiver on another occasion or of another provision or breach. Time is of the essence of this Agreement.

(d) Amendments. This Agreement shall not be amended unless such amendment shall be expressly agreed in writing executed by duly authorized representatives both parties.

(e) Whole Agreement/Survival. This Agreement supersedes any previous negotiations or agreements between the parties to this Agreement, whether oral or in writing, in relation to the matters dealt with herein and represents the entire agreement between the parties in relation thereto. The provisions of this Agreement that, by their specific terms apply after the Term shall, except as provided in Sections 4 and 9(b), survive the Term for so long as applicable; and all of the provisions of this Section 9 shall also survive the Term in relation to any of this Agreement's other surviving provisions.

(f) Real Property. All references in this Agreement to real property or property owned by or of CHR shall be deemed to mean fee ownership of the Premises, including fixtures and/or improvements thereto and any use and/or occupancy of the Premises, including leases, which would affect the determination of whether the property is exempt or taxable by the Town.

(g) Reservations. The Town and CHR agree that this Agreement provides the Town with protection of its tax base; but nothing in this Agreement in any way restricts the Town's complete discretion in the exercise of its police power or imposes any restrictions on CHR's complete discretion to determine whether and how the Premises shall be developed and improved and the use of the Premises and whether the Premises shall be reserved for, converted to, or acquired for, an Exempt Use or Uses and/or taxable purposes, taking into account economic conditions from time to time, relevant site constraints of development and any and all other considerations it desires. The Town and CHR each reserves all of its respective positions, rights and remedies at law and equity in connection with real estate taxes and exemptions in the event of the termination, expiration or inapplicability of this Agreement. CHR is entering into this Agreement voluntarily; and nothing in this Agreement or CHR's performance of its covenants hereunder shall be construed for any purposes whatsoever to constitute an acknowledgement by CHR of any regulatory, statutory or contractual obligation to make the Voluntary Payment or any other payment to the Town on account of real property owned by CHR for Exempt Purposes, beyond the explicit contractual commitments voluntarily made by CHR under, and subject to all of the terms and conditions of, this Agreement.

(h) Counterparts. This Agreement may be executed by the parties hereto in multiple separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument of which there may be multiple originals.

(i) Applicable Law. This Agreement shall be governed by, and construed accordance with, the laws of The Commonwealth of Massachusetts for all purposes, without regard to any such laws governing choice of law.

(j) Successor In Title/Recording. This Agreement shall bind CHR and its successors and assigns in title to the Premises and shall be deemed to "run with the land" for the duration of the Term. This Agreement shall be recorded at the Norfolk County Registry of Deeds and Norfolk Registry District of the Land Court as appropriate upon execution of this Agreement and approval of all permitting for the Project.

IN WITNESS whereof the parties have executed this Agreement under seal as of the Effective Date.

CHR Pleasant LLC

By _____
Peter Poras, Treasurer
Hereunto duly authorized on behalf of
CM-WS Corp. its Manager
Date: _____

Town of Brookline
Select Board:

_____

_____

_____

_____

_____

Hereunto duly authorized
Date: _____

Waldo Street LLC

By _____
Peter Poras, Treasurer
Hereunto duly authorized on behalf of
CM-WS Corp. its Manager
Date: _____

16 John Street Realty Trust,

By _____
Peter Poras, Treasurer
Hereunto duly authorized on behalf of
CM-WS Corp. as Trustee
Date: _____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____, 20___, before me, the undersigned notary public, personally appeared _____ of_____ as _____ of _____ through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose..

_____
Notary Public

Personally Known _____
Produced Identification _____
Type of Identification _____

My Commission Expires:_____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____, 20___, before me, the undersigned notary public, personally appeared _____ of_____ as _____ of _____ through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose..

_____
Notary Public

Personally Known _____
Produced Identification _____
Type of Identification _____

My Commission Expires:_____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____, 20___, before me, the undersigned notary public, personally appeared _____ of_____ as _____ of _____ through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose..

_____
Notary Public

Personally Known _____
Produced Identification _____
Type of Identification _____

My Commission Expires:_____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____ 20__, before me, the undersigned notary public, personally appeared _____, _____, _____, _____ _____ Select Board, of the Town of Brookline, proved to me through satisfactory evidence of identification to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as the Board of Selectmen of the Town of Brookline.

_____
Notary Public

Personally Known _____
Produced Identification _____
Type of Identification _____

My Commission Expires:_____

EXHIBIT 1

EXHIBIT B (3 pages)

Tract One – 16 John Street, Brookline, MA

The land, with the buildings thereon, situated on John Street in Brookline bounded and measured s follows:

NORTHEASTERLY:	by said John Street, Sixty-five (65) feet;
SOUTHEASTERNLY:	by land of John G. Stearns et al, One hundred twenty-three and 56/100 (123.56) feet;
SOUTHWESTERLY:	on the Northeasterly line of Waldo Street so called, Thirty-six and 17/100 (36.17) feet;
SOUTHWESTERLY:	again but a little more Westerly on land formerly of John G. Stearns et al, Twenty-seven and 80/100 (27.80) feet; and
NORTHWESTERLY:	on other land formerly of John G. Stearns et al, One Hundred nineteen and 12/100 (119.12) feet.

Containing 7873 square feet of land and being the parcel shown enclosed in red lines on a "Plan of land in Brookline" by Aspinwall and Lincoln, Civil Engineers, dated March 9, 1895.

Tract Two – 8-10 Waldo Street, Brookline, MA

Two certain parcels of land with the buildings thereon situated in Brookline, Norfolk County, Massachusetts, bounded and described as follows:

PARCEL I

NORTHEASTERLY	by Waldo Street, one hundred and one and 96/100 (101.96) feet;
SOUTHEASTERLY	by a twenty (20) foot passageway, shown as Lot C on a plan hereinafter mentioned by two lines measuring fifty and 19/100 (50.19) feet, and eighty-eight and 03/100 (88.03) feet, each respectively;
SOUTHWESTERLY	five (5) feet;
SOUTHERLY	seventy and 35/100 (70.35) feet; and
SOUTHWESTERLY	ninety-two and 03/100 (92.03) feet, by land of Trustees of Tufts College, as shown on said plan;
NORTHWESTERLY	by land now or formerly of Eisenburg et al Trustees and land now or formerly of Helpern Procter & Lowenstein, as shown on said plan, by two lines measuring thirty and 20/100 (30.20) feet and one hundred thirty-four and 96/100 (134.96) feet, each respectively;
NORTHEASTERLY	by Lot A, as shown on said plan, being the second parcel hereinafter described by two lines measuring sixty-seven and 85/100 (67.85) feet and twenty-seven and 16/100 (27.16) feet, each respectively;
SOUTHEASTERLY	by the end line of Waldo Street, as shown on said plan, fifteen and 03/100 (15.03) feet;

Containing 27,215 square feet of land and being shown as Lot B on a plan entitled "Plan of Land in Brookline, Mass." drawn by Everett M. Brooks Co., Civil Engineers, dated June 29, 1950 and recorded in Norfolk County Registry of Deeds at Book 3452, Page 470.

PARCEL II

SOUTHEASTERLY	by the end line of Waldo Street, fourteen and 98/100 (14.98) feet;
SOUTHWESTERLY	by Lot B and land of Lowenstein, as shown on a plan hereinafter mentioned, being the first parcel hereinafter described by two lines measuring twenty-seven and 16/100 feet and eighty-nine and 58/100 (89.58) feet, each respectively;
NORTHWESTERLY	by Lot 5, as indicated on said plan, forty-one and 18/100 (41.18) feet;
NORTHEASTERLY	by Lots 3, 2 and 1 as indicated on said plan eighty-two and 36/100 (82.36) feet;
SOUTHEASTERLY	by land now or formerly of Kemp, as shown on said plan, thirty-nine and 12/100 (39.12) feet;
NORTHEASTERLY	by land now or formerly of said Kemp, as shown on said plan, twenty-seven and 80/100 (27.80) feet;

Said parcel being shown as Lot A on plan hereinabove mentioned and containing 4,474 square feet of land.

Together with right to use Waldo Street as recited in deed dated March 1, 1913, recorded in Book 1241, Page 499 and deed dated July 1, 1914, recorded in Book 1285, Page 11 and as shown on plan in Book 1241, Page 499.

Together with passageway rights as shown on plan in Book 1546, Page 112 and recited in deed dated November 27, 1939, recorded in Book 2258, Page 331.

Together with the rights to use the 20 foot passageway (Lot C) shown on plan recorded in Book 1241, Page 499 and recited in deed in Book 1241, Page 499.

Together with any and all rights in and to passageways, including but not limited to, rights to use passageways.

PARCEL III – Waldo Street

Also including that portion of Waldo Street, owned by Optionor , subject to the passageway rights of others in a portion thereof, insofar as in force and applicable.

Tract Three – 10-18 Pleasant Street, Brookline, MA

A certain parcel of land with the buildings thereon situated in Brookline, Norfolk County, bounded and described as follows:

SOUTHEASTERLY	by Pleasant Street, 125.68 feet;
NORTHEASTERLY	by John Street, 155 feet;
NORTHWESTERLY	by land now or formerly of Daniel H. Brewer, 123.56 feet; and
SOUTHWESTERLY	by Waldo Street, 155 feet.

Excepting therefrom, however, such portion thereof as is described in a release given by Arthur Russell to the Town of Brookline for the alteration and widening of Pleasant Street dated

November 14, 1926, recorded with the Norfolk County Registry of Deeds in Book 1725, Page 232, and shown on a plan entitled "Plan of Alteration and Widening of Pleasant Street Between Waldo Street and John Street Brookline, Mass.", dated November 15, 1926 and recorded with said Deeds in Book 1726, Page 637.

Said parcel is shown on a plan by Aspinwall and Lincoln, Civil Engineers, dated July 9, 1889 and recorded with said Deeds in Book 625, Page 205.

EXHIBIT 2

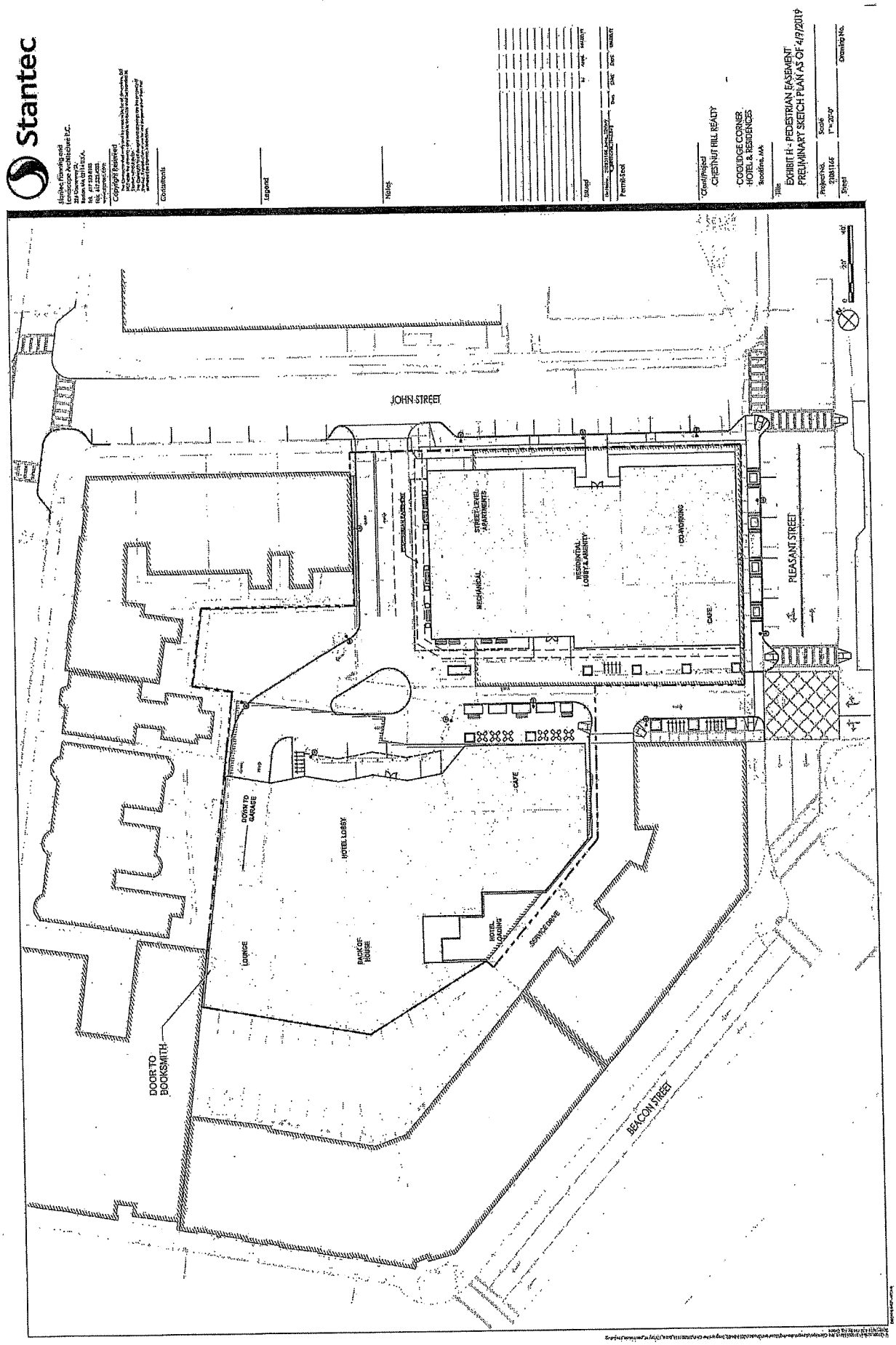

Stantec
Client/Project
CHESTNUT HILL REALTY
COOLIDGE CORNER
HOTEL & RESIDENCES
Brookline, MA
Title
EXHIBIT H - PEDESTRIAN EASEMENT
PRELIMINARY SKETCH PLAN AS OF 4/9/2019
Project No.
Scale
1" = 20'-0"
Sheet
Drawing No.
JOHN STREET
PLEASANT STREET
BEACON STREET
SERVICE DRIVE
DOOR TO BOOKSMITH
DOWN TO GARAGE
HOTEL LOBBY
LOUNGE
BACK OF HOUSE
CAFE
MECHANICAL
RESIDENTIAL LOBBY & AMENITY
STREET LEVEL APARTMENTS
LAUNDRY

EXHIBIT E

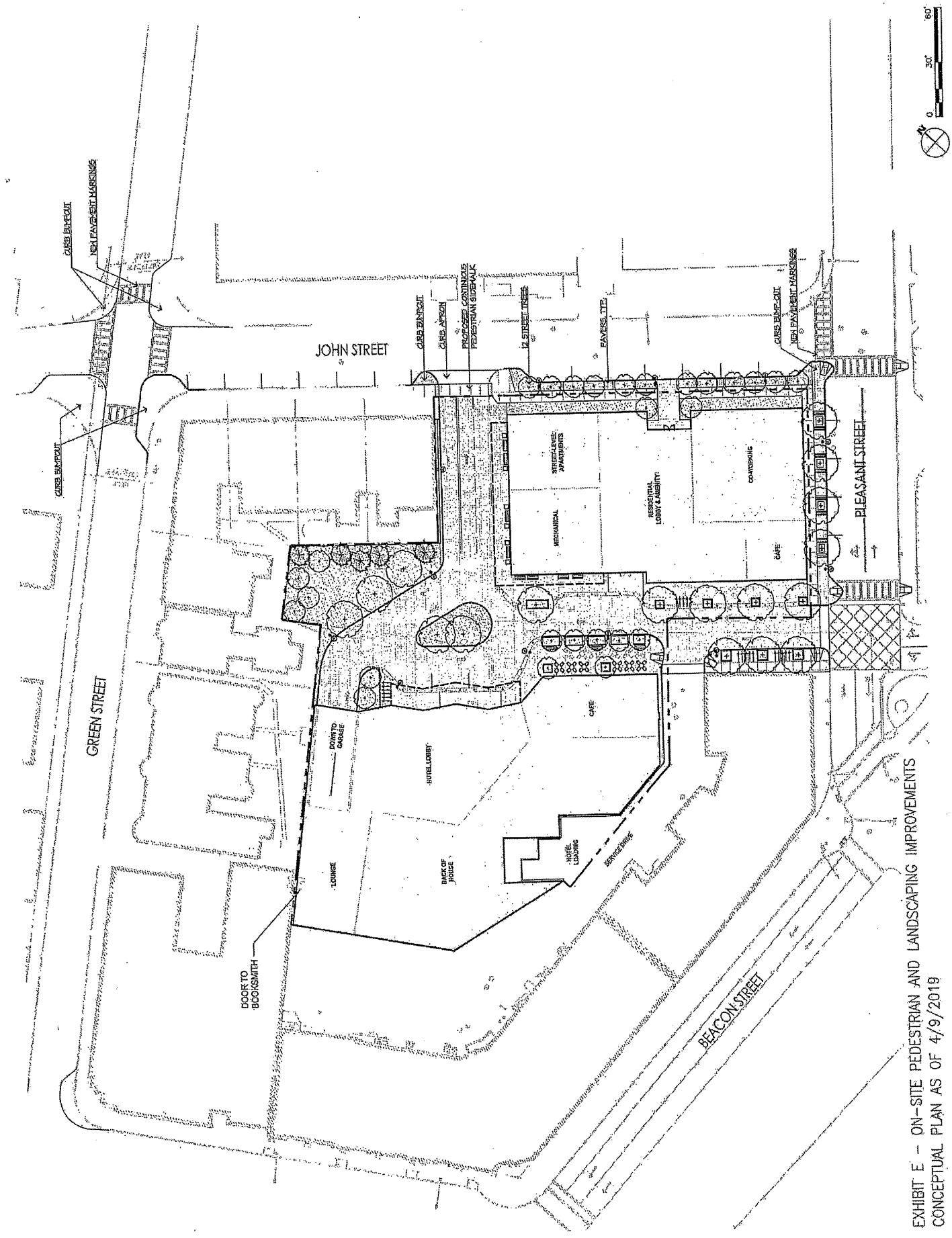


EXHIBIT E – ON-SITE PEDESTRIAN AND LANDSCAPING IMPROVEMENTS
CONCEPTUAL PLAN AS OF 4/9/2019

EXHIBIT F

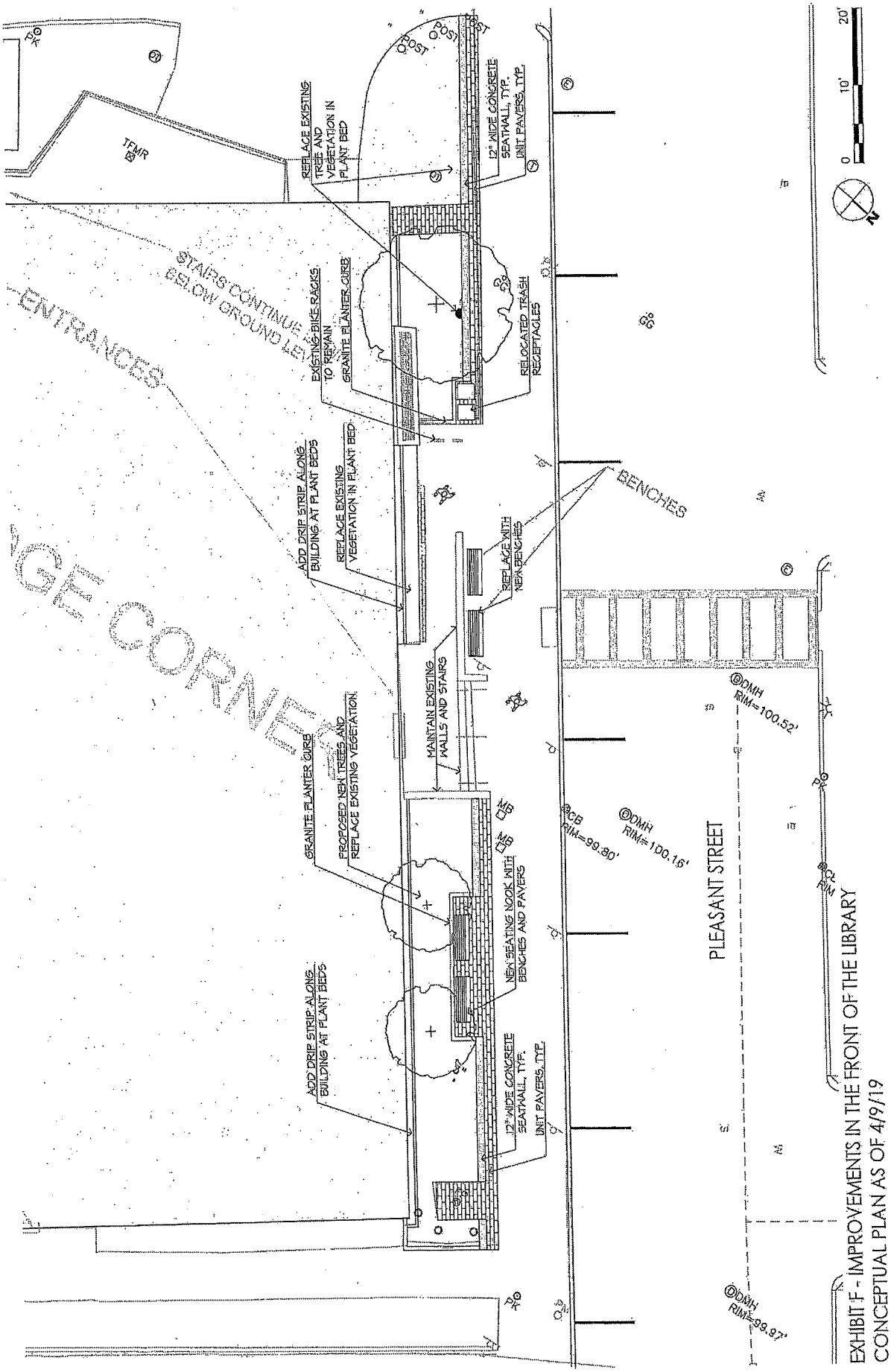
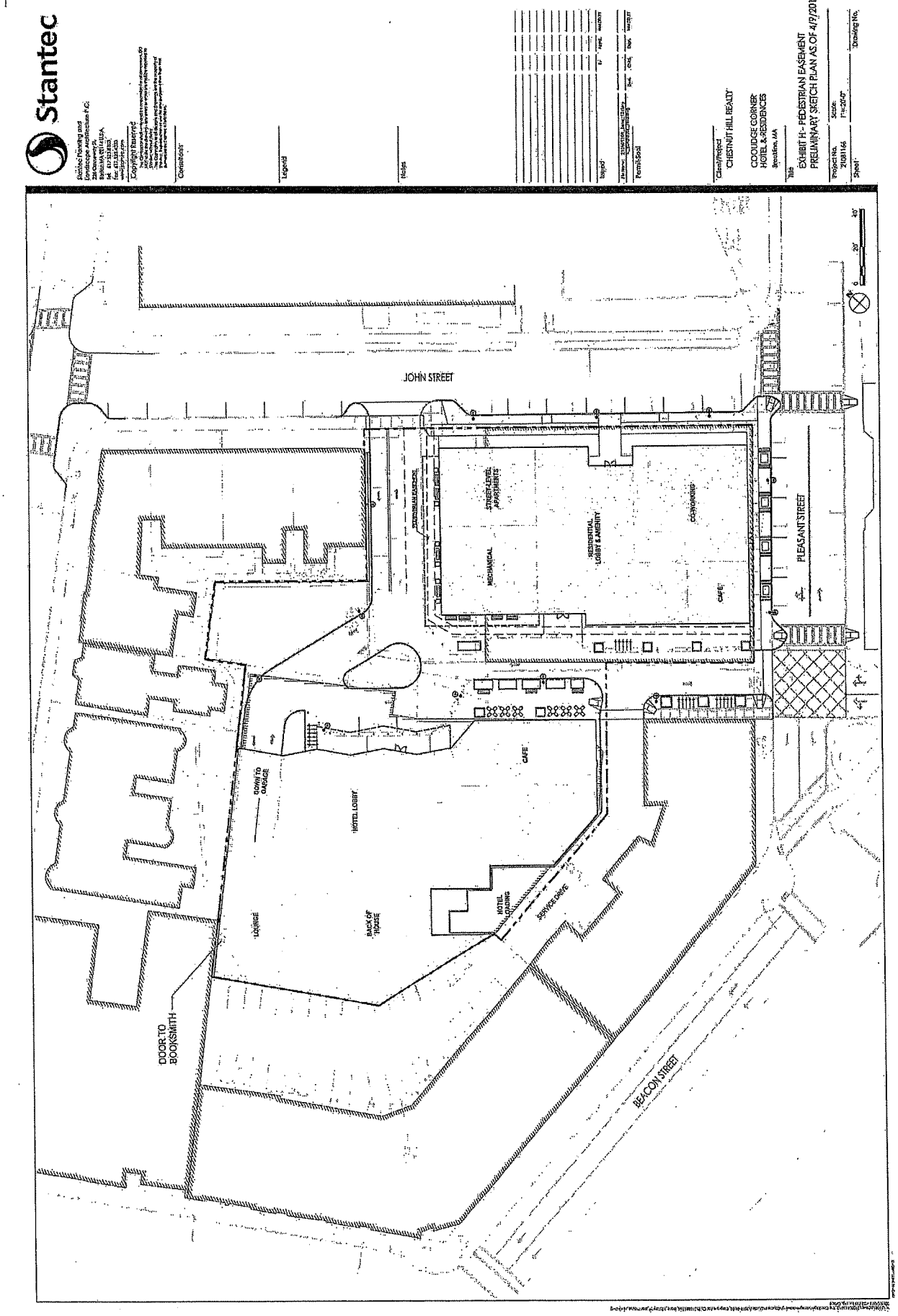


EXHIBIT F - IMPROVEMENTS IN THE FRONT OF THE LIBRARY
CONCEPTUAL PLAN AS OF 4/9/19

EXHIBIT G

EXHIBIT G - POCKET PARK
CONCEPTUAL PLAN AS OF 4/9/2019

EXHIBIT H


Stantec
EXHIBIT H - PEDESTRIAN EASEMENT
PRELIMINARY SKETCH PLAN AS OF 4/9/2019
CHESTNUT HILL REALTY
COOLIDGE CORNER
HOTEL & RESIDENCES
Brookline, MA
JOHN STREET
PLEASANT STREET
BEACON STREET
DOOR TO BOOKSMITH
DOWN TO GARAGE
HOTEL LOBBY
LOUNGE
BACK OF HOUSE
HOTEL LOADING
SERVICE DRIVE
CAFE
MECHANICAL
RESIDENTIAL LOBBY & AMENITY
STREET-LEVEL APARTMENTS
CONSERVATORY

RECOMMENDATION:

The Select Board by unanimous vote recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town authorize the Select Board to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required to carry out the terms and conditions set forth in that certain Memorandum of Agreement and related Tax Certainty Agreement, between the Town of Brookline (hereinafter referred to as the "Town") and CHR Pleasant, LLC, 16 John Street Realty Trust U/D/T and Waldo Street, LLC, their successors and assigns (hereinafter collectively referred to as "CHR"). CHR owns the parcels of land commonly referred to as 8-10 Waldo Street, 10-18 Pleasant Street and 16 John Street in Brookline, Massachusetts (hereinafter collectively referred to as the "Site") as further described in the legal description below, and all in connection with a proposed mixed-use development including: a 210-room hotel, 143 residential units, and underground parking of approximately 289 parking spaces (hereinafter referred to as the "Mixed Use Project"); as further described below, said Memorandum of Agreement to include the following terms at a minimum:

1) requiring CHR to continue the public hearings on the 40B Project at the Site until all approvals for the Mixed Use Project are received;

2) requiring CHR to offer an Access Agreement with the existing tenant of 279 Harvard Street (known by the community as "the Booksmith" or "the Brookline Booksmith") prior to applying for Special Permits for the Mixed Use Project;

3) requiring CHR to not object to certain conditions of the Special Permits related to the Mixed Use Project, including:

a) required retail or restaurant space on Pleasant Street;

b) providing meeting space in the hotel for occasional use by the Town and Brookline community non-profits for a nominal custodial fee;

c) providing a minimum of 11 residential units on-site serving households earning up to 80% of the area median income;

d) making a payment to the Town's Affordable Housing Trust Fund in the amount of $3,275,000;

e) commitments to sustainable design elements;

f) historic documentation of the Durgin Garage at 10-18 Pleasant Street;

g) providing public benefits to mitigate the impact of the proposed project including but not limited to the installation of landscaping and plaza space at a Town-owned parcel with an address of 37 John Street on the northwest corner of John and Green Streets currently used for parking and a small seating area; the installation of landscaping and seating at the Town-owned Coolidge Corner

Library; bicycle, pedestrian and landscaping improvements; and a traffic impact study and mitigation measures that include annual monitoring;

h) agreement to grant the Town a future pedestrian access easement on the property running from John Street through the property to Waldo Street and on to Pleasant Street;

4) providing a 95-year Tax Certainty Agreement which shall be a restrictive covenant; and

5) requiring that the agreement(s) be recorded in the chain of title; and upon any further terms and conditions that the Board deems in the best interest of the Town with respect to the proposed development of the said Site.

6) and other terms and conditions that the Select Board deem in the best interest of the Town.

The legal descriptions of the parcels for the Site are as follows:

EXHIBIT A

Tract One — 16 John Street, Brookline, MA

The land, with the buildings thereon, situated on John Street in Brookline bounded and measured as follows:

NORTHEASTERLY: by said John Street, Sixty-five (65) feet;

SOUTHEASTERLY: by land of John G. Stearns et al, One hundred twenty-three and 56/100 (123.56) feet;

SOUTHWESTERLY: on the Northeasterly line of Waldo Street so called, Thirty-six and 17/100 (36.17) feet;

SOUTHWESTERLY: again but a little more Westerly on land formerly of John G, Stearns et al, Twenty-seven and 80/100 (27.80) feet; and

NORTHWESTERLY: on other land formerly of John G. Stearns et al, One Hundred nineteen and 12/100 (119.12) feet.

Containing 7873 square feet of land and being the parcel shown enclosed in red lines on a "Plan of land in Brookline" by Aspinwall and Lincoln, Civil Engineers, dated March 9, 1895.

Tract Two — 8-10 Waldo Street, Brookline, MA

Two certain parcels of land with the buildings thereon situated in Brookline, Norfolk County, Massachusetts, bounded and described as follows:

PARCEL I

NORTHEASTERLY: by Waldo Street, one hundred and one and 96/100 (101.96) feet;

SOUTHEASTERLY: by a twenty (20) foot passageway, shown as Lot C on a plan hereinafter mentioned by two lines measuring fifty and 19/100 (50.19) feet, and eighty-eight and 03/100 (88.03) feet, each respectively;

SOUTHWESTERLY: five (5) feet;

SOUTHERLY: seventy and 35/100 (70.35) feet; and

SOUTHWESTERLY: ninety-two and 03/100 (92.03) feet, by land of Trustees of Tufts College, as shown on said plan;

NORTHWESTERLY: by land now or formerly of Eisenburg et al Trustees and land now or formerly of Helpern Procter & Lowenstein, as shown on said plan, by two lines measuring thirty and 20/100 (30.20) feet and one hundred thirty-four and 96/100 (134.96) feet, each respectively;

NORTHEASTERLY: by Lot A, as shown on said plan, being the second parcel hereinafter described by two lines measuring sixty-seven and 85/100 (67.85) feet and twenty-seven and 16/100 (27.16) feet, each respectively;

SOUTHEASTERLY: by the end line of Waldo Street, as shown on said plan, fifteen and 03/100 (15.03) feet;

Containing 27,215 square feet of land and being shown as Lot B on a plan entitled "Plan of Land in Brookline, Mass." drawn by Everett M. Brooks Co., Civil Engineers, dated June 29, 1950 and recorded in Norfolk County Registry of Deeds at Book 3452, Page 470.

PARCEL II

SOUTHEASTERLY: by the end line of Waldo Street, fourteen and 98/100 (14.98) feet;

SOUTHWESTERLY: by Lot B and land of Lowenstein, as shown on a plan hereinafter mentioned, being the first parcel hereinafter described by two lines measuring twenty-seven and 16/100 (27.16) feet and eighty-nine and 58/100 (89.58) feet, each respectively;

NORTHWESTERLY: by Lot 5, as indicated on said plan, forty-one and 18/100 (41.18) feet;

NORTHEASTERLY: by Lots 3, 2 and 1 as indicated on said plan eighty-two and 36/100 (82.36) feet;

SOUTHEASTERLY: by land now or formerly of Kemp, as shown on said plan, thirty-nine and 12/100 (39.12) feet;

NORTHEASTERLY: by land now or formerly of said Kemp, as shown on said plan, twenty-seven and 80/100 (27.80) feet;

Said parcel being shown as Lot A on plan hereinabove mentioned and containing 4,474 square feet of land.

Together with right to use Waldo Street as recited in deed dated March 1, 1913, recorded in Book 1241, Page 499 and deed dated July 1, 1914, recorded in Book 1285, Page 11 and as shown on plan in Book 1241, Page 499.

Together with passageway rights as shown on plan in Book 1546, Page 112 and recited in deed dated November 27, 1939, recorded in Book 2258, Page 331,

Together with the rights to use the 20 foot passageway (Lot C) shown on plan recorded in Book 1241, Page 499 and recited in deed in Book 1241, Page 499,

Together with any and all rights in and to passageways, including but not limited to, rights to use passageways.

PARCEL III — Waldo Street

Also including that portion of Waldo Street, owned by Optionor , subject to the passageway rights of others in a portion thereof, insofar as in force and applicable.

Tract Three — 10-18 Pleasant Street, Brookline, MA

A certain parcel of land with the buildings thereon situated in Brookline, Norfolk County, bounded and described as follows:

SOUTHEASTERLY: by Pleasant Street, 125.68 feet;

NORTHEASTERLY: by John Street, 155 feet;

NORTHWESTERLY: by land now or formerly of Daniel H. Brewer, 123.56 feet; and

SOUTHWESTERLY by Waldo Street, 155 feet.

Excepting therefrom, however, such portion thereof as is described in a release given by Arthur Russell to the Town of Brookline for the alteration and widening of Pleasant Street dated November 14, 1926, recorded with the Norfolk County Registry of Deeds in Book 1725, Page 232, and shown on a plan entitled "Plan of Alteration and Widening of Pleasant Street Between Waldo Street and John Street Brookline, Mass.", dated November 15, 1926 and recorded with said Deeds in Book 1726, Page 637.

Said parcel is shown on a plan by Aspinwall and Lincoln, Civil Engineers, dated July 9, 1889 and recorded with said Deeds in Book 625, Page 205.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Articles 13, 14, and 15 are an interrelated group of Articles concerning the development site described as 8–10 Waldo Street, 10–18 Pleasant Street and 16 John Street in Coolidge Corner and referred to as "Waldo Durgin." These Articles are the culmination of a two-year effort by the Town, as represented by the Coolidge Corner Study Committee, and Chestnut Hill Realty (CHR) the developer. The Advisory Committee believes Warrant Articles 13, 14, and 15 are the best possible outcome for the Town, the Coolidge Corner neighborhood and the business community. By a vote of 19–0–3, the Advisory Committee recommends FAVORABLE ACTION on Warrant Articles 13, 14, and 15.

BACKGROUND & DISCUSSION

See the Background and Discussion sections of the Advisory Committee's report on Article 13 for a more complete analysis of the interrelated provisions of Articles 13, 14, and 15.

Warrant Article 14 will authorize the Select Board to enter into and/or amend as necessary, any new or existing agreements to realize the full benefits and protections stipulated in the Memorandum of Agreement (MOA) outlined in this Article and presented in draft form in the petitioner's explanation for Article 14, as well as the related Tax Certainty Agreement. CHR has indicated they will not consider amendments to the draft MOA that is included in the explanation of Warrant Article 14.

Article 14 states that the Memorandum of Agreement shall include the following terms at a minimum:

1) requiring CHR to continue the public hearings on the 40B Project at the Site until all approvals for the Mixed Use Project are received;

2) requiring CHR to offer an Access Agreement with the existing tenant of 279 Harvard Street (known by the community as "the Booksmith" or "the Brookline Booksmith") prior to applying for Special Permits for the Mixed Use Project;

3) requiring CHR to not object to certain conditions of the Special Permits related to the Mixed Use Project, including:

a) required retail or restaurant space on Pleasant Street;

b) providing meeting space in the hotel for occasional use by the Town and Brookline community non-profits for a nominal custodial fee;

c) providing a minimum of 11 residential units on-site serving households earning up to 80% of the area median income;

d) making a payment to the Town's Affordable Housing Trust Fund in the amount of $3,275,000;

e) commitments to sustainable design elements;

f) historic documentation of the Durgin Garage at 10-18 Pleasant Street;

g) providing public benefits to mitigate the impact of the proposed project including but not limited to the installation of landscaping and plaza space at a Town-owned parcel with an address of 37 John Street on the northwest corner of John and Green Streets currently used for parking and a small seating area; the installation of landscaping and seating at the Town-owned Coolidge Corner Library; bicycle, pedestrian and landscaping improvements; and a traffic impact study and mitigation measures that include annual monitoring;

h) agreement to grant the Town a future pedestrian access easement on the property running from John Street through the property to Waldo Street and on to Pleasant Street;

4) providing a 95-year Tax Certainty Agreement which shall be a restrictive covenant; and

5) requiring that the agreement(s) be recorded in the chain of title; and upon any further terms and conditions that the Board deems in the best interest of the Town with respect to the proposed development of the said Site.

6) and other terms and conditions that the Select Board deem in the best interest of the Town.

RECOMMENDATION:
The Advisory Committee by a vote of 19–0–3 recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 15

FIFTEENTH ARTICLE
Submitted by: Select Board

To see if the Town will accept a Restrictive Covenant, entitled "Tax Certainty Agreement", in substantially the same form as the draft attached hereto and included herewith as Exhibit A and incorporated herein by reference, from CHR Pleasant, LLC, and Waldo Street, LLC, Massachusetts limited liability companies and the 16 John Street Realty Trust u/d/t, their successors and assigns (hereinafter collectively referred to as "CHR") relative to the land and buildings owned by CHR and commonly referred to as 8-10 Waldo Street, 10-18 Pleasant Street and 16 John Street in Brookline, Massachusetts (hereinafter collectively referred to as the "Site") all as further described in the legal description below; such Covenant will be upon such terms and conditions as the Select Board deems in the best interests of the Town with respect to the proposed development of the Site and will provide for the future tax certainty of the land and buildings thereon, and authorize the Select Board to enter into any necessary agreement(s) in furtherance of the purposes of the Restrictive Covenant with respect to the future tax certainty of the land and buildings as more specifically set forth in the Restrictive Covenant.

Legal Description of the Site:

Tract One — 16 John Street, Brookline, MA

The land, with the buildings thereon, situated on John Street in Brookline bounded and measured as follows:

NORTHEASTERLY: by said John Street, Sixty-five (65) feet;

SOUTHEASTERLY: by land of John G. Stearns et al, One hundred twenty-three and 56/100 (123.56) feet;

SOUTHWESTERLY: on the Northeasterly line of Waldo Street so called, Thirty-six and 17/100 (36.17) feet;

SOUTHWESTERLY: again but a little more Westerly on land formerly of John G, Stearns et al, Twenty-seven and 80/100 (27.80) feet; and

NORTHWESTERLY: on other land formerly of John G. Stearns et al, One Hundred nineteen and 12/100 (119.12) feet.

Containing 7873 square feet of land and being the parcel shown enclosed in red lines on a "Plan of land in Brookline" by Aspinwall and Lincoln, Civil Engineers, dated March 9, 1895.

Tract Two — 8-10 Waldo Street, Brookline, MA

Two certain parcels of land with the buildings thereon situated in Brookline, Norfolk County, Massachusetts, bounded and described as follows:

PARCEL I

NORTHEASTERLY: by Waldo Street, one hundred and one and 96/100 (101.96) feet;

SOUTHEASTERLY: by a twenty (20) foot passageway, shown as Lot C on a plan hereinafter mentioned by two lines measuring fifty and 19/100 (50.19) feet, and eighty-eight and 03/100 (88.03) feet, each respectively;

SOUTHWESTERLY: five (5) feet;

SOUTHERLY: seventy and 35/100 (70.35) feet; and

SOUTHWESTERLY: ninety-two and 03/100 (92.03) feet, by land of Trustees of Tufts College, as shown on said plan;

NORTHWESTERLY: by land now or formerly of Eisenburg et al Trustees and land now or formerly of Helpern Procter & Lowenstein, as shown on said plan, by two lines measuring thirty and 20/100 (30.20) feet and one hundred thirty-four and 96/100 (134.96) feet, each respectively;

NORTHEASTERLY: by Lot A, as shown on said plan, being the second parcel hereinafter described by two lines measuring sixty-seven and 85/100 (67.85) feet and twenty-seven and 16/100 (27.16) feet, each respectively;

SOUTHEASTERLY: by the end line of Waldo Street, as shown on said plan, fifteen and 03/100 (15.03) feet;

Containing 27,215 square feet of land and being shown as Lot B on a plan entitled "Plan of Land in Brookline, Mass." drawn by Everett M. Brooks Co., Civil Engineers, dated June 29, 1950 and recorded in Norfolk County Registry of Deeds at Book 3452, Page 470.

PARCEL II

SOUTHEASTERLY: by the end line of Waldo Street, fourteen and 98/100 (14.98) feet;

SOUTHWESTERLY: by Lot B and land of Lowenstein, as shown on a plan hereinafter mentioned, being the first parcel hereinafter described by two lines measuring twenty-seven and 16/100 (27.16) feet and eighty-nine and 58/100 (89.58) feet, each respectively;

NORTHWESTERLY: by Lot 5, as indicated on said plan, forty-one and 18/100 (41.18) feet;

NORTHEASTERLY: by Lots 3, 2 and 1 as indicated on said plan eighty-two and 36/100 (82.36) feet;

SOUTHEASTERLY: by land now or formerly of Kemp, as shown on said plan, thirty-nine and 12/100 (39.12) feet;

NORTHEASTERLY: by land now or formerly of said Kemp, as shown on said plan, twenty-seven and 80/100 (27.80) feet;

Said parcel being shown as Lot A on plan hereinabove mentioned and containing 4,474 square feet of land.

Together with right to use Waldo Street as recited in deed dated March 1, 1913, recorded in Book 1241, Page 499 and deed dated July 1, 1914, recorded in Book 1285, Page 11 and as shown on plan in Book 1241, Page 499.

Together with passageway rights as shown on plan in Book 1546, Page 112 and recited in deed dated November 27, 1939, recorded in Book 2258, Page 331,

Together with the rights to use the 20 foot passageway (Lot C) shown on plan recorded in Book 1241, Page 499 and recited in deed in Book 1241, Page 499,

Together with any and all rights in and to passageways, including but not limited to, rights to use passageways.

PARCEL III — Waldo Street

Also including that portion of Waldo Street, owned by Optionor , subject to the passageway rights of others in a portion thereof, insofar as in force and applicable.

Tract Three — 10-18 Pleasant Street, Brookline, MA

A certain parcel of land with the buildings thereon situated in Brookline, Norfolk County, bounded and described as follows:

SOUTHEASTERLY: by Pleasant Street, 125.68 feet;

NORTHEASTERLY: by John Street, 155 feet;

NORTHWESTERLY: by land now or formerly of Daniel H. Brewer, 123.56 feet; and

SOUTHWESTERLY by Waldo Street, 155 feet.

Excepting therefrom, however, such portion thereof as is described in a release given by Arthur Russell to the Town of Brookline for the alteration and widening of Pleasant Street dated November 14, 1926, recorded with the Norfolk County Registry of Deeds in Book 1725, Page 232, and shown on a plan entitled "Plan of Alteration and Widening of Pleasant Street Between Waldo Street and John Street Brookline, Mass.", dated November 15, 1926 and recorded with said Deeds in Book 1726, Page 637.

Said parcel is shown on a plan by Aspinwall and Lincoln, Civil Engineers, dated July 9, 1889 and recorded with said Deeds in Book 625, Page 205.

EXHIBIT A – DRAFT Restrictive Covenant – "Tax Certainty Agreement"

DRAFT – March 6, 2019
IN RE: the several parcels known as 8-10 Waldo Street (Parcel I.D. No. 045-02-01); 16 John Street (Parcel I.D. 045-11-00) and 10-18 Pleasant Street (Parcel I.D. No. 045-01-00)
BROOKLINE, MASSACHUSETTS
TAX CERTAINTY AGREEMENT

This Agreement between _ CHR Pleasant, LLC and Waldo Street, LLC, Massachusetts limited liability companies, with a principal place of business at Chestnut Hill Realty Corp., 300 Independence Drive, Chestnut Hill, MA 02467, and the 16 John Street Realty Trust u/d/t, and their successors and assigns ("CHR") and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Select Board (the "Board"), is made and entered into this ___ day of _____, _____, upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

PREAMBLE

WHEREAS, the Town through its comprehensive plan seeks to encourage the redevelopment of underutilized, vacant and/or abandoned buildings and land in the Coolidge Corner area and to be assured that such redevelopment results in the improvements remaining as taxable properties within the Town to help protect the Town's existing property tax revenue; and

WHEREAS, CHR owns the several parcels of real property known as and numbered as 8-10 Waldo Street (Parcel I.D. No. 045-02-01); 16 John Street (Parcel I.D. 045-11-00) and 10-18 Pleasant Street (Parcel I.D. No. 045-01-00) (collectively hereinafter the "Premises"), the legal descriptions of which are attached hereto as Exhibit A, which currently consists of a garage, vacant lot and commercial building; and

WHEREAS, CHR has proposed a mixed use development on the Premises including a modern Select-Service hotel and luxury residential building with underground parking (the "Project"); and

WHEREAS, the Town requires a public area easement of approximately 1,000 +/- square feet of land in order to connect the site from John Street through the Premises to Pleasant Street in the area which is more particularly shown on a sketch plan provided by the Town and attached hereto as Exhibit B (hereinafter the "the Public Easement"); and

WHEREAS, CHR requires a zoning amendment to construct the Project; and

WHEREAS, CHR acknowledges the value of the Public Easement to the Project; and

WHEREAS, CHR has stated to the Town that the Project is not likely to result in a loss of the Town's taxable property, and in order to assure that the Premises will pay taxes or the equivalent thereof in the future it has offered to enter into this Agreement; and

WHEREAS, the Town intends to file a Warrant Article for consideration by Town Meeting to accept the Pedestrian Easement and authorize the Board of Selectmen to execute and record the Pedestrian Easement from CHR on certain terms and conditions and upon the assurance that CHR would enter into an agreement binding upon its successors and assigns with respect to the future payment of taxes or the equivalent thereof; and

WHEREAS, the Town and CHR seek to confirm their shared commitment to keeping the Premises upon which the Project may be constructed as a taxable parcel notwithstanding that by virtue of its potential use, it may be exempt from the payment of real estate taxes as nontaxable real property under Massachusetts General Laws, Chapter 59, §5, Clause Third or other applicable exemption; and

WHEREAS, for the reasons stated above and pursuant to the terms of this Agreement, the Town and CHR have agreed that CHR and its successors and assigns in title to the Premises will make, during the term of this Agreement, as that term is explicitly defined below, voluntary payments to the Town in lieu of real estate and hotel room excise taxes in circumstances in which CHR or its successors and assigns in title would not otherwise be obligated to pay on the Premises to the Town under applicable law. Voluntary in-lieu of tax payments are in addition to other economic enhancements provided by CHR in developing the Premises as may be mutually agreed between the Town, acting through its Select Board, and CHR;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, CHR and the Town agree as follows:

1. CHR Commitment to Voluntary Annual Payment to the Town. This Agreement shall become effective on the date of its recording with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court as may be required ("the Effective Date"). Subsequently, commencing with the first fiscal tax year next following the first assessment date on which the Project has been constructed by CHR on the Premises and has received a final Certificate of Occupancy from the Town, in the fiscal years thereafter during which the Premises is being used for an Exempt Use or Uses, as hereinafter defined, and expiring ninety-five years from the Effective Date of this Agreement (the "Term"), CHR shall make a direct financial contribution to the Town (the "Annual Payment"), and the Town shall accept the Annual Payment in full satisfaction of CHR's obligations to make payments to the Town under this Agreement and/or applicable law (whether now in effect or, subject to Sections 2 and 3, hereafter amended or adopted) on account of the Premises being used for an Exempt Use or Uses. During the Term, the Annual Payment shall be paid by CHR to the Town pursuant to this Agreement, consisting of the "Voluntary Real Estate Tax Payment" more particularly described in Section 2 below and the "Voluntary Hotel Room Tax Payment" more particularly described in Section 3

below. The assessment date shall mean January 1st or another date on which the Town Assessors by statute determine the value of real property for the next following fiscal year.

2. **Voluntary Payment in Lieu of Real Estate Tax to the Town. The "Voluntary Real Estate Tax Payment" shall be paid to the Town by CHR and its successors-in-title pursuant to this Agreement in** quarterly installments on the date real property taxes are due and payable in the Town in each applicable fiscal tax year during the Term. The total Voluntary Payment shall be equal to the amount of real property taxes that would otherwise have been levied by and owed to the Town for all or any portion of the Premises were it not used for an Exempt Use or Uses and thus not exempt from real property taxes under applicable law in the relevant fiscal tax year. CHR shall have the right to contest the amount of the Voluntary Payment on the basis of over valuation or disproportionate valuation in comparison to similar properties, provided CHR shall before commencing legal action first use good faith efforts to mediate the issue of valuation with the Assessors. An Exempt Use or Uses shall mean those uses of real property that render such property eligible for exemption from real property taxation pursuant to Massachusetts General Laws Chapter 59, Section 5, Clause Third or other similar law, whether currently in existence or adopted during the Term of this Agreement. The Town shall provide CHR with a written statement of the amount due not less than thirty (30) days prior to the due date.

3. **Voluntary Payment in Lieu of Excise Taxes to the Town.** Currently, the Town of Brookline imposes an occupancy excise tax charged against hotel revenues in accordance with Massachusetts General Laws, Chapter 64G, Sections 3 and 3A. CHR agrees that in the event the Project no longer includes the hotel use subject to occupancy excise taxes, then pursuant to this Agreement, it and its successors-in-title, shall make a voluntary payment in lieu of excise taxes ("Voluntary Room Tax Payment") in quarterly installments on the date real property taxes are due and payable in the Town in each applicable fiscal tax year during the Term. If the hotel use is paying an occupancy excise tax for all hotel rooms in the Project at the time of the final Certificate of Occupancy ("Project Hotel Rooms") in accordance with Massachusetts General Laws, Chapter 64G, Sections 3 and 3A, then there will be no Voluntary Room Tax Payment owed to the Town. If, however, the hotel use is no longer subject to Massachusetts General Laws, Chapter 64G, Sections 3 and 3A, or if the hotel use changes to any other use not subject to local occupancy excise tax, CHR shall be obligated to make the Voluntary Room Tax Payment based upon the following formula:

a. (Audited Total Room Revenue of Premises) x (Local Option Hotel tax), or if hotel operations cease:
b. (REVPAR) x (Project Hotel Rooms) x (Local Option Hotel tax), where REVPAR, or Revenue Per Available Room, is the annual Boston Average for Limited Service Hotels, as reported by STR Analytics (formerly Smith Travel Research) or similar industry leader in reporting hotel performance metrics, and, if needed, updated by the Town's annual assessment date for the following fiscal year.

4. **Termination of Agreement**. The Town or CHR shall have the right to terminate this Agreement by, and effective upon, written notice of such termination delivered to the other in accordance with Section 8, in the event that, at any time after the Effective Date the federal or state laws, regulations, ordinances and/or other government requirements applicable to the payment by CHR of taxes, similar assessments or payments in lieu of such taxes on the Premises used for an Exempt Use or Uses and/or any judicial or administrative interpretation of any of them (other than by the Town), change in any manner, the direct or indirect effect of which is to change the terms, conditions, and/or benefits of this Agreement in any way that is materially adverse to the Town or CHR, with the exception of a change that would have the effect of expanding the uses covered by the term Exempt Uses in this Agreement. This Agreement shall not in any manner whatsoever restrict the Town's exercise of its police power. Upon transfer of title of the Premises CHR's obligations under the Agreement shall automatically terminate and the successor owner of the Premises shall be bound by the terms of this Agreement in accordance with the Successor Affirmation set forth in Section 8 of this Agreement.

5. **Period of Restrictions. It is the intent of the parties that the restrictions set forth herein be imposed for a term of ninety-five (95) years from the Effective Date hereof, and CHR hereby agrees and acknowledges that the restrictions shall not be deemed to be "unlimited as to time" within the meaning of Massachusetts General Laws, Chapter 184, Section 23, and that prior to the expiration of the initial thirty (30) years and prior to the expiration of any subsequent renewal period, such restrictions may be renewed from time to time thereafter for additional periods not in excess of twenty (20) years each, in accordance with the provisions of Massachusetts General Laws, Chapter 184, Section 27 or any successor statute.**

6. **Representations as to Authority**. *The Town's Authority*. The Town represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite municipal power and authority under the Town's Bylaws and under the laws of Massachusetts to execute, deliver, perform and be bound by this Agreement. The Town represents that (i) the individuals executing and delivering this Agreement on the Town's behalf are the incumbents of the offices stated under their names, and such offices have been duly authorized to do so by all necessary municipal action taken by and on the part of the Town, (ii) the Agreement has been duly and validly authorized, executed and delivered by the Town, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which the Town will not instigate and has no reason to believe will be forthcoming), the Agreement constitutes the valid and binding obligation of the Town, enforceable against the Town in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against the Town, the Town agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

CHR's Authority. CHR represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite power and authority to

execute, deliver, perform and be bound by this Agreement. CHR represents that (i) the individual executing and delivering this Agreement on CHR's behalf is the incumbent of the office stated under his name, and such offices has been authorized to do so by all necessary corporate action taken by and on the part of CHR, (ii) the Agreement has been duly and validly authorized, executed and delivered by CHR, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which CHR will not instigate and has no reason to believe will be forthcoming), the Agreement constitutes the valid and binding obligation of CHR, enforceable against CHR in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against CHR, CHR agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

7. Lien/Collection Remedies. Upon the failure to make any Voluntary Payment to the Town, the Town may take whatever action it deems feasible to collect said payment whether in law or equity. The parties agree that the Voluntary Payment may constitute a fee for collection proceedings and may constitute a lien on the property for collection purposes. Upon written request from time to time to the Town Tax Collector, the Tax Collector shall provide the record owner of the Premises with a written statement certifying compliance with this Agreement as of said date and otherwise stating any amounts due and payable and the amount of the Voluntary Payment.

8. Deed Reference and Affirmation of Successor In Title. CHR and its successors in title agree that during the Term, that each successive deed to the Premises executed and delivered by the grantor shall contain the following statement:

> "Reference is made to an Agreement by and between CHR (add entities as necessary) and the Town of Brookline dated _____, _____, recorded with Norfolk County Registry of Deeds in Book _____, Page _____ (the 'Payment in Lieu of Tax Agreement'), as well as all amendments duly made and recorded. By acceptance and recording of this deed, the Grantee acknowledges and accepts the Payment in Lieu of Tax Agreement and all relevant amendments and agrees that the same shall be binding and enforceable against the Grantee in accordance with its terms."

CHR and such successors in title shall notify the Town in the manner provided in Section 9 hereof of the conveyance of the Premises and shall provide the Town with a copy of the deed evidencing the same conforming to this Section 8. The Town shall not be required to issue the certification provided for in Section 7 hereof absent compliance with Section 8, where applicable.

9. Miscellaneous Provisions.

(a) **Notices. All notices, consents, directions, approvals, waivers, submissions, requests and other communications under this Agreement shall**

be effective only if made in writing with all delivery charges prepaid by a method set forth below, shall be effective at the times specified below, and shall be addressed to:

Chestnut Hill Realty Corp.
300 Independence Drive
Chestnut Hill, MA 02467

With a copy to:

Robert L. Allen Jr., Esq.
Law Office of Robert L. Allen Jr., LLP
300 Washington Street
Brookline, MA 02445

Town of Brookline
Attn: Town Administrator
Brookline Town Hall
333 Washington Street
Brookline, MA 02445

With a copy to:

Town of Brookline
Attn: Town Counsel
333 Washington Street
Brookline, MA 02445

___ By commercially recognized overnight or expedited commercial courier service, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the delivery receipt;

___ By hand delivery, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the messenger's receipt; or

___ By US certified or registered mail, return receipt requested, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the return receipt.

Any party may change or add to the addressees and/or addresses for notice by giving notice of such change or addition to the other party in accordance with this paragraph.

(b) **Severability/Captions. The provisions of this Agreement are severable and, if any provision, or any portion thereof, is deemed by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable for any**

reason, the remaining provisions, or remaining portions thereof, shall remain valid and enforceable to the fullest extent permitted by law, provided that (as determined by agreement of the parties or by a court or arbitrator of competent jurisdiction) such continuing validity and enforceability results in neither the loss of any material benefit to, nor the increase of any material burden on, either party or both of them, as such benefits and burdens are originally provided in this Agreement. If this Agreement is terminated or rendered of no effect due to the invalidity, illegality, or unenforceability of any of its provisions, those CHR obligations that otherwise would survive the Term shall end. The captions used in this Agreement are for convenience only and shall not be deemed to have any relevance to the meaning of any of the provisions.

(c) Waivers/Time of Essence. The provisions and any breach of this Agreement shall not be waived, except expressly in writing signed by the waiving party. A waiver on one occasion or of one provision or breach shall not constitute a waiver on another occasion or of another provision or breach. Time is of the essence of this Agreement.

(d) Amendments. This Agreement shall not be amended unless such amendment shall be expressly agreed in writing executed by duly authorized representatives both parties.

(e) Whole Agreement/Survival. This Agreement supersedes any previous negotiations or agreements between the parties to this Agreement, whether oral or in writing, in relation to the matters dealt with herein and represents the entire agreement between the parties in relation thereto. The provisions of this Agreement that, by their specific terms apply after the Term shall, except as provided in Sections 5 and 9, survive the Term for so long as applicable; and all of the provisions of this Section 9 shall also survive the Term in relation to any of this Agreement's other surviving provisions.

(f) Real Property. All references in this Agreement to real property or property owned by or of CHR shall be deemed to mean fee ownership of the Premises, including fixtures and/or improvements thereto and any use and/or occupancy of the Premises, including leases, which would affect the determination of whether the property is exempt or taxable by the Town.

(g) Reservations. The Town and CHR agree that this Agreement provides the Town with protection of its tax base; but nothing in this Agreement in any way restricts the Town's complete discretion in the exercise of its police power or imposes any restrictions on CHR's complete discretion to determine whether and how the Premises shall be developed and improved and the use of the Premises and whether the Premises shall be reserved for, converted to, or acquired for, an Exempt Use or Uses and/or taxable purposes, taking into account economic conditions from time to time, relevant site constraints of development and any and all other considerations it desires. The Town and CHR each reserves all of its respective

positions, rights and remedies at law and equity in connection with real estate taxes and exemptions in the event of the termination, expiration or inapplicability of this Agreement. CHR is entering into this Agreement voluntarily; and nothing in this Agreement or CHR's performance of its covenants hereunder shall be construed for any purposes whatsoever to constitute an acknowledgement by CHR of any regulatory, statutory or contractual obligation to make the Voluntary Payment or any other payment to the Town on account of real property owned by CHR for Exempt Purposes, beyond the explicit contractual commitments voluntarily made by CHR under, and subject to all of the terms and conditions of, this Agreement.

(h) **Counterparts. This Agreement may be executed by the parties hereto in multiple separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument of which there may be multiple originals.**

(i) **Applicable Law. This Agreement shall be governed by, and construed accordance with, the laws of The Commonwealth of Massachusetts for all purposes, without regard to any such laws governing choice of law.**

(j) **Successor In Title/Recording. This Agreement shall bind CHR and its successors and assigns in title to the Premises and shall be deemed to "run with the land" for the duration of the Term. This Agreement shall be recorded at the Norfolk County Registry of Deeds and Norfolk Registry District of the Land Court as appropriate upon execution of this Agreement and approval of all permitting for the Project.**

IN WITNESS whereof the parties have executed this Agreement under seal as of the Effective Date.

Chestnut Hill Realty Corp.

By: XXXXX

By _____
President
Hereunto duly authorized

Date: _____

Town of Brookline
Select Board:

_____

_____

_____

_____

_____

Hereunto duly authorized
Date: _____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____, 20___, before me, the undersigned notary public, personally appeared _____ of_____ as _____ of _____ through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose..

_____

Notary Public

Personally Known _____
Produced Identification _____
Expires:_____
Type of Identification _____

My Commission

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____ 20__, before me, the undersigned notary public, personally appeared _____ _____, _____, _____ _____ Select Board, of the Town of Brookline, proved to me through satisfactory evidence of identification to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as the Board of Selectmen of the Town of Brookline.

_____

Notary Public

Personally Known _____
Produced Identification _____
Expires:_____
Type of Identification _____

My Commission

OR ACT ON ANYTHING RELATIVE THERETO.

PETITIONER'S ARTICLE DESCRIPTION

This Article, if approved, will authorize the Select Board to enter into a Restrictive Covenant, entitled "Tax Certainty Agreement" and/or any related agreements. Once recorded, this Tax Certainty Agreement would run with the land and provide tax certainty for real estate taxes and excise hotel room taxes, for a 95-year term pertaining to the proposed development at the site described as 8-10 Waldo Street, 10-18 Pleasant Street and 16 John Street in Brookline.

The current proposed uses are a hotel and residential building, but future uses could potentially include ones exempt from taxation, such as would be the case if either building were used for university housing. Although no such use is currently contemplated, this Tax Certainty Agreement would ensure a full payment in lieu of taxes to the Town.

Reading the longer explanation for the related Waldo Durgin Overlay District Zoning Article will be helpful to understand how this article works in concert with other related articles.

SELECT BOARD'S RECOMMENDATION

As noted in the explanation, a positive vote for Warrant Article 15 would authorize the Select Board to enter into a Restrictive Covenant, entitled "Tax Certainty Agreement", in substantially the same form as the draft attached to Warrant Article 15, and/or any necessary agreements in furtherance of the purposes of the Restrictive Covenant with respect to tax certainty of the land and buildings as more specifically set forth in the Restrictive Covenant.

The Tax Certainty Agreement has been updated and provided as Exhibit D in the Memorandum of Agreement, included in the Select Board report for Article 14. Similar to the miscellaneous amendments to the Memorandum of Agreement, the Tax Certainty Agreement includes more concise language in the Whereas clauses, as well as minor edits for consistency of defined terms (e.g., "Tax Certainty Agreement" replacing "Payment in Lieu of Tax Agreement") and ownership details. A redline version tracking the changes from the original draft provided in Warrant Article 15 is available at the Select Board's Office and on the Coolidge Corner Study Committee's website at: https://www.brooklinema.gov/1367/Coolidge-Corner-Study-Committee

RECOMMENDATION:

The Select Board by a unanimous vote recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town will accept a Restrictive Covenant, entitled "Tax Certainty Agreement", in substantially the same form as the draft attached hereto and included herewith as Exhibit A and incorporated herein by reference, from CHR Pleasant, LLC, and Waldo Street, LLC, Massachusetts limited liability companies and the 16 John Street Realty Trust u/d/t, their successors and assigns (hereinafter collectively referred to as "CHR") relative to the land and buildings owned by CHR and commonly referred to as 8-10 Waldo Street, 10-18 Pleasant Street and 16 John Street in Brookline, Massachusetts (hereinafter collectively referred to as the "Site") all as further described in the legal description below; such Covenant will be upon such terms and conditions as the Select Board deems in the best interests of the Town with respect to the proposed development of the Site and will provide for the future tax certainty of the land and buildings thereon, and authorize the Select Board to enter into any necessary agreement(s) in furtherance of the purposes of the Restrictive Covenant with respect to the future tax certainty of the land and buildings as more specifically set forth in the Restrictive Covenant.

Legal Description of the Site:

Tract One — 16 John Street, Brookline, MA

The land, with the buildings thereon, situated on John Street in Brookline bounded and measured as follows:

NORTHEASTERLY: by said John Street, Sixty-five (65) feet;

SOUTHEASTERLY: by land of John G. Stearns et al, One hundred twenty-three and 56/100 (123.56) feet;

SOUTHWESTERLY: on the Northeasterly line of Waldo Street so called, Thirty-six and 17/100 (36.17) feet;

SOUTHWESTERLY: again but a little more Westerly on land formerly of John G, Stearns et al, Twenty-seven and 80/100 (27.80) feet; and

NORTHWESTERLY: on other land formerly of John G. Stearns et al, One Hundred nineteen and 12/100 (119.12) feet.

Containing 7873 square feet of land and being the parcel shown enclosed in red lines on a "Plan of land in Brookline" by Aspinwall and Lincoln, Civil Engineers, dated March 9, 1895.

Tract Two — 8-10 Waldo Street, Brookline, MA

Two certain parcels of land with the buildings thereon situated in Brookline, Norfolk County, Massachusetts, bounded and described as follows:

PARCEL I

NORTHEASTERLY: by Waldo Street, one hundred and one and 96/100 (101.96) feet;

SOUTHEASTERLY: by a twenty (20) foot passageway, shown as Lot C on a plan hereinafter mentioned by two lines measuring fifty and 19/100 (50.19) feet, and eighty-eight and 03/100 (88.03) feet, each respectively;

SOUTHWESTERLY: five (5) feet;

SOUTHERLY: seventy and 35/100 (70.35) feet; and

SOUTHWESTERLY: ninety-two and 03/100 (92.03) feet, by land of Trustees of Tufts College, as shown on said plan;

NORTHWESTERLY: by land now or formerly of Eisenburg et al Trustees and land now or formerly of Helpern Procter & Lowenstein, as shown on said plan, by two lines measuring thirty and 20/100 (30.20) feet and one hundred thirty-four and 96/100 (134.96) feet, each respectively;

NORTHEASTERLY: by Lot A, as shown on said plan, being the second parcel hereinafter described by two lines measuring sixty-seven and 85/100 (67.85) feet and twenty-seven and 16/100 (27.16) feet, each respectively;

SOUTHEASTERLY: by the end line of Waldo Street, as shown on said plan, fifteen and 03/100 (15.03) feet;

Containing 27,215 square feet of land and being shown as Lot B on a plan entitled "Plan of Land in Brookline, Mass." drawn by Everett M. Brooks Co., Civil Engineers, dated June 29, 1950 and recorded in Norfolk County Registry of Deeds at Book 3452, Page 470.

PARCEL II

SOUTHEASTERLY: by the end line of Waldo Street, fourteen and 98/100 (14.98) feet;

SOUTHWESTERLY: by Lot B and land of Lowenstein, as shown on a plan hereinafter mentioned, being the first parcel hereinafter described by two lines measuring twenty-seven and 16/100 (27.16) feet and eighty-nine and 58/100 (89.58) feet, each respectively;

NORTHWESTERLY: by Lot 5, as indicated on said plan, forty-one and 18/100 (41.18) feet;

NORTHEASTERLY: by Lots 3, 2 and 1 as indicated on said plan eighty-two and 36/100 (82.36) feet;

SOUTHEASTERLY: by land now or formerly of Kemp, as shown on said plan, thirty-nine and 12/100 (39.12) feet;

NORTHEASTERLY: by land now or formerly of said Kemp, as shown on said plan, twenty-seven and 80/100 (27.80) feet;

Said parcel being shown as Lot A on plan hereinabove mentioned and containing 4,474 square feet of land.

Together with right to use Waldo Street as recited in deed dated March 1, 1913, recorded in Book 1241, Page 499 and deed dated July 1, 1914, recorded in Book 1285, Page 11 and as shown on plan in Book 1241, Page 499.

Together with passageway rights as shown on plan in Book 1546, Page 112 and recited in deed dated November 27, 1939, recorded in Book 2258, Page 331,

Together with the rights to use the 20 foot passageway (Lot C) shown on plan recorded in Book 1241, Page 499 and recited in deed in Book 1241, Page 499,

Together with any and all rights in and to passageways, including but not limited to, rights to use passageways.

PARCEL III — Waldo Street

Also including that portion of Waldo Street, owned by Optionor , subject to the passageway rights of others in a portion thereof, insofar as in force and applicable.

Tract Three — 10-18 Pleasant Street, Brookline, MA

A certain parcel of land with the buildings thereon situated in Brookline, Norfolk County, bounded and described as follows:

SOUTHEASTERLY: by Pleasant Street, 125.68 feet;

NORTHEASTERLY: by John Street, 155 feet;

NORTHWESTERLY: by land now or formerly of Daniel H. Brewer, 123.56 feet; and

SOUTHWESTERLY by Waldo Street, 155 feet.

Excepting therefrom, however, such portion thereof as is described in a release given by Arthur Russell to the Town of Brookline for the alteration and widening of Pleasant Street dated November 14, 1926, recorded with the Norfolk County Registry of Deeds in Book 1725, Page 232, and shown on a plan entitled "Plan of Alteration and Widening of Pleasant Street Between Waldo Street and John Street Brookline, Mass.", dated November 15, 1926 and recorded with said Deeds in Book 1726, Page 637.

Said parcel is shown on a plan by Aspinwall and Lincoln, Civil Engineers, dated July 9, 1889 and recorded with said Deeds in Book 625, Page 205.

EXHIBIT A – DRAFT Restrictive Covenant – "Tax Certainty Agreement"

DRAFT – March 6, 2019

IN RE: the several parcels known as 8-10 Waldo Street (Parcel I.D. No. 045-02-01); 16 John Street (Parcel I.D. 045-11-00) and 10-18 Pleasant Street (Parcel I.D. No. 045-01-00)
BROOKLINE, MASSACHUSETTS
TAX CERTAINTY AGREEMENT

This Agreement between _ CHR Pleasant, LLC and Waldo Street, LLC, Massachusetts limited liability companies, with a principal place of business at Chestnut Hill Realty Corp., 300 Independence Drive, Chestnut Hill, MA 02467, and the 16 John Street Realty Trust u/d/t, and their successors and assigns ("CHR") and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Select Board (the "Board"), is made and entered into this ___ day of _____, _____, upon the mutual promises and obligations hereinafter set forth and additional consideration which the parties acknowledge is adequate and appropriate, upon the following terms and conditions:

PREAMBLE

WHEREAS, the Town through its comprehensive plan seeks to encourage the redevelopment of underutilized, vacant and/or abandoned buildings and land in the Coolidge Corner area and to be assured that such redevelopment results in the improvements remaining as taxable properties within the Town to help protect the Town's existing property tax revenue; and

WHEREAS, CHR owns the several parcels of real property known as and numbered as 8-10 Waldo Street (Parcel I.D. No. 045-02-01); 16 John Street (Parcel I.D. 045-11-00) and 10-18 Pleasant Street (Parcel I.D. No. 045-01-00) (collectively hereinafter the "Premises"), the legal descriptions of which are attached hereto as Exhibit A, which currently consists of a garage, vacant lot and commercial building; and

WHEREAS, CHR has proposed a mixed use development on the Premises including a modern Select-Service hotel and luxury residential building with underground parking (the "Project"); and

WHEREAS, the Town requires a public area easement of approximately 1,000 +/- square feet of land in order to connect the site from John Street through the Premises to Pleasant Street in the area which is more particularly shown on a sketch plan provided by the Town and attached hereto as Exhibit B (hereinafter the "the Public Easement"); and

WHEREAS, CHR requires a zoning amendment to construct the Project; and

WHEREAS, CHR acknowledges the value of the Public Easement to the Project; and

WHEREAS, CHR has stated to the Town that the Project is not likely to result in a loss of the Town's taxable property, and in order to assure that the Premises will pay taxes or the equivalent thereof in the future it has offered to enter into this Agreement; and

WHEREAS, the Town intends to file a Warrant Article for consideration by Town Meeting to accept the Pedestrian Easement and authorize the Board of Selectmen to execute and record the Pedestrian Easement from CHR on certain terms and conditions and upon the assurance that CHR would enter into an agreement binding upon its successors and assigns with respect to the future payment of taxes or the equivalent thereof; and

WHEREAS, the Town and CHR seek to confirm their shared commitment to keeping the Premises upon which the Project may be constructed as a taxable parcel notwithstanding that by virtue of its potential use, it may be exempt from the payment of real estate taxes as nontaxable real property under Massachusetts General Laws, Chapter 59, §5, Clause Third or other applicable exemption; and

WHEREAS, for the reasons stated above and pursuant to the terms of this Agreement, the Town and CHR have agreed that CHR and its successors and assigns in title to the Premises will make, during the term of this Agreement, as that term is explicitly defined below, voluntary payments to the Town in lieu of real estate and hotel room excise taxes in circumstances in which CHR or its successors and assigns in title would not otherwise be obligated to pay on the Premises to the Town under applicable law. Voluntary in-lieu of tax payments are in addition to other economic enhancements provided by CHR in developing the Premises as may be mutually agreed between the Town, acting through its Select Board, and CHR;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, CHR and the Town agree as follows:

10. CHR Commitment to Voluntary Annual Payment to the Town. This Agreement shall become effective on the date of its recording with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court as may be required ("the Effective Date"). Subsequently, commencing with the first fiscal tax year next following the first assessment date on which the Project has been constructed by CHR on the Premises and has received a final Certificate of Occupancy from the Town, in the fiscal years thereafter during which the Premises is being used for an Exempt Use or Uses, as hereinafter defined, and expiring ninety-five years from the Effective Date of this Agreement (the "Term"), CHR shall make a direct financial contribution to the Town (the "Annual Payment"), and the Town shall accept the Annual Payment in full satisfaction of CHR's obligations to make payments to the Town under this Agreement and/or applicable law (whether now in effect or, subject to Sections 2 and 3, hereafter amended or adopted) on account of the Premises being used for an Exempt Use or Uses. During the Term, the Annual Payment shall be paid by CHR to the Town pursuant to this Agreement, consisting of the "Voluntary Real Estate Tax Payment" more particularly described in Section 2 below and the "Voluntary Hotel Room Tax Payment" more particularly described in Section 3 below. The assessment date shall mean January 1st or another date on which the Town Assessors by statute determine the value of real property for the next following fiscal year.

11. Voluntary Payment in Lieu of Real Estate Tax to the Town. The "Voluntary Real Estate Tax Payment" shall be paid to the Town by CHR and its successors-in-title pursuant to this Agreement in quarterly installments on the date real property taxes are due and payable in the Town in each applicable fiscal tax year during the Term. The total Voluntary Payment shall be equal to the amount of real property taxes that would otherwise have been levied by and owed to the Town for all or any portion of the Premises were it not used for an Exempt Use or Uses and thus not exempt from real property taxes under applicable law in the relevant fiscal tax year. CHR shall have the right to contest the amount of the Voluntary Payment on the basis of over valuation or disproportionate valuation in comparison to similar properties, provided CHR shall before commencing legal action first use good faith efforts to mediate the issue of valuation with the Assessors. An Exempt Use or Uses shall mean those uses of real property that render such property eligible for exemption from real property taxation pursuant to Massachusetts General Laws Chapter 59, Section 5, Clause Third or other similar law, whether currently in existence or adopted during the Term of this Agreement. The Town shall provide CHR with a written statement of the amount due not less than thirty (30) days prior to the due date.

12. Voluntary Payment in Lieu of Excise Taxes to the Town. Currently, the Town of Brookline imposes an occupancy excise tax charged against hotel revenues in accordance with Massachusetts General Laws, Chapter 64G, Sections 3 and 3A. CHR agrees that in the event the Project no longer includes the hotel use subject to occupancy excise taxes, then pursuant to this Agreement, it and its successors-in-title, shall make a voluntary payment in lieu of excise taxes ("Voluntary Room Tax Payment") in quarterly installments on the date real property taxes are due and payable in the Town in each applicable fiscal tax year during the Term. If the hotel use is paying an occupancy excise tax for all hotel rooms in the Project at the time of the final Certificate of Occupancy ("Project Hotel Rooms") in accordance with Massachusetts General Laws, Chapter 64G, Sections 3 and 3A, then there will be no Voluntary Room Tax Payment owed to the Town. If, however, the hotel use is no longer subject to Massachusetts General Laws, Chapter 64G, Sections 3 and 3A, or if the hotel use changes to any other use not subject to local occupancy excise tax, CHR shall be obligated to make the Voluntary Room Tax Payment based upon the following formula:

a. (Audited Total Room Revenue of Premises) x (Local Option Hotel tax), or if hotel operations cease:
b. (REVPAR) x (Project Hotel Rooms) x (Local Option Hotel tax), where REVPAR, or Revenue Per Available Room, is the annual Boston Average for Limited Service Hotels, as reported by STR Analytics (formerly Smith Travel Research) or similar industry leader in reporting hotel performance metrics, and, if needed, updated by the Town's annual assessment date for the following fiscal year.

13. Termination of Agreement. The Town or CHR shall have the right to terminate this Agreement by, and effective upon, written notice of such termination

delivered to the other in accordance with Section 8, in the event that, at any time after the Effective Date the federal or state laws, regulations, ordinances and/or other government requirements applicable to the payment by CHR of taxes, similar assessments or payments in lieu of such taxes on the Premises used for an Exempt Use or Uses and/or any judicial or administrative interpretation of any of them (other than by the Town), change in any manner, the direct or indirect effect of which is to change the terms, conditions, and/or benefits of this Agreement in any way that is materially adverse to the Town or CHR, with the exception of a change that would have the effect of expanding the uses covered by the term Exempt Uses in this Agreement. This Agreement shall not in any manner whatsoever restrict the Town's exercise of its police power. Upon transfer of title of the Premises CHR's obligations under the Agreement shall automatically terminate and the successor owner of the Premises shall be bound by the terms of this Agreement in accordance with the Successor Affirmation set forth in Section 8 of this Agreement.

14. **Period of Restrictions. It is the intent of the parties that the restrictions set forth herein be imposed for a term of ninety-five (95) years from the Effective Date hereof, and CHR hereby agrees and acknowledges that the restrictions shall not be deemed to be "unlimited as to time" within the meaning of Massachusetts General Laws, Chapter 184, Section 23, and that prior to the expiration of the initial thirty (30) years and prior to the expiration of any subsequent renewal period, such restrictions may be renewed from time to time thereafter for additional periods not in excess of twenty (20) years each, in accordance with the provisions of Massachusetts General Laws, Chapter 184, Section 27 or any successor statute.**

15. **Representations as to Authority**. *The Town's Authority*. The Town represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite municipal power and authority under the Town's Bylaws and under the laws of Massachusetts to execute, deliver, perform and be bound by this Agreement. The Town represents that (i) the individuals executing and delivering this Agreement on the Town's behalf are the incumbents of the offices stated under their names, and such offices have been duly authorized to do so by all necessary municipal action taken by and on the part of the Town, (ii) the Agreement has been duly and validly authorized, executed and delivered by the Town, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which the Town will not instigate and has no reason to believe will be forthcoming), the Agreement constitutes the valid and binding obligation of the Town, enforceable against the Town in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against the Town, the Town agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

CHR's Authority. CHR represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite power and authority to execute, deliver, perform and be bound by this Agreement. CHR represents that (i) the individual executing and delivering this Agreement on CHR's behalf is the incumbent of the office stated under his name, and such offices has been authorized to do so by all necessary corporate action taken by and on the part of CHR, (ii) the Agreement has been

duly and validly authorized, executed and delivered by CHR, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which CHR will not instigate and has no reason to believe will be forthcoming), the Agreement constitutes the valid and binding obligation of CHR, enforceable against CHR in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against CHR, CHR agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

16. Lien/Collection Remedies. Upon the failure to make any Voluntary Payment to the Town, the Town may take whatever action it deems feasible to collect said payment whether in law or equity. The parties agree that the Voluntary Payment may constitute a fee for collection proceedings and may constitute a lien on the property for collection purposes. Upon written request from time to time to the Town Tax Collector, the Tax Collector shall provide the record owner of the Premises with a written statement certifying compliance with this Agreement as of said date and otherwise stating any amounts due and payable and the amount of the Voluntary Payment.

17. Deed Reference and Affirmation of Successor In Title. CHR and its successors in title agree that during the Term, that each successive deed to the Premises executed and delivered by the grantor shall contain the following statement:

> "Reference is made to an Agreement by and between CHR (add entities as necessary) and the Town of Brookline dated _____, _____, recorded with Norfolk County Registry of Deeds in Book _____, Page _____ (the 'Payment in Lieu of Tax Agreement'), as well as all amendments duly made and recorded. By acceptance and recording of this deed, the Grantee acknowledges and accepts the Payment in Lieu of Tax Agreement and all relevant amendments and agrees that the same shall be binding and enforceable against the Grantee in accordance with its terms."

CHR and such successors in title shall notify the Town in the manner provided in Section 9 hereof of the conveyance of the Premises and shall provide the Town with a copy of the deed evidencing the same conforming to this Section 8. The Town shall not be required to issue the certification provided for in Section 7 hereof absent compliance with Section 8, where applicable.

18. Miscellaneous Provisions.

(a) **Notices. All notices, consents, directions, approvals, waivers, submissions, requests and other communications under this Agreement shall be effective only if made in writing with all delivery charges prepaid by a method set forth below, shall be effective at the times specified below, and shall be addressed to:**

Chestnut Hill Realty Corp.
300 Independence Drive
Chestnut Hill, MA 02467

With a copy to:

Robert L. Allen Jr., Esq.
Law Office of Robert L. Allen Jr., LLP
300 Washington Street
Brookline, MA 02445

Town of Brookline
Attn: Town Administrator
Brookline Town Hall
333 Washington Street
Brookline, MA 02445

With a copy to:

Town of Brookline
Attn: Town Counsel
333 Washington Street
Brookline, MA 02445

___ By commercially recognized overnight or expedited commercial courier service, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the delivery receipt;

___ By hand delivery, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the messenger's receipt; or

___ By US certified or registered mail, return receipt requested, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the return receipt.

Any party may change or add to the addressees and/or addresses for notice by giving notice of such change or addition to the other party in accordance with this paragraph.

(b) **Severability/Captions. The provisions of this Agreement are severable and, if any provision, or any portion thereof, is deemed by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remaining provisions, or remaining portions thereof, shall remain valid and enforceable to the fullest extent permitted by law, provided that (as determined by agreement of the parties or by a court or arbitrator of competent jurisdiction) such**

continuing validity and enforceability results in neither the loss of any material benefit to, nor the increase of any material burden on, either party or both of them, as such benefits and burdens are originally provided in this Agreement. If this Agreement is terminated or rendered of no effect due to the invalidity, illegality, or unenforceability of any of its provisions, those CHR obligations that otherwise would survive the Term shall end. The captions used in this Agreement are for convenience only and shall not be deemed to have any relevance to the meaning of any of the provisions.

(c) Waivers/Time of Essence. The provisions and any breach of this Agreement shall not be waived, except expressly in writing signed by the waiving party. A waiver on one occasion or of one provision or breach shall not constitute a waiver on another occasion or of another provision or breach. Time is of the essence of this Agreement.

(d) Amendments. This Agreement shall not be amended unless such amendment shall be expressly agreed in writing executed by duly authorized representatives both parties.

(e) Whole Agreement/Survival. This Agreement supersedes any previous negotiations or agreements between the parties to this Agreement, whether oral or in writing, in relation to the matters dealt with herein and represents the entire agreement between the parties in relation thereto. The provisions of this Agreement that, by their specific terms apply after the Term shall, except as provided in Sections 5 and 9, survive the Term for so long as applicable; and all of the provisions of this Section 9 shall also survive the Term in relation to any of this Agreement's other surviving provisions.

(f) Real Property. All references in this Agreement to real property or property owned by or of CHR shall be deemed to mean fee ownership of the Premises, including fixtures and/or improvements thereto and any use and/or occupancy of the Premises, including leases, which would affect the determination of whether the property is exempt or taxable by the Town.

(g) Reservations. The Town and CHR agree that this Agreement provides the Town with protection of its tax base; but nothing in this Agreement in any way restricts the Town's complete discretion in the exercise of its police power or imposes any restrictions on CHR's complete discretion to determine whether and how the Premises shall be developed and improved and the use of the Premises and whether the Premises shall be reserved for, converted to, or acquired for, an Exempt Use or Uses and/or taxable purposes, taking into account economic conditions from time to time, relevant site constraints of development and any and all other considerations it desires. The Town and CHR each reserves all of its respective positions, rights and remedies at law and equity in connection with real estate taxes and exemptions in the event of the termination, expiration or inapplicability of this Agreement. CHR is entering into this Agreement voluntarily; and nothing in this

Agreement or CHR's performance of its covenants hereunder shall be construed for any purposes whatsoever to constitute an acknowledgement by CHR of any regulatory, statutory or contractual obligation to make the Voluntary Payment or any other payment to the Town on account of real property owned by CHR for Exempt Purposes, beyond the explicit contractual commitments voluntarily made by CHR under, and subject to all of the terms and conditions of, this Agreement.

(h) Counterparts. This Agreement may be executed by the parties hereto in multiple separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument of which there may be multiple originals.

(i) Applicable Law. This Agreement shall be governed by, and construed accordance with, the laws of The Commonwealth of Massachusetts for all purposes, without regard to any such laws governing choice of law.

(j) Successor In Title/Recording. This Agreement shall bind CHR and its successors and assigns in title to the Premises and shall be deemed to "run with the land" for the duration of the Term. This Agreement shall be recorded at the Norfolk County Registry of Deeds and Norfolk Registry District of the Land Court as appropriate upon execution of this Agreement and approval of all permitting for the Project.

IN WITNESS whereof the parties have executed this Agreement under seal as of the Effective Date.

Chestnut Hill Realty Corp.

By: XXXXX

By _____
President
Hereunto duly authorized

Date: _____

Town of Brookline
Select Board:

_____

_____

_____

_____

_____

Hereunto duly authorized
Date: _____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____, 20___, before me, the undersigned notary public, personally appeared _____ of_____ as _____ of _____ through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose..

_____

Notary Public

Personally Known _____.
Produced Identification _____
Expires:_____
Type of Identification _____

My Commission

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

On this _____ day of _____ 20__, before me, the undersigned notary public, personally appeared _____ _____, _____, _____ _____ Select Board, of the Town of Brookline, proved to me through satisfactory evidence of identification to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as the Board of Selectmen of the Town of Brookline.

_____

Notary Public

Personally Known _____
Produced Identification _____
Expires:_____
Type of Identification _____

My Commission

Passed by a unanimous Vote

XXX

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Articles 13, 14, and 15 are an interrelated group of Articles concerning the development site described as 8–10 Waldo Street, 10–18 Pleasant Street and 16 John Street in Coolidge Corner and referred to as "Waldo Durgin." These Articles are the culmination of a two-year effort by the Town, as represented by the Coolidge Corner Study Committee, and Chestnut Hill Realty (CHR) the developer. The Advisory Committee believes Warrant Articles 13, 14, and 15 are the best possible outcome for the Town, the Coolidge Corner neighborhood and the business community. By a vote of 19–0–3, the Advisory Committee recommends FAVORABLE ACTION on Warrant Articles 13, 14, and 15.

BACKGROUND & DISCUSSION

See the Background and Discussion sections of the Advisory Committee's report on Article 13 for a more complete analysis of the interrelated provisions of Articles 13, 14, and 15.

Warrant Article 15 will authorize the Town to accept a Restrictive Covenant to be recorded on the land, entitled "Tax Certainty Agreement." The Tax Certainty Agreement will protect the tax benefits (from real estate taxes and hotel room taxes) flowing to the Town from this development for 95 years. If some or all of the property were converted to tax-exempt use, such as university housing, the Town would continue to receive full payment in lieu of taxes.

The full text of the draft Tax Certainty Agreement appears in Warrant Article 15.

RECOMMENDATION:

The Advisory Committee by a vote of 19–0–3 recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

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 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 16

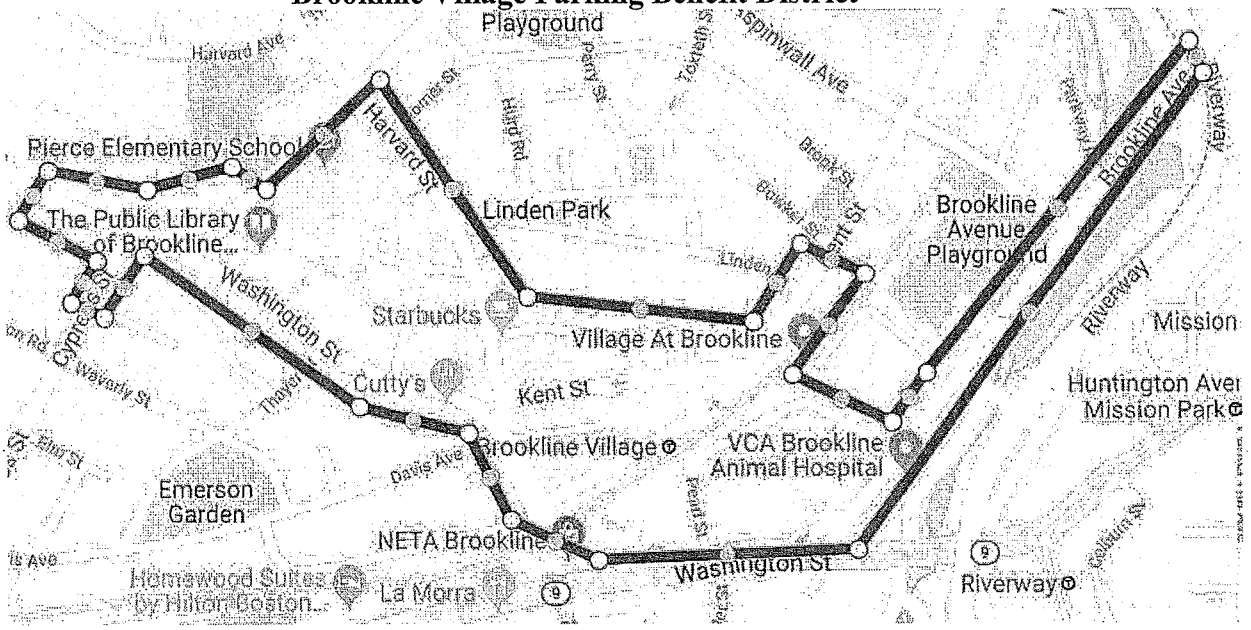
SIXTEENTH ARTICLE

Submitted by: Chris Dempsey, TMM6

Establishment of a Parking Benefit District in Brookline Village

To see if the Town will vote pursuant to General Laws Chapter 40, Section 22A½ to establish a Parking Benefit District in Brookline Village as substantially described and shown below in the plan entitled "Brookline Village Parking Benefit District", in which a portion of parking revenue collected therein may be designated for use in that district through a dedicated fund in accordance with the purposes and uses listed in section 22A of said Chapter 40; and further, to establish and designate a Brookline Village Parking Benefit District Advisory Board to make recommendations to the Select Board about said Parking Benefit District; said Advisory Board to be composed of nine members appointed by the Select Board, at least five of whom shall be individuals who own or manage commercial businesses located in the district,

Brookline Village Parking Benefit District



Brookline Avenue
Pearl Street
Station Street
Cypress Street from Washington Street to Searle Avenue)
Kent Street
Washington Street from Pearl Street to Greenough Circle
Harvard Street from Harvard Square to School Street/Aspinwall Avenue

Webster Place
Holden Street
Pierce Street
Town lots on Holden/Pierce (Town Hall), Kent Street, Webster Place, and School Street, or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In 2016, the Massachusetts General Court enacted the Municipal Modernization Act. One of the provisions of that law authorized the creation of parking benefit districts (PBDs). Approving this warrant article would create a PBD in Brookline Village and an associated Brookline Village Parking Benefit District Advisory Board (BVPBDAB), which will make recommendations to the Select Board about rates and uses of funds, within the requirements of the law. The BVPBDAB is composed of residents and businesses representing the area in which revenues are raised, but the role of this Advisory Board is purely advisory; any rate changes and all expenditures must still be approved by the Select Board.

A PBD is a geographical area in which a portion of parking revenues generated in that area are used to finance area improvements through a dedicated fund. Communities such as Arlington (MA), Pasadena (CA), Austin (TX), and Boulder (CO) have all successfully employed versions of PBDs to better manage parking supply and to generate resources to support improvements to a commercial area.

Not all of the parking meter receipts collected in a PBD have to be returned to the PBD. The warrant article's proponents are proposing only that *incremental* increases in parking revenues be dedicated in this way. All *existing* parking revenues would flow to the town's general fund, as they do today. For example: today's parking meter rate in Brookline Village is $1.25 per hour. The BVPBDAB could recommend an increase in rates to $1.50 per hour. In this case, $1.25 would flow to the town's general fund, as it does today, and $0.25 would flow to the Brookline Village PBD account. These funds shall be placed in a distinct revolving account which shall carry over year-to-year.

PDBs do not include revenue from parking violations or parking permits, which would remain unchanged in this warrant article.

Revenue from the PBD would be spent in the area in which it is raised (i.e., Brookline Village) on improvements that enhance the accessibility and desirability of the district and that are not currently provided by the Town to the extent desired by residents and businesses in the district. The BVPBDAB shall recommend an annual budget, parking rates, and expenditures in the PBD to the Select Board for approval, will make recommendations related to parking/traffic operations and temporary or permanent

physical changes to the Transportation Board and/or DPW as appropriate, and make recommendations related to public art to the Arts Commission.

The state law authorizing PBDs permits funds to be spent only on the following uses: "acquisition, installation, maintenance and operation of parking meters and other parking payment and enforcement technology, the regulation of parking, salaries of parking management personnel, improvements to the public realm, and transportation improvements, including, but not limited to, the operations of mass transit and facilities for biking and walking." The BVPBDAB could recommend projects and improvements such as enhanced winter lighting, flowers and greenery, public art, and improvements for pedestrians and cyclists.

In summary, this article creates the Brookline Village BPD and the BVPBDAB, appointed by the Select Board. The BVPBDAB may recommend increases or changes to parking meter rates, any of which must be approved by the Select Board. Any incremental funds generated in the PBD shall be placed in a distinct revolving account, which shall carry over year-to-year. The BVPBDAB shall develop an annual budget and recommendations for expenditures within the PBD, which shall be approved by the Select Board.

Questions:

What about other commercial districts such as Coolidge Corner, Washington Square, St. Mary's, and Putterham Circle?
No changes are being proposed for those areas at this time. Depending on the success of the PBD in Brookline Village, PBDs in those other commercial areas could be explored in the future. Any changes would need to be approved by Town Meeting.

Why does Brookline Village need a parking benefit district?
A PBD attempts to do two things: (1) better manage precious parking resources in commercial areas, and (2) raise revenue that can be reinvested in the vibrancy and vitality of a commercial district. A PBD engages residents and businesses on how to make parking easier and more efficient, and what enhancements to a district would deliver the most benefits.

While this article does not change the governance of meter rates or parking policies, it does attempt to provide business owners and residents with a more formal say in how funds are generated and spent. Under this article, the Select Board retains full authority to set parking meter rates. This warrant article also provides the Select Board the ability to spend resources dedicated to the PBD by Town Meeting (through this warrant article) according to the recommendations of the BVPBDAB. Town Meeting retains full rights to change this governance in the future.

How would the PBD Revolving Fund work?
The revolving fund would be listed in the special revenue fund section in the budget book under DPW, reporting every year to TM the fiscal year end and calendar year end balance,

and a one line description of the fund. Budgets for this fund would be recommended by the BVPBDAB, approved by the Select Board, administered by the Transportation Division, and reported to Town Meeting.

How would expenditures from the PBD Revolving Fund work?
It is anticipated that the annual budget to the BVPBDAB and Select Board would be detailed like other Division-level budgets (personnel, services, supplies, other, capital), but within those subsets staff would have leeway. Some contracts that require bidding go to the Select Board, but many smaller contracts and expenditures do not and the Select Board does not want to or need to approve every expenditure (for example, staff could buy some chalk and banners for a public arts event in the district without requiring Select Board approval).

What expenditures would be allowed from the PBD?
Expenditures could include various improvements that enhance the vitality of the district. Some examples could include, but would not be limited to: sponsoring temporary or permanent public art in the district, piloting a new parking space tracking system that monitors and reports on parking space availability, renovating a pocket park, adding bicycle corrals, piloting additional seating furniture, wayfinding signs, parking signage, lighting on or lighting public ways, murals on or viewable from public ways, public trash receptacles, improving public walkways or public easements via hardscape materials or covered areas, bus stop amenities, pedestrian crossings, fencing or bollards on public ways or easements, stormwater treatment, ADA improvements to the public realm, adding outdoor seasonal plantings on or viewable from public ways, paying for town services to support a special event like closing a street or police detail or DPW installing banners or assisting with the safe installation of temporary or permanent public art, studies for parking management or ped/bike/parking/traffic counts, customer surveys, marketing and communications funding for the district, information kiosks for community events, electrical upgrades for periodic event use or public art/ tree lighting, sustainable technology like solar panel shade canopies, shared bike/scooter/car facilities, designated drop-off/pick-up areas, educational/ healthy living feedback projects, improvements to emergency communications infrastructure from public areas, historic information or displays, map displays for parking/ shopping/ civic/ cultural destinations, and activities or physical improvements that support state designated cultural districts.

SELECT BOARD'S RECOMMENDATION

Article 16 accepts a provision of the Massachusetts Municipal Modernization Act to enable the Town to establish a parking benefits district in Brookline Village. It also establishes a Brookline Village Parking Benefit District Advisory Board. The purpose of the Board would be to make recommendations to the Select Board on potential increased parking rates for the district, as well as potential improvements for the parking benefits district.

Through the establishment of a parking benefit district, the Town may allocate additional revenue received from parking revenues that are garnered from higher than already established set rates for a wide range of purposes, which include: parking meter maintenance, beautification projects, and street or roadway improvements for the benefit of mass transit, pedestrians or bicyclists. The article would allocate the funds generated to a special revenue fund in order to fund potential improvement projects.

The Select Board understand that parking benefits districts are an innovative way to provide targeted improvements to commercial districts. These districts have been successful in other parts of the country and was recently implemented in the Town of Arlington. However, the Board did have some concerns with the original resolution and questioned who would ultimately have control over the additional funds that were raised and how this would address parking issues within the area. It was also noted that there would be competing interests and needs for these funds. Furthermore, there were concerns about the proposed area map. In particular, that the Town Hall parking lot was originally included in the proposed area. The Board felt that individuals coming to Town Hall to do business should not be subjected to increased meter rates.

The Board was supportive of this measure after language was adopted by the Advisory Committee that addressed many of the concerns that the Board had voiced. Overall the Board see the potential benefit of implementing a parking benefit district in order to allow residents and merchants in Brookline Village to work collaboratively for the benefit of the community.

On April 24, 2019, the Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

. SUMMARY:
Article 16 seeks the creation of a Parking Benefit District in Brookline Village (the "BV Parking District"). The proposed district's boundaries are defined by Petitioner's map contained in Article 16). The BV Parking District would be established pursuant to recent Massachusetts state enabling legislation

Article 16 provides that a portion of the parking revenue collected in the BV Parking District may be designated for use in that District through a dedicated fund. The Article designates a BV Parking Benefit District Advisory Board (the "BV Advisory Board") to make recommendations to the Select Board. The Article provides that the BV Advisory Board will be appointed by the Select Board and shall consist of nine members, at least five of whom shall be individuals who own or manage commercial businesses located in the BV Parking District.

The Advisory Committee is of the view that Article 16 as it appears in the Warrant has the worthy goal of enhancing the Brookline Village business district, but the Committee believes that the proposal needs further development and clarification. To that end, the Advisory Committee supports a number of amendments to Article 16 that were adopted by Petitioner at the public hearing and at a subsequent public meeting of the Planning and Regulation Subcommittee. On that basis, by a vote of 13–10–0, the Advisory Committee recommends FAVORABLE ACTION on Article 16.

BACKGROUND:
Article 16 is being proposed pursuant to Massachusetts General Laws Chapter 40, Section 22A½, which was added to the General Laws in 2016, and provides as follows:

> A city or town may establish 1 or more parking benefit districts, as a geographically defined area, in which parking revenue collected therein may be designated in whole or in part for use in that district through a dedicated fund in accordance with the purposes and uses listed in section 22A. A parking benefit district may be managed by a body designated by the municipality, including, but not limited to, a business improvement district or main streets organization.

With respect to the purposes and uses listed in Section 22A, Section 22A provides in relevant part, as follows:

> …acquisition, installation, maintenance and operation of parking meters and other parking payment and enforcement technology, the regulation of parking, salaries of parking management personnel, improvements to the public realm, and transportation improvements, including, but not limited to, the operations of mass transit and facilities for biking and walking.

Public Comment

At the Planning and Regulation Subcommittee public hearing, there was input from members of the public, which included the following comments:

- Concern expressed about another government structure without clarity regarding its authority and how funds will be spent, and that the process should be slowed down so that there can be a more thoughtful discussion regarding what should be accomplished.

- Concern raised about contractors using 10-hour meters on Brookline Avenue that needed to be addressed.

- One member thought that the map should be increased to include Route 9 up to Cypress Street in order to revitalize Route 9.

- The BV Parking District may provide benefits that will make Brookline Village a more special place, and a gateway to the Town.

- BV is looking for an organizing principle to unite merchants and give BV businesses a voice.

- This proposal would give neighbors a forum to discuss parking issues

DISCUSSION:
Article 16 represents the worthy goal of enhancing the Brookline Village business district. However, the following issues were raised in connection with achieving that goal:

Scope of the BV Parking District

The Planning and Regulation Subcommittee raised questions about the perceived boundaries of BV for purposes of establishing the BV Parking District pursuant to Article 16. The petitioner agreed that metered parking spaces on the northern end of Brookline Avenue were being used almost exclusively by contractors or other persons accessing the medical area. The Subcommittee expressed the view that these spaces were not legitimately within what is generally considered to be BV and that, in any case, they were not being utilized by persons accessing the BV commercial area. In response, the petitioner agreed to amend the map to remove some of the metered spaces from the BV Parking District that are located on the northern end of Brookline Avenue, i.e., those spaces north of Aspinwall Avenue.

Furthermore, it was noted that there are certain parking areas within the proposed BV Parking District that the Subcommittee believed should be excluded. There was a general consensus that the metered spaces in the Town Hall parking lot should be excluded because they were used principally for Town-wide business and not for parking to shop in or otherwise access BV. For similar reasons, some members of the Subcommittee also questioned including metered spaces located in front of the Library and on Cypress Street. In response, the petitioner agreed to exclude the metered spaces in the Town Hall parking lot from the BV Parking District.

While the map initially submitted as part of the Article 16 may be legally sufficient, it was the consensus of the Subcommittee that it did not provide adequate disclosure and permit a meaningful understanding of exactly which parking meters were being included in the proposed BV Parking District. In response, the petitioner agreed to amend Article 16 to substitute a new map, provided below, detailing the parking meters in the proposed BV Parking District, which now excludes certain spaces on Brookline Avenue and those in the Town Hall parking lot.

BV Parking District Revenue

The explanation for Article 16 contains the following description of what parking revenue is intended to be subject to the BV Parking District dedicated fund:

> Not all of the parking meter receipts collected in a PBD have to be returned to the PBD. The warrant article's proponents are proposing only that *incremental* increases in parking revenues be dedicated in this way. All *existing* parking revenues would flow to the town's general fund, as they do today. For example: today's parking meter rate in Brookline Village is $1.25 per hour. The BVPBDAB could recommend an increase in rates to $1.50 per hour. In this case, $1.25 would flow to the town's general fund, as it does today, and $0.25 would flow to the Brookline Village PBD account.

The Subcommittee noted that the language in Article 16, as proposed, could encompass substantially all of the revenue from the meters in the BV Parking District, which would be inconsistent with Petitioner's intent as articulated in the explanation. In response, Petitioner provided clarifying language to Article 16 that only the incremental amount charged in excess of the general parking rate that would otherwise be charged would be deposited in the dedicated fund. Petitioner also agreed that if the general rate structure were subsequently increased to the level of the BV Parking District, the District would need to request a new rate increase in order to continue to share in revenue from the BV Parking District.

Budgetary Concerns

The Subcommittee noted that Article 16 as proposed took the approval process out of the normal budgetary process and put it in the hands of the Select Board. The Subcommittee and members of the full Advisory Committee raised concerns about coordination of the uses of the funds with the Town's normal budgetary process. The petitioner believes that coordination should not pose a significant problem.

Clarifying language was also added to confirm the petitioner's intent that the Select Board would have final authority on the expenditure of funds.

Accounting Matters

While the explanation of Article 16 provided detail on how the BV Parking District fund would operate, there was concern that Article 16 itself did not provide sufficient detail. Upon advice from the deputy town administrator, it was suggested that the petitioner amend the language to provide that incremental parking meter funds resulting from an increase in parking meter rates based upon a recommendation from the BV Advisory Board would be deposited into a "special revenue fund" that would be reported as a line item in the annual budget of the Department of Public Works. The use of a special revenue fund is in keeping with the intended administration of a dedicated fund, which would not go through the normal budgetary process.

BV Advisory Board

The Subcommittee suggested that the petitioner might want to reduce the size of the BV Advisory Board, which might be too unwieldy with nine members, of which five are required to be business owners. The Subcommittee also suggested that the terms of the members should be specified. Petitioner has decided not to reduce the size or composition of the BV Advisory Board but has provided language specifying staggered three-year terms for its members.

Cost of Administration

The Subcommittee and the full Advisory Committee also discussed the cost to the Town to administer the BV Parking District as well as other parking benefit districts that may subsequently be formed. The administration would be principally through the Transportation Department. The Subcommittee concluded that that it was unlikely that these costs would be excessive, provided that there was only one parking benefit district. Petitioner agreed that if administrative costs escalate significantly, it would be necessary under such circumstances to require parking benefit districts to provide funding for Town administrative costs. The potential cost of administration was a concern to some Advisory Committee members.

Support of Local Businesses

The Subcommittee raised the question of just how many businesses located in the proposed BV Parking District actually have voiced support for Article 16. The petitioner said there has been extensive outreach to local businesses, but the Subcommittee noted that the website supporting the BV Parking District only stated that seven businesses have signed a letter of support. The Subcommittee's support was conditioned on the petitioner being able to establish before the full Advisory Committee that there is significant support for Article 16 among the approximately 80 businesses in the proposed BV Parking District. At the full Advisory Committee, the petitioner did not provide significant additional evidence of support beyond what was provided to the Subcommittee. The petitioner did, however, share survey results with the Advisory Committee of approximately 20 businesses in BV that the petitioner said showed their interest in the BV Parking District. The lack of significant support by local businesses was of concern to some Advisory Committee members.

Despite remaining concern by some members of the Advisory Committee about the coordination of expenditures outside the normal budget process, the potential cost of administration, and the lack of evidence of significant support among the businesses in Brookline Village, a majority of the Advisory Committee believed that Petitioner had a made a persuasive case for adoption of Article 16, subject to the amendments to Article 16 discussed above.

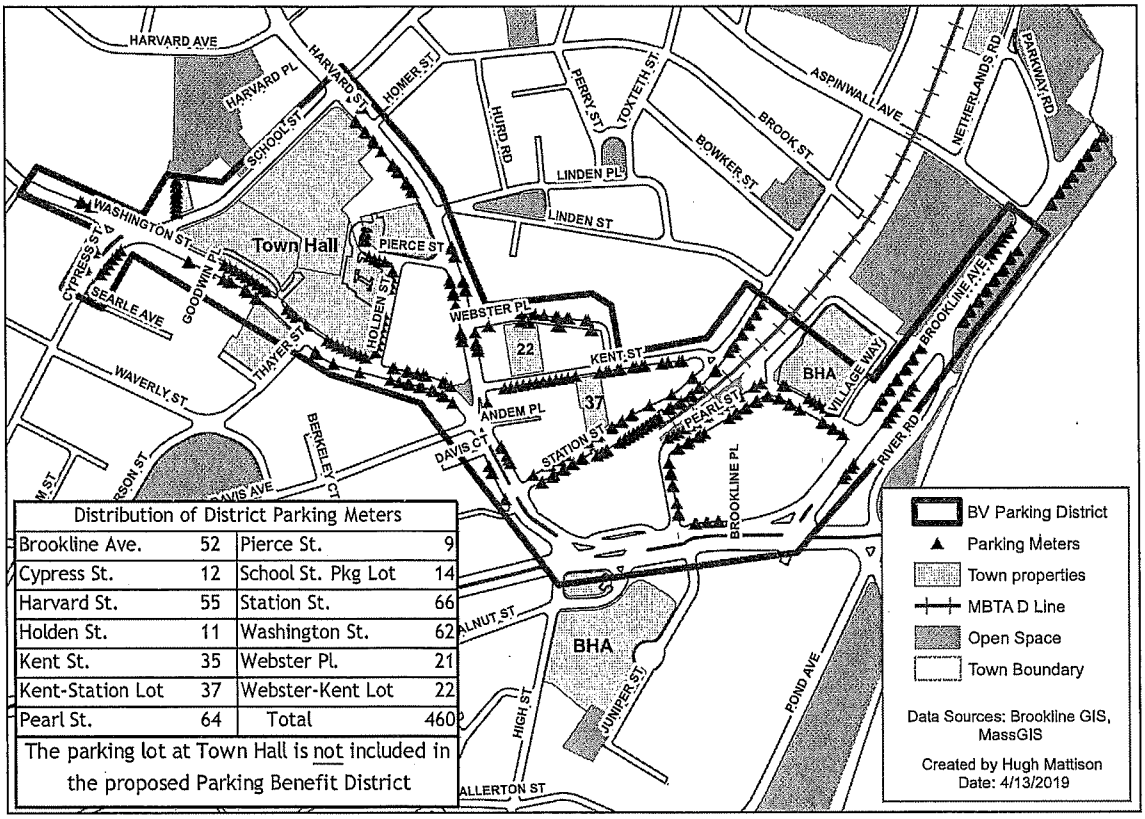
RECOMMENDATION:

May 21, 2019 Annual Town Meeting
16-10

By a vote of 13–10–0, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town, pursuant to General Laws Chapter 40, Section 22A½, establish a Parking Benefit District in Brookline Village, as substantially described and shown below in the plan entitled "Brookline Village Parking Benefit District", in which a portion of parking revenue collected therein may be designated for use in that district through a dedicated fund in accordance with the purposes and uses listed in section 22A of said Chapter 40; the funds available to the Parking Benefit District shall only be those amounts in excess of revenue that would otherwise be applicable to the general fund through the standard meter-rate-setting process established by the Select Board; said funds shall be deposited into a special revenue fund, to be reported as part of the Department of Public Works annual budget; and further, to establish and designate a Brookline Village Parking Benefit District Advisory Board to make recommendations about said Parking Benefit District to the Select Board, which shall have the final authority on the expenditure of funds; said Advisory Board to be composed of nine members appointed by the Select Board, at least five of whom shall be individuals who own or manage commercial businesses located in the district; said members to be appointed to 3-year staggered terms by the Select Board; a vacancy arising on said Advisory Board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

BROOKLINE VILLAGE PARKING BENEFIT DISTRICT - Article 16



Distribution of District Parking Meters			
Brookline Ave.	52	Pierce St.	9
Cypress St.	12	School St. Pkg Lot	14
Harvard St.	55	Station St.	66
Holden St.	11	Washington St.	62
Kent St.	35	Webster Pl.	21
Kent-Station Lot	37	Webster-Kent Lot	22
Pearl St.	64	Total	460

The parking lot at Town Hall is not included in the proposed Parking Benefit District

Brookline Avenue from Washington Street to Aspinwall Avenue
Pearl Street
Station Street
Cypress Street from Washington Street to Searle Avenue
Kent Street
Washington Street from Pearl Street to Greenough Circle
Harvard Street from Harvard Square to School Street/Aspinwall Avenue
Webster Place
Holden Street
Pierce Street
Town lots on Kent Street, Webster Place, and School Street, but not including the Town Hall Lot on Holden/Pierce Street.

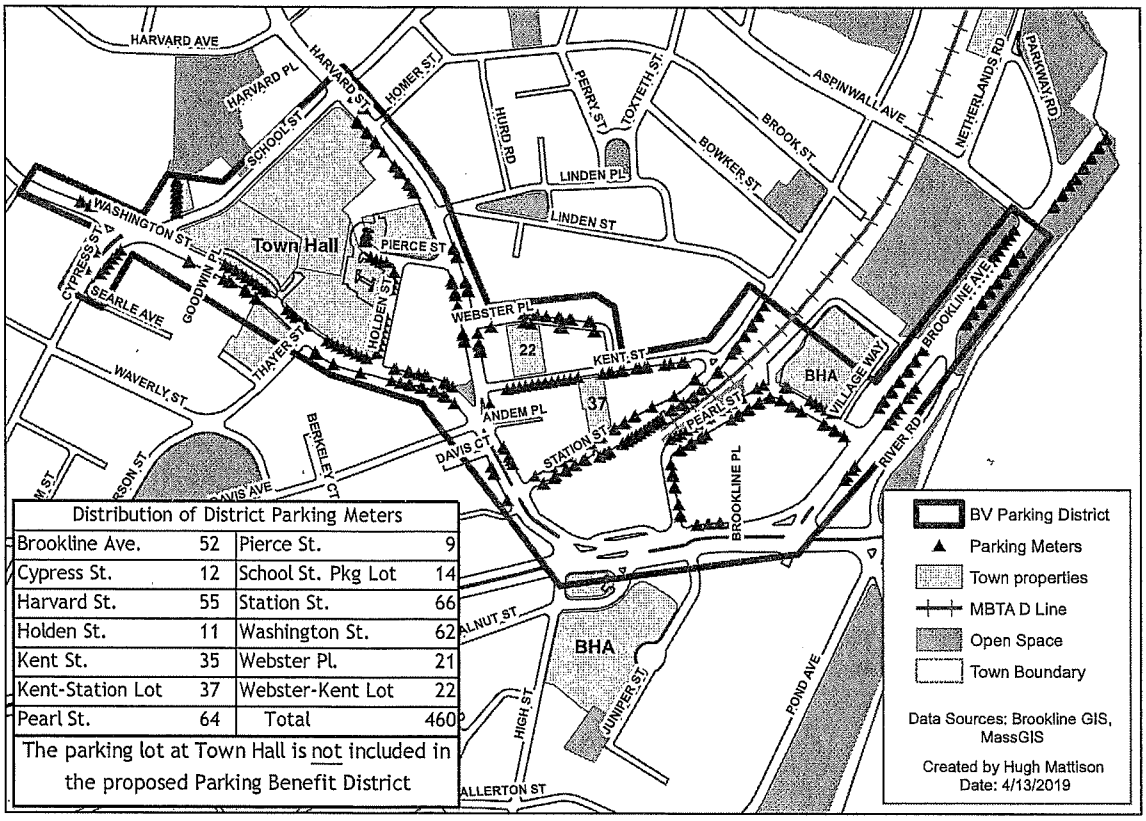
For informational purposes, here is a marked-up version of Warrant Article 25 as amended by the Advisory Committee, showing the changes made to the original resolution as it appeared in the Warrant.

Passed by an Electronic Recorded Vote of 184 In Favor, 8 Opposed and 10 Abstentions

(Additions to the original Article 16 text are denoted in **bold**, ***italicized*** **text**, deletions are denoted in ~~stricken~~ text, and a substitute map is appended):

VOTED: That the Town, pursuant to General Laws Chapter 40, Section 22A½, establish a Parking Benefit District in Brookline Village, as substantially described and shown below in the plan entitled "Brookline Village Parking Benefit District", in which a portion of parking revenue collected therein may be designated for use in that district through a dedicated fund in accordance with the purposes and uses listed in section 22A of said Chapter 40; ***the funds available to the Parking Benefit District shall only be those amounts in excess of revenue that would otherwise be applicable to the general fund through the standard meter-rate-setting process established by the Select Board; said funds shall be deposited into a special revenue fund, to be reported as part of the Department of Public Works annual budget;*** and further, to establish and designate a Brookline Village Parking Benefit District Advisory Board to make recommendations ~~to the Select Board~~ about said Parking Benefit District ***to the Select Board, which shall have the final authority on the expenditure of funds***; said Advisory Board to be composed of nine members appointed by the Select Board, at least five of whom shall be individuals who own or manage commercial businesses located in the district; ***said members to be appointed to 3-year staggered terms by the Select Board; a vacancy arising on said Advisory Board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.***

BROOKLINE VILLAGE PARKING BENEFIT DISTRICT - Article 16



Distribution of District Parking Meters			
Brookline Ave.	52	Pierce St.	9
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Kent-Station Lot	37	Webster-Kent Lot	22
Pearl St.	64	Total	460

The parking lot at Town Hall is not included in the proposed Parking Benefit District

Brookline Avenue ***from Washington Street to Aspinwall Avenue***
Pearl Street
Station Street
Cypress Street from Washington Street to Searle Avenue
Kent Street
Washington Street from Pearl Street to Greenough Circle
Harvard Street from Harvard Square to School Street/Aspinwall Avenue
Webster Place
Holden Street
Pierce Street
Town lots on ~~Holden/Pierce (Town Hall),~~ Kent Street, Webster Place, and School Street, ***but not including the Town Hall Lot on Holden/Pierce Street.***

ARTICLE 17

PETITIONER MOTION AND ADDITIONAL EXPLANATION

VOTED: THAT THE TOWN
~~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.

Passed by a majority Vote

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

SEVENTEENTH ARTICLE
Submitted by: Neil Gordon, TMM1

Include the Commission for Diversity, Inclusion and Community Relations on the Review Committee for the Naming of Public Facilities

To see if the Town will

(i) vote 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**):

Section 6.8.2 REVIEW COMMITTEE

(A) Appointment - The 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 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.

(ii) make such other changes to the composition to the Naming Public Facilities Review Committee as Town Meeting shall approve.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Fourteen years ago, Town Meeting added Section 6.8.2 to the Town Bylaws, establishing a Select Board appointed committee, the Review Committee for the Naming of Public Facilities, to review all proposals for naming public facilities* (except for rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees).

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. Because nearly all of the members of the Naming Committee are as designated by the Bylaw, the proposed amendment to Section 6.8.2 also seeks to allow (but not require) the Select Board to expand the Naming Committee to as many as seven members.

*In the past five years, the Naming Committee has met four times:

August 12 and October 22, 2014 - Question of renaming the field at Cypress Playground the Thomas P. Hennessey Fields at Cypress Street Playground.

August 16, 2016 - Question of naming a square near 126 Cypress St in honor of WWII veteran Walter F. Brookings, discussion of Judge Henry Crowley Park at St. Mark's Square, and discussion of Hickey Triangle.

April 4, 2018 - Review and public hearing on the renaming of the Devotion School, and review and public hearing on a resolution calling for consideration of renaming Washington Street.

SELECT BOARD'S RECOMMENDATION

Article 17 is a petition to amend the 6.8.2 of Town's By-Law in order to modify the membership of the Naming Committee. The Naming Committee is charged with reviewing all proposals for naming public facilities, except for rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees.

The Naming Committee was created under Article 20 of the 2005 Annual Town Meeting. It consists of five members including a member of the Advisory Committee, of the Park and Recreation Commission, of the Preservation Commission and of the School Committee. This article seeks to expand the number of members to no more than seven and to include a member of the Commission for Diversity, Inclusion and Community Relations in that membership.

The Board was supportive of this article and agreed that a broader perspective from a member of the Commission for Diversity, Inclusion and Community Relations may be beneficial for the Committee. Members of the Board felt that someone else's context might allow members to view proposals differently. The Board acknowledged a letter from the Chair of the Commission for Diversity, Inclusion and Community Relations indicting that it would be beneficial to have someone on the committee looking through an equity lens.

Board Member Greene acknowledged the Chair of the Naming Committee's concerns about proposals meeting the criteria of the committee; however, there could be sensitivity issues that may be important, even if minor or symbolic in nature.

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

VOTED: That the Town 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**):

Section 6.8.2 REVIEW COMMITTEE

(B) Appointment - The 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 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.

(iii) make such other changes to the composition to the Naming Public Facilities Review Committee as Town Meeting shall approve.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 17 seeks to amend Section 6.8.2 of the Town's By-Law. It would make changes in the composition of the Naming Committee, increasing the number of members from five to seven, including one member from the Commission for Diversity, Inclusion, and Community Relations (CDICR) and another member chosen at the discretion of the Select Board.

By a vote of 13–7–1, the Advisory Committee recommends that the subject matter of Article 17 be referred to the Committee on Town Organization and Structure (CTO&S).

BACKGROUND:
The Naming Public Facilities Review Committee (Naming Committee) was established in 2005. Appointed by the Select Board, its members are responsible for reviewing "all

proposals for naming public facilities, with the exception of rooms and associated spaces under the jurisdiction of the School committee and Library Trustees." All recommendations are subject to criteria which are established by the Committee, and approved by the Select Board. The Naming Committee holds meetings to review each proposal, including a public hearing, and then issues a recommendation to Town Meeting. Ultimate naming authority rests with Town Meeting.

The guidelines followed by the Naming Committee are posted on the Town website: https://www.brooklinema.gov/DocumentCenter/View/4882/Naming-Committee-Guidelines-Voted-6-11-2013-PDF

The Naming Committee, as currently configured, consists of five members and an alternate, and includes a representative from the School Committee, Advisory Committee, Parks and Recreation Commission, and the Preservation Commission. The fifth member, as well as the alternate member, are at-large.

When a person proposes naming something in Town, it has been the practice of the Committee to hold a public hearing to take public comment, and additional meetings, if deemed necessary, for further discussion and deliberation. In reaching a recommendation for Town Meeting, it applies the following criteria to any naming or renaming proposal:

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

After reaching a decision, it then makes a recommendation to Town Meeting.

The petitioner notes that the Naming Committee has met four times since August 2014—to consider the naming of a field, two squares, a park, the "clock triangle" in Brookline Village, and also met in April 2018, holding a public hearing on two Warrant Articles, one being the proposal to rename the Devotion School and the other to study renaming Washington Street.

DISCUSSION:
The petitioner observed that, "in view of contemporary sensibilities and issues," it would be appropriate to add to the Naming Committee an individual with a Town-designated commitment to "honoring deserving individuals who are members of Brookline's protected classes." The petitioner believes there is a missing voice on the committee.

The petitioner argued that a member from the Commission for Diversity, Inclusion and Community Relations (CDICR) should be added to the Naming Committee. Some who spoke in opposition to the Article believe that the concern of the petitioner is not actually

with the composition of the Naming Committee, but rather with the criteria that the Naming Committee uses to guide its decisions. Indeed, when the Petitioner presented his article to the Advisory Committee, a number of his comments focused on the criteria rather than on the membership of the committee itself. Those criteria are, under the by-law, approved by the Select Board.

Among some Advisory Committee members as well as the general public, there seemed to be a misunderstanding on how the committee works. Although authorized by the existing by-law to initiate naming—or renaming—proposals, the Naming Committee has not done so, but rather vets specific proposals people want to submit to Town Meeting. The Committee also works with the relevant department (the Veterans Director, for example, in cases of naming street corners after veterans).

There was also the belief among some Advisory Committee members that this proposed change is unnecessary, that is, a solution in search of a problem. When the proposal to rename the Edward Devotion School was filed, there was plenty of public comment given to numerous boards and commissions either in favor or opposed to the proposal. The CDICR also held a meeting, gathered public comment, and submitted its own recommendation to Town Meeting. The petitioner could not give any evidence that any voices had not been heard.

One other concern was the perception that in singling out one committee, people might wrongly conclude that there is some racial problem within this particular committee and that a change in the law was necessary to address it. While it must be stressed that this is clearly not the intention of the petitioner, the question was asked whether other boards and committees, such as the Transportation Board, Planning Board, CTO&S, etc. should also add Diversity Committee members. There was also a suggestion that the nominating criteria be reviewed rather than the makeup of the committee.

Some members argued that the appointment of a diversity advocate to a committee whose work would directly and publically reflect professed community values seemed prudent, although there is no evidence that the work and views of the current members of the Naming Committee lack those professed community values.

Regardless of the perspective of the opponents to Article 17 as presented, the question of making structural changes in the composition of the Naming Committee, or any other town board, commission or committee for that matter, should be directed in the first instance to CTO&S. In viewing the petitioner's proposal, CTO&S could decide to look at the composition of the membership of all similarly appointed boards and commissions, rather than focus on just one committee. In the meantime, the Petitioner should propose to the Naming Committee, and ultimately to the Select Board, changes in the criteria that are applied to naming or renaming proposals. Addressing the criteria would be a more direct, explicit and transparent way to actually define and address the "contemporary sensibilities and issues" of concern to the Petitioner.

Advisory Committee members thought the Article in any case needed further vetting, and thought that it would be good to get input from the members of the Naming Committee as well as the committee that deals with this very subject, the Committee on Town Organization and Structure (CTO&S).

RECOMMENDATION:
By a vote of 13–7–1, the Advisory Committee recommends that the subject matter of Article 17 be referred to the Committee on Town Organization and Structure.

A VOTE OF REFERRAL XXX WAS DEFEATED BY AN ELECTRONIC RECORDED VOTE OF 17 IN FAVOR, 179 OPPOSED AND 3 ABSTENTIONS

ARTICLE 18

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

On page 18-6 the disability language voted reads "reasonable modifications" rather than "reasonable accommodations. The added language was also not marked as new (**bold and underlined**). The corrected motion under Article 18 is found below:

VOTED: That the Town amend the General By-Laws, Article 8.6, Dog Control, Section 8.6.7 thereof (Restraint of Dogs) and Article 10.2, Prosecutions and Enforcement, as follows (additions appear in underlined bold text, and deletions appear in stricken bold text):

SECTION 8.6.7(a) RESTRAINT OF DOGS

Any person owning or harboring a dog shall not suffer or allow it to run at large in any of the streets or public ways, or places in the Town of Brookline, or upon the premises of any one other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be allowed on private property, unless specific permission has been granted. No dog shall be permitted in any public place or street within the Town of Brookline unless it is effectively restrained by a chain or leash not exceeding 7 feet in length.

However, in areas officially designated as designated off leash area by the Park and Recreation Commission, or its designee, a dog shall be allowed to be off the leash under the following conditions:

1. the dog must at all times be accompanied by and under the control of a person;
2. any dog left unattended may be impounded,
3. the person in charge of a dog inside a designated off leash area must remove any fecal material deposited by that dog in the designated off leash area, before taking the dog from the designated off leash area; and
4. the person in charge of a dog inside a designated off leash area must control the animal so that it does not disturb the surrounding area by barking or other action and so that it does not disturb or threaten others using the designated off leash area and the area surrounding the designated off leash area.

5. no area adjacent to a school shall be used as an off leash area without approval of the School Committee.

6. the Director of Parks and Open Space or his/her designee shall place a sign, in a conspicuous place, in all designated off leash areas which shall state the authorized hour(s) when such area may be used for such purpose and any other conditions of such use.

7. **the dog must be registered with and accompanied by proof of current registration in the Town's off leash program in order to participate, which participation shall be subject to compliance with publicly available rules established by the Director of Parks and Open Space.**

This section is subject to the Town's legal obligations to make reasonable accommodations for people with disabilities.

PASSED BY AN ELECTRONIC RECORDED VOTE of 116 IN FAVOR, 66 OPPOSED AND 6 ABSTENTIONS

ARTICLE 10.2
PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

DEPARTMENT HEAD		ARTICLE
...		
COMMISSIONER OF PUBLIC WORKS		
Part VI-Public Property	Articles	5.7, 6.1, 6.2, 6.3, 6.4, 6.5, 6.9
Part VII-Streets & Ways	Articles	7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10,7.11
Part VIII-Public Health & Safety	Articles	8.2, 8.6.7, 8.8, 8.14, 8.15,8.16, 8.18,8.24, 8.25,8.26

ARTICLE 18

EIGHTEENTH ARTICLE
Submitted by: Commissioner of Public Works

To see if the Town will amend the General By-Laws, Article 8.6, Dog Control, Section 8.6.7 thereof (Restraint of Dogs) and Article 10.2, Prosecutions and Enforcement, as follows (additions appear in underlined bold text, and deletions appear in stricken bold text):

SECTION 8.6.7(a) RESTRAINT OF DOGS

Any person owning or harboring a dog shall not suffer or allow it to run at large in any of the streets or public ways, or places in the Town of Brookline, or upon the premises of any one other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be allowed on private property, unless specific permission has been granted. No dog shall be permitted in any public place or street within the Town of Brookline unless it is effectively restrained by a chain or leash not exceeding 7 feet in length.

However, in areas officially designated as designated off leash area by the Park and Recreation Commission, or its designee, a dog shall be allowed to be off the leash under the following conditions:

1. the dog must at all times be accompanied by and under the control of a person;

2. any dog left unattended may be impounded,

3. the person in charge of a dog inside a designated off leash area must remove any fecal material deposited by that dog in the designated off leash area, before taking the dog from the designated off leash area; and

4. the person in charge of a dog inside a designated off leash area must control the animal so that it does not disturb the surrounding area by barking or other action and so that it does not disturb or threaten others using the designated off leash area and the area surrounding the designated off leash area.

5. no area adjacent to a school shall be used as an off leash area without approval of the School Committee.

6. the Director of Parks and Open Space or his/her designee shall place a sign, in a conspicuous place, in all designated off leash areas which shall state the authorized hour(s) when such area may be used for such purpose and any other conditions of such use.

7. the dog must be registered with and accompanied by proof of current registration in the Town's off leash program in order to participate, which participation shall be subject to compliance with publicly available rules established by the Director of Parks and Open Space.

ARTICLE 10.2
PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

DEPARTMENT HEAD	ARTICLE	
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Part VII-Streets & Ways	Articles	7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10,7.11
Part VIII-Public Health & Safety	Articles	8.2, **8.6.7**, 8.8, 8.14, 8.15,8.16, 8.18,8.24, 8.25,8.26

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In late 2018, the Parks and Recreation Commission established a Green Dog Subcommittee, comprised of both Commissioners and members of the public, to evaluate the Town's off leash dog program, known as the Green Dog Program. The program was initially established following a Special Town Meeting held by the Town of Brookline in May 2006, whereby Town Meeting voted to authorize the Park and Recreation Commission to establish an off-leash dog program on parkland, under their jurisdiction, in accordance with certain conditions. The Commission held 2 years of public meetings, conducted a pilot program and public survey and, with the help of many citizens, officially rolled out the Green Dog Program.

The Parks and Recreation Commission designates off-leash areas at specified parks and hours, subject to dog owner etiquette and compliance, registration, an annual fee and on-going evaluation. The Commission and Director of Parks and Open Space have established clear rules for participation in the program that are made available in multiple formats (web, print, signage etc..) for all dog owners to follow. In addition to providing an opportunity for dogs and their owners to exercise in the parks and connect with their neighbors, one of the goals of the program was to improve compliance with the leash law town-wide (which was at the time quite neglected) by allowing designated parks and times that dogs could legally run off leash. It was quite successful at the beginning and became a model for other communities. Over the years the Commission has added or removed parks, changed hours and amended the rules and regulations and listened to citizen ideas as they relate to the program.

There has, however, been a decline in compliance with the leash law, not only in Green Dog designated parks, but also in parks and playgrounds that do not allow dogs off leash, and the Commission is concerned about public safety, protecting the Town's assets from damage and overuse, and protecting the interests of all our public space users. There have also been increased complaints regarding off leash dogs that are neither members of the Green Dog Program nor belong to residents. These concerns led to the creation of the subcommittee charged with evaluating everything from the goals and objectives of the program to park conditions, complaints, staffing, fees, enforcement, rules and regulations, education, program benefits and communication plan, including signage. The changes proposed as part of this warrant article are the result of the committee's recommendations and review by Town Counsel's office. The intent is to 1.) clarify that dogs who run off leash in the designated off leash areas during off leash times must be registered and follow the established rules and regulations and 2.) allow appropriate DPW code enforcement personnel to enforce the leash law.

The addition of the proposed language: "**the dog must be registered with and accompanied by proof of current registration in the Town's off leash program in order to participate, which participation shall be subject to compliance with publicly-available rules established by the Director of Parks and Open Space"** is intended to clarify that dogs must be registered and have proof of registration in order to participate in

the off leash program (Green Dog Program) and that a requirement of participation is compliance with the rules and regulations. The success of the program and protection of the Town' capital assets depends upon respectful sharing of these public spaces and adherence to the rules.

Enforcement of the leash law has become a significant problem town-wide in public spaces. The subcommittee would like to see greater enforcement by the police department and enable code enforcement personnel within the Department of Public Works to be able to enforce section 8.6.7 of the dog control bylaw which relates to both the leash law and removal of dog waste. Under *Article 10.2: Prosecutions and Enforcement* section 8.6.7 has been included in Part VIII-Public Health & Safety. This allows the Commissioner of Public Works to assign Visitor Services and Code Enforcement personnel to assist with compliance and enforcement initiatives as needed. Clarification of the bylaw and the opportunity for DPW visitor services and code enforcement personnel to help protect the parks and public assets are recommended by the subcommittee and Park and Recreation Commission and supported by the Commissioner of Public Works.

SELECT BOARD'S RECOMMENDATION

Article 18 an amendment to the Town's Lease law proposed by the Commissioner of Public Works. The amendments seeks to clarify and reinforce the rules of the Town's Green Dog program which allows off-leash areas at specified parks and hours as permitted by the Park and Recreation Commission. The changes clarify that dogs must be registered and have proof of registration in order to participate in the program, and that dogs must comply with the rules and regulations of the program. The article also allows the Commissioner of Public Works to assign personnel to assist with compliance and enforcement initiatives as needed.

The Board is supportive of efforts to strengthen the enforcement of the Green Dog Program. The program is well enjoyed by dog owners, and also serves to protect our valuable capital assets. The Board agreed to insert additional language suggested by the Assistant Director in the Office of Diversity, Inclusion and Community Relations that makes it clear that accommodations are provided for persons with disabilities. Town Counsel's office felt that compliance with the American with Disabilities Act was inferred with all Town by-laws; however the Office is trying to be very clear and explicit to bring greater awareness to inclusion and accommodation.

The Select Board unanimously voted FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the General By-Laws, Article 8.6, Dog Control, Section 8.6.7 thereof (Restraint of Dogs) and Article 10.2, Prosecutions and Enforcement,

as follows (additions appear in underlined bold text, and deletions appear in stricken bold text):

SECTION 8.6.7(a) RESTRAINT OF DOGS

Any person owning or harboring a dog shall not suffer or allow it to run at large in any of the streets or public ways, or places in the Town of Brookline, or upon the premises of any one other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be allowed on private property, unless specific permission has been granted. No dog shall be permitted in any public place or street within the Town of Brookline unless it is effectively restrained by a chain or leash not exceeding 7 feet in length.

However, in areas officially designated as designated off leash area by the Park and Recreation Commission, or its designee, a dog shall be allowed to be off the leash under the following conditions:

1. the dog must at all times be accompanied by and under the control of a person;

2. any dog left unattended may be impounded,

3. the person in charge of a dog inside a designated off leash area must remove any fecal material deposited by that dog in the designated off leash area, before taking the dog from the designated off leash area; and

4. the person in charge of a dog inside a designated off leash area must control the animal so that it does not disturb the surrounding area by barking or other action and so that it does not disturb or threaten others using the designated off leash area and the area surrounding the designated off leash area.

5. no area adjacent to a school shall be used as an off leash area without approval of the School Committee.

6. the Director of Parks and Open Space or his/her designee shall place a sign, in a conspicuous place, in all designated off leash areas which shall state the authorized hour(s) when such area may be used for such purpose and any other conditions of such use.

7. the dog must be registered with and accompanied by proof of current registration in the Town's off leash program in order to participate, which participation shall be subject to compliance with publicly available rules established by the Director of Parks and Open Space.

This section is subject to the Town's legal obligations to make reasonable modifications for people with disabilities.

ARTICLE 10.2
PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

DEPARTMENT HEAD	ARTICLE	
...		
COMMISSIONER OF PUBLIC WORKS		
Part VI-Public Property	Articles	5.7, 6.1, 6.2, 6.3, 6.4, 6.5, 6.9
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Part VIII-Public Health & Safety	Articles	8.2, **8.6.7**, 8.8, 8.14, 8.15,8.16, 8.18,8.24, 8.25,8.26

ADVISORY COMMITTEE'S RECOMMENDATION

.SUMMARY:
Warrant Article 18 is an amendment to the Dog Control By-Law. It amends Town By-Law 8.6.7 to clarify that dogs participating in the Green Dog Program must be registered, and authorizes the Department of Public Works (DPW) to enforce the By-Law under section 10.2. It also gives park rangers the ability to issue citations. Right now only police officers are authorized to issue citations.

By a unanimous vote of 17–0–0, the Advisory Committee recommends FAVORABLE ACTION on Article 18.

BACKGROUND:
Keeping animals under control is not a new issue for Brookline. The Town originally passed a Dog Control By-Law in May, 1849, and just a few months later, it was amended at the fall 1849 Town Meeting. It set a fine for violations at $10. Section 4 offered a $1 bounty to anyone who turned in a "delinquent" who had not registered his dog. Townsfolk would report violations to the Town Treasurer (note: not to the Measurer of Wood and Bark). That one dollar bounty equals about $32.61 in current dollars. Out of town dogs were exempt.

Excerpt from
Town Records of Brookline, Massachusetts 1838-1857
10 Sept. 1849 Town Meeting Article 5

Section 1. From and after the First day of May 1849, no person shall own or keep a dog going at large in this town without taking out a license, as herein provided, for each dog, under a penalty of ten dollars for every dog he shall so own or keep without a license.
Section 4. The individual who shall first inform the Treasurer of the name of any person who has not complied with, or who has incurred any liability.....shall be entitled to the bounty of one dollar therefor; the same on conviction of the delinquent.
Section 5. This By-Law shall not extend to any dog not owned or kept in the Town.

Town records also recorded for pawsterity that there was enforcement in the beginning, as shown by the $10 fine "*imposed on Wm H Cowan for keeping a dog without a license*", and in another instance, "*George W Goldsmith receiving a bounty for information under the by law relating to dogs* 1.00".

Town records for 1870 showed that another similar By-Law had been adopted:

"*ANIMALS RUNNING AT LARGE*
No horses or other grazing cattle or swine shall be suffered to run at large in this Town or to feed by the roadside either with or without a keeper and for every such animal so suffered to run at large not having a keeper or to feed by the roadside either with or without a keeper the owner shall forfeit and pay into the Town Treasury five dollars for every such offence"

In 1859, records show "*William Aspinwall Justice of the Peace a fine imposed upon a citizen for suffering two swine to run at large 10.00*"

Thankfully, cattle and swine no longer "run at large" in Town. Now it is mainly turkeys and e-scooters. However, the problem of compliance with leash laws for dogs is still with us. It is now (2019) the 10th year of the "pay-to-play" Green Dog Program, an innovative program for shared park spaces. Brookline was the first municipality in the Commonwealth

to have a "green dog program". In 2006 Town Meeting voted to authorize the Parks and Recreation Commission to establish an "off leash" program in specific parks under certain conditions.

In Massachusetts every dog needs to be licensed. In Brookline, dog owners can either pay for a regular dog license or, for an additional fee of $50, receive a "green dog" license, with all licenses being renewed yearly on January 1st. There are 2300+ licenses issued each year–1400 hundred Green Dog licenses (of which ~150 are issued to non-residents) and 950 regular licenses. Each dog that participates in the program is given a colored tag for its collar that is different from the colored tag for a regular license. The tag also has a number on it so dogs can be identified. Requiring all dogs to have these tags helps to identify noncompliance.

There are currently 14 Green Dog parks in Town. In recent years, compliance with the leash law (not just in the designated off leash parks but town-wide) has sharply declined. This noncompliance includes unleashed dogs on the street, in parks not designated an off-leash park, off-hours violations, and both residents and non-residents making use of the Green Dog Program without registering them in the program. The number of complaints has steadily increased.

In 2018, the Parks and Recreation Commission established a Green Dog Subcommittee, comprised of Commission members and the public. They evaluated the entire program and, based on their evaluation, proposed as a first step Article 18, with two small amendments to the existing By-Law to increase compliance.

The first amendment modifies the General By-Laws, Article 8.6, Dog Control (Restraint of Dogs) by adding section 8.6.7:

7. the dog must be registered with and accompanied by proof of current registration in the Town's off leash program in order to participate, which participation shall be subject to compliance with publicly available rules established by the Director of Parks and Open Space.

The second amendment modifies Article 10.2 (Prosecutions and Enforcement) by authorizing enforcement and prosecution of Article 8.6, section 7 by the commissioner of public works and the commissioner's designees. Rangers would only issue citations on Park lands.

DISCUSSION:
The problem addressed by Article 18 is centered on the lack of enforcement of the Town's existing leash law. When the Green Dog Program was first implemented, there was a high level of compliance, with Green Dog participants self-enforcing, but in recent years, due in part to insufficient Town staffing and turnover in the members of the public who are Green Dog park liaisons with the Department, compliance with both the Green Dog Program and the leash law has declined. Non-compliance issues include:

- owners not removing dog feces,
- aggressive dogs going after other dogs as well as DPW staff doing maintenance in a park,
- dogs wandering outside the designated areas, including into children's play areas,
- evening off leash use,
- non registered (and often non-resident) use

In 2016 the Police logged 97 responses to calls about dogs being off leash; however, 75% of the time they weren't able to get there in time, and few citations (4) were issued.
The Department of Parks and Open Space fields even more complaints, receiving calls almost daily, but while the park ranger works in coordination with the animal control officer, neither the ranger nor anyone else in the Department of Public Works (DPW) has the authority to enforce the By-Law. The park ranger works in coordination with the animal control officer, but does not now have the authority to enforce the Town's by-law. Passage of Article 18 would change that and improve not just compliance, but also education of dog owners.

Currently the Town has only one full time ranger, and 5 part-time seasonal employees. The by-law change is one of several steps that are being developed. Parks and Open Space Director Erin Gallentine would like to change this configuration to 2 full-time park rangers, an intern, and two seasonal employees. This by-law amendment is a first step, but it is hoped that the behavioral change that is necessary will come mainly from education and interaction with Town employees and Green Dog participants. (It was noted that all these problems would go away if people simply owned cats instead.)

Every Green Dog park currently has signage, but more is needed and planned. There is also a plan to interact more with the dog owners, and set up contacts through social media between the Parks and Open Space Division and the dog owners to raise awareness, foster cooperation and help report ongoing violations.

The DPW has requested (in their expansion request) the hiring of a second full-time ranger. The $67,535 budgetary cost for this second full-time-equivalent Ranger would be reduced by a $20,000 offset from the Recreation Department and by increasing licensing fees and, so the actual cost would be closer to $47,000. Due to lower-than-expected group health costs, an additional $37,584 has been proposed in the FY2020 budget for park ranger staffing.

Possible Additional Language Regarding Accommodations for People with Disabilities.

The Advisory Committee initially voted unanimously for Favorable Action on a motion that reflects the original Article 18 language as it appeared in the Warrant.

Subsequent to that vote, the Advisory Committee discussed a proposed amendment to the Article. The assistant director in the Brookline Office of Diversity, Inclusion and

Community Relations had asked that language be included in Article 18 that makes it clear that accommodations are provided for persons with disabilities. The amendment (after a slight tweak by the Select Board), reads as follows:

"This section is subject to the Town's legal obligations to make reasonable accommodations for people with disabilities."

Accommodations (though the Americans with Disabilities Act and other statutes) are federal and state law, they apply to all of Brookline's by-laws whether the proposed amended language is in a specific by-law or not.

The Advisory Committee chose not to reconsider Article 18 include the amended language because it was felt that such language should not be added in a piecemeal way, appearing here and there, but rather it would be better to have a clear statement at the beginning of the by-laws affirming that all the Town's by-laws are subject to the Town's legal obligations to make reasonable accommodations for people with disabilities.

RECOMMENDATION:
By a vote of 17–0–0, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the General By-Laws, Article8.6, Dog Control, Section 8.6.7 thereof (Restraint of Dogs) and Article10.2, Prosecutions and Enforcement, as follows (additions appear in underlined **bold** text):

SECTION 8.6.7(a) RESTRAINT OF DOGS

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However, in areas officially designated as designated off leash area by the Park and Recreation Commission, or its designee, a dog shall be allowed to be off the leash under the following conditions:

1. the dog must at all times be accompanied by and under the control of a person;

2. any dog left unattended may be impounded,

3. the person in charge of a dog inside a designated off leash area must remove any fecal material deposited by that dog in the designated off leash area, before taking the dog from the designated off leash area; and

4. the person in charge of a dog inside a designated off leash area must control the animal so that it does not disturb the surrounding area by barking or other action and so that it does not disturb or threaten others using the designated off leash area and the area surrounding the designated off leash area.

5. no area adjacent to a school shall be used as an off leash area without approval of the School Committee.

6. the Director of Parks and Open Space or his/her designee shall place a sign, in a conspicuous place, in all designated off leash areas which shall state the authorized hour(s) when such area may be used for such purpose and any other conditions of such use.7.the dog must be registered with and accompanied by proof of current registration in the Town's off leash program in order to participate, which participation shall be subject to compliance with publicly available rules established by the Director of Parks and Open Space.

7. the dog must be registered with and accompanied by proof of current registration in the Town's off leash program in order to participate, which participation shall be subject to compliance with publicly available rules established by the Director of Parks and Open Space.

* SEE AMENDMENT ON YELLOW SUPPLEMENT, NO. #1

ARTICLE 10.2
PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

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Part VIII-Public Health & Safety	Articles	8.2, **8.6.7**, 8.8, 8.14, 8.15,8.16, 8.18,8.24, 8.25,8.26

Art. as amended, by a majority vote
XXX

ARTICLE 19

ADVISORY COUNCIL ON PUBLIC HEALTH RECOMMENDATION

ACPH voted 4-1 voted to support Warrant Article 19 with the following caveats:

1. Advancing public health by banning the sale to adults of otherwise legal products should be done only when there is clear public health benefit, as such actions can be perceived as overreach that in turn can limit public acceptance of other public health action.
2. This action could burden long-term and committed smokers of menthol cigarettes who might not be able or willing to quit.
3. New regulations require compliance checking which requires funding. Brookline should fully fund tobacco control.
4. No specific data are available, but are needed, regarding African American, LGBTQ, and low-income resident rates of tobacco and flavored tobacco use in Brookline.
5. Youth still have the ability to purchase flavored tobacco products on the internet or the black market.

As one that will improve the health of Brookline by further reducing youth access to flavored nicotine products. Reducing such access should result in a lower burden of lifetime addiction for the next generation. The council also notes the symbolic and political importance of joining the regional and national efforts to rid the nation of flavored tobacco products and the marketing of such products to children. In supporting the article, the advisory council issues two cautions. First, that advancing public health by banning the sale to adults of otherwise legal products should be done only when there is clear public health benefit, as such actions can be perceived as an overreach that in turn can limit public acceptance of other public health action. Second, that this action will burden long-term and committed adult users of menthol cigarettes who may not be able or willing to quit. These products are more frequently used by African-American and low income residents who may not be represented in the political process to the extent that they should. Some may have limited access to transportation and to the internet and may be truly burdened by the lack of local retail access.

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:

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

*****

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 5th 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.

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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
*****

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 19

NINETEENTH ARTICLE
Submitted by: Anthony Ishak, Neil Gordon, Kate Silbaugh; TMM1

To see if the Town will amend Article 8.23 of the Town's General By-laws ("Tobacco Control") as follows (language to be omitted appearing in ~~strikethrough~~; language to be added appearing in **bold underline**; Section 8.23.2 – Definitions, has been alphabetized but otherwise are unchanged except as indicated):

ARTICLE 8.23
TOBACCO CONTROL

SECTION 8.23.1 - PURPOSE

In order to protect the health, safety and welfare of the inhabitants of the Town of Brookline, including but not limited to its younger population, by restricting the sale of and public exposure to tobacco and e-cigarette products known to be related to various and serious health conditions such as cancer, this by-law shall limit and restrict the sale of and public exposure to tobacco and e-cigarette products within the Town of Brookline.

SECTION 8.23.2 - DEFINITIONS

a. Blunt Wrap - Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

b. Characterizing flavor - A distinguishable taste or aroma, other than the taste or aroma of **a** tobacco **product or component part thereof**~~menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco or e-cigarette products or component part thereof~~including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, **menthol, mint, wintergreen,** dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product**.** ~~or the provision of ingredient information.~~

c. Cigar~~;~~ - Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

d. Component part - Any element of a tobacco ~~or e-cigarette~~ product~~s~~, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

e. Constituent - Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco ~~or e-cigarette~~ product~~s~~ during the processing, manufacturing or packaging of the tobacco ~~or e-cigarette~~ product~~s~~. Such term shall include a smoke constituent.

f. Distinguishable - Perceivable by either the sense of smell or taste.

g. E-Cigarette – Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery, and/or electronic circuits that provides a vapor of liquid **flavored or unflavored** nicotine to the user, or relies on vaporization of solid nicotine or any liquid, with or without nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, hookah pens**, electronic hookah, e-hookah, hookah sticks, personal vaporizers, mechanical mods, vape pens, vaping devices,** or under any other product name. **"E-Cigarette" includes any component or part of an e-cigarette.**

h. Educational Institution - any public or private college, normal school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

i. Employee - An individual who performs services for an employer.

j. Employer - An individual, partnership, association, corporation, trust or other organized group of individuals that utilizes the services of one (1) or more employees.

k. Entity - any single individual, group of individuals, corporation, partnership, institution, employer, association, firm or any other legal entity whether public or private.

l. Flavored tobacco ~~or e-cigarette~~ product - Any tobacco product or ~~e-cigarette~~ component part thereof that contains a constituent that has or produces a characterizing flavor **(including but not limited to menthol, mint, and wintergreen)**. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco ~~or e-cigarette~~ product~~s~~, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco ~~or e-cigarette~~ product~~s~~, that such tobacco ~~or e-cigarette~~ product~~s~~ has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco ~~or e-cigarette~~ product~~s~~ is a flavored tobacco ~~or e-cigarette~~ product~~s~~.

m. Food Service Establishment - An establishment having one or more seats at which food is served to the public.

n. Health Care Institution - An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Health under M.G.L. c. 112. Health care institution includes hospitals, clinics, health centers, pharmacies, drug stores and doctors' and dentists' offices.

o. Minor - A person under twenty-one years of age.

p. Retail Establishment - any store that sells goods or articles of personal services to the public.

q. Retail tobacco store~~:~~ - An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco and/or e-cigarette products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Brookline Board of Health.

r. Self-Service Display – Any display from which customers may select a tobacco or e-cigarette products without assistance from an employee or store personnel.

s. Smoke Constituent~~:~~ - Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco ~~or e-cigarette~~ product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco ~~or e-cigarette~~ product.

t. Smoking - Lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other tobacco product or non-tobacco product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette shall be considered smoking under this by-law.

u. Tobacco - Any product containing, made, or derived from tobacco that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco or snuff. "Tobacco" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

v. Tobacco Product- Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

w. Tobacco Vending Machine - A mechanical or electrical device which dispenses tobacco or e-cigarette products by self-service, with or without assistance by a clerk or operator.

x. Workplace - An indoor area, structure or facility or a portion thereof, at which one or more employees perform a service for compensation for the employer, other enclosed spaces rented to or otherwise used by the public; where the employer has the right or authority to exercise control over the space.

SECTION 8.23.3 - REGULATED CONDUCT

a. Public Places

(1) To the extent that the following are not covered by applicable State laws or regulations, no person shall smoke in any rooms or interior areas in which the public is permitted. This includes, but is not limited to, any food service establishment, health care institution, classroom, lecture hall, museum, motion picture theater, school, day care facility, reception area, waiting room, restroom or lavatory, retail store, bank (including ATMs), hair salons or barber shops and meetings of government agencies open to the public.

(2) Taxi/Livery services licensed by the Town of Brookline shall be provided in smoke-free vehicles. The restriction of smoking in taxi/livery vehicles applies to drivers as well as passengers. Vehicles shall be posted in such a manner that their smoke-free status can be readily determined from the outside of the vehicle.

(3) Licensed Inns, Hotels, Motels and Lodging Houses in the Town of Brookline must provide smoke-free common areas. Licensed Inns, Hotels and Motels in the Town of Brookline must designate 100% of individual dwelling units or rooms as non-smoking.

(4) The use of tobacco or e-cigarette products by minors or school personnel is prohibited in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School grounds. The Commissioner of Public Works shall erect and maintain signage identifying the locations where smoking is prohibited under this paragraph (4). Such signage shall be erected so as to notify the public of the smoking prohibition and the areas affected thereby.

b. Workplaces

(1) Smoking in workplaces is prohibited.

(2) Notwithstanding subsection (1), smoking may be permitted in private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age child care center, school age day or overnight camp, or a facility licensed by the department of early education and care or as a health care related office or facility.

(3) Every establishment in which smoking is permitted pursuant to this by-law shall designate all positions where the employee's presence in an area in which smoking is permitted to be "smoking positions." The establishment shall notify every applicant for employment in a smoking position, in writing, that the position may cause continuous exposure to secondhand smoke, which may be hazardous to the employee's health.

(4) No establishment in which smoking is permitted pursuant to this by-law may require any employee whose effective date of employment was on or before November 1, 1994 to accept a designated smoking position as a condition of continued employment by the employer.

(5) No establishment in which smoking is permitted pursuant to this by-law may discharge, refuse to hire, or otherwise discriminate against any employee or applicant for employment by reason of such person's unwillingness to be subjected to secondhand smoke exposure unless the employee has been hired for a designated smoking position and has been so notified in writing at the time of hiring.

(6) It is the intent of this by-law that a designated smoking position shall not be considered suitable **for** work for purposes of M.G.L. c. 151A, and that an employee who is required to work in a smoking position shall have good cause attributable to the employer for leaving work. c. E-cigarette Usage – Locations Prohibited (1) In addition to the smoking prohibitions set forth in this bylaw, the use of e-cigarettes is further prohibited wherever smoking is prohibited under M.G.L. Chapter 270, Section 22 (the "Smoke-Free Workplace Law"), and in all locations listed in Section 8.23.3 of this by-law. The Director of Health and Human Services and/or his or her designee(s) shall enforce this section in accordance with Section 8.23.6.

SECTION 8.23.4 - POSTING REQUIREMENTS

Every person having control of a premises where smoking is prohibited by this by-law, shall conspicuously display on the premises, including the primary entrance doorways, signs reading "Smoking Prohibited By Law." Posting of the international symbol for "No Smoking" shall be deemed as compliance.

SECTION 8.23.5 - SALE AND DISTRIBUTION OF TOBACCO PRODUCTS

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

b. Prohibition of Tobacco Vending Machines – The sale of tobacco or e-cigarette products by means of vending machines is prohibited.

c. Restrictions on the Distribution of Tobacco or e-cigarette Products - No person, firm, corporation, establishment or agency shall distribute tobacco or e-cigarette products free of charge or in connection with a commercial or promotional endeavor within the Town of Brookline. Such endeavors include, but are not limited to, product "giveaways", or distribution of a tobacco or e-cigarette product as an incentive, prize, award or bonus in a game, contest or tournament involving skill or chance.

d. Prohibition of Sales to Minors - No person, firm, corporation, establishment, or agency shall sell tobacco or e-cigarette products to a minor.

e. Self-Service Displays – All self-service displays as defined by 8.23.2 (e) are prohibited. All commercial humidors including, but not limited to walk-in humidors must be locked.

f. Prohibition of the Sale of Tobacco Products and e-cigarettes by Health Care Institutions - No health care institution located in the Town of Brookline shall sell or cause to be sold tobacco or e-cigarette products. Additionally, no retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco or e-cigarette products.

g. Prohibition of the Sale of Tobacco and e-cigarette Products by Educational Institutions - No educational institution located in the Town of Brookline shall sell or cause to be sold tobacco or e-cigarette products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

h. Required Signage

1. The owner or other person in charge of an entity authorized to sell tobacco or e-cigarette products at retail shall conspicuously post signage provided by the Town of Brookline that discloses current referral information about smoking cessation.

2. The owner or other person in charge of an entity authorized to sell tobacco or e-cigarette products at retail shall conspicuously post a sign stating that "The sale of tobacco or e-cigarette products to someone under the minimum legal sales age of 21 years of age is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than eight (8) feet from the floor.

i. Tobacco Sales

1. No Tobacco Product Sales Permit holder shall allow any employee to sell tobacco or e-cigarette products until such employee has received a copy of this By-law and federal and state laws regarding the sale of tobacco and e-cigarette and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state and federal laws.

2. Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older.

3. All retail sales of tobacco or e-cigarette products within the Town of Brookline must be face-to-face between the seller and the buyer and occur at the permitted location.

4. Original Cigar Package Price - All single cigars shall be sold for no less than two dollars and fifty cents ($2.50). No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at $5.00 or more. This section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Brookline.

5. No entity shall sell or distribute or cause to be sold or distributed any **F**~~f~~lavored **T**~~t~~obacco **Product** ~~or e-cigarette products, except in retail tobacco stores~~.

6. No entity shall sell or distribute or cause to be sold or distributed blunt wraps.

SECTION 8.23.6 - VIOLATIONS AND PENALTIES

a. Any person who violates any provision of this by-law, or who smokes in any area in which a "Smoking Prohibited By Law" sign, or its equivalent, is conspicuously displayed, shall be punished by a fine of $100 for each offense. For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of the fines set forth in this Section and in Section 10.3 of these By-laws.

b. Any person having control of any premises or place in which smoking is prohibited who allows a person to smoke or otherwise violate this bylaw, shall be punished by a fine of $100 for a first offense, $200 for a second offense, and $300 for a third or subsequent offense.

c. Employees who violate any provision of Section 8.23.3(b) **or 8.23.5** shall be punished by a fine of $100 per day for each day of such violation.

d. Any entity violating any other section of this by-law shall receive a fine of $300.00 for each offense.

e. Violations of this by-law may be dealt with in a noncriminal manner as provided in PART X of the Town by-laws.

f. Each calendar day an entity operates in violation of any provision of this regulation shall be deemed a separate violation.

g. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Brookline Health Department or a Town department or Board from suspending, or revoking any license or permit issued by and within the jurisdiction of such departments or Board for repeated violations of this by-law.

SECTION 8.23.7 - SEVERABILITY

Each provision of this by-law shall be construed as separate to the extent that if any section, sentence, clause or phrase is held to be invalid for any reason, the remainder of the by-law shall continue in full force and effect.
Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Tobacco is the only product that, when used as intended, will kill you. Most adults know this, so tobacco companies target youth and other vulnerable populations, in order to addict them as new consumers of their products.

By utilizing candy and sweet-like flavoring, tobacco companies conceal the harsh flavor and to a lesser extent detrimental effects of tobacco and nicotine. Users of flavored tobacco are more likely to start young and are less likely to ever successfully quit.

In an effort to prevent new tobacco starts, cities and towns have started to ban the sales of flavored tobacco products. San Francisco was the first city to do this, in 2017, and the town of Needham became the first in Massachusetts earlier this year.

This warrant article proposes a ban on the sale of flavored (including menthol) tobacco products in Brookline.

COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS REPORT

Warrant Article 19 seeks to amend our current Tobacco Control By-law 8.23 to include all flavored tobacco products, including menthol, and adds a definition for "tobacco products" to include any product made or derived from tobacco, regardless of how it is consumed, but does not include tobacco-cessation products or products that have some medical purpose as approved by the U.S. FDA, in conformity with the prior definition of "tobacco". If this warrant article were to go in to effect, Tobacco Product Sales Permit holders, who

are licensed to sell tobacco products, in general, may not sell any Flavored Tobacco Product. This warrant article does not include the banning the sale of plain, unflavored tobacco or the sale e-cigarette devices by these permit holders.

All tobacco products are hazardous to our health. This is well known to all of us. The advent to vaping has changed the landscape of tobacco use. It as originally touted as a safer way of smoking and an aid in smoking cessation. However, these devices are not approved by the FDA as smoking cessation aids, and there is little evidence to support these claims, despite what the industry may say. The overwhelming evidence is that the use of electronic nicotine delivery systems, which includes vaping, actually attract new smokers and lead to a progression in smoking rather than cessation. Flavored versions of tobacco and electronic delivery systems are particularly attractive to young people. Data from the National Youth Tobacco Survey shows that electronic cigarette use increased from 1.5% of high school students to 13.4% from 2011 and 2014. This study also showed that the use of these devices was associated with a greater risk of progression to regular tobacco use and decreased rates of cessation. In other studies, data shows that many of the flavored products are particularly attractive to certain populations, namely non-Hispanic whites, and that menthol tobacco products are favored by LGBTQ and Black communities. The restriction of the sale of these products would have a beneficial effect on the health of these communities.

In November 2015, the American Academy of Pediatrics in its policy statement on tobacco use by youth made 15 recommendations based on strong evidence. Of these, two are particularly relevant to this warrant article. Recommendation 10 states that "Flavoring agents, including menthol, should be prohibited in all tobacco products." Recommendation 13, **Prohibitions on smoking and use of tobacco products should include prohibitions on use of electronic nicotine delivery systems,** states that "The vapor emitted from electronic delivery systems contain toxic and carcinogenic substances in addition to nicotine."

In a public hearing the Commission for Diversity, Inclusion and Community Relations voted unanimously in favor of this warrant article.

SELECT BOARD'S RECOMMENDATION

Article 19 is a citizen petitioned article that would amend Article 8.23 of the Town's Tobacco Control Bylaw, which pertains to the sale and use of tobacco products within the Town of Brookline. The intention of the article is to ban the sale of all tobacco products in Brookline that have a non-naturally occurring flavor. The article proposes to do this by expanding the definition of a flavored tobacco product to include those with a menthol, mint, and wintergreen taste.

The Select Board acknowledge that the article could have an economic impact on local businesses. During the public hearing for this article, several business owners expressed

concern that the ban would negatively impact their businesses financially. Due to the availability of the same products in nearby municipalities, the business owners felt that their customers would simply shop elsewhere. Business owners also noted that for the past three years tobacco retailers located in the Town of Brookline have had a 100% FDA compliance rate – underage individuals posing as customers are sent into Brookline retailers to try to buy tobacco products and during the past three years no retailer has been caught selling to an underage buyer. The Board acknowledge that:

- merchants are an important part of the community
- merchants' concerns are not taken lightly
- the board is not convinced that youth are getting these products from local merchants

However, the Board believes, as stated in the petitioner's article description, that tobacco is a deadly and extremely addictive drug. The Town has a strong interest in the health and welfare of its residents, especially its youngest residents. Proponents of this article have argued that menthol, mint, and wintergreen are essentially flavors and that when flavored products were previously banned, products with a menthol, mint, or wintergreen taste were incorrectly excluded. It has been stated that these products are disproportionately used by young smokers and specifically targeted towards them. The Board supports making these type of products harder to obtain.

On, March 26, 2019, the Select Board voted 4-0-1 FAVORABLE ACTION the following motion:

ROLL CALL VOTE:

Aye:	Abstain:
Wishinsky	Hamilton
Franco	
Heller	

VOTED: That the Town amend Article 8.23 of the Town's General By-laws ("Tobacco Control") as follows (language to be omitted appearing in ~~strikethrough~~; language to be added appearing in **bold underline**; Section 8.23.2 – Definitions, has been alphabetized but otherwise are unchanged except as indicated):

ARTICLE 8.23
TOBACCO CONTROL

SECTION 8.23.1 - PURPOSE

In order to protect the health, safety and welfare of the inhabitants of the Town of Brookline, including but not limited to its younger population, by restricting the sale of and public exposure to tobacco and e-cigarette products known to be related to various

and serious health conditions such as cancer, this by-law shall limit and restrict the sale of and public exposure to tobacco and e-cigarette products within the Town of Brookline.

SECTION 8.23.2 - DEFINITIONS

a. Blunt Wrap - Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

b. Characterizing flavor - A distinguishable taste or aroma, other than the taste or aroma of **a** tobacco **product or component part thereof**~~menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco or e-cigarette products or component part thereof~~including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, **menthol, mint, wintergreen,** dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product**.** ~~or the provision of ingredient information.~~

c. Cigar~~:~~ Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

d. Component part - Any element of a tobacco ~~or e-cigarette~~ product~~s~~, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

e. Constituent - Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco ~~or e-cigarette~~ product~~s~~ during the processing, manufacturing or packaging of the tobacco ~~or e-cigarette~~ product~~s~~. Such term shall include a smoke constituent.

f. Distinguishable - Perceivable by either the sense of smell or taste.

g. E-Cigarette – Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery, and/or electronic circuits that provides a vapor of liquid **flavored or unflavored** nicotine to the user, or relies on vaporization of solid nicotine or any liquid, with or without nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, hookah pens**, electronic hookah, e-hookah, hookah sticks, personal vaporizers, mechanical mods, vape pens, vaping devices,** or under any other product name. **"E-Cigarette" includes any component or part of an e-cigarette.**

h. Educational Institution - any public or private college, normal school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

i. Employee - An individual who performs services for an employer.

j. Employer - An individual, partnership, association, corporation, trust or other organized group of individuals that utilizes the services of one (1) or more employees.

k. Entity - any single individual, group of individuals, corporation, partnership, institution, employer, association, firm or any other legal entity whether public or private.

l. Flavored tobacco ~~or e-cigarette~~ product - Any tobacco product or ~~e-cigarette~~ component part thereof that contains a constituent that has or produces a characterizing flavor **(including but not limited to menthol, mint, and wintergreen)**. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco ~~or e-cigarette~~ products~~,~~ or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco ~~or e-cigarette~~ products~~,~~ that such tobacco ~~or e-cigarette~~ products has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco ~~or e-cigarette~~ products is a flavored tobacco ~~or e-cigarette~~ products.

m. Food Service Establishment - An establishment having one or more seats at which food is served to the public.

n. Health Care Institution - An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Health under M.G.L. c. 112. Health care institution includes hospitals, clinics, health centers, pharmacies, drug stores and doctors' and dentists' offices.

o. Minor - A person under twenty-one years of age.

p. Retail Establishment - any store that sells goods or articles of personal services to the public.

q. Retail tobacco store~~:~~ An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco and/or e-cigarette products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Brookline Board of Health.

r. Self-Service Display – Any display from which customers may select a tobacco or e-cigarette products without assistance from an employee or store personnel.

s. Smoke Constituent: - Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco ~~or e-cigarette~~ product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco ~~or e-cigarette~~ product.

t. Smoking - Lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other tobacco product or non-tobacco product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette shall be considered smoking under this by-law.

u. Tobacco - Any product containing, made, or derived from tobacco that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco or snuff. "Tobacco" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

v. Tobacco Product- Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

w. Tobacco Vending Machine - A mechanical or electrical device which dispenses tobacco or e-cigarette products by self-service, with or without assistance by a clerk or operator.

x. Workplace - An indoor area, structure or facility or a portion thereof, at which one or more employees perform a service for compensation for the employer, other enclosed

spaces rented to or otherwise used by the public; where the employer has the right or authority to exercise control over the space.

SECTION 8.23.3 - REGULATED CONDUCT

a. Public Places

(1) To the extent that the following are not covered by applicable State laws or regulations, no person shall smoke in any rooms or interior areas in which the public is permitted. This includes, but is not limited to, any food service establishment, health care institution, classroom, lecture hall, museum, motion picture theater, school, day care facility, reception area, waiting room, restroom or lavatory, retail store, bank (including ATMs), hair salons or barber shops and meetings of government agencies open to the public.

(2) Taxi/Livery services licensed by the Town of Brookline shall be provided in smoke-free vehicles. The restriction of smoking in taxi/livery vehicles applies to drivers as well as passengers. Vehicles shall be posted in such a manner that their smoke-free status can be readily determined from the outside of the vehicle.

(3) Licensed Inns, Hotels, Motels and Lodging Houses in the Town of Brookline must provide smoke-free common areas. Licensed Inns, Hotels and Motels in the Town of Brookline must designate 100% of individual dwelling units or rooms as non-smoking.

(4) The use of tobacco or e-cigarette products by minors or school personnel is prohibited in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School grounds. The Commissioner of Public Works shall erect and maintain signage identifying the locations where smoking is prohibited under this paragraph (4). Such signage shall be erected so as to notify the public of the smoking prohibition and the areas affected thereby.

b. Workplaces

(1) Smoking in workplaces is prohibited.

(2) Notwithstanding subsection (1), smoking may be permitted in private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age child care center, school age day or overnight camp, or a facility licensed by the department of early education and care or as a health care related office or facility.

(3) Every establishment in which smoking is permitted pursuant to this by-law shall designate all positions where the employee's presence in an area in which smoking is permitted to be "smoking positions." The establishment shall notify every applicant for

employment in a smoking position, in writing, that the position may cause continuous exposure to secondhand smoke, which may be hazardous to the employee's health.

(4) No establishment in which smoking is permitted pursuant to this by-law may require any employee whose effective date of employment was on or before November 1, 1994 to accept a designated smoking position as a condition of continued employment by the employer.

(5) No establishment in which smoking is permitted pursuant to this by-law may discharge, refuse to hire, or otherwise discriminate against any employee or applicant for employment by reason of such person's unwillingness to be subjected to secondhand smoke exposure unless the employee has been hired for a designated smoking position and has been so notified in writing at the time of hiring.

(6) It is the intent of this by-law that a designated smoking position shall not be considered suitable **for** work for purposes of M.G.L. c. 151A, and that an employee who is required to work in a smoking position shall have good cause attributable to the employer for leaving work. c. E-cigarette Usage – Locations Prohibited (1) In addition to the smoking prohibitions set forth in this bylaw, the use of e-cigarettes is further prohibited wherever smoking is prohibited under M.G.L. Chapter 270, Section 22 (the "Smoke-Free Workplace Law"), and in all locations listed in Section 8.23.3 of this by-law. The Director of Health and Human Services and/or his or her designee(s) shall enforce this section in accordance with Section 8.23.6.

SECTION 8.23.4 - POSTING REQUIREMENTS

Every person having control of a premises where smoking is prohibited by this by-law, shall conspicuously display on the premises, including the primary entrance doorways, signs reading "Smoking Prohibited By Law." Posting of the international symbol for "No Smoking" shall be deemed as compliance.

SECTION 8.23.5 - SALE AND DISTRIBUTION OF TOBACCO PRODUCTS

a. Permit – No Entity otherwise permitted to sell tobacco products shall sell **or offer to sell** such products within the Town of Brookline without a valid tobacco sales permit issued by the Director of Public Health. Permits must be posted in a manner conspicuous to the public. Tobacco sales permits shall be renewed annually by June 1st, at a fee set forth in the Department's Schedule of Fees and Charges. ~~Effective September 1, 2017 or upon the approval of the Attorney General if later, the~~**The** Director of Public Health shall not issue any new tobacco sales permits to first-time permit applicants with ~~new~~ businesses not ~~currently~~ licensed **as of September 1, 2017**. Holders of tobacco sales permits on ~~the effective~~ **such** date ~~of this section~~ may continue to use such permits. All such holders must apply for renewal of their permits according to the procedures of the Department. Those who fail to apply for renewal in a timely manner will receive written notification from the Department and then those permits may be revoked or fines imposed after such

procedure as set forth in the procedures of the Department. Any such action may be appealed to the Board of Selectmen within thirty (30) days. However, applicants who acquire a business that is the holder of a tobacco sales permit ~~on the effective date of this section~~ may apply, within sixty (60) days of such acquisition, for a tobacco sales permit such as that held by the previous owner of the business, only if the buyer intends to sell tobacco products and will be operating a substantially similar business, and subject to rules and requirements of the Health Department.

b. Prohibition of Tobacco Vending Machines – The sale of tobacco or e-cigarette products by means of vending machines is prohibited.

c. Restrictions on the Distribution of Tobacco or e-cigarette Products - No person, firm, corporation, establishment or agency shall distribute tobacco or e-cigarette products free of charge or in connection with a commercial or promotional endeavor within the Town of Brookline. Such endeavors include, but are not limited to, product "giveaways", or distribution of a tobacco or e-cigarette product as an incentive, prize, award or bonus in a game, contest or tournament involving skill or chance.

d. Prohibition of Sales to Minors - No person, firm, corporation, establishment, or agency shall sell tobacco or e-cigarette products to a minor.

e. Self-Service Displays – All self-service displays as defined by 8.23.2 (e) are prohibited. All commercial humidors including, but not limited to walk-in humidors must be locked.

f. Prohibition of the Sale of Tobacco Products and e-cigarettes by Health Care Institutions - No health care institution located in the Town of Brookline shall sell or cause to be sold tobacco or e-cigarette products. Additionally, no retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco or e-cigarette products.

g. Prohibition of the Sale of Tobacco and e-cigarette Products by Educational Institutions - No educational institution located in the Town of Brookline shall sell or cause to be sold tobacco or e-cigarette products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

h. Required Signage

1. The owner or other person in charge of an entity authorized to sell tobacco or e-cigarette products at retail shall conspicuously post signage provided by the Town of Brookline that discloses current referral information about smoking cessation.

2. The owner or other person in charge of an entity authorized to sell tobacco

or e-cigarette products at retail shall conspicuously post a sign stating that "The sale of tobacco or e-cigarette products to someone under the minimum legal sales age of 21 years of age is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than eight (8) feet from the floor.

ii. Tobacco Sales

1. No Tobacco Product Sales Permit holder shall allow any employee to sell tobacco or e-cigarette products until such employee has received a copy of this By-law and federal and state laws regarding the sale of tobacco and e-cigarette and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state and federal laws.

2. Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older.

3. All retail sales of tobacco or e-cigarette products within the Town of Brookline must be face-to-face between the seller and the buyer and occur at the permitted location.

4. Original Cigar Package Price - All single cigars shall be sold for no less than two dollars and fifty cents ($2.50). No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at $5.00 or more. This section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Brookline.

5. No entity shall sell or distribute or cause to be sold or distributed any **F**~~f~~lavored **T**~~t~~obacco **Product** ~~or e-cigarette products, except in retail tobacco stores~~.

6. No entity shall sell or distribute or cause to be sold or distributed blunt wraps.

SECTION 8.23.6 - VIOLATIONS AND PENALTIES

a. Any person who violates any provision of this by-law, or who smokes in any area in which a "Smoking Prohibited By Law" sign, or its equivalent, is conspicuously displayed, shall be punished by a fine of $100 for each offense. For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of the fines set forth in this Section and in Section 10.3 of these By-laws.

b. Any person having control of any premises or place in which smoking is prohibited who allows a person to smoke or otherwise violate this bylaw, shall be punished by a fine of $100 for a first offense, $200 for a second offense, and $300 for a third or subsequent offense.

c. Employees who violate any provision of Section 8.23.3(b) **or 8.23.5** shall be punished by a fine of $100 per day for each day of such violation.

d. Any entity violating any other section of this by-law shall receive a fine of $300.00 for each offense.

e. Violations of this by-law may be dealt with in a noncriminal manner as provided in PART X of the Town by-laws.

f. Each calendar day an entity operates in violation of any provision of this regulation shall be deemed a separate violation.

g. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Brookline Health Department or a Town department or Board from suspending, or revoking any license or permit issued by and within the jurisdiction of such departments or Board for repeated violations of this by-law.

SECTION 8.23.7 - SEVERABILITY

Each provision of this by-law shall be construed as separate to the extent that if any section, sentence, clause or phrase is held to be invalid for any reason, the remainder of the by-law shall continue in full force and effect.

Passed by an Electronic Recorded Vote of 175 In Favor, 21 Opposed and 13 Abstentions

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 19 seeks to amend Article 8.23 (Tobacco Control) of the Town's General By-Laws to ban the sale of all flavored tobacco products in Brookline, including menthol, mint, and wintergreen. These products particularly appeal to minors.

By a vote of 12–4–4, the Advisory Committee recommends FAVORABLE ACTION.

BACKGROUND:
Article 19 seeks to amend the Town's Tobacco Control By-Law to ban the sale of all flavored tobacco products in Brookline, including mint, menthol, and wintergreen, which are currently not classified as flavored and to include adult-only retail stores.

Tobacco use remains the leading cause of preventable morbidity and mortality in the United States, with combustible cigarettes accounting for the majority of tobacco-related diseases. The negative consequences of using tobacco products include, but are not limited to, cancers; respiratory, cardiac, and cardiovascular diseases; adult-onset diabetes; negative birth outcomes; impaired fertility; and susceptibility to infectious diseases.[1] Research has shown that tobacco is as addictive as heroin and cocaine, with a similar progression of addiction.[2] Nicotine exposure during adolescence, a critical period for brain development, may have lasting adverse consequences. Despite laws prohibiting sales to minors, access by minors to tobacco products remains a major public health problem.

Brookline has incrementally enacted legislation to reduce the negative impact of tobacco in our Town. Over the past decade, Brookline has voted to impose restrictions on sales and usage of tobacco products to protect youth exposure: prohibiting the sale of tobacco products in pharmacies and educational institutions (2011); prohibiting the sale of tobacco products to individuals under 21 years of age (2012, 2014); expanding the scope of the regulation to include e-cigarettes (2014); creating a 400 foot non-smoking buffer around Brookline High School (2014); restricting the sale of flavored tobacco products, requiring enhanced signage on age restrictions; and limiting the issuance of tobacco sales permits (2017).

According to Paula Silverman, the Massachusetts tobacco control program coordinator who is based in Brookline, there are currently 20 tobacco retailers in Brookline that are

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[1] U.S. Department of Health and Human Services, *The Health Consequences of Smoking: 50 Years of Progress, A Report of the Surgeon General,* Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention, Office on Smoking and Health, (2014).
[2] Centers for Disease Control, *How Tobacco Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease,* (2010).

licensed to sell any kind of tobacco product, including one adult-only retail tobacco store that is allowed to sell flavored products.[3]

DISCUSSION:

The Article's proponents have pointed out that flavored tobacco products have targeted youth, and menthol has targeted the black and LGBTQ communities, who disproportionately purchase menthol products, which raises health equity concerns. Flavoring and menthol products are designed to mask the harsh taste of tobacco to lead to deeper inhalation, which prolongs nicotine exposure and increases addiction. The sweet flavoring in flavored tobacco contains many of the ingredients found in Kool-Aid and candies, making them enticing to kids.[4] Up to 90% of tobacco users start before the age of 18. According to the Massachusetts Department of Public Health (DPH), illegal sales to minors in Brookline are 25% higher than the state average (8.89% vs. 7.09%). A 2015 study reported in *Healthy Brookline* showed a 4% usage of non-cigarette tobacco in middle school.[5] In 2018, it was reported that e-cigarette use was 25% among high school seniors. In higher socioeconomic status (SES) towns, the use is even greater. A 2017 study in the *American Journal of Preventive Medicine* suggests that banning flavored products without banning menthol flavored ones leads to migration of use by adolescents to menthol products.[6] The American Heart Association, American Academy of Pediatrics, American Thoracic Society, and World Health Organization all recommend some form of ban or restriction of flavored products. The petitioners worked with the Massachusetts Municipal Association (MMA), the Public Health Advocacy Institute at Northeastern University, and Town Counsel's office developing Warrant Article 19. San Francisco and Providence already have a ban of some form. Brookline would be the fifth town in Massachusetts to do so, following Somerville, Needham, Ashland, and Dover.

In 2009, the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA) banned the sale of flavored cigarettes, largely because the marketing for these products targeted youth and young adults. Mint, menthol and wintergreen were exempt, due to heavy lobbying by the tobacco industry. In 2012, Providence, Rhode Island, enacted a city ordinance extending that prohibition to other tobacco products, such as cigars and smokeless tobacco and to electronic cigarettes, except in qualifying adult-only retail locations. The ordinance was upheld in by the federal Court of Appeals in 2013. Given that Massachusetts is in the same federal district as Providence, the ruling provided a legal basis for Massachusetts cities and towns to do the same, but the smoking bar exemption was extended to qualifying "retail tobacco stores" (i.e., tobacconists, vape shops).

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[3] Massachusetts Department of Public Health Tobacco Cessation and Prevention Program, *Tobacco Community Fact Sheet: Brookline, Massachusetts,* (March 28, 2019).

[4] Jessica E. Brown et.al. "Candy Flavorings in Tobacco." *New England Journal of Medicine*, 370, 3 (2014): 2250-2252.

[5] Brookline Department of Public Health, *Healthy Brookline Volume XVII: Youth Risk Behavior Survey,* (2016) 56.

[6] Charles J. Courtemanche, Makayla K. Palmer, and Michael F. Pesko, "Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use", *American Journal of Preventive Medicine* 52, 5 (2017): 139-146.

Most cities and towns in Massachusetts followed the Providence ordinance language, which also exempted mint, menthol, and wintergreen, and allowed certain qualifying stores to be exempt from this sales restriction. Somerville, Needham, and Ashland recently voted to include menthol, mint, and wintergreen as flavors in their health regulations. Dover voted to ban the sale of all flavored tobacco products, but with no exemptions for retail tobacco stores. Brookline now seeks to do the same. Kate Silbaugh (Town Meeting Member, Precinct 1) restated that Brookline, although not the leader in this area, would be better protected from exposure because of the requirement for the Attorney General's review of the town bylaws.

Business representatives voiced their opposition to article 19. Citing Brookline businesses' 100% Food and Drug Administration (FDA) compliance in 2018 as proof that local business sales to minors was not a problem here and contended that products were purchased elsewhere, such as online. It was suggested that use and possession be considered a violation, as is the case with alcohol. At present, nothing can be done if kids are caught smoking. On the matter of "harm reduction," the ban will have the effect of removing less harmful non-combustible products and encouraging the use of more harmful ones. Store owners were viewed as the "first line of defense" against underage use. Local business owners indicated that the ban would affect all stores, including adult-only ones. They commented on the high costs of operating a business in Brookline and indicated that they would suffer financially because flavored products constitute 15% to 40% of their business, although no data were presented to support this claim. Customers want "one stop shopping" and opt to buy other items while in the store to purchase flavored tobacco products, which can be purchased in neighboring communities or online. In a written statement, ten local business owners expressed concern that a ban would spur the growth of an illegal underground market.

In written comments, Michael Siegel, M.D., Boston University School of Public Health, acknowledged the problem of youth vaping, but felt that efforts to address it would "throw the town's former smokers who rely on e-cigarettes to keep them off real cigarettes under the bus" by banning the former and allowing the latter to remain on store shelves. He referred to a recent U.K. study in the *New England Journal of Medicine*, which concluded that e-cigarettes were twice as effective as the nicotine patch in helping smokers quit completely.[7] He concluded that there was no public health justification for banning e-cigarettes while keeping combustible ones on the shelves, which essentially amounted to differential treatment based on brand (e.g., Marlboro versus Newport). He suggested that Brookline ban the sale of all nicotine products to protect public health and to reduce tobacco-related disease and nicotine addiction, avoid providing incentives to former smokers to return to smoking, and limit youth access to these products.

The proponents of Article 19 rebutted the conclusions of the *New England Journal of Medicine* article, which did not compare e-cigarette use versus the U.S. standard of care,

[7] Peter Hajek, et al. "A randomized trial of e-cigarettes versus nicotine-replacement therapy." *New England Journal of Medicine* 2019, 380:629-637.

which includes counseling, gum, and bupropion. The U.K. study provided counseling, but not bupropion or other approved medications. Nicotine liquid in Europe has a lower concentration than that in the United States. More people transitioning to e-cigarettes from combustible cigarettes were still using at the end of the study (80% versus 9%). Behavioral counseling was included in the study quit groups, but in the United States patients often have to pay for it, which can be a barrier when patients try to quit. The study only looked at those who smoked about 15 cigarettes per day. If e-cigarettes are banned, e-smokers are likely to stop. Youth prefer menthol if flavored products are not available, thus the need to ban menthol too. Prior meta-analysis has shown that e-cigarette use increases the chances that youth and young adults will smoke combustible or regular cigarettes by threefold.[8]

It was pointed out that FDA compliance checks underestimate actual violations in that they use younger kids (14 to 17 years), whereas the state inspections use older kids (18 to 19 years). It was claimed that our actual failure rate was 10.3%. Ideally, we would ban all tobacco products, which is not realistic. Stopping youth from smoking has an impact on adults. There is an issue as to the impact on retailers, but it is a health decision to protect youth and vulnerable populations. Businesses will find other products to sell to lessen the impact.

Past Warrant Articles affecting the business community often included a delayed effective date to provide time for businesses to adjust. If approved by Town Meeting, the amended By-Law would require review by the Massachusetts Attorney General, which would give businesses several months to adjust. In the case of the polystyrene ban, time was needed to allow businesses to deplete inventory and to find alternative products.

A national study of youth Juul users found that they obtained devices as follows: 74% from a physical retail location, 52% from a social source, and 6% from the internet.[9] Business owners said if someone is addicted, he or she will go wherever is needed to satisfy that addiction. What are the limitations of our action as a town? Current smokers will find products elsewhere, but we will prevent kids from becoming lifelong smokers. According to the Brookline Center for Community Mental Health, social anxiety and vaping are social and mental health problems among teenagers.

An Advisory Committee member stated that kids vape because it looks cool, and they would do so regardless of what the town says. He expressed concern that Brookline is becoming a "nanny state," making decisions for adults. It was seen as inconsistent/hypocritical to ban small businesses' sale of these products while expanding marijuana shops for the revenue. Motives are well-intentioned, but there is too much interference where the Town should not interfere. It was felt that there was a need to

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[8] Samir Soneji, et al. Association Between Initial Use of e-Cigarettes and Subsequent Cigarette Smoking Among Adolescents and Young Adults: A Systematic Review and Meta-Analysis." *Journal of the American Medical Association Pediatrics* 171, 8, (2017): 788-797.

[9] "Where Are Kids Getting Juul?" *Truth Initiative,* (May 29, 2018).

address the social and mental health issues. It was suggested that we take a less aggressive approach and allow for adult-only exemptions.

The petitioner pointed out that vaping has only been around for a few years, so there are no population data on its damaging effects. On the cellular level, the effects mimic or are worse than regular cigarettes, and it is expected that eventually the same outcomes will be observed with vaping as with regular cigarettes.

The issue extends beyond Brookline, and we tend to take on global issues that may or may not happen here. It is difficult to reconcile support for marijuana and objections to e-cigarettes. These products should be banned at the state level, not the municipal level. Pot use can impair driving, which e-cigarettes do not affect.

The petitioner pointed out that youth use of flavored products is nine times higher than adult use. The tobacco lobby prevented the banning of menthol in the past.

Given that there is only one adult-only retail shop in Brookline, an exemption from the flavored product ban would essentially provide a flavor monopoly to that store.

RECOMMENDATION:
The Advisory Committee by a vote of 12–4–4 recommends FAVORABLE ACTION on the motion offered by the Select Board, which is also the petitioners' motion.

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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

TWENTIETH ARTICLE
Submitted by: Rebecca Stone, TMM 3

To see if the Town will amend its by-laws to improve gender equity in public toilet facilities by providing free menstrual hygiene products in restrooms serving the general public in its public buildings, as follows:

8.37 MENSTRUAL HYGIENE PRODUCTS ACCESS BY-LAW
SECTION 8.37.1 DEFINITIONS
"Menstrual hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

"Restrooms serving the general public" mean restrooms established for use by members of the public (as differentiated from staff restroom facilities).

"Public Building" for the purposes of this Warrant Article means any facility owned or leased by the Town of Brookline that contains restrooms for the general public and over which the Town has care, maintenance, custody, and/or control. This shall include, but not be limited to: Public Libraries, the Town Hall Complex (including the Public Health Bldg), the Public Safety Bldg, Recreational Facilities, and Parks.

"Female-bodied" means any individual who experiences a menstrual cycle.

SECTION 8.37.2 ACCESS TO MENSTRUAL HYGIENE PRODUCTS
The Town of Brookline shall make available and accessible at no charge menstrual hygiene products (tampons and pads/napkins) in its public building restrooms that serve female-bodied members of the public.

SECTION 8.37.3 MANNER OF DISPENSING
Machine dispensers for menstrual hygiene products provided under this by-law shall be chosen in consultation with the Building Department and Department of Public Health, but must comply with ADA and other equity-of-access laws and considerations.

Menstrual hygiene products made available at no charge from an employee, office, or other site in a public building upon in-person request does not constitute compliance with this by-law.

SECTION 8.37.4 GREEN PRODUCTS
Tampons with plastic applicators may not be provided under this by-law.

SECTION 8.37.5 EFFECTIVE DATE
This by-law shall take effect July 1, 2021. It will become effective for the Public Schools of Brookline upon adoption by the Brookline School Committee.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

If approved by Town Meeting, this Warrant Article would make the Town of Brookline the first municipality in the country to provide free menstrual hygiene products in its public buildings. With this article, Brookline has a chance to be a leader, again, and to address an issue gaining recognition as fundamental to the just treatment of women and the goal of gender equity.

While some U.S.cities and states have mandated free menstrual hygiene products in public schools and/or prisons and homeless shelters, these policies address only a piece of the problem, focusing more narrowly on how affordability intersects with equity and access. This article embraces the notion that affordability is just one aspect of the larger issue, and that gender equity in public health requires access for all to these basic public hygiene products.

The article is brought on behalf of a group of students at BHS who first raised the issue in the Sagamore: Stigma around periods produces undue shame (Spring 2017). The students contend that a natural bodily function regularly experienced by 52% of the population should be treated not as an issue only for those struggling economically, but the same way we treat other daily public hygiene needs: with free, accessible sanitary products. Tampons and pads are as necessary for public health and hygiene as toilet paper. They should be treated the same way.

Which restrooms? Because not all people who experience a period identify as female, the by-law would include all restrooms for the general public including, but not limited to, Town Hall, the Public Health building, Public Safety building, public libraries, and recreational facilities such as the Pool, the Putterham Golf Course and the Ice Rink at Larz.

What about schools? The School Committee would need to adopt the by-law or a similar measure for it to be in effect in the Brookline public schools. A bill is pending before the State Legislature that would require this of all MA public schools serving students in grades 6-12.

Cost: The most substantial cost of the by-law is the purchase and installation of dispensing machines in our public bathrooms. For that reason, the by-law has an effective date that will allow a phase-in across multiple fiscal years. Installation can be done by existing Town building staff, so the budget impact is principally the machine costs. Once machines are

installed, bulk ordered supplies are far less expensive than typical retail and will be included in the budget for toilet paper, paper towel, and other products already provided in public restrooms.

BACKGROUND:
The average female-bodied person will have a menstrual period lasting 3-5 days, twelve times a year, for about 40 years. In the United States, having a period is the reality for 52 percent of the population, each of whom will use almost 17,000 tampons or pads over their lifetime. Having one's period can be physically painful or even debilitating, it is a time of heightened risk of infection, and even in the best of circumstances can easily disrupt one's day at school or work.

Historically, menstruation has been treated as a social taboo, a topic used to shame women and girls. In the United States, 36 states still tax tampons and pads as "non-essential" or "luxury" items (Massachusetts is one of the 14 states that has eliminated the "tampon tax"). Food stamps may not be used to purchase tampons and pads, nor does WIC -- the federal program supporting health and nutrition for mothers and babies -- cover these essential sanitary products.

The recently re-energized women's movement has begun to challenge these policies and practices. In the past few years, a national campaign to end the tampon tax has expanded the number of states making these products tax-free. In 2017, following local efforts in jails and detention centers, a federal statute established the requirement for free menstrual hygiene products in prisons.

While Brookline would be the first municipality in the U.S. to take the steps outlined in this warrant article, New York State and Illinois have both passed laws mandating free menstrual hygiene products in public schools grades 6-12, in homeless shelters, and in prisons. California has passed a statewide mandate for its grade 6-12 schools that qualify for Title 1 low-income funding. A similar bill to those passed in NY and IL is now before the Massachusetts legislature and enjoys strong public support, so the PSB may face a state mandate regardless of its action on this article.

Menstrual equity has also become a global women's rights issue. Seoul, South Korea is the first city in the world to take municipal action, in 2018 announcing a pilot program to provide free menstrual products at ten public facilities around the capital. (This followed a public report that impoverished girls who could not afford to purchase pads were using the insoles of shoes in place of sanitary napkins.) In August, 2018, Scotland became the first nation in the world to guarantee free sanitary products to all students at schools, colleges, and universities. And the 2019 Academy Award for best documentary short subject went to Period. End of Sentence, a documentary about women in a rural village near Delhi, India, who start producing and distributing menstrual hygiene supplies to end the stigma surrounding menstruation.

SCHOOL COMMITTEE STATEMENT

The Brookline School Committee (BSC) supports providing free menstrual hygiene products within the Brookline Schools, consistent with the intent of Warrant Article 20. The Public Schools of Brookline (PSB) are not subject to the proposed new by-law, therefore we take no position on the vote of Town Meeting.

The BSC believes that the intent of the Warrant Article is consistent with the core values and long-established efforts of the PSB to support the health and wellness of students and to ensure equity in education. In particular, the BSC sees alignment between the inclusive language of Warrant Article 20 and the PSB's ongoing work to support students regardless of gender, gender identity, or gender expression.

Currently, the PSB provides free menstrual hygiene products to students who visit the nurse's office and request them. However, requiring students to come to the nurse's office to obtain these hygiene products has the potential for two unintended consequences that can create barriers to access: attaching or reinforcing a stigma of illness or shame to natural biological functions, and causing unnecessary lost classroom time.

By providing free menstrual hygiene products in school bathrooms, the PSB would remove those access barriers for students who need the products and help to ensure that those students are not unduly deprived of class time. It is the BSC's intention that school nurses would continue to provide health counseling and support for this and other personal health, wellness, and hygiene questions or concerns.

For these reasons, the PSB will begin providing feminine hygiene products in bathrooms at Brookline High School. Additionally, the BSC has initiated a process to develop a policy and the subsequent practices consistent with the Warrant Article and with pending legislation before the Massachusetts Legislature (H.1959/S.1274) that would mandate this practice in public schools serving grades 6-12.

COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS REPORT

This warrant article would add an additional by-law under the Public Health & Safety section of our by-laws to provide access to menstrual hygiene products at no cost to the public in our public toilets. This warrant article is carefully constructed, taking into consideration our changing and expanding understanding of the full range of gender norms. It references "female-bodied" persons who might avail themselves of our public restrooms. The point was also made, that for some having to ask for such products might cause embarrassment and/or lead to unwanted attention, especially in the case of transgender persons or those whose outward appearance does not conform to current societal expectations. It applies only to the Town side of our government. The schools would need to take separate action on this same topic.

At a public hearing, the Commission for Diversity, Inclusion and Community Relations unanimously voted favorable action on Warrant Article 20.

SELECT BOARD'S RECOMMENDATION

Article 20 seeks to create a new Town by-law requiring that the Town provide free menstrual hygiene products in its public buildings. A group of High School students initiated this article after a 2017 article in student newspaper drew attention to period shaming. The topic of menstrual equity is gaining attention and the Board agrees that tampons should be treated as basic public hygiene products.

The Board received an estimate from staff on the cost of the proposal as follows:

ITEM	UNIT $	QTY	TOTAL	
Product Dispenser	$350.00	100	$35,000.00	
Signage	$5.83	200	$1,166.00	2 signs per bathroom
Waste Basket -Wall	$52.65	75	$3,948.75	Assumes 2 stalls per men's room- womens's already have baskets
Installation (OT)	$15.73	200	$3,146.12	Assumes 20 mins per install
			$43,260.87	*Estimate for CIP*
Trash Bag	$23.58	5	$117.90	1000/roll, 2 for every 20 bathrooms
Supplies - SN 8ea	$43.20	50	$2,160.00	100/bx, 10 for every 20 bathrooms
Supplies - T 12ea	$100.62	50	$5,031.00	500/bx, 10 for every 20 bathrooms
			$7,308.90	*Estimate for ongoing operating budget*
		TOTAL	$50,570	

Staff shared concerns about potential raiding of the products and the ability to meet expectations that this by-law creates. Since Brookline would be the first municipality in the country to offer these products in all bathrooms there is not much information on how polular the program will be. The Board also appreciated that there was a two-year window for implementation.

The Board thanks the petitioner and the High School students for raising this issue and making efforts to address period poverty and shaming for a perfectly normal experience that affects 52% of the population.

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

VOTED: That the Town amend its by-laws to improve gender equity in public toilet facilities by providing free menstrual hygiene products in restrooms serving the general public in its public buildings, as follows:

8.37 MENSTRUAL HYGIENE PRODUCTS ACCESS BY-LAW

SECTION 8.37.1 DEFINITIONS
"Menstrual hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

"Restrooms serving the general public" mean restrooms established for use by members of the public (as differentiated from staff restroom facilities).

"Public Building" for the purposes of this Warrant Article means any facility owned or leased by the Town of Brookline that contains restrooms for the general public and over which the Town has care, maintenance, custody, and/or control. This shall include, but not be limited to: Public Libraries, the Town Hall Complex (including the Public Health Bldg), the Public Safety Bldg, Recreational Facilities, and Parks.

"Female-bodied" means any individual who experiences a menstrual cycle.

SECTION 8.37.2 ACCESS TO MENSTRUAL HYGIENE PRODUCTS
The Town of Brookline shall make available and accessible at no charge menstrual hygiene products (tampons and pads/napkins) in its public building restrooms that serve female-bodied members of the public.

SECTION 8.37.3 MANNER OF DISPENSING
Machine dispensers for menstrual hygiene products provided under this by-law shall be chosen in consultation with the Building Department and Department of Public Health, but must comply with ADA and other equity-of-access laws and considerations.

Menstrual hygiene products made available at no charge from an employee, office, or other site in a public building upon in-person request does not constitute compliance with this by-law.

SECTION 8.37.4 GREEN PRODUCTS
Tampons with plastic applicators may not be provided under this by-law.

SECTION 8.37.5 EFFECTIVE DATE
This by-law shall take effect July 1, 2021. It will become effective for the Public Schools of Brookline upon adoption by the Brookline School Committee.

**The Board did not have the language change voted by the Advisory Committee in time for the Combined Report mailing and will revisit this amendment in time for the supplement mailing.*

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 20 would amend the Town's by-laws to require that the Town provide free menstrual hygiene products in restrooms serving the general public in its public buildings. Although some Advisory Committee members raised questions about the cost of this requirement, the Advisory Committee recommends FAVORABLE ACTION, by a vote of 11–0–4.

BACKGROUND:
The states of New York and Illinois have mandated free menstrual hygiene products in public schools grades 6–12, in homeless shelters, and in prisons. A similar bill is now before the Massachusetts State Legislature. California has mandated the same for public schools' grades 6–12 that qualify for Title 1 low-income funding. In 2018 Scotland became the first nation to guarantee free sanitary products to all students at schools, colleges, and universities. If it approves Article 20, Brookline would become the first municipality in the United States to provide free menstrual hygiene products in its public buildings.

DISCUSSION:
Proponents of Article 20 argue that feminine hygiene products are just as necessary for public health and hygiene as is toilet paper. Feminine hygiene products should be readily available in public restrooms, just like toilet paper is. Menstruation is a normal female bodily function and providing free menstrual hygiene products in public restrooms should be the norm. Not providing these products stigmatizes those who need them. Because not all female-bodied persons identify as female, feminine hygiene products should be available in all public restrooms including restrooms with a male designation.

During the discussion, Brookline High School student Carter Mucha stated that passing this Article would help female-bodied persons to avoid the feelings of shame that many experience during their menses. Petitioner Rebecca Stone explained that stocking these products would be done by the maintenance crew of the Building Department that already stocks restrooms, so there will be no need to hire more personnel.

In a March 25, 2019, memo to the Select Board, Deputy Town Administrator Melissa Goff estimated that it would cost $43,260.87 from the Capital Improvements Program to install approximately 100 new product dispensers at about $350 each, and 75 wall waste baskets at $52.65 each. She estimated that annual operating expenses would be $7,308.90 to cover supplies. These estimates suggest that would cost $50,570 to roll out the program in an estimated 100 restrooms, with annual operating costs of $7,308.90 thereafter. A two-year roll in period is suggested to allow the Building Department time to install these items where needed.

Some members of the Advisory Committee questioned whether there should be a mandate for spending Town funds on feminine hygiene products. Members also wondered whether

some individuals would take large numbers of the free products, thereby making operating costs much higher.

Article 20 does not cover school restrooms, which are under the jurisdiction of the School Committee. Nor does it cover Town of Brookline staff and employee restrooms, which are not open to the public.

The Advisory Committee made one change to the language of Article 20 as it appears in the Warrant. This change addresses an inconsistency. In Section 8.37.1 DEFINITIONS, the proposed by-law refers to "Restrooms serving the general public" but subsequently the proposed by-law indicates that it applies to "public building restrooms" (SECTION 8.37.2 ACCESS TO MENSTRUAL HYGIENE PRODUCTS). To make the sections consistent, the Advisory Committee thus changed "Restrooms serving the general public" to "Public building restrooms" in Section 8.37.1 DEFINITIONS.

RECOMMENDATION:
The Advisory Committee by a vote of 11–0–4, recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend its by-laws to improve gender equity in public toilet facilities by providing free menstrual hygiene products in restrooms serving the general public in its public buildings, as follows:

8.37 MENSTRUAL HYGIENE PRODUCTS ACCESS BY-LAW

SECTION 8.37.1 DEFINITIONS
"Menstrual hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

"Public building restrooms" means restrooms established for use by members of the public (as differentiated from staff restroom facilities).

"Public Building" for the purposes of this by-law means any facility owned or leased by the Town of Brookline that contains restrooms for the general public and over which the Town has care, maintenance, custody, and/or control. This shall include, but not be limited to: Public Libraries, the Town Hall Complex (including the Public Health Bldg), the Public Safety Bldg, Recreational Facilities, and Parks.

"Female-bodied" means any individual who experiences a menstrual cycle.

SECTION 8.37.2 ACCESS TO MENSTRUAL HYGIENE PRODUCTS
The Town of Brookline shall make available and accessible at no charge menstrual hygiene products (tampons and pads/napkins) in its public building restrooms that serve female-bodied members of the public.

SECTION 8.37.3 MANNER OF DISPENSING
Machine dispensers for menstrual hygiene products provided under this by-law shall be chosen in consultation with the Building Department and Department of Public Health, but must comply with ADA and other equity-of-access laws and considerations.

Menstrual hygiene products made available at no charge from an employee, office, or other site in a public building upon in-person request does not constitute compliance with this by-law.

SECTION 8.37.4 GREEN PRODUCTS
Tampons with plastic applicators may not be provided under this by-law.

SECTION 8.37.5 EFFECTIVE DATE
This by-law shall take effect July 1, 2021. It will become effective for the Public Schools of Brookline upon adoption by the Brookline School Committee.

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ARTICLE 21

TWENTY-FIRST ARTICLE

Submitted by: Kate Silbaugh, Neil Wishinsky

To see if the Town will amend the General By-Laws by amending Section 8.37.5, Subsection A.2., as follows (additions are denoted in **bold, *italicized*** **text**, deletions are denoted in ~~stricken~~ text):

2. Marijuana Establishments shall execute and maintain a Host Community Agreement with the Town which shall include the conditions for having the Marijuana Establishment within the Town in conformity with applicable law. ***Prior to entering into a Host Community Agreement, the Town shall make a preliminary assessment regarding whether the proposed Marijuana Establishment complies with applicable State and local law, including the Town's Zoning By-Law and General By-Laws. The Town may request additional information (including surveys, studies or other data) as it may deem reasonably necessary for making the preliminary assessment. The Town shall be under no obligation to enter into a Host Community Agreement if it determines that the proposed Marijuana Establishment may violate applicable State or local law. Should the Town determine to enter into a Host Community Agreement, nothing in this Section shall limit the ability of the Town subsequently to require additional information or exercise its discretion under the General By-Laws and the Zoning By-Law.***

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The apparent lack of discretion in Section 8.37.5, Subsection A.2., of the Town's General By-Laws to require information (including surveys, studies, or other data) prior to entering into a Host Community Agreement may set the erroneous expectation that every proposed Marijuana Establishment has the right to enter into a Host Community Agreement with the Town. This warrant article clarifies to applicants that the Select Board has discretion to begin evaluating a site proposal prior to executing a Host Community Agreement. Mass. Gen. Laws M. G. L. c. 94G, § 3(d) anticipates a negotiated HCA that includes specific conditions, and the Town is at a disadvantage in that negotiation if it is not able to require additional information that it deems relevant to the circumstances of an applicant or site. Mass. Gen. Laws M. G. L. c. 94G, § 3(d). Section 3(d) of chapter 94G, states, in relevant part:

> A marijuana establishment or a medical marijuana treatment center seeking to operate or continue to operate in a municipality which permits such operation shall execute an agreement with the host community setting forth the conditions to have

> a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center.

Updating General By-Law Section 8.37.5, Subsection.A.2 will clarify that the Town has the discretion to obtain the necessary information and data to determine if the site proposed by an applicant can be operated without violating Town By-Laws prior to entering into a Host Community Agreement. Delaying all assessment of feasibility to the licensing phase is unfair to the proposed Marijuana Establishment and may prevent other applicants from coming forward (including minority-owned, local-based, or other under-represented applicants) with more suitable applications during the lengthy State processes. In addition, delaying any assessment of feasibility of the site under the various By-Laws deprives the Town of a critical tool for setting conditions on operators, a tool that is expressly contemplated by the Cannabis Control Commission (CCC) in Mass. Gen. Laws M. G. L. c. 94G, § 3(d). Section 3(d) of chapter 94G, which counsels towns to incorporate conditions in the Host Community Agreement.

In response to the challenges surrounding the opening of a Marijuana Establishment in Leicester, Massachusetts, including the substantial underestimation of customer volume and traffic, the City of Lowell has begun requiring applicants to provide a traffic plan prior to considering a Host Community Agreement. This warrant article does not require any study, but it clarifies that the Select Board has the discretion to request this kind of information. This proposed revision does not change the underlying substantive General By-law or Zoning By-Law, but clarifies to applicants the Town's authority to begin its investigation of suitability at the earliest stage in the process, and its authority to incorporate additional conditions in a Host Community Agreement based on information gathered, as anticipated by the Mass. Gen. Law. For example, an applicant's viability may depend on satisfactory resolution of any federal nexus with shared tenants, or an applicant's traffic study might rely on off-peak hours of operation; this warrant article clarifies that the Select Board has the discretion to incorporate those assumptions into the Host Community Agreement as anticipated by Mass. Gen. Laws M. G. L. c. 94G, § 3(d).

In December, 2018, Mederi, Inc. sued the City of Salem in Essex Superior Court for failure to enter into a Host Community Agreement based on an expectation of a right to an agreement. (*Mederi, Inc. v City of Salem, Kimberley L Driscoll in her capacity as Mayor of the City of Salem,* Essex Superior Court Department Case No. 1877001878). In a pre-trial ruling, the Superior Court determined that Mass. Gen. Laws M. G. L. c. 94G, § 3 requires an applicant to have executed an HCA with a municipality, but does not require a municipality to execute an HCA with any applicant. Rather, the Court found that the statute contemplates a negotiation, not a "ministerial act". The opinion notes that the CCC guidance on HCAs includes the following language:

> The type and nature of the conditions included in an HCA are unlimited by Section 3(d) of Chapter 94G. Indeed, the only required prerequisite is that the HCA

identifies the party responsible for fulfilling its respective responsibilities under the agreement. As such, the Commission is likely to take a broad view of acceptable conditions.

The Town of Salem, however had explicitly reserved its discretion to refrain from entering into a Host Community Agreement with any given applicant and to assess favorability characteristics in selecting among applicants for HCAs. This warrant article provides similar clarity, and gives the Select Board discretion to gather information that would strengthen its negotiations. The Court held that the appropriate standard for judicial review of a City's refusal to negotiate a particular HCA is the same standard applied to a final decision of an agency under Chapter 30A, meaning whether a decision is based on an error of law, or was arbitrary, capricious, or an abuse of discretion. See G.L. c 30A § 14(7). This review is limited to the administrative record. This warrant article permits the development of such a record.

SELECT BOARD'S RECOMMENDATION

Article 21 seeks to amend the General By-Law Section 8.37.5, Subsection .A.2 in order to clarify that the Town has the discretion to obtain the necessary information and data prior to entering into a Host Community Agreement (HCA) with marijuana establishments in order to determine if a site proposed by an applicant can be operated without violating Town By-Laws. This warrant article clarifies to applicants that the Select Board has the discretion to begin evaluating a site proposal prior to executing a Host Community Agreement. This language will allow the Board to utilize this information to set conditions on operators within the HCA prior to the licensing phase.

The Select Board is appreciative of the efforts to clarify the law and unanimously voted FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the General By-Laws by amending Section 8.37.5, Subsection A.2., as follows (additions are denoted in **bold, *italicized* text**, deletions are denoted in ~~stricken~~ text):

3. Marijuana Establishments shall execute and maintain a Host Community Agreement with the Town which shall include the conditions for having the Marijuana Establishment within the Town in conformity with applicable law. ***Prior to entering into a Host Community Agreement, the Town shall make a preliminary assessment regarding whether the proposed Marijuana Establishment complies with applicable State and local law, including the Town's Zoning By-Law and General By-Laws. The Town may request additional information (including surveys, studies or other data) as it may deem reasonably necessary for making the preliminary assessment. The Town shall be under no obligation to enter into a Host Community Agreement if it determines that the proposed Marijuana Establishment may***

violate applicable State or local law. Should the Town determine to enter into a Host Community Agreement, nothing in this Section shall limit the ability of the Town subsequently to require additional information or exercise its discretion under the General By-Laws and the Zoning By-Law.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 21 seeks to amend Section 8.37.5 of the Town's General By-Laws to specifically grant discretion to the Select Board to begin evaluating proposals for marijuana establishments prior to executing a Host Community Agreement (HCA). Further, the proposed changes specify that the Town is under no obligation to enter an HCA if it determines that the proposed establishment may violate applicable state or local law. The Town retains the ability to require additional information subsequent to entering into an HCA and to exercise its full discretion during the permitting and licensing process under the Town's General and Zoning By-Laws.

By a vote of 20–0–2, the Advisory Committee recommends FAVORABLE ACTION.

DISCUSSION:
To open a recreational or medical marijuana establishment, an applicant must identify a site, enter into a Host Community Agreement with the municipality where the site is located, receive approval from the State Cannabis Control Commission (CCC), and, finally, submit to the licensing and permitting procedures defined in the municipality's general and zoning by-laws. The HCA sets forth conditions, such as payments and other concessions and commitments, that the establishment will be subject to if the license is approved and the establishment is permitted to open for business.

A recent lawsuit filed against the City of Salem by a recreational marijuana applicant involved an interpretation of the enabling legislation, M. G. L. c. 94G, § 3(d), with respect to a municipality's obligation to enter into an HCA with a prospective applicant.
Mass. Gen. Laws M. G. L. c. 94G, § 3(d), provides, in relevant part:

> A marijuana establishment or a medical marijuana treatment center seeking to operate or continue to operate in a municipality which permits such operation shall execute an agreement with the host community setting forth the conditions to have a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center.

The Plaintiff, Mederi, Inc., asserted that the statute *obligates* municipalities to enter into HCAs and that the Plaintiff had an expectation of a right to an agreement. In a pre-trial ruling, Essex Superior Court determined that while the statute requires an applicant to have executed an HCA with a municipality, it does not require a municipality to execute an HCA with any particular applicant. The Court found that the statute contemplates a negotiation, not a "ministerial act" by the municipality.

In its by-law, Salem had explicitly reserved its discretion to refrain from entering into an HCA with any given applicant and to select among competing applicants before proceeding to enter into an HCA or issue a license. Brookline's General By-Laws contain no such reservation.

The purpose of this Warrant Article is to provide similar clarity in the Brookline General By-Laws and to give the Select Board the specific ability to gather information prior to entering into an HCA. The petitioners believe that the new language would strengthen the Town's negotiating position and afford it with discretion to select among competing applicants. Because the siting of a marijuana establishment is such a lengthy process, it is to the Town's advantage to eliminate patently unqualified applicants quickly so potential sites are not kept in limbo unnecessarily.

RECOMMENDATION:
By a vote of 20–0–2, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

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 22

TWENTY-SECOND ARTICLE
Submitted by: Francis G. Caro, TMM10

Resolution calling for a study of pedestrian-friendly street lighting

To see if the Town will adopt the following resolution:

WHEREAS the Town encourages walking as a mode of transportation, especially in densely developed areas,

WHEREAS, residents and visitors walk on sidewalks and across streets after dark,

WHEREAS, safety is a concern for people of all ages and abilities who walk after dark,

WHEREAS the Town, for illumination of its streets and sidewalks, currently relies primarily on "highway lighting" that fails to provide consistently adequate lighting for pedestrians, especially where there are mature street trees,

WHEREAS "highway lighting" is a source of glare that can interfere with the vision of pedestrians,

WHEREAS pedestrian-friendly lighting reduces such glare and allows improved illumination so pedestrians can see obstacles such as uneven, raised black asphalt pavement covering tree roots,

WHEREAS pedestrian-friendly lighting reduces dark shadows that may make pedestrians feel Insecure,

WHEREAS the Town's Complete Streets policy states that "Sidewalks and crosswalks should be adequately lit,"

WHEREAS the Town already has some pedestrian-friendly street lighting that demonstrates the benefits for pedestrians of this form of street lighting,

THEREFORE, BE IT RESOLVED that Town Meeting requests that the Select Board appoint a committee to develop a plan to extend pedestrian-friendly lighting along sidewalks with extensive pedestrian activity;

BE IT FURTHER RESOLVED THAT Town Meeting requests that the committee be 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;

BE IT FURTHER RESOLVED that Town Meeting requests that the committee report its recommendations to a future Town Meeting.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

"Highway lighting," as used here, refers to a street lighting strategy that employs tall, widely-spaced poles to illuminate streets and sidewalks. Lights are designed to cast a light over a long distance. Lights are typically placed so that they extend over the street. Utility poles may be 150 feet apart. Street lighting may be 25 feet above the street.

"Pedestrian-friendly lighting," as used here, refers to a street lighting strategy that directs lighting to sidewalks. Lights are placed on relatively short poles that are placed relatively close together. Utility poles might be 75 feet apart with lights 15 feet above the sidewalk.

Brookline currently has pedestrian-friendly street lighting in the Beacon Street commercial areas. In this case, utility poles have two arms. A taller arm reaches out over the street; a shorter arm reaches out over the sidewalk. Brookline also has pedestrian-friendly street lighting on Washington Street in Brookline Village and on all of Harvard Street. In these cases, the light poles are closely-spaced and modest in height. The lighting is designed to illuminate both the streets and the sidewalks.

Background
This proposal is an outgrowth of concern about adequacy of street lighting for pedestrians brought to the BrooklineCAN Livable Community Advocacy Committee. To address the concern, BrooklineCAN volunteers surveyed sidewalk lighting conditions in much of north Brookline in the fall of 2015 And again in 2016. The surveys were conducted in the early fall when leaves were on the trees. Volunteers were aided by maps provided by the Information Technology Department that show the location of all light poles. The volunteers reported problems to the Department of Public Works. DPW responded promptly to reports of street lights that were not functioning. Problems stemming from street lighting above the tree canopy were discussed with both Engineering Division and the Town Arborist. DPW has made an effort to address the problems with tree pruning and installation of improved lights on existing poles. BrooklineCAN has focused particularly on Beacon Street outside of the commercial areas and Winchester Street between Beacon Street and the Senior Center as locations with unsatisfactory lighting for pedestrians in spite of DPW efforts to prune trees and install improved highway lighting.

Because installation of new lights in the public right of way is expensive and Brookline has many miles of streets, it is important for the Town to understand the extent of demand for improved pedestrian lighting and to invest in improved lighting where there will be the greatest benefit. If the proposed study leads the Town to extend pedestrian-friendly lighting to more streets, the proponents expect that the Town will do so incrementally as funds become available.

SELECT BOARD'S RECOMMENDATION

Article 21 is a petitioned resolution that asks the Select Board to establish a committee in order to develop a plan for improved pedestrian lighting in high demand areas with extensive pedestrian activity. The Board is supportive of this resolution because pedestrian friendly sidewalks are already a goal of the Complete Streets program. The Board feels that a study will allow the Town to determine which sidewalks are prudent to address and will help prioritize implementation of a plan when funds become available.

On April 16, 2019 the Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 22 is a resolution that seeks the appointment of a Select Board Committee to:
(1) determine the extent to which there is a public safety need for improved lighting for pedestrians;
(2) identify locations, including crosswalks, where improved pedestrian lighting is most needed;
(3) examine the costs of installation and operation of new pedestrian-friendly street lighting; and
(4) develop a plan to extend pedestrian-friendly lighting, especially along sidewalks with, or leading to, streets with extensive pedestrian activity.

The Advisory Committee unanimously recommends FAVORABLE ACTION on Article 22 as amended.

BACKGROUND:
This Warrant Article is an outgrowth of extensive surveys of the adequacy of Brookline sidewalk lighting for pedestrians after dark that were conducted by volunteers from the Livable Community Advocacy Committee of Brookline Community Aging Network

(BrooklineCAN) during the early fall months of 2015 and 2016 when leaves were still on the trees. The volunteers identified specific sidewalk locations with inadequate lighting that they believed posed hazards for pedestrians and reported these locations to the Department of Public Works (DPW). The DPW promptly replaced blown light bulbs and repaired nonfunctioning lights and made efforts to improve other reported problems through tree pruning and installing somewhat brighter lights on existing utility poles. Nevertheless, according to the petitioner, there still are many inadequately lit sidewalks and crosswalks in areas of heavy pedestrian activity.

DISCUSSION:
The petitioner believes that a key contributor to inadequate sidewalk lighting for pedestrians is the town's widespread use of a "highway lighting strategy" to light almost all of Brookline's streets and sidewalks. This strategy uses tall, widely-spaced utility poles with lights that extend over streets (rather than sidewalks) so as to cast light over a long distance on the town's roadways. Utility poles can be as much as 150 feet apart with lights placed as high as 25 feet above the sidewalk. This form of lighting often fails to provide adequate lighting for pedestrians, especially on sidewalks with mature trees where dense leaf canopies block light from ever reaching the sidewalk. The poor lighting of sidewalks with mature trees is especially troublesome because it can be hazardous for pedestrians not to be able to see the irregular walking surfaces that are caused by the roots of mature trees. Additionally, highway lighting is a source of glare that can interfere with the vision of many pedestrians.

Recently, more pedestrian-friendly lighting has been installed on about one to two miles of Brookline's sidewalks in some commercial areas. Along Washington Street in Brookline Village and on Harvard Street, there are now utility poles that are more closely spaced and lower to the sidewalk, below tree canopies, so as to shine light directly on sidewalks as well as streets. These utility poles are typically about 75 feet apart with lights only 15 feet above the sidewalk. In some Beacon Street commercial areas, the Town has installed two-armed utility poles, which have a taller arm reaching out over the street and a shorter arm extending directly over the sidewalk. Additionally, all of Harvard Street now uses softer lights, which are free of glare and better for pedestrians.

In response to written questions, the DPW's Commissioner, Andrew Pappastergion, stated that the DPW supports the idea of pedestrian-friendly lighting, particularly in commercial areas, and that it would be possible to add lower-height pedestrian-friendly lighting arms to existing poles, but he noted that the costs of installing this and other types of pedestrian-friendly lighting have not yet been determined.

The Advisory Committee strongly agrees with the petitioner that the Town should study and develop a plan to address the need for more pedestrian-friendly lighting on many sidewalks and crosswalks in Brookline, especially those in, and leading to, commercial areas. The surveys done by BrooklineCAN's volunteers in 2015 and 2016 identified many specific sidewalk locations with heavy pedestrian traffic that contained dangerously dark areas and brought them to the attention of the DPW. Despite the DPW's best efforts, many

of these overly dark areas still exist today. The Advisory Committee agrees with the petitioner that the town can do more to make better pedestrian lighting on sidewalks and crosswalks with pedestrian activity a higher priority goal and to develop a plan for doing so.

Brookline is renowned for being a walkable community. Many of its residents, especially those living in north Brookline, regularly walk after dark to restaurants, stores, and the movie theater in the town's commercial areas and to evening events scheduled at the town's elementary schools and high school, Town Hall, the town's libraries and recreation centers, the Senior Center, the Teen Center, and numerous places of worship. A significant number of Brookline's residents do not own cars, and many residents choose to walk rather than drive for environmental concerns, for health reasons, or simply because they love to walk.

Extending pedestrian-friendly lighting would make Brookline a safer community for all ages, since anyone walking on an inadequately lit street is in danger of falling. But it would be a special benefit to our older residents. Many older residents typically have poorer night vision than do younger residents, and poorly lit streets appear even darker to them. Additionally, many seniors fear the consequences of falling on a sidewalk, which, for some seniors, can ultimately result in serious and sometimes fatal injuries and a loss of independence. As a result, if sidewalks are poorly lit, many seniors will choose not to leave their homes after dark, which only exacerbates the serious problem of social isolation among seniors.

The town has a public safety responsibility to all of its residents to provide sufficient lighting on its sidewalks and crosswalks with heavy pedestrian traffic after dark so that–at a minimum–pedestrians can see the cracks and irregularities on the town's walking surfaces and avoid falling, and drivers can clearly see pedestrians in crosswalks and avoid hitting them.

The Town has demonstrated that it knows how to do this because it has already installed several different types of pedestrian-friendly lighting along about one to two miles of Brookline's sidewalks. Now what is needed is for a committee to be created to study to what extent these types of pedestrian-friendly lighting should be expanded to additional Brookline sidewalks and the costs, complexities, and options for doing so and to develop a plan for such expansion.

RECOMMENDATION:
By a vote of 17–0–0, the Advisory Committee unanimously recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

Resolution Calling for a Study of Pedestrian-friendly Street Lighting

WHEREAS the Town encourages walking as a mode of transportation, especially in

densely developed areas,

WHEREAS, residents and visitors walk on sidewalks and across streets after dark,

WHEREAS, safety is a concern for people of all ages and abilities who walk after dark,

WHEREAS the Town, for illumination of its streets and sidewalks, currently relies primarily on "highway lighting" that fails to provide consistently adequate lighting for pedestrians, especially where there are mature street trees,

WHEREAS "highway lighting" is a source of glare that can interfere with the vision of pedestrians,

WHEREAS pedestrian-friendly lighting reduces such glare and allows improved illumination so pedestrians can see obstacles such as uneven, raised black asphalt pavement covering tree roots,

WHEREAS pedestrian-friendly lighting reduces dark shadows that may make pedestrians feel insecure,

WHEREAS the Town's Complete Streets policy states that "Sidewalks and crosswalks should be adequately lit,"

WHEREAS the Town already has some pedestrian-friendly street lighting predominantly in commercial areas that demonstrates the benefits for pedestrians of this form of street lighting,

THEREFORE, BE IT RESOLVED that Town Meeting requests that the Select Board appoint a committee to develop a plan to extend pedestrian-friendly lighting with a focus on sidewalks with, or leading to, extensive pedestrian activity;

BE IT FURTHER RESOLVED THAT Town Meeting requests that the committee be charged to determine the extent to which there is a public safety need for improved lighting for pedestrians, identify locations, including crosswalks, where improved pedestrian lighting is most needed, and examine costs of installation and operation of new pedestrian-friendly street lighting;

BE IT FURTHER RESOLVED that Town Meeting requests that the committee report its initial recommendations to a fall 2020 Town Meeting.

XXX

Passed by a Unanimous Vote

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 FAVORABL 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.

Passed by a Unanimous Vote

ARTICLE 23

TWENTY-THIRD ARTICLE
Submitted by: Jesse M. Gray, TMM10, Heather Hamilton

To see if the Town will adopt the following resolution:

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;

NOW THEREFORE, BE IT RESOLVED that the Town Meeting calls upon the Town to fully electrify the Town's motorized vehicle fleet.

BE IT FURTHER RESOLVED THAT the Town Meeting calls upon the Town, as of July 1, 2019 or using funds allocated in the budget for FY2020 and fiscal years thereafter, to no longer 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 already acquirable or can reasonably be expected to become acquirable within the needed time frame via purchase or lease. For purposes of this resolution, a *practical alternative* shall be defined as one or more non-motorized or electrified device(s) that singly or in combination can reasonably be expected to (1) meet the required needs with equivalent utility for the intended use (as determined by the department head requesting the vehicle) once an appropriate charger (or outlet) is installed, and (2) cost no more than 25% greater, in their initial purchase or total lease price, than an otherwise suitable fossil fuel-consuming vehicle, inclusive of obtainable federal, state, and vendor purchase or lease incentives but exclusive of one-time costs of installing infrastructure and equipment needed to provide electrical power for charging or operation. A fossil fuel-consuming vehicle, when electrified post-market (but prior to use), shall be considered as a potential *practical*

alternative with total purchase cost equal to the sum of the initial purchase cost and post-market electrification cost.

BE IT FURTHER RESOLVED THAT when a higher ranked *practical alternative* on the following list is obtainable, the Town Meeting calls upon the Town to choose that higher ranked item 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 the Town Meeting requests the Town to note the energy source(s) of vehicles and powered devices in budget requests (*e.g.,* fossil fuel, plug-in hybrid, non-plug-in hybrid, or fully electric).

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, 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.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

I. Overview

This 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 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 *Electric Vehicle (EV)* alternatives may not yet be available, practical, or cost-competitive. However, it may already be practical and affordable to partially electrify many of these vehicles, for example with hybrid patrol cars, hybrid pickup trucks, and hybrid vans. In the case of the pickup trucks and vans, it may be practical and affordable to purchase a conventionally fueled vehicle and retrofit or "upfit" that vehicle to electric or hybrid electric prior to use[1].

[1] https://www.cars.com/articles/plug-in-pickup-3-things-we-learned-driving-an-electrified-ford-f-150-1420701103098/

II. Climate rationale for vehicle electrification

Stopping climate change requires us to *simultaneously*:

(1) **Electrify Everything** (so that we no longer burn fossil fuels locally).
(2) **Clean up the electrical grid** (so all power is clean power).

This resolution addresses the electrification of transport, which accounts for about 25% of the Town's carbon emissions[2]. Electrification of transport is limited by the production and demand for EVs. These are limits set by market forces and human psychology, not a lack of technological prowess of EVs. Nearly 90% of EV owners -- those who know the technology best -- say they will never buy another gasoline car[3]. A consumer education campaign and a consumer movement hold the key to electrification of transport.

The Town of Brookline can spur this movement and directly reduce its own carbon emissions by electrifying its Town fleet of more than 300 vehicles. **An electric car purchased today and powered by the Town's existing municipal electrical power reduces total carbon emissions per mile driven by 60-70% compared to an efficient hybrid car[4]. As the grid itself gets cleaner by at least 2% per year through 2029 and 1% per year thereafter[5], and as Brookline potentially also buys even cleaner municipal power, that same electric car could eventually drive its first mile without any additional carbon emissions beyond those required for manufacturing.**

There is clear precedent among neighboring communities for fleet electrification. Newton has been taking advantage of the Mass EVIP program ($7,500 discount on each EV) to buy 25 EVs[6] and has plans to electrify its entire passenger car fleet of 42 vehicles. New Bedford has purchased more than 20 EVs[78], and other municipalities around the state have purchased 1-3 EVs each[910]. Three Mass communities, including Cambridge, piloted

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[2] Source: Town of Brookline, Massachusetts Greenhouse Gas Inventory Overview, 2010. Includes not only municipal but also commercial and private vehicle emissions within the borders of the Town (excluding MBTA).

[3] https://insideevs.com/electric-car-owners-wont-return-to-gas/

[4] Based on comparison of Prius and Fusion non-plug-in hybrids to a Chevy Bolt EV, assuming local Eversource mix, using U.S. EPA "Beyond Tailpipe" Emissions and MPG values from EPA and Consumer Reports. https://www.fueleconomy.gov/feg/Find.do?action=bt2&year=2019&vehicleId=40520

[5] The 2% annual increase in the renewable portfolio standard (RPS) is state law. https://blog.greenenergyconsumers.org/blog/rps-res-in-plain-english

[6] https://newton.wickedlocal.com/news/20180305/newton-to-use-275k-in-grant-funding-to-buy-electric-cars-charging-station

[7] https://www.atlasevhub.com/wp-content/uploads/2017/06/Public-Sector-Fleet-EV-Procurement-Examples.pdf

[8] https://www.government-fleet.com/130156/city-leases-10-low-cost-electric-vehicles

[9] https://www.mass.gov/files/documents/2016/08/pz/ccc-ma-ev-policy.pdf

[10] https://www.mass.gov/how-to/apply-for-massevip-fleets-incentives and https://www.mass.gov/doc/massevip-fleets-completed-projects-list-july-2018/download

electric buses[11]. A Town of Brookline fleet electrification policy that is ambitious, clear, and practical could also inspire residents and staff to buy their own EVs.

III. Budgetary impact

Budget overview. Transitioning the Town fleet to EVs should be roughly budget-neutral, with potentially higher costs in the near term and lower ones in the longer term. There may possibly be higher short-term costs in the first few years due to charger installation and higher purchase prices of (some) EVs. There may also be lower costs in the medium to long-term due to savings on maintenance (detailed explanation below). Whether the Town will save on fuel costs depends on a number of variables, including the model of vehicle being replaced, the Town gasoline price, and the cost of municipal power. Currently it costs slightly more to 'fuel' an electric car than a Toyota Prius hybrid but less to fuel a hybrid cargo van than a standard one. Since the Town has some flexibility in deciding when to replace fleet vehicles, it could slow the vehicle replacement rate with a goal of maintaining budget neutrality. Alternatively, it could choose instead to accelerate replacement to achieve economies of scale and maximize capture of state incentives.

Beginning the transition in FY2020 would be helpful for climate reasons but would present some financial challenges. We envision that there are a variety of ways the Town could handle these challenges, including combinations of (1) swapping less expensive EVs (e.g., Nissan Leafs) for previously proposed vehicles (and using the difference for charger/outlet installation), (2) delaying purchases and instead installing chargers, or (3) using funds that turn out not to be needed elsewhere.

This budgetary analysis focuses on a comparison of the current "inspector" cars (Prius and Fusion hybrids) with fully electric alternatives, as well as comparisons of conventional pickup trucks and vans with hybrid versions of the same.

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[11] https://www.mass.gov/files/documents/2018/04/30/Mass%20DOER%20EV%20school%20bus%20pilot%20final%20report_.pdf

Current purchase costs (from the Mass VEH98 and VEH102 purchasing price lists)

$25,000	Toyota Prius (seats 5)	Conventional (non-plug-in hybrid)
$26,000	Ford Fusion (seats 5)	Conventional (non-plug-in hybrid)
$18,000[12]	**Smart EQ ForTwo (seats 2)**	**EV -- 63 mi city range[13]**
$21,000[12]	**Nissan Leaf (seats 5)**	**EV -- 151 mi range[13]**
$27,000[12]	**Chevy Bolt EV (seats 5)**	**EV -- 238 mi range[13]**
$32,000	Ford F150/F250	Conventional (non-hybrid)
$37,000[14]	**Ford F150/F250[15] + post-market conversion[16]**	**Plug-in hybrid (XL Hybrids)**
$29,000	Ford Transit Van	Conventional (non-hybrid)
$31,000[14]	**Ford Transit Van + post-market conversion[16]**	**Non-plug-in hybrid (XL Hybrids)**

A Nissan Leaf costs about $4,000 less than a Prius. A Smart EQ ForTwo, which may be appropriate for some applications, costs $7,000 less than a Prius. For some (or most) passenger applications, the Town could choose a Chevy Bolt EV ($2,000 more than a Prius), as it has additional driving range before requiring charging. In addition, the Bolt has better battery thermal management than the Leaf (liquid vs air-cooled), and its battery may last longer, potentially making it a better investment.

Maintenance costs

EVs have very few moving parts. They can be driven for tens or hundreds of thousands of miles with nothing other than air filter replacements, fluid replacements, tire rotations, tire alignments, and tire replacements. These maintenance items are the only ones on the

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[12] Inclusive of Mass EVIP incentives of $7,500 ea, available for up to 25 cars. It is possible that leasing may be a better value, as the separate $7,500 federal tax credit can be readily passed through to the Town in a lease. ***It is also possible that the Town may also be able to find a dealer that would pass through the federal tax credit in a purchase, which would put the Chevy Bolt EV at $20,000 the Nissan Leaf at $14,000, and the Smart EQ ForTwo at $11,000.*** This latter strategy has been adopted by Seattle (https://www.atlasevhub.com/wp-content/uploads/2017/06/Public-Sector-Fleet-EV-Procurement-Examples.pdf) and Alameda County, CA (https://www.georgetownclimate.org/files/report/Capturing-the-Federal-EV-Tax-Credit-for-Public-Fleets%20-%20Case%20Study.pdf).

[13] EPA ranges are averaged across all seasons. **Winter range may be up to 50% lower on the coldest days.**

[14] Inclusive of 80% upfit cost paid for by Mass DOER: https://www.mass.gov/info-details/clean-vehicle-program-public-private-fleets.

[15] The F250 is not yet on VEH102.

[16] XL Hybrids (https://www.xlfleet.com/) is one provider of post-market electrification..

Chevrolet maintenance schedule for the first 150,000 miles for the Bolt EV[17]. EV brakes last longer because of powerful regenerative braking, which uses the motor to slow the vehicle and charge the battery. Electric motors require no maintenance, and at a cost of about $1,000, they are less expensive than a catalytic converter. One study put Nissan Leaf EV maintenance at 23-29% lower than a Corolla and 14% lower than a Prius (either non-plug-in or plug-in hybrid)[18], but the real savings may turn out to be much greater now that EVs have matured significantly in their technology. EV battery life is often the biggest concern about the long-term costs of owning an EV, but unlike cell phone batteries, car batteries have 5-10 year warranties and can function for hundreds of thousands of miles with no maintenance at all[19].

Fueling costs

Electricity is relatively stably priced, and the Town currently pays $0.18/kWh ($0.09 generation[20] + $0.09 supply/distribution[21]). In contrast, the Town's fuel contract varies more from year to year. This year it is $2.50 / gal and next year is $2.04 / gal[22].

The break-even gasoline cost for EVs to be less expensive to fuel than a Prius (non-plug-in) hybrid is about $3.50/gal (at $0.18/kWh). Currently, it is more expensive to fuel an EV than a Prius, but a Ford Fusion hybrid and a Chevy Bolt EV are relatively similar in fueling costs:

Annual fueling costs (assumes 6,000 miles/yr, $2.04/gal, $0.18/kWh):		
$236	Prius	$0.04/mile (52 mpg)
$292	Ford Fusion hybrid	$0.05/mile (42 mpg)
$302	**Bolt EV**	**$0.05/mile (0.28 kWh / mile)**
$324	**Nissan Leaf**	**$0.05/mile (0.30 kWh / mile)**
$335	**Smart EQ ForTwo EV**	**$0.06/mile (0.31 kWh / mile)**

Annual fueling costs (assumes 6,000 miles/yr, $2.04/gal, $0.18/kWh):		
$532	Ford Transit Van	$0.09/mile ($2.04/gal / 23 mpg[23])
$422	**Ford Transit Van hybrid (XL Hybrids)**	$0.07/mile ($2.04/gal / 29 mpg[24])

[17] https://mv.chevrolet.com/content/dam/gmownercenter/gmna/dynamic/manuals/2017/Chevrolet/BOLT%20EV/Maintenance%20Schedule.pdf

[18] https://www.sciencedirect.com/science/article/pii/S030626191731526X?via%3Dihub

[19] https://www.fleetcarma.com/exploring-electric-vehicle-battery-life-degradation-developments/

[20] Source: Town staff.

[21] Estimate based on information from Town staff.

[22] Source: Town staff.

[23] MPG source: EPA

[24] Source: XL Hybrids, 25% improvement in MPG.

Although the transit van fuel savings are relatively modest, the savings would be more substantial for vehicles with lower fuel efficiencies, including medium- and heavy-duty trucks. In addition, if the Town were to harvest more of its own solar power, this might make it less expensive in the long-term to operate a fully electric vehicle, compared to a Prius, even at current gasoline prices.

Charger installation costs

In a fleet transition to electric, the Town will incur a one-time per parking spot cost for installing chargers. The Town has experience in charger installation, having installed chargers in public Town lots and having plans to install chargers on Beacon St. Currently, many passenger cars park in the upper Town Hall garage and in a lot adjacent to the Public Health building. Large vehicles park at 870 Hammond Pond. Several Fire passenger (non-operations) cars park on the street outside the central administrative offices. There is also a parking lot behind the main Fire/Police building used mostly for personal vehicles.

It is hard to estimate charger installation costs without a quote from an electrician for a specific project, but a reasonable range for Town Hall upper garage is $2,500 to $5,000 per electrified parking spot, inclusive of Mass EVIP incentives of $2,500 (per vehicle, for charger hardware only)[25]. Other charger installation projects, such as the lot adjacent to the Public Health building, may be more expensive due to the need to lay conduit underground. As a point of reference, the Town's three 2017 charger installation projects in Town public lots involved bringing conduit and power underground to the location, purchasing the charger units, installing the charger units, purchasing a 5 year communication plan per port, and purchasing a 5 year parts on-site labor warranty. The costs for these (externally funded) projects[26], which installed two charging spots each, were:

Fuller Street (Level 2 Wall Mount): $17,169.60 (existing power source)
($4,720 of which was infrastructure)
Centre Street (Level 2 Bollard Mount): $18,575.20 (existing power source)
($5,560 of which was infrastructure)
Kent/Webster (Level 2 Bollard Mount): $27,540.20 (power source upgraded as well)
($14,675 of which was infrastructure)

The remaining non-infrastructure costs in each case were for the chargers, which were expensive for these lots because they were smart chargers that are enabled for public smart phone payment and access (with annual service fee). For the Town fleet, it may be ideal to

[25] This ballpark cost estimate is derived from a conversation with Ted Steverman, Town Electrical Inspector, who estimated that $2,500 to $5,000 for the electrical infrastructure was appropriate for Town Hall upper garage, and that the final cost would depend on the scale of the project (*i.e.*, how many spots electrified at once). Notably, conduit in that garage can be run on the ceiling or walls, so what is frequently the most expensive part of charger installation (digging and laying conduit under asphalt or concrete) is not needed in this location.

[26] Source: Town staff

buy $500-$1000 non-networked chargers, although they would not enable usage to be tracked as readily.

To enable EVs to be purchased and used while awaiting charger installation, vehicles could on a temporary basis (weeks to months) potentially be charged overnight in Town public lots, charged overnight at other Town-owned locations at which charger installation may be more expedient, fast-charged at existing publicly available fast chargers, or charged overnight from a conventional outlet.

IV. School bus and van electrification.

Separately from the proposed moratorium on certain internal combustion engine purchases, this resolution also calls for electrification of the school bus and van fleet, which is currently a contracted fleet, not owned or leased by the Town. This resolution does not advocate for any particular implementation timeline for the contracted fleet but instead merely encourages the Town and the Schools of Brookline to transition the existing contract fleet to an electric one as soon as is practical.

Three communities in Massachusetts participated in a Commonwealth-funded pilot with electric school buses and provided a detailed report on their experience[27], and all three communities, including Cambridge, are still operating them[28].

Currently, there is a significant premium for purchase of an electric bus, even with available incentives. Leasing programs are available that may render lease payments for an electric bus comparable to those for a diesel bus, after accounting for maintenance and potential fuel savings[29]. Also, in the future there may be incentives available through the VW settlement funds or other sources for bus purchases[30].

V. FAQ (Frequently Asked Questions)

Q: *What if the Town ends up not being able to capture federal or state incentives.*

The 25% price premium built into this resolution is intended to protect the financial interest of the Town. It will function as a safety mechanism that kicks in when the cost to purchase an EV begins to outweigh the potential maintenance savings. If an incentive turns out to be (or becomes) inaccessible, rendering the cost of suitable EVs greater than 125% of that of a fossil fuel-consuming option, the Town would be able, even under the proposed policy, to purchase fossil fuel-consuming vehicles.

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[27] https://www.mass.gov/files/documents/2018/04/30/Mass%20DOER%20EV%20school%20bus%20pilot%20final%20report_.pdf

[28] https://uspirg.org/reports/usp/paying-electric-buses

[29] https://www.proterra.com/financing/

[30] https://uspirg.org/reports/usp/paying-electric-buses

Q: *What if maintenance savings aren't be realized, and/or the cost of battery replacement makes maintenance savings a wash?*

There is risk with the status quo, as well as with electrification. The risk with the status quo is that the Town could miss out on much lower maintenance costs of EVs. This status quo risk may be a greater risk than the electrification risk.

Q: *Police vehicles operate 24/7 and follow Michigan State Police standards. Would this result in a need to increase the fleet and/or not be practical?*

This resolution would leave the decision of whether an EV is a *practical alternative* to the appropriate department head, in this case the Police Chief. If the Chief were to determine that obtainable BEVs, PHEVs, and non-plug-in hybrids were not practical, then under the proposed policy the department would be free to purchase non-EVs. If the Chief were to deem non-plug-in hybrids practical but BEVs/PHEVs not practical, the Town would be compelled, if operating under the suggested policy, to purchase the hybrids, assuming they added no more than 25% to the purchase price.

Q: Could this resolution, if adopted, result in fleet degradation due to constraints on the fleet purchasing budget?

A: The concern that this resolution could slow the replacement rate of vehicles in the fleet, thereby increasing maintenance costs, is a reasonable one.

One important thing to keep in mind about the 25% price premium is that it is not an average cost but rather an upper threshold. The average cost of purchased EVs relative to alternative non-EVs may be lower, the same, or 0-25% more expensive. The actual cost differential will to a large extent be a choice made by the Town administration (*e.g.*, a choice to buy Bolt EVs vs. Smart EQs). New Bedford and Newton have each acquired more than twenty Nissan Leafs, which are currently about $4,000 less expensive than Priuses.

Just as there are less expensive and more expensive EVs, there are also less expensive and more expensive charging solutions. The least expensive charging solution, in the near term, would be to add standard outlets to the upper parking garage under Town Hall. A new Nissan Leaf plus a standard outlet installation is likely to be less expensive than buying a new Prius.

While electrifying the fleet is a climate necessity, there is no perfect way to electrify the fleet. If it turns out that this particular electrification strategy ends up delaying vehicle purchases due to budget constraints, that is something that can be addressed in the future by modifying the electrification strategy. Electrification could be slowed to save money, or it could be accelerated with additional funding.

Q: *The Prius experience has shown that savings estimated by the manufacturer does not translate to how the Town uses the fleet (city driving, stop and go).*

An empirical discussion of the Prius decision and outcomes should be grounded in firm data, which the petitioners do not possess. This explanation relies upon EPA estimates, which are one reasonable point of comparison. A 2019 Chevy Cruze is rated at 30 MPG (city), a 2019 Toyota Prius is rated at 48 MPG (city), and a 2019 Chevy Bolt EV is rated at 128 MPG equivalent (city). Using city-rated mileage, the use of EVs would save more on fuel costs than what this explanation projected in the above discussion of fuel costs using overall MPG.

Generally EVs perform very well in city driving, where they use regenerative braking to recapture kinetic energy. They also avoid wasted fuel due to idling, even when heating or cooling the cabin for prolonged periods of time.

SCHOOL COMMITTEE RECOMMENDATION

The School Committee supports Warrant Article 23, Section IV as it pertains to the Public Schools of Brookline (PSB). Warrant Article 23 is consistent with the long established efforts of the PSB to support the health and wellness of students and to improve our environment by producing less waste and pollution through our routine daily activities. Specifically, the School Committee sees alignment between the aims of Warrant Article 23, Section IV, on the electrification of school buses and vans used for student transportation when we are able to obtain pricing at a 25% or less increase over the current service contracts and the available electric vehicles fit our needs on a practical basis.

BACKGROUND

School Buses

The PSB Director of Operations has recently researched the price and practicality to bring electric school buses to Brookline. The cost of a full size electric school bus is about $365,000 as compared to $90,000 for the same size school bus with a diesel or gas powered engine. Financed over a period of years, replacing our existing bus service with an electric fleet owned and operated by Brookline would result in an annual operating cost increase of 46% above current transportation operating costs. This technology is relatively new for school buses and is not expected to be readily available until the start of the 2020-2021 school year. Orders take 9-12 months for the buses to be built and ready for use. The manufacturer's published mileage range on a fully charged bus is expected to be between 100-120 miles. Gas or diesel powered buses would still be needed for longer out-of-town trips until the technology improves to meet our long-distance travel needs. The charging time for these buses is expected to be 6-8 hours to fully recharge them.

Relative to using electric vehicles, the PSB will seek funding from the following sources when they are next available:

- Funds to reduce the cost of electric vehicles from the State of Massachusetts;
- Funds for the infrastructure work to set up charging stations from Eversource;
- Funds from the Volkswagen Settlement or other available sources;
- Private sector financing to capture any tax incentives that could possibly keep costs down for the Brookline Taxpayer.

School Cars

The PSB currently uses two hybrid cars that are part of the town fleet. As these cars reach or near the end of their useful life, the PSB will look to replace them with all-electric vehicles, provided the total cost of owning all electric is 25% or less than purchasing another hybrid vehicle. The PSB will continue to monitor the technology for changes that make it more affordable and more environmentally friendly.

School Vans

The PSB uses a vendor for vans to provide in-town and out-of-town transportation to students. The vendor has explored using electric vehicles, but the additional cost of the vehicle and longer charging time (hours) versus the quick refueling of fossil fueled buses (minutes) and much shorter mileage range of the electric motor compared to the gas motor has not made the vehicles a viable option for their business. The limitations of range, available charging stations around the region, and additional cost have tabled the pursuit of this endeavor for them at this time.

Annual Operating Budget -- Electric buses Owned & Operated by PSB compared with Diesel Buses provided by existing Service Contract	
Item	**Cost**
FY 20 Budget for Buses (Brookline and METCO)	$822,600
Electric Buses – 1 year projected in-house costs	$1,539,363
Net Budget: Electric vs. Diesel	$ (716,763)

SELECT BOARD'S RECOMMENDATION

Article 23 is a petitioned resolution that asks the Town to create a comprehensive vehicle policy, electrify the Town's motorized vehicle fleet, and reduce the Town's greenhouse gas emissions from motorized vehicles to zero by 2050. The resolution also requests that the Town beginning in the FY21 budget, when practical, no longer budget for fossil fuel-consuming vehicles and that Town departments note the energy source of vehicles in their budget requests.

The Select Board understand and enthusiastically support the pursuit of sustainability goals and reducing the energy usage of our public facilities, vehicles, and equipment. The Board was hesitant to support the original resolution because of concerns about timing and funding. The concern was associated with the request to implement the policy within two months after Town Meeting and that there were no funds allocated in the FY20 budget to implement this policy. There were several other logistical concerns that were not addressed in the policy proposed in the original resolution. For example, the impact on take home vehicles and whom would be expected to pay for the accompanying utility bills. As well as the lack of funding for building out the necessary infrastructure to charge the additional electric vehicles being added to the fleet. Due to these concerns, the Board directed Town staff to report back on these issues of concern.

The petitioners, along with Planning Department, Purchasing Department, and Select Board staff, revised the resolution. Revisions include: a change to the date of implementation in order to properly budget for this new policy, the development of a comprehensive fleet management policy, and specifies a specific standard for public safety vehicles. The Board was supportive of the amended resolution, which was also endorsed by the Select Board Climate Action Committee.

On April 24, 2019, the Select Board unanimously voted FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

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);

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

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 fuel efficiency; (2) the carbon content/global warming potential associated with the fuel use; (3) vehicle miles traveled (VMT); (4) and other factors related to vehicle use and a vehicle culture (e.g. transportation demand; size of vehicle selected for various tasks).

NOW THEREFORE, BE IT RESOLVED that the Town Meeting calls upon the Town to electrify the Town's motorized vehicle fleet, create a comprehensive vehicle policy (fleet and business/operational travel policy), and to reduce greenhouse gas (GHG) emissions from motorized vehicles/equipment to zero by 2050. Town Meeting calls upon the Town to:

A. To create a policy to prioritize the higher ranked alternative 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).

B. Amend the vehicle policy within the next year to address fleet management, vehicle purchases, and greenhouse gas (GHG) emissions by integrating practices that advance zero-emission vehicles and infrastructure, fleet management and optimization, reductions in vehicle miles traveled (VMT), and other relevant considerations that are needed for a stable climate, environmental stewardship, equity, sustainable budgets, and community health.

C. As of July 1, 2020 or using funds allocated in the budget for FY2021 and fiscal years thereafter, no longer acquire, when practical, 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 already acquirable, via a contract or procurement process that complies with MGL Ch. 30B.

- For purposes of this resolution, a practical alternative shall be determined by the Chief Procurement Officer and Fleet Manager, and defined as a commercially available non-motorized or electrified device(s) that singly can reasonably be expected to meet the required needs with equivalent utility for the intended use, as determined by the department head requesting the vehicle, after consultation with the Chief Procurement Officer and Fleet Manager, once an appropriate charger (or outlet) is installed.

D. Requests Departments 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, 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; NFPA 1911 Standard for the Inspection, Maintenance, Testing, and Retirement of In-Service Emergency Vehicles; NFPA 1914 Standard for Fire Apparatus Refurbishing; and 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.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 23 will be provided in the Supplemental Mailing.

XXX

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 24

TWENTY-FOURTH ARTICLE
Submitted by: David Lescohier TMM11

To see if the Town will adopt the following resolution:

A Resolution Calling for a Procurement Policy to Annually Increase the Town Supply of Green Electricity from Renewable Sources

WHEREAS May 2017 Annual Town Meeting passed Warrant Article 20, which committed Brookline to uphold the Paris Agreement on Climate Change, and Warrant Article 21, which established energy-efficiency goals and minimums for the ninth elementary school and the Brookline High School expansion;

WHEREAS in September 2018, the Select Board by adopting the Climate Action Plan, revised its goal—originally set to conform with the Massachusetts Global Warming Solutions Act goal of 80% reduction of GHG emissions—to a goal of achieving zero greenhouse gas emissions for the government and the community by 2050;

WHEREAS the Intergovernmental Panel on Climate Change, a group of scientists convened by the United Nations, released its report, which said that to prevent a catastrophic rise of 2.7 degrees Fahrenheit of warming, CO_2 emissions must be reduced by 45 percent from 2010 levels by 2030, and 100 percent by 2050, which has has galvanized many in town;

WHEREAS the National Climate Assessment report stated that without "substantial and sustained reductions" in greenhouse gas emissions, climate change will hurt people, economies, and resources across the U.S.;

WHEREAS the December 2018 Special Town Meeting passed amendments to Warrant Articles 2 and 3, imposing a condition that no funds be used during schematic design for non-emergency fossil-fuel operated building systems for the ninth elementary school and also the Driscoll School;

WHEREAS in order for the Town to achieve zero greenhouse gas emissions, the Town's electricity must be supplied by 100% Green Electricity renewable sources;

Therefore, be it

RESOLVED that Town Meeting urges that the Town to rely on 100% Green Electricity from renewable sources by the earlier of any future Brookline Climate Action Plan goal or 2050;

RESOLVED that Town Meeting urges the Select Board adopt a policy to request that Town Meeting appropriate year by year increases for the purchase of Renewable Energy Certificates, and that this policy written into the Town of Brookline Financial Plan;

RESOLVED that Town Meeting urges that these appropriation-increase requests be sufficient to meet the resolution's 100% green electricity goal by 2050, or earlier, if, in the future, the Brookline Climate Action Plan advances this date;

RESOLVED that Town Meeting urges that Select Board adopt this policy and make it effective beginning in FY 2021;

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Currently the supplier of the Town's electricity provides 20.5% from Green/Renewable sources.

A Green/Renewable electricity supplier receives one Renewable Energy Certificate (REC) for each megawatt hour (MWh) of electricity.

Under current state law the required percentage of renewable-sourced electricity for retail sale will increase by 2% per year through 2029, and then at 1% for following years. In 2050, without any action by the Town, the Town's supply will be approximately 60% from Green/Renewable sources.

The Warrant article would call upon Select Board to adopt a policy, in the Town of Brookline Financial Plan to request that the Advisory Committee recommend to Town Meeting year-by-year increases in appropriations to achieve 100% Green/Renewable by 2050, or earlier, if, in the future, the Brookline Climate Action Plan is revised:

- Under this policy, the Town will make year by year increases in appropriations for REC purchases of electricity that, otherwise, under current law, would still would be supplied from non-renewable sources in 2050.
- No change in the Town's current procurement is required. The current contract for electricity supply offers the Town the option of purchasing additional RECs.

The fiscal impact over FY 2021 - 2050 would be additional yearly increases of approximately $40,000.

The Town of Brookline FY 2020 Financial Plan includes numerous comparable financial practices, e.g. the plan to fully fund the contributory retirement system by 2030 and the plan to reduce the unfunded liability in the post-retirement benefits trust fund as documented in the Financial Plan in Section IV, Non-Departmental, beginning on page 127.

The conversion to green energy is another long-term obligation, which, if it the Town doesn't take steps to begin addressing now, will have growing negative consequences deeply affecting coming generations.

References:
Paris Agreement:
https://unfccc.int/sites/default/files/english_paris_agreement.pdf
Brookline Climate Action Plan:
https://www.brooklinema.gov/702/Climate-Action-Plan
Intergovernmental Report:
https://www.ipcc.ch/sr15/
National Climate Assessment Report:
https://www.globalchange.gov/nca4

SELECT BOARD'S RECOMMENDATION

Article 24 is a petitioned resolution that asks the Town to set forth in its annual financial plan a policy for the purchase of Renewable Energy Certificates. The article urges the Select Board to encourage the purchase of Renewable Energy Certificates in order for the Town to go above and beyond the requirements of the Massachusetts Renewable Portfolio Standard and reach a target of 100% green electricity by 2050, or earlier if possible.

The Select Board are supportive of this resolution, as much of the work of the Select Board's Climate Action Committee aligns with the goal of this resolution. The Board believes that this is a reasonably crafted resolution that gives town staff the flexibility to balance the goal of this resolution, while at the same time being cognizant of the budgetary impact of purchasing more Renewable Energy Certificates.

On April 24, 2019, the Select Board unanimously voted FAVORABLE ACTION on the resolution as submitted by the petitioner.

ADVISORY COMMITTEE'S RECOMMENDATION

. SUMMARY:
The intent behind Article 24 is to move the Town beyond its current trajectory of achieving 60% of its energy supply from Green/Renewable Sources by 2050. To achieve 100% of energy supply from Green/Renewable Sources by 2050 will require the Town to step up its purchases of Renewable Energy Certificates (REC) from the Town's current energy supplier. Article 24 resolves to urge the Select Board to direct the appropriation of

necessary funds to purchase the additional RECs. The budgetary impact of purchasing additional RECs annually over FY2021– 2050 will be additional yearly increases of approximately $5,000, in the estimate of the petitioner.

By a vote of 19–0–3, the Advisory Committee recommends FAVORABLE ACTION on a slightly amended motion under Article 24.

BACKGROUND:
Warrant Article 24 follows through on the goals of the Brookline Climate Action Plan (CAP). The CAP endorses six strategies for reducing climate-changing greenhouse emissions (mitigation) and preparing for climate-change impacts (adaptation). The goal of the Brookline CAP is to achieve, by 2050, zero greenhouse emissions (no reliance on fossil fuels) Town- and community-wide. The case for achieving zero greenhouse emissions by 2050 as a counter to the devastating impacts of climate change is documented in the Paris Climate Agreement.
(https://unfccc.int/sites/default/files/english_paris_agreement.pdf).

DISCUSSION:
The directed appropriations to achieve 100% fossil fuel-free energy by 2050 are compared by the petitioner of Article 24 to the Town's program of reducing its unfunded OPEB (Other Post-Employment Benefits) liability through increased annual payments. In the words of the petitioner, "The conversion to green energy is another long-term obligation, which, if it the Town doesn't take steps to begin addressing now, will have growing negative consequences deeply." Town staff spoke in favor of Article 24, saying that the goal of 100% zero emission energy sourcing is achievable by 2050, but will come at a cost. The subcommittee heard from the climate action group Mothers Out Front, who are in favor of Article 24 and the goal of zero-emissions energy by 2050.

RECOMMENDATION:
By a vote of 19–0–3, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

A Resolution Calling for a Procurement Policy to Annually Increase the Town Supply of Green Electricity from Renewable Sources

WHEREAS May 2017 Annual Town Meeting passed Warrant Article 20, which committed
Brookline to uphold the Paris Agreement on Climate Change, and Warrant Article 21, which established energy-efficiency goals and minimums for the ninth elementary school and the
Brookline High School expansion;

WHEREAS in September 2018, the Select Board by adopting the Climate Action Plan, revised its goal—originally set to conform with the Massachusetts Global Warming Solutions Act goal of 80% reduction of greenhouse gas emissions—to a goal of achieving zero greenhouse gas emissions for the government and the community by 2050;

WHEREAS the Intergovernmental Panel on Climate Change, a group of scientists convened by the United Nations, released its report, which said that to prevent a catastrophic rise of 2.7 degrees Fahrenheit of warming, C02 emissions must be reduced by 45 percent from 2010 levels by 2030, and 100 percent by 2050, which has galvanized many in town;

WHEREAS the National Climate Assessment report stated that without "substantial and sustained reductions" in greenhouse gas emissions, climate change will hurt people, economies, and resources across the U.S.;

WHEREAS the December 2018 Special Town Meeting passed amendments to Warrant Articles 2 and 3, imposing a condition that no funds be used during schematic design for nonemergency fossil-fuel operated building systems for the ninth elementary school and also the Driscoll School;

WHEREAS in order for the Town to achieve zero greenhouse gas emissions, the Town's electricity must be supplied by 100% green electricity renewable sources;

THEREFORE BE IT RESOLVED that Town Meeting urges the Town to rely on 100% green electricity from renewable sources by the earlier of any future Brookline Climate Action Plan goal or 2050;

BE IT FURTHER RESOLVED that Town Meeting urges the Select Board to adopt a policy to request that Town Meeting appropriate year-by-year increases for the purchase of Renewable Energy Certificates, and that this policy be written into the Town of Brookline Financial Plan;

BE IT FURTHER RESOLVED that Town Meeting urges that these appropriation-increase requests be sufficient to meet the resolution's 100% green electricity goal by 2050, or earlier, if, in the future, the Brookline Climate Action Plan advances this date;

BE IT FURTHER RESOLVED that Town Meeting urges the Select Board to adopt this policy and make it effective beginning in FY 2021.

Passed by a Unanimous Vote

XXX

ARTICLE 25

TWENTY-FIFTH ARTICLE

Submitted by: Deborah Brown, Susan Wolf Ditkoff, and Michael Sandman

To see if the Town will appropriate a sum not to exceed $250,000 in FY2020, to be raised from free cash or other available sources, to expended by the Town of Brookline's Office of Diversity, Inclusion, and Community Relations in order to hire a professional, independent third-party consultant who will perform a comprehensive race and equity review of, and make recommendations to, all departments within the Town of Brookline, prior to the preparation of and for inclusion in the FY2021 budget, in order to advance racial equity in Brookline, or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The accompanying Resolution explains how these funds would be expended.

Ideally this budget item would be included in the Advisory Committee budget that is moved at Town Meeting (as part of the main motion), in which case this article would be moot. However, the Petitioners are filing it as a separate Warrant Article to signal the urgency of this effort to the Select Board, Advisory Committee, Town Meeting Members, and the public.

If this item is not included as part of the main budget motion at Town Meeting, a budget amendment would be offered. Alternate possible funding sources could include the reserve fund, as this is an unforeseen one-time expenditure, or other one-time cash sources.

SELECT BOARD'S RECOMMENDATION

Warrant Articles 25 & 26 are a package submitted by petition that seek to "undertake an independent, comprehensive review of practices and operations with respect to Equity Goals across all Town departments". In particular, Article 25 seeks a $250,000 appropriation to support consulting expenses for the project. The Select Board supports the initiative that Article 26 proposes (see write-up for Article 26). However, in light of the petitioners' support of the Town Administrator's recommendation to use $150,000 from an existing fund of the Town (the BAA Trust Fund), the Select Board has voted unanimously to recommend NO ACTION under Article 25.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 25 asks the Town to appropriate up to $250,000 to engage an outside consultant to conduct a comprehensive race and equity review of all Town departments and make recommendations to advance racial equity in Brookline, with funding for implementing those recommendations to be included in the 2021 budget. Prior to the Advisory Committee subcommittee's public hearing, Town Administrator Mel Kleckner identified, and the Select Board approved, $150,000 from the Boston Athletic Association (BAA) Trust Fund to be used for this purpose. As a result, the petitioners indicated that they do not intend to move Article 25 and thus No Action would be in order.

By a vote of 17–0–1, the Advisory Committee recommends NO ACTION.

DISCUSSION:
See the Advisory Committee's report on Article 26 for additional information relevant to Article 25.

In an April 15, 2019, memorandum to the Select Board, Town Administrator Mel Kleckner explained that The BAA Trust Fund consists of annual contributions to the Town from the BAA in recognition of the Town's costs in hosting the Boston Marathon. Use of the funds for a racial equity review consultant is consistent with the terms and spirit of the Fund. Release of the funds requires approval by the Select Board and was voted at its April 16, 2019, meeting. No further action from Town Meeting is required. Mr. Kleckner made a commitment to develop a supplemental budget recommendation for the November Special Town Meeting should additional funding become necessary. Consequently, the petitioners decided not to move the article at Town Meeting.

RECOMMENDATION:
By a vote of 17–0–1, the Advisory Committee recommends NO ACTION.

XXX

A Vote of No Action Was Passed Unanimously

ARTICLE 26

MOTION OFFERED BY ARTHUR WELLINGTON CONQUEST III, TMM6

VOTED to amend the main motion under Article 26 by adding the following at the end of the last paragraph thereof: "; provided, however, that prior to engaging such a third-party consultant, the efficacy and advisability of such an undertaking shall be considered by a moderator's committee which shall (a) undertake a comprehensive evaluation of the efficacy of similar projects that have been undertaken by the Town in the past, including, but not limited to, the Report of the Committee on Urban Responsibilities (1969), the Report of Selectmen's Subcommittee on Police and Community Relations (1987), the Annual Report on Workforce Diversity and Inclusion (2011, 2012, 2013), (b) determine whether the engagement of a consultant in accordance with this vote is advisable, appropriate, useful and in the best interests of the Town, and (c) report its findings and determinations, which may but need not include its recommendation concerning an appropriate consultant, to Town Meeting no later than the date of the 2020 Annual Town Meeting. In the absence of an affirmative report from such committee, to the effect that the engagements of a consultant as provided in this vote is advisable, appropriate, useful and in the best interests of the Town, no further action shall be taken pursuant to this vote."

Explanation

Brookline has been orbiting in slow motion the issue of Race, Equity, Diversity, Inclusion, Human and Community Relations, and Social Justice since I moved to the community in the fall of 1982. My very first day in Brookline I was invited to attend a Black Achievement Committee meeting at Brookline High School. Fast forward to 2010, Town Meeting passed Resolution #17 which included the following statement: "Acknowledging that Dr. King's message and dream are still alive today, the Town should offer a report on the diversity progress of its different departments." The Resolution stated further: "Town Meeting urges the Board of Selectmen to ... Establish an Annual Progress Report on Diversity that will be presented each year during the celebration ceremonies." What exactly has the Town's commitment been regarding its follow through on this resolution as it pertains to combating racism? Many would assert that it's been lackadaisical and sloppy at best!

In October 2010 the Town of Brookline joined the Commonwealth Compact, a collaboration of institutions of higher learning, as well as for profit and not for profit organizations. "The Compact's goal is to make the State of Massachusetts a location of choice for people of Color and women in the belief that their contributions are vital to the region's social and economic future." So how has the Town of Brookline benefited from its membership with this Compact? What are the specifics in terms of numbers of increases of Blacks, Latinxs, Asians and People of Color in the Town's workforce? What are the funds required for membership in the Compact?

In 2015, Town Meeting passed Warrant Article #18 filed by Ruthann Sneider, (the late) Merelice, and myself – I was the invisible participant -- by a vote of 155 in favor, 3 opposed and 6 abstentions that said the following: "Despite the Town's efforts, the racial makeup of the Town's workforce, particularly employees who are Black, Hispanic-Latino/a, Asian, American Indian, and other people of color, does not reflect the racial make-up and availability of workers in the metropolitan Boston region, comprised of the Counties of Norfolk, Suffolk, and Middlesex ('Metro Boston.'), from which the Brookline workforce is drawn."

In 2017, Town Meeting passed almost unanimously – with an objection of one member, yours truly -- Resolution #22, which allocated "$10,000" to the Government Alliance on Race and Equality Community Group (GARE). What has GARE accomplished since 2017 in Brookline to implement its program(s)?

But during that same Town Meeting I posed the following question about Warrant Article #18, which was passed in 2015: "Last Spring, Ruthann Sneider, Merelice and myself...filed a Resolution at Town Meeting which passed overwhelmingly that supposedly would increase the number of Black, Latinx and People of Color in the Town's workforce. How may I ask has that initiative progress?" The School Committee had not since Warrant Article #18 was passed by Town Meeting in 2015 taken any steps towards voting on the measure. But also, what steps had the Diversity and Inclusion Committee taken? Zero!

More recently, 2019 a course has been offered through the Brookline Adult and Community Education Program entitled "White People Challenging Racism, Moving from Talk to Action". This course has been taught by White people only. What exactly do White people know about "Racism," what they've read in books or newspapers, seen in movies, on TV screens – e.g. Mississippi Burning or In The Heat of the Night? And if they're unable to experience "Racism" then how can they "Move from talk to Action"? What's really at play in the Town of Brookline is White people controlling the overall discussion, direction, and their interpretation of the solutions to the problem of racism from a White perspective, which often is opaque and deluded!

For half a century now the Town of Brookline has been stuck in climate of institutional racism, white supremacy, and its brand of apartheid lite. The Town, however, is running out of options. Warrant Articles #26 will take the Town of Brookline absolutely nowhere. We are set to shovel the funds being requested into a furnace during the month of February, which would possibly make far better use of those funds. Quite frankly, there needs to be a whole restructuring of goals and objectives as they relate to institutions in Brookline that must be examined and rectified.

The Moderator's Committee being proposed will be charged with uncovering exactly why Brookline is still mired in the disease of Institutional Racism, and why it hasn't been unable to extricate itself from it, and where its energy and finances to achieve meaningful

and lasting outcomes should be directed. In short, there needs to be a town-wide master plan that would include representation of thoughts and input from the left, right, radical, conservative, and center political forces.

Finally, only a fool would claim that there hasn't been some racial progress in Brookline: A Black man is chair of the Select Board; the Town just elected its first Latinx to the Select Board; there are two Blacks who presently head departments in Town Government; there are three Black females serving as assistant superintendents in the Public Schools of Brookline, to name just three of the significant advances that have come about over the past couple of years. But pay a visit to the School Department's central administration offices on the 5th floor at Town Hall and there isn't a single Black male to be found. The same is true for the central administration at Brookline High School. How many of the outside venders or contractors the Town does business with are Black, Latinx and or People of Color? And how many Black, Latinx, Asian, or people of color journeyman will be working on the renovation of Brookline High School this summer coming? We need to cease being whimsical, neo-liberal, and in some cases outright disingenuous. There's still room for Dr. Martin Luther King's Dream to be fulfilled here in Brookline.

ARTICLE 26

COMMISSION FOR DIVERSITY, INCLUSION, & COMMUNITY RELATIONS RECOMMENDATION

The Commission for Diversity, Inclusion & Community Relations (CDICR) unanimously endorses Warrant Article 26: *"Engage a third-party consultant to undertake a review with respect to Equity Goals"*.

Having become a member of the Government Alliance on Race and Equity (GARE) in May 2017 the Town make a commitment to work to make improvements to reduce disparities based on race. This is a laudable objective but without an assessment and baseline measurements there is no way to determine whether and when we are making progress. We would expect that the Town will engage a consultant trained in the GARE process who will present a thorough assessment and assist the Town government in setting goals that will lead to increased opportunities and incentives for racial minorities in Brookline.

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 26

TWENTY-SIXTH ARTICLE
Submitted by: Deborah Brown, Susan Wolf Ditkoff, and Michael Sandman

To see if the Town will adopt the following Resolution:

Whereas the Town of Brookline entered into the Government Alliance on Race and Equity (GARE) by vote of Town Meeting in May 2017 (Article 22), and

Whereas the Town of Brookline desires to be a leading municipality with respect to equity, diversity, and inclusion goals, specifically with respect to (i) recruitment, employment, retention, and promotion of a diverse Town workforce, (ii) the culture and environment of Town departments, (iii) procurement and contracting, (iv) participation by all segments of the Town's population in Town boards, commissions, and committees, and (v) interactions with the police; (vi) affordable housing; and (viii) the enforcement of non-discrimination requirements in Town bylaws and regulations and state and federal laws and regulations ("Equity Goals"), and

Whereas "Equity Goals" shall include goals related to persons based on race, ethnicity, income, disability, gender and gender identity, language status, immigration status, religion, or family composition,

Now, therefore, be it hereby Resolved that the Town of Brookline shall engage a third-party consultant to undertake an independent, comprehensive review of practices and operations with respect to Equity Goals across all Town Departments. The consultant shall report jointly to the Town Administrator and the Town Chief Diversity Officer, and progress shall be presented regularly to the Select Board and the Commission on Diversity, Inclusion, and Community Relations as the supervising body. An interim report shall be presented to Town Meeting no later than November 2019, with the expectation that the first set of recommendations will focus on racial equity, and be defined and considered for appropriation within FY2021 departmental budgets (to be approved at the Annual Town Meeting in May 2020).

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Preparation: In preparation for this review, the Town's Chief Diversity Officer, working in conjunction with all Department Heads and the Town Administrator's office, shall

identify and summarize equity, diversity, and inclusion initiatives and reviews undertaken by the Town and its departments to date relative to Equity Goals, and the relative success thereof.

Scope of Work: Upon engaging the independent consultant contemplated by this Resolution, said consultant shall perform the following tasks:

a. Further define Equity Goals for the Town, including appropriate additional areas of focus;
b. Identify national and regional best practices for a municipality that is pursuing the above Equity Goals, and specifically racial equity, across all levels of its operations;
c. Develop metrics and indicators specific to Brookline that will help identify progress in terms of Equity Goals;
d. Identify available data and indicators in the Town of Brookline, in conjunction with the Town Administrator's office and Department Heads relative to Equity Goals,
e. Identify additional data and indicators that would need to be collected going forward; and
f. Identify highest priority action steps to be taken in the next 12-36 months and the estimated budget impact of pursuing those action steps.

3. Timeline: As stated above, an interim report shall be presented to Town Meeting no later than November 2019, with the expectation that the first set of recommendations will focus on racial equity, and be defined and considered for appropriation within FY2021 departmental budgets (to be approved at the Annual Town Meeting in May 2020). Annual reports shall be presented to Town Meeting each November thereafter, with sufficient time to include new efforts to increase equity and inclusion into the following year's budget cycle.

4. Responsibility: As stated above, the consultant will report jointly to the Town Administrator and the Town Chief Diversity Officer, and progress will be presented regularly to the Select Board and Commission on Diversity, Inclusion, and Community Relations as the supervising bodies. An ad-hoc task force with representation from relevant staff and elected commissioners / board members would receive monthly reports and provide advice and guidance to the process. The Public Schools of Brookline and the Brookline School Committee are encouraged to communicate their system-wide equity and inclusion plans and milestones to this task force, and have representation on this task force, in order to facilitate a town-wide approach and coordinate efforts as appropriate.

SCHOOL COMMITTEE STATEMENT

The School Committee sees alignment between the intent of Warrant Article 26, a resolution pertaining to the engagement of a race and equity review consultant, and the ongoing work of the Public Schools of Brookline (PSB) to address equity of access and outcomes for all students consistent with the PSB's long-established core values of *Respect for Human Differences, Educational Equity,* and *High Achievement for All.* Much of this ongoing work is summarized below. As this work of the PSB progresses, the School Committee expects the School Department to set goals and implementation benchmarks and report regularly on progress towards these goals and benchmarks.

BACKGROUND

Over the last three years, the PSB has done significant work to address equity and to develop more culturally proficient and equitable practices through professional development and training, school-based equity teams, increasing leadership capacity, diversity hiring, analyzing data and making it public, and working with parent and community groups. The following list is a summary of ongoing work and, therefore, does not fully capture the detailed efforts that are happening across the district and at the school level.

1. **Establish the position of Senior Director of Educational Equity**
    - The overarching goal of this senior leadership role -- to help the PSB become more equitable -- is explained in the attached job description.
    - Dr. Kalise Wornum, Ed.D. was hired in fall 2018 and is a member of the district's senior management team. Dr. Wornum has 19 years of experience in public education. She is a collaborative leader able to create infrastructures, build community, and support educators at all levels on cultural proficiency and strategies that improve practice.

    Since joining the PSB, Dr. Wornum has accelerated and helped to deepen the PSB's work to address equity and cultural proficiency including:
    - Completed entry interviews with all principals and senior directors, and is establishing relationships across the district and with various community organizations.
    - Designed and facilitated cultural proficiency training for PSB leaders
        - Leaders have completed 18 hours of the course thus far
        - Currently designing options for training of school-based administrators
    - Leading "Difficult Conversations" workshops for PSB faculty and staff
        - Extended Day program staff on April 3
        - Brookline High School (BHS) Special Education staff scheduled for April 30
    - Leading Parent Workshops on various topics dealing with Diversity and Equity:
        - Heath: A monthly series sponsored by One Heath
        - Driscoll: Raising race-conscious children sponsored by the PTO

  - Pierce: How to talk to kids about racism sponsored by the PEAT (Pierce Equity Action Team) Parent Group
- Supporting Existing Educator diversity committees at schools
  - PEAT (Pierce Equity Action Team): Discussions and Strategies
  - DICE (Lawrence, Diversity, Inclusion, Community, Equity): Community Development Project/ Quilt project
  - One Heath: Discussions for larger community discussions
  - Launching committees at other schools
- District-wide Parent Advisory Committee (PAC):
  - The charge is to support school leaders in their efforts to create and promote equitable practices, build inclusive school communities, and work toward closing opportunity gaps and achieving equitable outcomes for all students
  - Over 90 applications. 30 parents selected to serve on the committee
  - First meeting was held at Town Hall on May 1st
- Developing Working Relationships with Existing Town Groups:
  - Brookline Racial Justice Equity - meeting every 6 weeks since November
  - Town Office of Diversity and Inclusion

2. Diversifying PSB Staff: Office of Human Resources

Recruitment and Hiring Process:

- Raising Brookline's profile and meeting potential candidates of color through conferences, networks, and job fairs including the *Massachusetts Partnerships in Diversity and Education*, the *Greater Boston Human Resource Network*, and the *Minority Recruitment Network*
- Developing pipeline for Brookline's paraprofessionals of color to become teachers by surveying paraprofessionals and holding drop-in sessions across the district to answer questions and discuss career path options
- Diversified voices and perspectives and increased focus on diversity hiring by including parents on administrator hiring committees

Retention:

In an effort to eliminate racial isolation and build community and share experiences the district is sponsoring racial affinity gatherings.

- Asian, Asian American, and Pacific Islander gatherings started in April
- Latinx gathering starting in May
- Black Affinity gathering starting in May

Results:

- Percentage of new teachers & paraprofessionals who are educators of color has increased for four straight years
- Brookline has the highest percentage of educators of color of any of our comparable districts
- In 2018-19, 29% of newly hired teachers and paraprofessionals are people of color
- For 2019-20, 50% of K-8 school principals are people of color

- Superintendent's Direct Reports - four of six are people of color

School Year	% of Newly Hired Teachers/Paraprofessionals who are Educators of Color	% of Newly Hired Teachers/Paraprofessionals who are White
2018-19	28.9%	71.1%
2017-18	26.6%	73.4%
2016-17	22.4%	77.6%
2015-16	17%	83%
2014-15	15%	85%

Comparable Districts - All Educators of Color

	2017 - 2018	FTE	2016 - 2017
Brookline	15.00%	1242	13.80%
Newton	12.40%	2172.2	11.90%
Weston	11.50%	349.4	11.90%
Lexington	9.80%	1092.8	9.40%
Wellesley	7.70%	853.3	7.70%
Arlington	6.60%	736.2	9.90%
Needham	6.60%	771.9	7.00%
Massachusetts	10.10%	132,765	9.70%

Source: DESE EPIMS Data 2017-18

3. **School and District Work on Equity, Diversity, and Addressing Bias**
The staff at all elementary schools, the high school, and the Brookline Early Education Program (BEEP) have worked to address issues of equity, bias, and identity using a wide range of approaches. This ongoing work includes, but is not limited to:
    - Professional learning groups and access and equity teams that read selected books and articles, study and analyze data, and learn together about topics including race, unconscious bias, and privilege and their impact on teaching, classrooms, students, and school communities
    - Identifying specific equity goals as part of each school's annual School Improvement Plan
    - Completed Year 1 of three-year Restorative Justice professional development that all schools will complete by the end of the third year. Training focuses on relationship building, understanding of human differences, and community building and repair
    - Teachers reviewing curriculum and texts and making them more representative of the diversity of students in our schools

- Professional development and faculty meetings on equity, bias, and diversity including district-wide professional development days for each of the last three years
- Student leadership groups have been established at all schools to address inclusiveness, equity, access, and respect for human differences including the following groups: Young Scholars, GSAs, the Anti-Defamation League Peer Leaders, Warriors for Change, the Young Scholars Calculus Project, and the Minority Student Achievement Network
- Outreach and partnership with the Brookline Housing Authority to build relationships with families, connect families to community resources, and strengthen the connection between families and schools
- Create staff and parent resource and action groups such as the Parent Diversity Group at Baker, One Heath and PEAT to support parents in coming together to learn about issues of equity
- Passed new Code of Conduct district policy that is more focused on building community, inclusion, equity, and restorative practices and moves away from a more punitive approach
- Completed third annual district-wide professional development day on equity

4. **Analyzing District Data and Outcomes to Understand and Address Inequitable Outcomes and Opportunities**

Regular reporting to the School Committee on student opportunities and outcomes. In order to identify existing inequities reports are disaggregated by race/ethnicity, economic status, gender, and specific populations of students including students with disabilities and English learners. Data analyzed and reported on include:

- BHS course enrollment to understand discrepancies between student groups in advanced and standard courses
- Advanced Placement enrollment and AP test results
- Student learning outcomes including MCAS and the Benchmark Assessment in literacy
- Course recommendations for incoming 9th grade students
- High School suspension rates
- Monthly reporting on disciplinary data

Analyzing these data points and others has led to change in practices in a number of areas including 8th grade course recommendations, high school disciplinary procedures, and the updating of literacy assessment benchmarks.

The Public Schools of Brookline, Massachusetts

JOB DESCRIPTION FOR:

SENIOR DIRECTOR OF EDUCATIONAL EQUITY

The Public Schools of Brookline is deeply committed to maintaining high expectations for all students, and to eliminating the persistent opportunity and outcome gaps among students based on race, ethnicity, language, income, and disability. Given the Public Schools of Brookline mission to *ensure that every student develops the skills and knowledge to pursue a productive and fulfilling life, to participate thoughtfully in a democracy, and success in a diverse and evolving global society,* the District is committed to recruiting and developing a diverse group of educators and administrators, ensuring proper emphasis on culturally responsive instruction, and rigorously examining policies, programs, practice, and written documents to ensure they support all students and our mission.

Description:

The Senior Director for Educational Equity will provide direction, support, and coordination for the District's priority of eliminating opportunity and outcome gaps. The Senior Director will collaborate closely with the Offices of Teaching and Learning, Student Services, and Administration and Finance to develop cultural competence district wide, ensure uniformly high expectations, promote maximum access to high level educational opportunities, and assist in building partnerships with students, families and community members to further the goals of eliminating opportunity and outcome gaps. The Senior Director will also provide technical assistance to departments and schools, including work to maintain and strengthen positive school cultures and climates for all students.

Responsibilities:

1. Advise and make recommendations to the Superintendent on all matters pertaining to the District's work in eliminating opportunity and outcome gaps, including assessing the impact of current and proposed District policies, procedures, and programs.

2. Serve as a member of the District leadership team to ensure educational equity is embedded in all aspects of the District's policies and practices.

3. Collaborate with and support the Director of Professional Development. Develop cultural proficiency training for the District.

4. Assess and prepare annual reports for the Superintendent on the District's progress in closing opportunity and outcome gaps, and make systemic recommendations for actions to improve the District's performance in eliminating opportunity and outcome gaps.

5. Document and disseminate information on promising practices in schools to all constituencies within the Public Schools of Brookline.

6. Develop and maintain resources that support schools in their efforts to close opportunity and outcome gaps.

7. Plan, lead and support professional development for all PSB educators related specifically to cultural competence and closing opportunity and outcome gaps.

8. Assist departments and schools in developing professional development and courses that embed culturally responsive strategies into instructional practices.

9. Strengthen and expand community partnerships to ensure that students have a broad array of supports for both academic and social/emotional learning. Regularly attending meetings with community based organizations.

10. Build partnerships with families, students and community members that inform and further the work of closing the opportunity gap/eliminating the outcome gap.

11. Work with all offices responsible for professional development within the District.

12. Serve as the Title IX coordinator for the District and monitor the District's compliance with Title IX.

13. Prepare, coordinate and facilitate workshops, trainings and presentations for school leaders, department heads, managers, and other employees on preventing and addressing harassment or discrimination within BPS.

14. Design and implement proactive strategies to create an inclusive workplace and learning environment.

15. Develop and lead a District diversity committee.

Qualifications:

- Demonstrated commitment to eliminating the opportunity and outcome gap.
- School-based experience
- Demonstrated experience leading professional development
- Excellent written and verbal communication skills
- Ability to work with diverse communities and cultures represented in the Public Schools of Brookline
- Master's Degree, or equivalent, in education, public policy or business administration
- Strong interpersonal skills
- 3-5 years experience

Preferred

- Grant writing experience

Reports to: Superintendent
Evaluation: Annually by the Superintendent

The Public Schools of Brookline is especially interested in qualified candidates who can contribute through their teaching or practice to the diversity and excellence of the PSB community.

The Public Schools of Brookline is an equal opportunity/affirmative action employer. Members of underrepresented groups and all persons committed to diversity and inclusive excellence are strongly encouraged to apply.

SELECT BOARD'S RECOMMENDATION

Warrant Articles 25 & 26 are a package submitted by petition that seek to "undertake an independent, comprehensive review of practices and operations with respect to Equity Goals across all Town departments". In particular, Article 26 proposes a Resolution to "retain a third party consultant to conduct an equity review of all town departments and recommend actions to pursue equity for all residents, employees and visitors".

With the support of a prior Town Meeting resolution, the Town had already begun to address racial equity work through a partnership with GARE (the Government Alliance on Race and Equity). To date, GARE has held two major training sessions for Town department heads on the process they use to evaluate municipal programs and services through a racial equity lens. Following up on this training, the Director of Diversity and Inclusion has requested each department to articulate racial equity goals. It is intended that these goals will be prioritized for more in depth review using the GARE process.

The Town Administrator has acknowledged that working with the GARE process has been slow and inconsistent across Town departments. In addition, the Board is very aware of the understandable sense of frustration over the pace of progress and the urgency in the community for this work given the unfortunate and high profile litigation the Town faces. Finally, the Board believes this project will support other ongoing management initiatives of the Town, especially the development of measurable goals that can help the departments meet be held accountable for.

As a result, the Board supports this initiative and has voted to recommend Favorable Action on the Resolution with the understanding that the consulting work is done in coordination with GARE principles. The petitioners agree with this and are working cooperatively with Town staff to develop a Scope of Services for the required Request for Proposals.

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

VOTED: That the Town adopt the following Resolution:

Whereas the Town of Brookline entered into the Government Alliance on Race and Equity (GARE) by vote of Town Meeting in May 2017 (Article 22), and

Whereas the Town of Brookline desires to be a leading municipality with respect to equity, diversity, and inclusion goals, specifically with respect to (i) recruitment, employment, retention, and promotion of a diverse Town workforce, (ii) the culture and environment of Town departments, (iii) procurement and contracting, (iv) participation by all segments of the Town's population in Town boards, commissions, and committees, and (v) interactions with the police; (vi) affordable housing; and (viii) the enforcement of non-discrimination requirements in Town bylaws and regulations and state and federal laws and regulations ("Equity Goals"), and

Whereas "Equity Goals" shall include goals related to persons based on race, ethnicity, income, disability, gender and gender identity, language status, immigration status, religion, or family composition,

Now, therefore, be it hereby Resolved that the Town of Brookline shall engage a third-party consultant to undertake an independent, comprehensive review of practices and operations with respect to Equity Goals across all Town Departments. The consultant shall report jointly to the Town Administrator and the Town Chief Diversity Officer, and progress shall be presented regularly to the Select Board and the Commission on Diversity, Inclusion, and Community Relations as the supervising body. An interim report shall be presented to Town Meeting no later than November 2019, with the expectation that the first set of recommendations will focus on racial equity, and be defined and considered for appropriation within FY2021 departmental budgets (to be approved at the Annual Town Meeting in May 2020).

**The Board did not have the language change voted by the Advisory Committee in time for the Combined Report mailing and will revisit this amendment in time for the supplement mailing.*

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 26 is a resolution that defines the terms of engagement for an independent consultant to conduct a race and equity review of all Town departments. Under this Article, the consultant would report jointly to the Town Administrator and Chief Diversity Officer and report back to Town Meeting by November, 2019. Interim progress reports would be made to the Select Board and Commission on Diversity, Inclusion and Community Relations. The consultant would review "practices and operations with respect to Equity Goals across all Town Departments." Implementation of recommendations from the report would be incorporated into the FY2021 budget process.

By a vote of 16–1–1, the Advisory Committee recommends FAVORABLE ACTION on slightly amended motion under Warrant Article 26.

BACKGROUND:
In May, 2017, Town Meeting passed a resolution in support of the Town's participation in the Government Alliance on Race and Equity (GARE) and urged the Town Administrator and Select Board to support and facilitate the GARE implementation process to further racial equity within the Town. To date, this has remained an unfunded mandate without adequate resources to succeed.

DISCUSSION:
The petitioners feel that an independent consultant can pull together the separate projects undertaken in various departments so that Town resources can be put to their highest and best use to advance the process of increasing racial equity. A consultant could hold up a mirror to show us where we are and recommend changes to get us where we want to be.

Initially, the consultant would conduct a comprehensive survey of all town employees to determine a detail-oriented baseline supported by quantifiable data. Step two would be to propose remedies to address the issues raised. Finally, a follow-up survey would be conducted to identify what changed after the recommendations were implemented. By incorporating best practices, training, and analytic tools into a holistic, data-driven approach, the process would aim to generate implementable plans for which the Town can be held accountable. The ultimate goal is to imbed consciousness of racial equity into all Town operations, both among employees and between employees and the constituents they serve.

For example, one component might be to determine whether there are appropriate procedures in place to ensure an equitable staff. How diverse is the staff now? Is the Office of Diversity, Inclusion and Community Relations included in the hiring process? How does the Town capitalize on identifying feeder populations, such as graduating seniors? How wide a geographic net should be cast in establishing a hiring pool? What can we learn from best practices in other communities? What steps should be taken to improve on where we are now? After changes are made, are anticipated improvements backed up by the data?

The Public Schools of Brookline (PSB) would participate in the process as both an insider and outsider. Under the 2018 override, the PSB created the full-time position of senior director of educational equity and is further along than town departments in addressing equity concerns. By joining with town department heads at monthly meetings, school staff would be able to share their experiences and learning, but they would not be included in the consultant's review.

Town Administrator Mel Kleckner's commitment to the project is evidenced by his finding $150,000 to get it started. (See the report on Warrant Article 25). He would utilize his monthly department head meetings as a forum for all voices to be heard and

learning shared. Department heads have responded favorably to the proposal and are looking forward to concrete results that can begin to be implemented through the FY2021 budget process.

Chief Diversity Officer Lloyd Gellineau anticipates that the outcome of the project would be a master plan to guide the Town's racial equity efforts going forward. He concurred with the petitioners that his department has not had the bandwidth to take full advantage of what GARE has to offer. The consultancy is not meant to supplant GARE, but to partner with GARE and the Town to create an effective racial equity action plan.

The consultant would report jointly to the town administrator and the chief diversity officer with regular progress reports made to the Select Board and Commission on Diversity, Inclusion and Community Relations. An interim report would be presented to Town Meeting in November, 2019, but petitioners concede that the timeline is ambitious and the report would most likely be very preliminary in nature.

The original cost of $250,000 proposed in Article 25 was based on an assumption of one person working for one year at $1,000/day. Mr. Gellineau has held some preliminary discussions with GARE-referred consultants who have quoted $65,000-$75,000 as the cost of an initial survey. As noted in the report on Article 25, should current funding prove inadequate, Mr. Kleckner has pledged to develop a supplemental budget request to submit to Town Meeting in November, 2019.

Despite many references to the GARE process throughout the discussion, the resolution itself does not include GARE as a component. The Advisory Committee proposed, and the petitioners accepted, inserting the following into the "resolved" clause after the first sentence:

"The consultant will employ key aspects of the GARE process including working with appropriate Town employees and community groups, and other Brookline entities and organizations."

The word "independent" in the second line of the "Resolved" clause was deleted as being redundant. The phrase "as the supervising body" at the end of the second to last sentence of the resolve clause was also deleted.

RECOMMENDATION:
By a vote of 16–1–1, the Advisory Committee recommends FAVORABLE ACION on the following motion:

VOTED: That the Town adopt the following resolution:

A Resolution to Retain a Third-Party Consultant to Conduct an Equity Review of all Town Departments and Recommend Actions to Pursue Equity for all Residents, Employees, and Visitors

Whereas the Town of Brookline entered into the Government Alliance on Race and Equity (GARE) by vote of Town Meeting in May 2017 (Article 22), and

Whereas the Town of Brookline desires to be a leading municipality with respect to equity, diversity, and inclusion goals, specifically with respect to (i) recruitment, employment, retention, and promotion of a diverse Town workforce, (ii) the culture and environment of Town departments, (iii) procurement and contracting, (iv) participation by all segments of the Town's population in Town boards, commissions, and committees, and (v) interactions with the police; (vi) affordable housing; and (viii) the enforcement of non-discrimination requirements in Town bylaws and regulations and state and federal laws and regulations ("Equity Goals"), and

Whereas "Equity Goals" shall include goals related to persons based on race, ethnicity, income, disability, gender and gender identity, language status, immigration status, religion, or family composition,

Now, therefore, be it hereby Resolved that the Town of Brookline shall engage a third-party consultant to undertake a comprehensive review of practices and operations with respect to Equity Goals across all Town Departments. The consultant will employ key aspects of the GARE process including working with appropriate Town employees and community groups, and other Brookline entities and organizations. The consultant shall report jointly to the Town Administrator and the Town Chief Diversity Officer, and progress shall be presented regularly to the Select Board and the Commission on Diversity, Inclusion, and Community Relations. An interim report shall be presented to Town Meeting no later than November 2019, with the expectation that the first set of recommendations will focus on racial equity, and be defined and considered for appropriation within FY2021 departmental budgets (to be approved at the Annual Town Meeting in May 2020).

For informational purposes, here is a marked-up version of Warrant Article 26 as amended by the Advisory Committee, showing the changes made to the original resolution as it appeared in the Warrant.

(Inserted language in **bold**; deletions denoted by ~~strikethrough~~.)

Whereas the Town of Brookline entered into the Government Alliance on Race and Equity (GARE) by vote of Town Meeting in May 2017 (Article 22), and

Whereas the Town of Brookline desires to be a leading municipality with respect to equity, diversity, and inclusion goals, specifically with respect to (i) recruitment, employment, retention, and promotion of a diverse Town workforce, (ii) the culture and environment of Town departments, (iii) procurement and contracting, (iv) participation by all segments of the Town's population in Town boards, commissions, and committees,

and (v) interactions with the police; (vi) affordable housing; and (viii) the enforcement of non-discrimination requirements in Town bylaws and regulations and state and federal laws and regulations ("Equity Goals"), and

Whereas "Equity Goals" shall include goals related to persons based on race, ethnicity, income, disability, gender and gender identity, language status, immigration status, religion, or family composition,

Now, therefore, be it hereby Resolved that the Town of Brookline shall engage a third-party consultant to undertake ~~an independent,~~ **a** comprehensive review of practices and operations with respect to Equity Goals across all Town Departments. **The consultant will employ key aspects of the GARE process including working with appropriate Town employees and community groups, and other Brookline entities and organizations.** The consultant shall report jointly to the Town Administrator and the Town Chief Diversity Officer, and progress shall be presented regularly to the Select Board and the Commission on Diversity, Inclusion, and Community Relations ~~as the supervising body~~. An interim report shall be presented to Town Meeting no later than November 2019, with the expectation that the first set of recommendations will focus on racial equity, and be defined and considered for appropriation within FY2021 departmental budgets (to be approved at the Annual Town Meeting in May 2020).

XXX

Passed by a Majority Vote

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:	Abstain:
Hamilton	Greene
Fernandez	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.*

Defeated by an Electronic Recorded Vote of 42 In Favor, 87 Opposed and 7 Abstentions

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

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 Bosto9n 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

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.

Passed by a Counted Vote
of 111 In Favor, 16 Opposed
and 13 Abstentions

ARTICLE 27

TWENTY-SEVENTH ARTICLE

Submitted by: Mike Offner

To see if the Town will 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.

PETITIONER'S ARTICLE DESCRIPTION

The purpose of this article is, in part, to acknowledge the findings of the Massachusetts Civil Service Commission decision issued on February 14, 2019, in the case of Alston, Gerald v. Town of Brookline, which can be found within:

https://www.mass.gov/lists/recent-civil-service-commission-decisions

The purpose of this article is also to promote healing, reconciliation, self-reflection, peace, and forgiveness throughout our community and to help to bring forward-looking, community-building, optimistic closure to a painful part of our history.

SELECT BOARD'S RECOMMENDATION

A report and recommendation by the Select Board under Article 27 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 27 is a citizen's petition asking that the Town make a public apology to the Plaintiff in the Massachusetts Civil Service Commission (CSC) case of Gerald Alston v. Town of Brookline, CSC Case No. D1-16-170. Gerald Alston is a former Brookline firefighter who is also suing the Town and several individually named defendants for intentional acts of discrimination and retaliation, in federal court.

The Advisory Committee voted NO ACTION on two occasions, on the grounds that:

- Any apology issued now would be interference with litigation in both federal and state courts, thus imperiling the chances of settling the litigation; and

- Any apology, if sought and agreed to, would be appropriate as part of an overall settlement of both cases, but is not appropriate now.

BACKGROUND:
The history of the case addressed by Warrant Article 27 dates as far back as 2010. It is recorded in the 84-page CSC decision, in 280 CSC legal exhibits, many thousands of pages of discovery documents produced by the Town for the federal suit, as well as in extensive media coverage over the last eight plus years. Additional discovery is possible, additional

media coverage is likely (and will include coverage of this Warrant Article), and legal proceedings are ongoing.

The Civil Service Commission finding is under appeal, and the federal case, filed by the Plaintiff in 2013, may soon go to trial, although no specific date has been set. On March 29th the Town filed a motion for Summary Judgment in federal case and a motion in opposition was subsequently filed. The Town's reply brief is due on May 13th.

Consequently this report will in no way attempt to summarize that volume of material, or comment in any substantive way on the case.

DISCUSSION:

Interference with pending litigation

The focus of the Committee's discussion was not on the history, individuals, or the recent Civil Service Commission finding that lead to the filing of the Warrant Article. Rather, the focus of the discussion was on whether or not either the Advisory Committee or Town Meeting should recommend or resolve, one way or another, on any issue on which the Town is involved in ongoing litigation.

There was a consensus that, as a general policy, Town Meeting should not comment on pending or ongoing litigation in any way. Regardless of intent, any statement Town Meeting makes becomes a fact, which may be introduced into evidence. Town Meeting should not create evidence that may be used in the pending federal case that involves not only the Town but also individual employees and volunteers, who have been personally named in the litigation and whose personal assets are at risk.

Interfering with a possible settlement agreement

Equally as important, apologies are very often part of settlement agreements, and settlement agreements are very often the best outcome for all parties involved in any litigation. If Town Meeting would like to encourage a swifter resolution to this case, as several Advisory Committee members would, providing a voted-on public apology may subvert that end by affirmatively removing or interfering with a bargaining tool.

The Town has made overtures to reach a settlement agreement. Regardless of whether or not any plaintiff suing the Town wants an apology or a settlement, Town Meeting should not do an end-run around potential discussions or preemptively alter settlement discussions should they occur. Providing an apology in our capacity as the Town's legislative body now, in the midst of litigation, outside of the conflict resolution process is ill-timed, inadvisable and irresponsible.

Advisory Committee Votes on Article 27 Motions

Initial Vote

On April 3, the Advisory Committee held a public hearing on Article 27 and heard comments from the petitioner and proponents of the petitioner's motion, as well as some opponents of that motion. After the public hearing, the Advisory Committee held a public meeting and deliberated on Article 27.

At the conclusion of the April 3 meeting to review Article 27, the Advisory Committee voted 5 in favor, 15 opposed and 1 abstention on the petitioner's motion Warrant Article 27, thereby recommending No Action.

Reconsideration and Second Vote

The Advisory Committee met a second time on April 25 and, after a second public hearing, voted 8-7-4 to reconsider article 27 because:

- A revised proposal was offered by Michael Sandman, John VanSoyoc and Bernard Greene (S-JVS-G) that expressed regret for the hurt caused to Gerald Alston; and

- The original petitioner submitted statements disputing the argument that the apology would interfere with pending litigation.

Issued not as an apology but as an expression of regret, the Sandman/VanScoyoc/Greene motion seeks to condemn hate speech generally and to express "profound regret to Gerald Alston for the hurt caused by the racial epithet he received on his voicemail in 2010" and to "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."

Some members of the Advisory Committee and members of the public who commented during the April 25 public hearing felt that the Sandman/VanScoyoc/Greene motion did not go far enough. Others on the Committee felt it still went too far, and that the practical effect would be the same as the petitioner's original apology proposal. Since the motion runs afoul of the same problems present in the article as originally submitted, the Advisory Committee ultimately voted to recommend No Action under Article 27, although by a narrow margin that indicates that some members would support at least one of the two motions—the petitioners' motion or the Sandman/VanScoyoc/Greene motion.

The petitioner's new comments, provided in writing, disputed the Committee's position that the Warrant Article could impact ongoing litigation, and sought to argue that an apology would have no ill effects on current litigation.

Town Counsel provided the following response:

1. In February, the CSC issued a decision stating that Mr. Alston was wrongfully terminated from his position as a firefighter. The Town disagrees with the CSC decision, and is currently challenging it in Superior Court.

2. Mr. Alston filed a Complaint in the USDC against the Town and several past and former Town officials and employees, officially and individually, alleging that they intentionally discriminated and retaliated against him in his employment as a Town firefighter.

3. WA 27 seeks a vote of Town Meeting "apologizing 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."

4. The Town and named defendants vigorously dispute the allegations of the federal court Complaint, and in particular, the allegations that the named defendants intentionally discriminated and retaliated against Mr. Alston in his employment.

5. Under Massachusetts law, "statements, writings or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering or death of a person involved in an accident and made to such person ... shall be inadmissible as evidence of an admission of liability in a civil action."(emphasis added) *G.L. c. 233, s. 23D.* However, this law applies only to accidents, and not to intentional wrongdoing as alleged in the Complaint.

6. Until such time as the pending litigation concerning Mr. Alston is concluded, a vote of Town Meeting crediting the CSC decision and apologizing to Mr. Alston for "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" is vulnerable to being admitted into evidence as an admission of liability. As noted by the petitioner himself, it is within the discretion of the presiding judge to admit, or reject, evidence that is offered into the record.

7. Notwithstanding the foregoing, the Town does not dispute, and indeed sincerely regrets, that Mr. Alston received a racial slur on his voicemail in 2010 that was hurtful to him.

* United States District Court (USDC)

Conclusion

A majority of the Advisory Committee concluded that Article 27 is ill-timed and inappropriate insofar-as it could impact the outcome of pending litigation involving the Town, Town employees, and volunteers. Regardless of the subject matter or fact pattern, the Town's legislative body should not comment in anyway on pending litigation involving the Town in this or any other case.

RECOMMENDATION:
By a vote of 10–9–0, the Advisory Committee recommends NO ACTION.

XXX

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 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[1]; 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[2,3]; 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[4]; 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[5,] 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 [6,7]; and

WHEREAS, Native Americans were legally prohibited from setting foot into Boston from 1675 until 2004, when the law was repealed[8]; and

WHEREAS, the 400th 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.

[1] Philbrick, Nathaniel, Mayflower; A Story of Courage, Community, and War, 2006, pp xvi, 92, chapters 13 and 14.
[2] Philbrick, Nathaniel, ibid, p 151-152.
[3] Jenks, Tudor, Myles Standish, 1905.
[4] 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.
[5] www. natickprayingindians.org/history
[6] Philbrick, ibid, p xiv-xv.
[7] Fisher, Linford D., Ethnohistory, vol.64, issue 1, 1 January 2017 and at futurity.org/native-americans-slaves.
[8] "Banned in Boston", New York Times, 11/25/2004.

Passed by an Electronic Recorded Vote of
158 In Favor, 4 Opposed and 15 Abstentions

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 Massachusett 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

TWENTY-EIGHTH ARTICLE
Submitted by: Cornelia van der Ziel, TMM15

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

RESOLUTION IN SUPPORT OF CHANGING THE FLAG AND SEAL OF THE COMMONWEALTH OF MASSACHUSETTS

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; 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; 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; 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; and

WHEREAS, the Native Nations within current State of Massachusetts were kept in a state of serfdom, 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; and

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

WHEREAS, the 400th 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 Brookline Town Meeting instructs 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.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

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. The bill is attached. It sets up a commission to study the state flag and seal for possible change and to report its recommendation to the state legislature for their approval.

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. 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 "pacified" Native American. 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 Massachusett warriors after he had summoned them to a meeting. The motto has various translations, but it is commonly translated as "By the sword we seek peace, but peace only under liberty."

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

MOTION OFFERED BY THE PETITIONER

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

RESOLUTION IN SUPPORT OF CHANGING 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[1]; 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[2,3]; 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[4]; 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[5], 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 [6,7]; and

WHEREAS, Native Americans were legally prohibited from setting foot into Boston from 1675 until 2004, when the law was repealed[8]; and

WHEREAS, the 400th 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.

[1] Philbrick, Nathaniel, Mayflower; A Story of Courage, Community, and War, 2006, pp xvi, 92, chapters 13 and 14.
[2] Philbrick, Nathaniel, ibid, p 151-152.
[3] Jenks, Tudor, Myles Standish, 1905.

[4] 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.
[5] www. natickprayingindians.org/history
[6] Philbrick, ibid, p xiv-xv.
[7] Fisher, Linford D., Ethnohistory, vol.64, issue 1, 1 January 2017 and at futurity.org/native-americans-slaves.
[8] "Banned in Boston", New York Times, 11/25/2004.

SELECT BOARD'S RECOMMENDATION

A report and recommendation by the Select Board under Article 28 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 28 is a resolution filed by citizen petition. It supports Massachusetts state legislation "providing for the creation of a special commission relative to the seal and motto of the Commonwealth." Such a commission would study possible changes to the seal and thus the flag of the Commonwealth of Massachusetts. The Advisory Committee did not reject the idea of studying alternatives to the current seal and flag, but it did not agree with many of the "Whereas" clauses in the resolution as it appears in the Warrant.

The Advisory Committee recommends FAVORABLE ACTION on a substitute resolution by a vote of 8–7–5.

BACKGROUND:
Article 28 supports the adoption of legislation filed by State Senator Jason Lewis (5th Middlesex), State Representatives Nika Elugardo (Jamaica Plain & Brookline) and Lindsay Sabadosa Hatfield/Northampton), and co-sponsored by Representative Tommy Vitolo (Brookline), among others. The legislation calls for the appointment of a commission to study whether to change the state flag and seal.

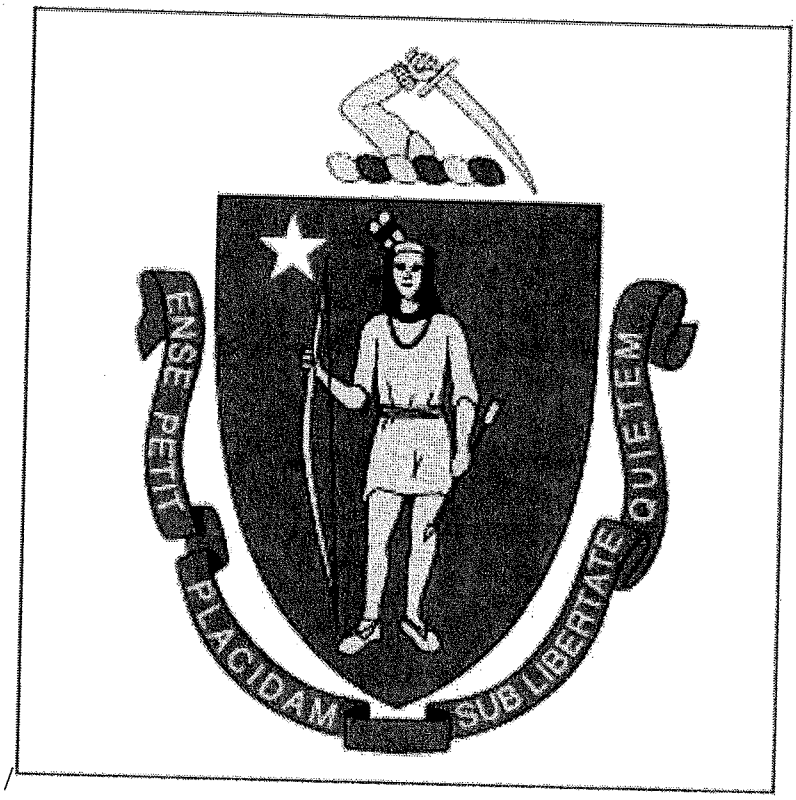
The commission would be appointed:

(1) for the purpose of investigating the features of the official seal and motto of the Commonwealth including those which potentially have been unwittingly harmful to or misunderstood by the citizens of the Commonwealth and (2) for the purpose of examining the seal and motto of the Commonwealth to ensure that they faithfully reflect and embody the historic and contemporary commitments of the commonwealth to peace, justice, liberty and equality and to spreading the opportunities and advantages of education.

The commission would be comprised of a broadly representative group including:

...the Executive Director of the Commission on Indian Affairs [as chair]; 5 members appointed by the Commission on Indian affairs who are of lineal descent from tribes with government to government relations [in Massachusetts]; the Secretary of the Commonwealth or a designee; the Executive Director of the Massachusetts Historical Commission or a designee; the Executive Director of the Council on Arts and Humanities or a designee; the chair of the Massachusetts Arts Commission or a designee; the Chair of the Mass Cultural Council, the House and Senate chairs of the Joint Committee on State Administration and Regulatory Authority, and 2 persons who shall be appointed by the governor. [1]

The state seal and flag are linked because the seal appears on the flag by statute. Below is the seal:



The flag is described as follows:

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[1] See http://masspeaceaction.org/home/wp-content/uploads/2019/01/S1877.pdf for the full text.

> On a white field is a blue shield emblazoned with the image of a Native American, Massachuset [Massasoit]. He holds a bow in one hand and an arrow in the other. The arrow is pointing downward representing peace. The white star represents Massachusetts as one of the original thirteen states. Around the shield is a blue ribbon with the motto: "By the Sword We Seek Peace, but Peace Only Under Liberty". Above the shield is a [*sic*] arm and sword, representing the first part of the motto.[2]

DISCUSSION:
Legislation to the same effect had been introduced in 17 previous sessions by former Rep. Byron Rushing without getting much traction. There is more interest this year, and six Massachusetts municipalities have adopted resolutions supporting the bill.

The petitioner focused on the symbolism of the many elements of the seal, including the representation of Massasoit, chief of the Wampanoag tribe that helped the Plymouth Colony and later allied with the settlers against another tribe. One criticism of the image purported to be Massasoit is that it is a composite rather than an accurate depiction of Massasoit.

The seal was adopted in 1898. It was designed by Edmund Henry Garrett (1853–1929), an American illustrator, bookplate-maker and author—as well as a highly respected painter. The Advisory Committee heard conflicting reports on the artist's intent with regard to the various symbols.

Committee members also learned that the North American Vexillological Association ranked the Massachusetts flag 38th among 72 US and Canadian state, provincial and territorial flags. The main criteria were the appropriateness of the flags' symbolism and the ability to distinguish them from a distance.[3]

The resolution does not specifically endorse changing the seal and flag. Rather, it endorses legislation that would create a commission to examine whether some of the symbolism is no longer appropriate. Nonetheless, there was discussion of whether the image of an Indian was appropriate, discussion that will undoubtedly be echoed by Town Meeting members and the public. The petitioner stated that some Native Americans expressed distress at the specific image, though not necessarily at the idea of having an image of an Indian. Advisory Committee members suggested that there is nothing intrinsically derogatory about using the image of a Native American on the seal. We do not put the images of people or the composite representations them on a seal or on currency to dishonor them. And if no image

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[2] https://www.50states.com/flag/maflag.htm

[3] See a summary of the flag rating by members of the North American Vexillilogical Association – https://nava.org/digital-library/design/surveys/2001-State-Provincial-Flag-Survey.pdf

of a Native American is included, we will lose a reminder of the importance of Native Americans in our history.

As can be discerned from the close vote on substitute language recommended by the subcommittee that held a public hearing on Article 28, Advisory Committee members were almost evenly divided. Some felt that the "Whereas" clauses in the petition were intended as political statements; others felt that they reflected history and were educational.

Whatever the artistic and symbolic merits or demerits of the seal and flag, the Advisory Committee agreed that a properly qualified commission should be appointed to study the matter.

The Advisory Committee rejected a motion to recommend the petitioner's language by a vote of 7 in favor, 11 opposed and 2 abstentions.

The Advisory Committee then voted 8 to 7 with 5 abstentions to recommend Favorable Action on substitute language that deletes the petitioner's first six "Whereas" clauses, substitutes three Whereas clauses intended to give context to the resolution, and retains the petitioner's last two Whereas clauses. The substitute language retains the substance of the petitioner's "Resolved" clauses, with minor edits.

RECOMMENDATION:
By a vote of 8–7–5, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

RESOLUTION IN SUPPORT OF CHANGING THE FLAG AND SEAL OF THE COMMONWEALTH OF MASSACHUSETTS

WHEREAS Representative Lindsay N. Sabadosa of Northampton and Nika Elugardo of Jamaica Plan and Brookline have filed a Resolve providing for the creation of a special commission relative to the seal and motto of the Commonwealth;

WHEREAS the purpose of this resolve is to investigate features of the official seal and motto of the Commonwealth including those which potentially have been unwittingly harmful to or misunderstood by the citizens of the Commonwealth;

WHEREAS the aim of the resolve is to ensure that the seal and motto of the Commonwealth faithfully reflect and embody the historic and contemporary commitments of the Commonwealth to peace, justice, liberty, and equality and to spreading the opportunities and advantages of education;

WHEREAS, the 400th 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 the resolve offered by Representative Sabadosa of Northampton in the 191st General Court 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 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 Brookline Town Meeting instructs 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.

Defeated by an Electronic Recorded
XXX
Vote of 15 In Favor 143
Opposed and 14 Abstentions

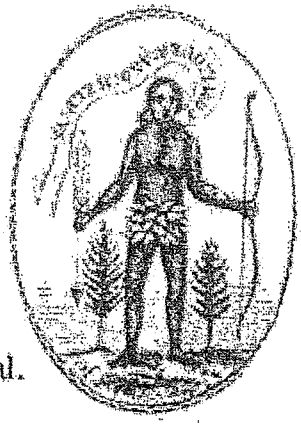
Change the State Flag and Seal

Resolve Providing for the Creation of a Special Commission Relative to the Seal and Motto of the Commonwealth

HD. 2968 (Rep. Sabadosa), SD.1495 (Sen. Lewis) • malegislature.gov/Bills/191/SD1495

Help to Change the Massachusetts Flag and Seal

An image of white supremacy since 1629. ⟶

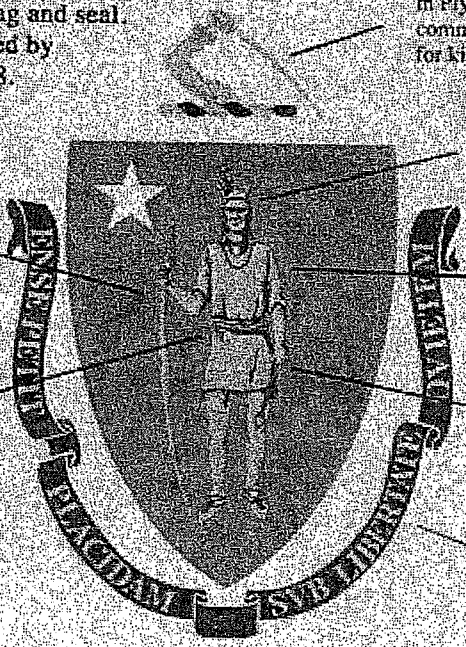


In 2018, four Franklin County towns: Orange, New Salem, Wendell, and Gill, voted at June town meeting to support a bill to create a commission of Native American representatives and state legislators to recommend changes to the state flag and seal. The Mass Commission on Indian Affairs has been supporting this bill for the last 34 years.

Original Massachusetts seal (above) from 1629 depicts a Native American saying: "Come over and help us"

Take a closer look at the symbols in the current state flag and seal.

Illustrator Edmund Garrett used a Frankenstein approach to designing the "ideal Native American" image for the Massachusetts flag and seal. His design was formally adopted by the legislature on June 14, 1898.



"The bow is an accurate representation of one taken from an Indian shot and killed in Sudbury in 1665." -Edmund Garrett

Garrett patterned the belt after the red flannel belt of Metacomet (King Phillip), housed in the Peabody Museum in Boston. Metacomet was a leader in the first Native war of resistance against English colonization. His severed head was impaled on a pike and displayed in Plymouth for more than 20 years as a war trophy.

The sword is modelled on Myles Standish's broadsword, borrowed from the Pilgrim Hall in Plymouth. Standish was the military commander for Plymouth Colony, known for killing Native Americans.

The face came from a photograph of Thomas Little Shell, a Chippewa chief from Montana. Garrett called him "a fine specimen of an Indian".

Proportions for the body were taken from a Native skeleton dug up in Winthrop.

The downward pointed arrow indicates a 'pacified' Native American.

The Latin motto begins: "By the sword we seek peace..."

The resolve would appoint a commission to redesign the State Flag, Seal and Motto. Info: changethemassflag.com

HOUSE DOCKET, NO. 2968 FILED ON: 1/18/2019

HOUSE . . . . . No.

The Commonwealth of Massachusetts

PRESENTED BY:

Lindsay N. Sabadosa and Nika C. Elugardo

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying resolve:

Resolve providing for the creation of a special commission relative to the seal and motto of the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Lindsay N. Sabadosa	*1st Hampshire*
Nika C. Elugardo	*15th Suffolk*
Jason M. Lewis	*Fifth Middlesex*
Jack Patrick Lewis	*7th Middlesex*
Maria Duaime Robinson	*6th Middlesex*
Ruth B. Balser	*12th Middlesex*
Michael J. Barrett	*Third Middlesex*
Jennifer E. Benson	*37th Middlesex*
Natalie M. Blais	*1st Franklin*
Paul Brodeur	*32nd Middlesex*
Michelle L. Ciccolo	*15th Middlesex*
Mike Connolly	*26th Middlesex*
Daniel R. Cullinane	*12th Suffolk*
Marjorie C. Decker	*25th Middlesex*
Mindy Domb	*3rd Hampshire*
Carmine Lawrence Gentile	*13th Middlesex*

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.

ARTICLE 29

TWENTY-NINTH ARTICLE
Submitted by: Mariah Nobrega

To see if the Town will vote to adopt the following Resolution:

RESOLUTION TO ENCOURAGE BROOKLINE'S TOWN MEETING TO PURSUE REPRESENTATIVENESS AMONG ITS MEMBERSHIP

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

WHEREAS, in Town Bylaw 3.14, which defines both the Commission and the Office for Diversity, Inclusion and Community Relations (CDICR/ODICR), says that (bold is emphasis added) "the Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, **including town government**; and that inclusion is, therefore, a critically important government interest of the Town"; and further defines inclusion as "actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town **regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children)** (herein, "Brookline Protected Classes")"; and

WHEREAS, in March 2017 the Town became a core member of the Government Alliance on Race and Equity (GARE), a national network of local governments working to achieve racial equity and advance opportunity for all; and GARE activities are commendable but are focused on town department practices, not elected bodies; and

WHEREAS, a fall 2018 ODICR survey of diversity on Town Commissions, Committees, and Boards found that these bodies are not inclusive or representative of the town overall, concluding based in part on the following evidence that "this survey...illustrates a stark disconnect between the demographics of Brookline's residents and those involved in town government."

- 93.3% of those who answered the question were white, compared to 76.7% of Brookline overall
- 42.9% were age 65 or older (overall: 15.7%); conversely 6.1% were age 19-34 (overall: 35.8%); and

WHEREAS, ODICR is seeking ways to close this inclusion gap but cannot do so unilaterally; and,

WHEREAS, in a more inclusive Town government, Town Meeting Members would not solely be elected as geographic representatives but to be truly representative, would also capture a proportional representation of Brookline Protected Classes; and,

WHEREAS, in a more inclusive Town Meeting environment, the voices who speak would also represent a greater inclusivity among Brookline Protected Classes,

THEREFORE, BE IT RESOLVED that Town Meeting Members should encourage each other and themselves to identify and support candidates to run for Town Meeting who belong to one or more underrepresented Brookline Protected Classes, so as to build inclusion in town elected bodies with the goal of Town Meeting more closely reflecting the community from which it is elected, and

BE IT FURTHER RESOLVED that the Moderator should be encouraged to consider inclusivity across Brookline Protected Classes as an important aspect of deciding order of speakers, among other considerations.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The goal of this resolution is to raise Town Meeting Member awareness of the disparity between the demographics of the membership of Town Meeting Members and the town population overall. TMMs are elected to represent a precinct, which is intended to spread TMMs across the geography of the town, but there is no formal mechanism for ensuring TMMs are representative of the people of the town in other, important ways that may provide a greater diversity of thought and experience, and ultimately enrich and improve the decisions made by Town Meeting.

This resolution responds directly to one of the seven priority areas identified by the Brookline People of Color (POC) Coalition and discussed at the Brookline Summit for Racial Equity, held in February 2019 ("Increase diversity on Boards and Commissions and remove barriers to running for office.") Specifically, Town Meeting is an important feeder for participation in other Town boards, committees and commissions. Therefore, increasing diversity of Town Meeting should support the diversity of all of these Town bodies.

The intent of the warrant article is not to remove anyone from Town Meeting; rather, the idea is that as natural attrition leads to turnover of TMMs, that TMMs proactively seek

candidates who would help increase the diversity of TM by focusing on which Brookline Protect Classes are underrepresented.

This is likely to require going beyond the personal networks of TMMs. Using the example of racial diversity: in "The Person You Mean to Be: How Good People Fight Bias" by Dolly Chugh, she describes a study in which people were asked with whom they regularly discussed important matters. They used this data to calculate each individual's "egocentric social network analysis". What the researchers found is that 75% of white people had networks composed exclusively of white people, and the average white person's network was about 91% white. What this means is that for most TMMs, their network is exclusively white people, which no doubt has reinforced the composition of Town Meeting.

This resolution also includes a clause to also encourage the moderator to explicitly consider Brookline Protected Classes in his deliberations, for example in deciding the order of speakers or who he calls on from the floor. Greater diversity of speakers is also backed up by research; a 2010 Science publication entitled "Evidence for a Collective Intelligence Factor in the Performance of Human Groups" (DOI: 10.1126/science.1193147) found that collective intelligence, which the authors define in part as "the equality in distribution of conversational turn-taking", was a much better predictor of successful group problem-solving than either the average intelligence of the group or the maximum individual intelligence.

SELECT BOARD'S RECOMMENDATION

Article 29 is a petitioned resolution that seeks to raise awareness on the disparity between the demographics of Town Meeting Members compared to the Town population. The resolution seeks to create greater diversity of thought and experience by encouraging more diversity in Town Meeting and in Town government generally. The resolution also encourages the Moderator to consider inclusivity when filling committee vacancies and determining the order of speakers at Town Meeting.

The Select Board considered the original resolution submitted as well as an edited version that the Advisory Committee approved. The Board expressed general support for the article but clarified this support should not reflect negatively upon the incumbent Town Moderator. The Board also acknowledged the practical challenges that the resolution creates, especially relating to the ability of the Moderator to effectively create an order of speakers at Town Meeting reflecting diversity and inclusion. Ultimately, the Board felt more comfortable with a version of the Resolution that was recommended by a subcommittee of the Advisory Committee.

As a result, on April 30, 2019, a unanimous Select Board voted FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following Resolution:

RESOLUTION TO ENCOURAGE BROOKLINE'S TOWN MEETING TO SUPPORT DIVERSITY AND INCLUSION AMONG ITS MEMBERSHIP

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

WHEREAS, in Town Bylaw 3.14, which defines both the Commission and the Office for Diversity, Inclusion and Community Relations (CDICR/ODICR), says that (bold emphasis added) "the Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town"; and further defines inclusion as "actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children)"; and

WHEREAS, in March 2017 the Town became a core member of the Government Alliance on Race and Equity (GARE), a national network of local governments working to achieve racial equity and advance opportunity for all; and GARE activities are commendable but are focused on town department practices, not town elected bodies; and

WHEREAS, a fall 2018 ODICR survey of diversity on Town Commissions, Committees, and Boards, including Town Meeting, found that these bodies are not demographically inclusive or representative of the town overall, and;

WHEREAS, ODICR is seeking ways to close this inclusion gap but cannot do so unilaterally; and,

THEREFORE, BE IT RESOLVED that Town Meeting Members should encourage and support residents who belong to one or more underrepresented groups to run for Town Meeting and/or to apply to serve on Town Commissions, Committees, and Boards, so as to build inclusion in town elected and appointed bodies with the goal of Town Meeting and Town Commissions, Committees, and Boards more closely reflecting the community: and

BE IT FURTHER RESOLVED that Town Meeting urges the Moderator to consider inclusivity as an important aspect of deciding membership of Advisory Committee,

Moderator's Committees, and to the extent possible, the order of speakers at Town Meeting, among other considerations, and;

BE IT FURTHER RESOLVED that Town Meeting urges the ODICR to continue to carry out a confidential annual survey of diversity to ascertain the progress made.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 29 seeks to raise awareness among Town Meeting Members (TMMs) of the disparity between the demographic make-up of Town Meeting and the Town population overall, and to encourage outreach to underrepresented groups with the goal of making Town Meeting more diverse. Town Meeting embodies Brookline's geographic distribution, but this does not ensure representation of all Brookline Protected Classes as defined in Article 3.14 of the Town bylaws. The petitioner feels that since Town Meeting is often a source of participants for appointment to Brookline boards, committees, and commissions, increasing the diversity of TMMs should lead to more diverse representation on other Town bodies.

By a vote of 20–4–1, The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 29 as amended.

BACKGROUND:
The petitioner was struck by the lack of diversity among respondents to the Office of Diversity, Inclusion, and Community Relations (ODICR) survey of Town Commissions, Committees and Boards conducted in the fall of 2018. Increasing inclusivity of these groups is one of the seven priority areas identified by the Brookline People of Color (POC) Coalition as discussed at the Brookline Summit for Racial Equity. Since Town Meeting is a major source of membership for participation in other Town bodies, increasing the diversity of TMMs should lead to more diversity in town governance as a whole.

There is no intent to remove any current TMMs but rather to raise awareness of the issue. TMMs are encouraged to proactively recruit more diverse candidates as Town Meeting membership changes through attrition. This means identifying groups that are underrepresented and actively inviting their participation. It requires extensive outreach beyond the usual personal networks. An example of such outreach is the ODICR's pop-up meetings in Brookline Housing Authority residences. Warrant Article 29 also encourages the Moderator to consider the inclusion of Brookline Protected Classes when determining the order of speakers at Town Meeting.

While supportive of the petitioner's intent, Advisory Committee members had many concerns about much of the language, specifically:

- awkwardness of the term "representativeness" in the title;
- use of the term "Protected Classes" to refer to the least protected citizens;
- validity of survey statistics based on a self-selecting group of respondents (third whereas clause);
- implications for a quota system embodied in the term "proportional representation" (fifth whereas clause);
- general objection to the final whereas clause;
- adding inclusivity as a criterion for determining the order of speakers at Town Meeting (second resolved clause).

Advisory Committee members were also concerned that the Warrant Article focused exclusively on Town Meeting and did not extend more broadly to other Town bodies. One member felt strongly that TMMs should not be looking for their own replacements because "the legislature shouldn't ask itself to grow its own ranks." Encouragement and support is different from recruitment, and if that is the intent of the article, that is what it should say.

There was a robust discussion of whether the Warrant Article was necessary at all. Some Advisory Committee members indicated that participants in town bodies self-select and it only takes ten signatures to run for Town Meeting. Others responded that there are unseen barriers to participation. There is a lack of awareness and understanding of how town government works. People don't get involved because they don't know how. TMMs should take the lead in increasing inclusivity by widening their own outreach efforts.

Given the number of concerns raised, the Warrant Article was referred back to the subcommittee for further review. Several Advisory Committee members provided detailed written comments and suggestions to the subcommittee and the petitioner. As a result, the petitioner submitted a second version of Warrant Article 29 which includes the following changes:

- substituting the phrase "Supporting Diversity and Inclusion" for the words "Pursue Representativeness" in the title;
- deleting the phase "within its territory" from the first "whereas" clause;
- deleting the conclusion of the ODICR survey and the statistics quoted in "whereas" clause 4;
- broadening the first "resolved" clause to include all Town appointed bodies, not just Town Meeting;
- broadening the second "resolved" clause to include appointments to the Advisory Committee and Moderator's committees, and inserting the phrase "to the extent possible" in determining the order of speakers;

- adding a final "resolved" clause urging the ODICR to conduct annual surveys of diversity among town bodies to see whether, and to what extent, change occurs.

The Moderator approved these changes as being within the scope of the article. As a further modification, subcommittee members removed the phrase "Brookline Protected Classes," recognizing its irony even though it is a term of law.

Advisory Committee members still had concerns about the second resolved clause. Many felt it was important to hear the pros and cons of the recommendations and that adding the additional layer of "inclusivity" might be counterproductive to that goal. In addition, there is no reference to the Select Board, which also appoints committees; however it was unknown whether the Moderator would consider that an expansion of the Warrant Article. The following change to the second "resolved" clause was suggested and approved as an amendment:

> "BE IT FURTHER RESOLVED that Town Meeting urges that inclusivity be an important aspect of deciding membership of committees to the extent possible, and"

RECOMMENDATION:
By a vote of 20–4–1, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

RESOLUTION TO ENCOURAGE BROOKLINE'S TOWN MEETING TO SUPPORT DIVERSITY AND INCLUSION AMONG ITS MEMBERSHIP

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

WHEREAS, in Town Bylaw 3.14, which defines both the Commission and the Office for Diversity, Inclusion and Community Relations (CDICR/ODICR), says that (bold emphasis added) "the Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, **including town government**; and that inclusion is, therefore, a critically important government interest of the Town"; and further defines inclusion as "actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town **regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children)**"; and

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WHEREAS, in March 2017 the Town became a core member of the Government Alliance on Race and Equity (GARE), a national network of local governments working to achieve racial equity and advance opportunity for all; and GARE activities are commendable but are focused on town department practices, not town elected bodies; and

WHEREAS, a fall 2018 ODICR survey of diversity on Town Commissions, Committees, and Boards, including Town Meeting, found that these bodies are not demographically inclusive or representative of the town overall, and;

WHEREAS, ODICR is seeking ways to close this inclusion gap but cannot do so unilaterally;

THEREFORE, BE IT RESOLVED that Town Meeting Members should encourage and support residents who belong to one or more underrepresented groups to run for Town Meeting and/or to apply to serve on Town Commissions, Committees, and Boards, so as to build inclusion in town elected and appointed bodies with the goal of Town Meeting and Town Commissions, Committees, and Boards more closely reflecting the community; and

BE IT FURTHER RESOLVED that Town Meeting urges that inclusivity be an important aspect of deciding membership of committees to the extent possible, and;

BE IT FURTHER RESOLVED that Town Meeting urges the ODICR to continue to carry out a confidential annual survey of diversity to ascertain the progress made.

XXX

(1) Passed as a Substitute Motion by a Majority Vote

(2) Passed as a Main Motion by a Counted Vote of 165 In Favor and 1 Opposed

ARTICLE 30

THIRTIETH ARTICLE
Submitted by: Rosanna Cavallaro; Alisa Jonas,TMM16; Lynda Roseman, TMM 14; Irene Scharf, TMM 16; Maura Toomey, TMM 8

Resolution calling for a preliminary study of options for locating a public outdoor swimming facility for Brookline residents.

To see if the Town will adopt the following resolution:

WHEREAS, the Town of Brookline has a both a large population of children and a large and growing population of elderly persons;

WHEREAS, the health and overall quality of life for all residents is a priority for good governance;

WHEREAS, swimming is one of the healthiest forms of exercise for children and for the elderly – as well as for those with ages in between;

WHEREAS, the opportunity to be outdoors, whether for sports or otherwise, is healthful in and of itself;

WHEREAS, outdoor community pools are opportunities for community-building;

WHEREAS, some of the more memorable experiences of childhood are swimming outdoors – for those persons who have had the opportunities to do so;

WHEREAS, currently in Brookline, the only opportunities for outdoor swimming are limited to private clubs and private homes;

WHEREAS, most towns in the Greater Boston area comparable to Brookline provide their residents with one – and sometimes more than one - outdoor swimming facility (for example, Needham, Newton, Natick, Wellesley, Waltham, Watertown, Milton, Belmont, Norwood, Framingham, Hingham);

WHEREAS, the Town of Brookline is the largest town in Massachusetts;

WHEREAS, surprisingly, the website blog for Gohlke Pools of Denton, Texas asserts that "[T]he first swimming pool was a public pool built in 1887 in Brookline, Massachusetts" and that "[P]ools such as this were great places to socialize, and they provided a way to escape the summer heat…"

WHEREAS, Brookline residents surveyed by the Town placed having an outdoor swimming pool high on their list of priorities for parks and open space;

WHEREAS, the only pool currently available to Brookline residents not only lacks fresh air, but is an older facility and so also lacking in accommodations that benefit the very young, the elderly and the disabled, such as zero depth entry, play features, surrounding areas for play and relaxation, and the ability to provide formal therapeutic activities;

WHEREAS, the Town currently is assessing town-wide needs for open space and recreation, brought about by the possibility of acquiring Newbury College properties;

WHEREAS, there are several sites that could serve as locations for outdoor swimming, including but not limited to the DPW site at Larz Anderson, which, if transformed for outdoor swimming, could, together with the ice rink, become part of a larger multi-month recreational center for residents;

NOW, THEREFORE, BE IT RESOLVED that Town Meeting calls for a preliminary study of options for siting an outdoor swimming facility for Brookline residents, to be led by the Department of Parks and Open Space, including but not limited to the DPW site at Larz Anderson, land abutting the Putterham golf course, a portion of the property at Newbury College, and any other locations deemed appropriate to evaluate; with such initial analysis serving as preparatory for a more comprehensive study of feasibility to be initiated thereafter.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

One of the more basic amenities to improve the quality of life for members of a community is the availability of some form of outdoor swimming in green space where all ages can come together for sports, relaxing and other forms of recreation. In years past, this option was available naturally in ponds, lakes and rivers. As increasing numbers of people moved to urban areas, municipalities increasingly took on the responsibility to artificially provide those opportunities. In the early part of the twentieth century, hundreds of public outdoor pools were built throughout the country. Some wealthier urban communities, however, preferred the option of relying on private clubs and pools in private yards.

Ironically, while Brookline apparently was the first municipality in the United States to build a public, albeit indoor, pool, in the late 1800s, we did not continue to progress in this area. While most of our neighboring comparable communities now have public outdoor swimming facilities (for example, Needham, Newton, Natick, Wellesley, Waltham, Watertown, Milton, Belmont, Norwood, Framingham, Hingham) and our closest neighbor,

Newton, has both a pool complex and a lake, Brookline has none. For those residents in Brookline who do not have pools in their backyards, nor have paid to join private clubs, the local options are less than satisfactory: While the installation of sprinklers in neighborhood parks provide children with some form of outdoor water play, it is far from ideal. And when the temperatures soar, and other forms of outdoor exercise are not healthy to do – for either children or adults - the idea of going inside a muggy hot building to swim is far from enticing. Moreover, our indoor pool is old, lacking many of the amenities and accommodations that more modern pool facilities can provide to improve the experience for the young, old and disabled, including zero depth entry, play features, surrounding areas for play and relaxation, and the ability to provide formal therapeutic activities.

The upfront cost of construction exists, but is manageable. Hingham has just completed a feasibility study for their new pool complex, and it is estimated to cost $10 million, and Belmont recently completed a major renovation of its pool complex, at a cost of approximately $4.5 million. Such price tags, while not a drop in the bucket, are easily comparable to the cost of many Town projects, while producing a substantial overall improvement in the quality of life for residents of all ages.

The ongoing operation of the pool will also require annual expenditures, but other municipalities have minimized these costs by charging both seasonal and daily fees for residents, with higher daily fees for non-residents. For example, the Town of Wellesley maintains Morses Pond as part of its Fields and Facilities within its Recreation Department. Rates range from daily non-resident ($25) to a full season family pass ($100 early and $170 regular price). The Pond is staffed with lifeguards (supplying summer employment opportunities for young people), and is open from early June through mid-August. Morses Pond provides a welcoming, affordable, and healthy space for residents of all ages throughout the warm weather, with swim lessons, picnic area, showers, and other amenities that are well used by residents as well as non-residents.

At the time of the writing of this warrant article, the Town is considering the purchase of Newbury College properties, and there have been some suggestions made to use a portion of that land for an outdoor pool. But other options for locations also exist. Currently, the Department of Public Works makes use of an area of Larz Anderson for storage of equipment and trucks and is unattractive at best. The repurposing of that land for a pool would be more in line with the goals of Article 97 to use parkland for recreational purposes, and would offer beautiful green space in an area of the park near the entrance that is underutilized. With creative design, the co-locating of both outdoor pool facilities and the outdoor skating rink could transform the area into a multi-month and multipurpose outdoor recreational complex. There also are other potential sites that could be identified, such as underutilized land near the parking lot at the Putterham golf course. The purpose of this Warrant article is to enable the Town's Department of Parks and Open Space to consider various options, with the goal of moving forward with a feasibility study following this initial analysis.

For all those of us who were fortunate to have grown up in communities that offered outdoor swimming opportunities, our experiences provided many of the highlights of growing up. And as we age, the importance of having such opportunities becomes equally important. The combination of swimming, fresh air and community is one of the of the best sources of well-being that can be provided to residents of all ages. Passage of this resolution gives the Department of Parks and Open Space the authority to begin the work to provide this benefit to the Town's residents.

ADDITIONAL INFORMATION PROVIDED BY THE PETITIONERS

I. BROOKLINE JUNE 2006 PARKS, OPEN SPACE AND RECREATION STRATEGIC MASTER PLAN NEEDS ASSESSMENT:

- In the Needs Assessment survey of Brookline residents, **an outdoor pool was listed 4th most frequently** as the single most important issue/need concerning Brookline Parks, Recreation Programs, and Facilities:

  "What is the Single Most Important Issue/Need Concerning Brookline Parks, Recreation Programs, and Facilities?
  Top 5:
  Keep parks maintained, clean and safe
  More sports fields for youth and adults
  More areas for off leash dogs (longer off leash hours)
  Need an outdoor swimming pool
  More open space"

- The Needs Assessment makes use of the Recreation, Park and Open Space Standards and Guidelines published by the National Recreation and Park Association (the "NRPA standards") to determine Level of Service needs for Brookline. Per these standards:
  Activity/ Facility Number of Units per Population:
  Swimming Pools: 1 per 20,000
  (Brookline's population: 59,000)

- "The top four free-time activities for all Americans for the last decade have been and remain: watching television, reading, socializing with friends and family, and shopping. **Swimming and walking are the only two physical activities that make the top ten on the list."**

II. PRE-EXISTING MANDATE FOR FEASIBILITY STUDY:

2005-2015 Comprehensive Plan's 2005-2015 ACTION PLAN AND PROGRESS REPORT 2005-2006: "The recommended actions in this document are the result of an extensive public involvement process….:
PREPARE FEASIBILITY STUDY FOR OUTDOOR POOL To be carried out by Natural Resources, Open Space, Parks & Recreation." (to be completed in the "medium term" during the 2005-2015 time period)

III. SOME NEIGHBORING TOWNS/CITIES WITH PUBLIC OUTDOOR SWIMMING FACILITIES*** AND THEIR POPULATION SIZE

TOWN	POPULATION	TOWN	POPULATION
Arlington	43,000	Natick	36,000
Belmont	25,000	Needham	29,000
Cambridge*	114,000 (3 facilities)	Newton	89,000 (2 facilities)
Canton	22,000 (2 facilities)	Norwood	29,000 (2 facilities)
Easton	23,000	Sharon	18,000
Framingham	68,000 (3 facilities)	Somerville**	81,000 (2 facilities)
Lexington	31,000 (2 facilities)	Walpole	25,000 (2 facilities)
Lincoln	6,000	Waltham*	61,000
Medfield	6,000	Watertown*	32,000
Medford	56,000 (2 facilities)	Wayland	14,000
Melrose*	28,000	Wellesley	28,000
Milton	27,000	Weston	11,000

*DCR Facility
**Constructed by DCR, operated by Municipality
***This list is in no way comprehensive, but rather derived from some online research by petitioners of various municipalities.

IV. SAMPLE OPERATING COSTS/REVENUE/NET REVENUE

Belmont

2019 Estimates:

Operating Costs*	$263,900
Revenue:	$398,000 (includes memberships, daily passes,
swim	classes, swim teams, private
lessons)	
Net Revenue Projection*	**$135,000**

*Does not factor in indirect costs, such as Recreation Dept staff time apportioned to the pool.

Lexington

(Cost and revenue figures are for 2 outdoor facilities: The pool complex and the reservoir)

2017* Actual:

Operating costs	$290,000
Revenue	$310,000 (includes resident and non-resident
passes, daily	fees and swim lessons)
Net Revenue:	**$ 20,000**

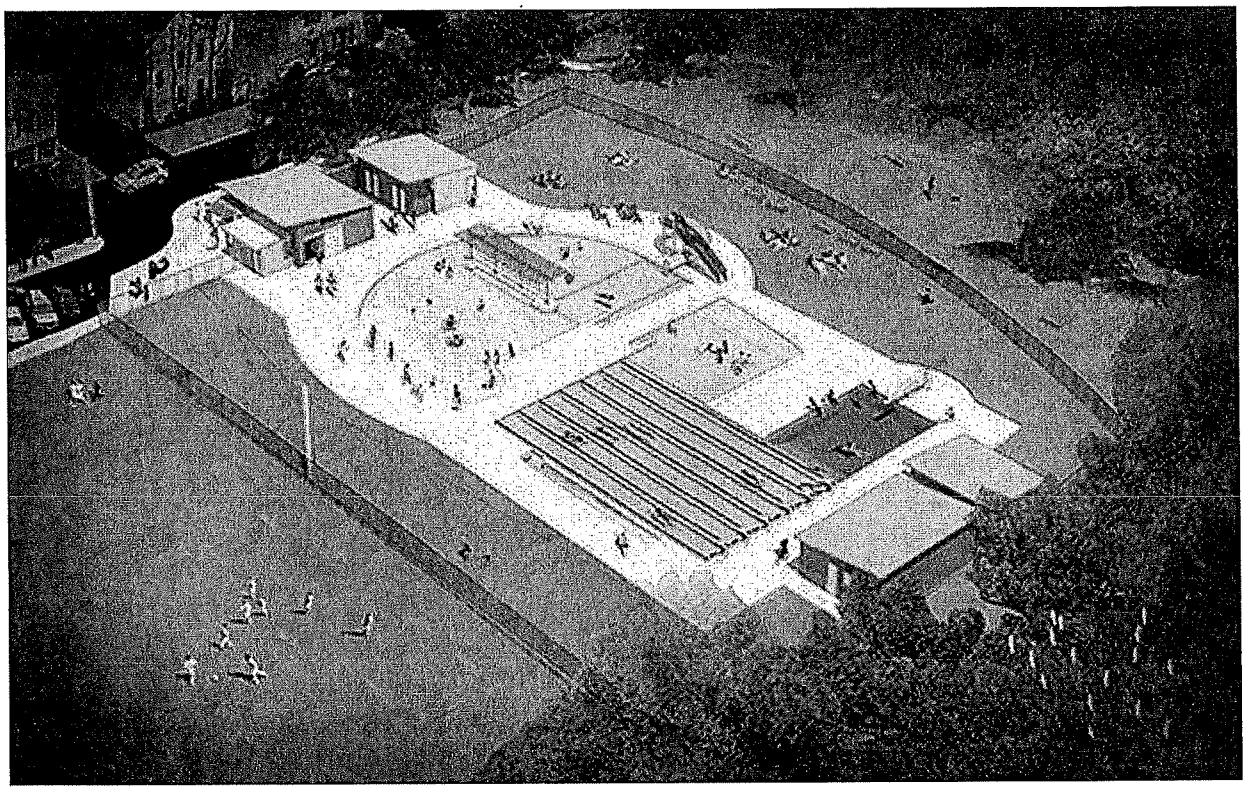
*Pool closed for renovation during much of 2018, so cost/revenue atypical

According to Needham Recreation Department staff, outdoor pools with modern amenities, having much higher utilization rates than indoor pools, generally can expect high levels of cost recovery. (No data yet for Needham pool complex, since newly opened for only last 2 weeks of 2018.

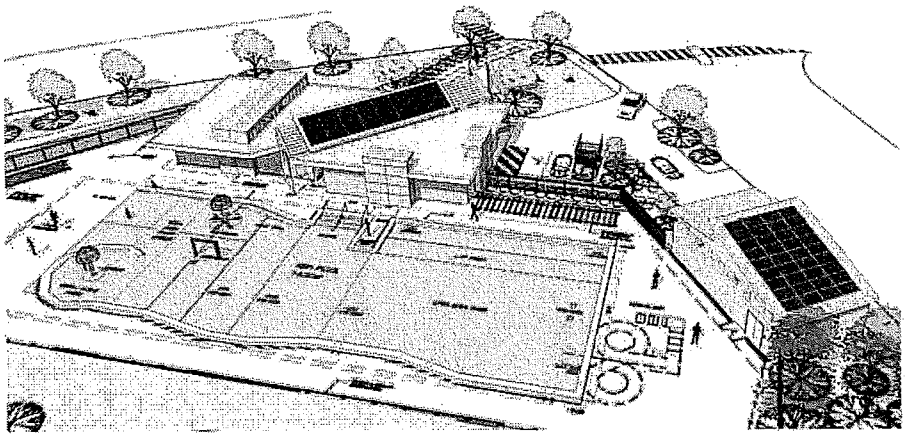
V. RECENT POOL COMPLEX CONSTRUCTION COSTS

Belmont Underwood Pool:

Construction Cost: $5.2 million (including cost of 2 pools, 2 bathhouses, decking, and greenspace grounds surrounding the pools). Planning began in 2013/ pool construction completed 2015.

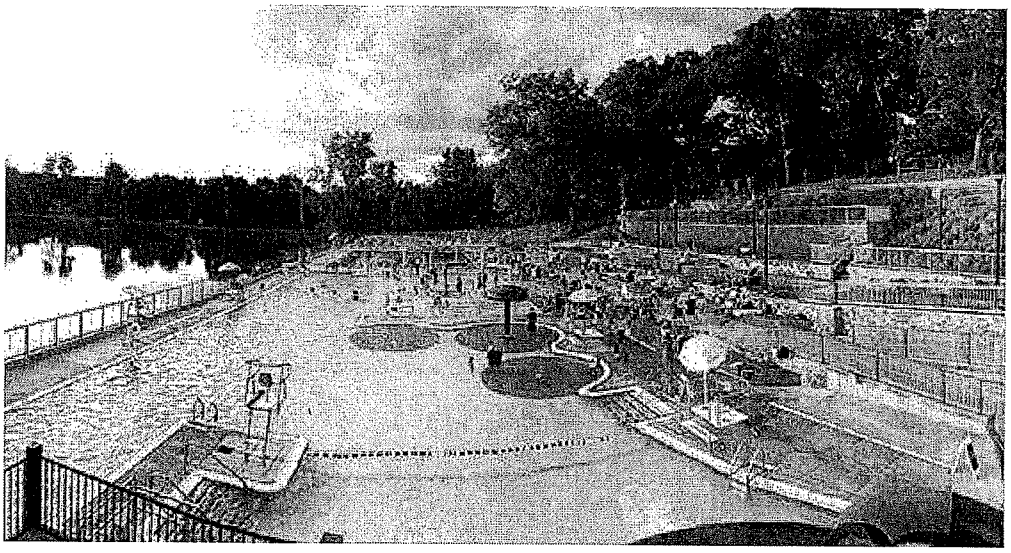


Waltham DCR Connors Memorial Pool:
Construction Cost: $6,000,000 (including cost of pool with zero depth entry, play features, separate lap area, bathhouse, decking and seating, filtration system, landscaping, parking, solar panels, zero net energy, Hazmat remediation). According to conversation with Raul Silver, Deputy Engineer, Mass DCR, responsible for the pool's construction: Pools are not expensive, bath house is much of the cost. Connors Pool higher cost due to Hazmat remediation on the site and zero net energy construction. Construction initiated 2010, completed 2012.

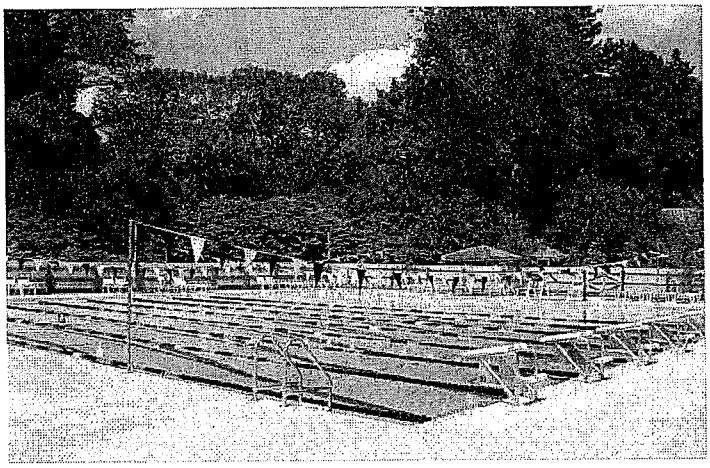


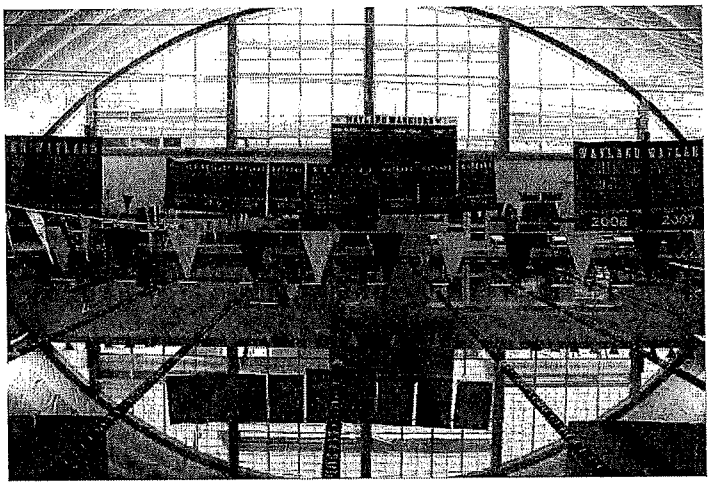
Aerial View from the South

Needham Rosemary Pool Complex:
Construction Cost: $14 million overall cost, of which $3.2 million was the construction cost for the pools. Cost was higher due to 1) topographical difficulties causing construction complexities (site located on a slope down toward a lake, with the pools sitting almost level with the lake and installed with ballast slabs and helical piles) and 2) bathhouse is first floor of two story building housing recreation dept offices and gym. Total cost was for the 2 pools (a recreation pool with zero depth entrance, play features, slides, water walking and fitness laps; and a competition pool), splashpad/spray park, the bathhouse for showers, etc., parking, site improvements, terraces, ramps. Feasibility study began 2013/pool construction completed 2018.



Wayland Community Pool: Construction Cost: $2.5 million (includes single competition length pool with 10 lanes and two diving boards, and with an inflatable bubble supported by a steel and glass structure to allow for year-round use; renovation of already-existing lobby areas, locker rooms, showers and bathrooms). Constructed in 2010.





VI

In his remarks for the opening of the Connors Pool in Waltham, State, Rep. Peter Koutoujian said "Many families in Waltham do not own a summer home or have memberships to private clubs, but they are no less deserving of the opportunity to seek refuge from the heat while enjoying a healthy activity," The same is true for Brookline:

BROOKLINE'S POPULATION BY INCOME:

According to the U.S. Census of 2017:
25% of households: income below $50,000.
21% of households: income between $50,000 and $100,000
32% of households: income between $100,000 and $200,000
23% of households: income in excess of $200,000

SELECT BOARD'S RECOMMENDATION

Article 30 is a petitioned resolution that asks the Town to study preliminary options for the siting an outdoor swimming facility. The Board discussed with the petitioners the benefits of outdoor swimming facilities and the experience of nearby communities who run these type of facilities. An outdoor pool was a component of the last Parks and Open Space Master Plan, and this warrant article allows Town Meeting to express an interest in pursuing that plan.

The Board expressed concerns about the cost of the proposal and if there were viable sites given the search for a site for a new school. One Board member noted that the Community Preservation Act had been adopted in some of the communities the petitioners used for comparative purposes. The Board felt that a preliminary study would help the Town understand the costs and benefits of such a proposal. The Board's first motion asked for a study for both an indoor and outdoor facility, but it was ruled outside the scope of the article. After reconsideration the Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 30 is a citizen petitioners' resolution asking that the Town conduct a preliminary study identifying options for locating a public outdoor swimming facility for Brookline residents. Although members of the Advisory Committee raised questions about the cost and potential site of such a pool, the Committee voted 14–4–2 to recommend FAVORABLE ACTION on a slightly amended version of the resolution that appears in the Warrant.

BACKGROUND:
In the late 1800s, Brookline was the first municipality in the country to build public baths. Currently it is one of the few communities in the Greater Boston area that does not have an outdoor public swimming facility. Examples of neighboring towns and cities with public outdoor pools include Belmont, Framingham, Hingham, Milton, Natick, Newton, Norwood, Waltham, Watertown, and Wellesley.

With the possibility of the Town acquiring additional land, should it succeed in purchasing the Newbury College property, the petitioners thought this would be the opportune moment to embark on a preliminary study of where to build a potential outdoor public swimming facility. Citing a survey done as part of the 2005 Parks and Open Space Comprehensive Plan in which survey respondents ranked the need for an outdoor swimming pool as fourth

on their list of priorities, the petitioners concluded that there is support for an outdoor pool among the Town's citizenry.

Although the Town does have an indoor public pool, that facility is heavily used. More importantly, the indoor pool does not offer the fresh air or accommodations such as zero depth entry, play features, or surrounding areas for play and relaxation that a properly sited outdoor public pool might offer during the increasingly hot summer months. An outdoor public pool might also provide relief to families who are not able to access or afford memberships at private pools in Brookline, and an outdoor swimming facility would act as a community gathering space for all regardless of age, ability or resources.

The resolution calls only for a preliminary study for siting an outdoor public swimming facility and nothing more. However, it is worth noting that the estimated capital cost of constructing an outdoor pool with basic amenities would be approximately $5 million to $10 million, depending on size and site.

Operating costs would depend on factors such as whether or not the pool is heated, its proximity to public transportation, available parking, actual levels of use, and fees for parking and pool use. In Belmont, the 2020 estimated operating cost for their outdoor pool is $264,000 while the projected revenue is $398,000. Lexington's estimated operating cost is $300,000, and its projected revenue is $320,000. Of course, it is currently impossible to reasonably project pool use, operating costs and revenue, but the fact that some communities seem to be able to cover their operating costs is something to consider. The possibility of 100% cost recovery for the capital project is less optimistic though some cost recovery may occur. Any meaningful discussion or exploration of the feasibility and practicability of constructing and operating an outdoor pool will likely be the subject of future, outdoor pool-related Warrant Articles, if there are any.

Warrant Article 30 does not request funds for the siting study. The Department of Parks and Open Space is about to begin an Athletic Field Needs Assessment and Master Plan, which will include outdoor pool siting possibilities, should this Warrant Article pass. Any additional steps regarding feasibility, design and construction would need to be budgeted in the Capital Improvements Plan (CIP) but they are not within the scope of this article.

DISCUSSION:
The Advisory Committee had many concerns as it considered Warrant Article 30 not in isolation, but as a possible first step among many that may result in actually constructing and operating an outdoor public swimming facility in Brookline.

Cost Considerations

Although authorizing a preliminary study for siting an outdoor pool under Warrant Article 30 does not require any additional expenditure at this time, since it can be rolled into an existing Parks Department siting study, the Committee is mindful that if an outdoor pool project does gain traction and moves forward, it will be at no small cost to the Town.

Entertaining the possibility of building and operating a public outdoor pool, which may only be available for use during two to four months of the year, may not be not the best way to allocate Town funds. There are many capital needs in the Town, not the least of which includes maintenance of our existing infrastructure, including several imminent school building and renovation projects. Capital budgeting and planning needs ought to be prioritized and an outdoor pool, as nice as it may be to have, may be quite low on the list of all Town priorities. And, even if there is an ideal site for an outdoor swimming facility, would that property better serve the Town through some other use?

The Committee also noted that a few of the communities in the Greater Boston area with outdoor public swimming facilities have adopted the Community Preservation Act (CPA) and have received partial funding for their projects. Brookline voters have twice declined to embrace the CPA. Additionally, nearby towns and cities have, on average, more available land and a broader tax base than Brookline. It is unwise to try and estimate capital costs, revenue or feasibility by comparing Brookline to neighbors.

The Reality of Use

The Committee considered whether or not an outdoor Town pool would be widely used once the novelty wore off. Many Brookline families are away for either all or part of the summer, and many students are busy, working, or enrolled in summer camp during the day.

The Committee did consider that, although they are only available for use in the late afternoon and early evenings, the private pools at Beaver Country Day School and The Park School are open to those who pay a membership fee. Those pools are widely used and sometimes oversubscribed. While Brookline may seem quiet in the summer, an outdoor Town pool may be well used if private pool use is any indication. And presumably a Town pool would be available for the better part of the day and to a wider swath of the community.

There was an acknowledgment that the Department of Conservation and Recreation (DCR) pool located in Cleveland Circle, which is open to the public, free of charge, and located near two MBTA stops, is lightly used, if not empty during the few weeks of the year that it is open. However, Committee members recognized that because the pool is exposed to busy traffic on two sides, there is no shade, there are no steps into the pool, and chairs are not allowed around the pool, the DCR pool may not be a good indicator of how well a better planned outdoor, user-friendly facility would be used by residents.

Additional use concerns included the availability of sites that would provide relatively easy access to everyone, whether travelling by public transportation or car. Members suggested that any outdoor Town swimming facility ought to offer sufficient parking and be near public transportation to ensure that it truly is easily available for use by all.

Community Building

Brookline has a Senior Center and a Teen Center and parks for younger children, but they are isolated and separate from one another. An outdoor pool may be a good opportunity for building community among members of the larger community.

There was a limited discussion of the possibility of siting an outdoor swimming facility in such a way that it would become part of a larger, multi-faceted recreation complex that could build over time, should the Town able and be so inclined. But given the aforementioned cost concerns, limited space and the limited scope of the article, the discussion went no further.

How the Advisory Committee Motion Differs from the Original Warrant Language

As originally drafted, Warrant Article 30 included several suggested Town sites for an outdoor pool. The Advisory Committee itself momentarily discussed the possibility of creating a sandy beach at the reservoir on Route 9, although members were fairly certain that the Massachusetts Water Resources Authority would not allow the reservoir to be used as an active swimming site, and that parking issues and neighborhood concerns would likely be onerous as well. Because siting any public structure in Brookline requires professional guidance, extensive public input and a herculean effort on the part of Town staff and volunteers, the Committee voted on amended language that removed all suggested sites from the resolution, preferring to support an unfettered study.

The Advisory Committee also deleted the "Whereas" clause that enumerated the deficiencies of the Town's existing indoor pool. The Committee felt the resolution should accentuate the positive, especially the potential benefits of an outdoor pool, instead of criticizing the Evelyn Kirrane Aquatics Center.

The Advisory Committee motion thus does not include the final three "Whereas" clauses that appeared in the Article 30 resolution in the Warrant, and the "Resolved" clause no longer refers to specific potential pool sites.

On a positive note, regardless of where an outdoor swimming facility may be sited, Article 97 issues are unlikely since the proposed pool is related to outdoor recreation.

Conclusion

Despite of all of the real and practical concerns regarding siting, constructing, and operating an outdoor pool, the Article 30 ultimately garnered broad support among Advisory Committee members. The article simply asks the Department of Parks and Open Space to look and see if there is a good site for an outdoor pool. There is no harm in supporting a preliminary siting study to gather information, particularly when the study can be folded into the upcoming Athletic Field Needs Assessment and Master Plan.

RECOMMENDATION:

May 21, 2019 Annual Town Meeting
30-14

By a vote of 14–4–2, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

Resolution Calling for a Preliminary Study of Options for Locating a Public Outdoor Swimming Facility for Brookline Residents

WHEREAS, the Town of Brookline has large populations of children and of elderly persons;

WHEREAS, good health and overall good quality of life for all residents is a worthy objective;

WHEREAS, swimming is one of the healthiest forms of exercise for all ages;

WHEREAS, outdoor community pools are opportunities for community-building;

WHEREAS, swimming outdoors can be a memorable experience of childhood;

WHEREAS, currently in Brookline, the only opportunities for outdoor swimming are limited to private settings;

WHEREAS, most towns in the Greater Boston area comparable to Brookline provide their residents with one – and sometimes more than one - outdoor swimming facility (for example, Needham, Newton, Natick, Wellesley, Waltham, Watertown, Milton, Belmont, Norwood, Framingham, Hingham);

WHEREAS, the Town of Brookline is the largest town in Massachusetts;

WHEREAS, the Town of Brookline was the site of the first public indoor swimming pool, built in the 1890s;

WHEREAS, Brookline residents surveyed by the Town placed having an outdoor swimming pool high on their list of priorities for parks and open space;

NOW, THEREFORE, BE IT RESOLVED that Town Meeting calls for a preliminary study of locating and operating an outdoor swimming facility for Brookline residents, to be led by the Department of Parks and Open Space, at any location deemed appropriate to evaluate; with such initial analysis serving as preparatory for a more comprehensive study of feasibility to be initiated thereafter.

XXX

Passed By A Combined Vote of 150 In Favor And 1 Opposed

ARTICLE 31

THIRTY FIRST ARTICLE

Reports of Town Officers and Committees

TOWN OF BROOKLINE
Massachusetts
DEPARTMENT OF PUBLIC WORKS

Andrew M. Pappastergion
Commissioner

INTEROFFICE MEMORANDUM

To: Town Meeting

From: Todd M. Kirrane, Transportation Administrator

Date: April 22, 2019

Re: Beacon Street EV Charging & EV Car Share Project Status Update

Leading the charge against climate change at the local level, the Select Board adopted the comprehensive **2018 Climate Action Plan (CAP)**[1] and has set forth a policy to prioritize planning to achieve zero emissions community-wide by 2050, as recommended by its Climate Action Committee (SBCAC). CAP Strategy 3, Improved Transportation Options, prioritizes implementing modes of transportation that do not rely on fossil fuels. An effort to both electrify transportation and reduce vehicular congestion, the **Beacon Street Green Transport Program** integrates multiple green transport modes. It serves as a green transport model not only for its comprehensive plan but especially for the effort to coordinate infrastructure improvements and pilots for all modes in a holistic, complementary manner.

This memo provides an overview of two of the program's components—an expansive Electrical Vehicle (EV) Charging and EV Car Share project that the Select Board will review this spring for implementation in 2019, pending its review and approval of the license agreements. The infrastructure project will introduce 23 charging ports—a combination of Level 2 and DC fast chargers—and ten EV car share vehicles distributed among eight segments of a two-mile stretch of the Beacon Street median, from St. Mary's Street near Kenmore Square to Ayr Road near Cleveland Circle.

Objectives of the Beacon Street Green Transport Program 2019

(a) Provide accessible and reliable **EV charging infrastructure** in the public way.

(b) Introduce **EV car share** to reduce traffic congestion and pollution.

(c) Conduct feasibility studies for **bike infrastructure on the median.**

(d) Implement Complete Streets projects for **safer pedestrian access.**

(e) Pilot **micro mobility** solutions, such as electric scooter share.

(f) Implement **Transit Signal Prioritization (TSP)** for the MBTA C-Line.

(g) Expand Blue Bikes **Bike Share** along the corridor.

(h) Develop multiple green transport modes in **proximity to public transit.**

Beacon Street EV Charging and EV Car Share Project

Project Description and Partnerships:

The project, developed by Senior Planner Maria Morelli and Transportation Administrator Todd Kirrane, is a partnership of Electrify America, Greenspot EV car share, Greenlots networking software, and Eversource's Make-Ready Infrastructure program. Eversource will make utility upgrades to 10% of the 600 parking spaces along the median in 2019. Electrify America would install three DC fast chargers. Greenspot would install 20 Level 2 ports; ten of those 20 parking spaces would have EV car share. Electrify America and Greenspot would own the equipment and operate and maintain the program via license agreements with the Town. The Town is not responsible for any utility upgrades and any capital, operating, maintenance, and electricity consumption costs. In fact, if approved, the Town could benefit financially over a ten-year period from a profit-share agreement with Greenspot. Although the project will not receive any Federal or State funding, the Town acknowledges the steadfast support of Linda Benevides of the State's Executive Office of Energy and Environmental Affairs and Representative Tommy Vitolo.

Project Snapshot

Utilities for 59 of the 600 parking spaces on the Beacon St. median to be upgraded for EV charging in 2019

EV chargers would be installed in almost 40% of the 59 upgraded spaces in 2019-2020 (23 ports total):

- 8 segments along a two-mile stretch of Beacon
- 3 spaces installed with DC fast ports*
- 10 spaces installed with Level 2 ports
- 10 spaces with EV car share and Level 2 ports

Possible revenue share for the Town and opportunity scale up program with more ports

Compatible with bike infrastructure projects

Utility infrastructure upgraded via **Eversource** $45M Make Ready Program

Capital, operating, maintenance, and electricity costs assumed by private partners via license:

- DC fast chargers provided via **Electric America** Cycle 2 $500M Investment
- EV Car Share and Level 2 chargers provided by **Greenspot**

EV chargers would use non-proprietary network software developed by **Greenlots**

Electric supply sourced from renewable energy via the Town's **Brookline Green Electricity** program preferred

Benefits environmental justice areas, provides amenities to business districts and resources to residents with no on-site parking or charging

Environmental Impact and Investment Advantages

1. Makes Progress Toward the Commonwealth's 2025 Target

The Commonwealth has a goal of putting 300,000 electric vehicles on the road by 2025, a mere six years from now. To achieve this goal, municipalities will need to provide a reasonable ratio of charging stations to electric vehicles in the public way. Reliable and accessible charging is key to achieving this goal. According the National Renewable Energy Laboratory (NREL) 2017 case study of Massachusetts, about 4500 Level 2 EV charging stations would need to be installed in the public way in Norfolk County alone.[2]

Brookline is also one of the top five municipalities in the State, including the City of Boston, with the highest number of registered electric vehicles. Investing in upgrades on Beacon Street, a corridor of regional significance would be an effective way to help Massachusetts meet target numbers for the following reasons:

- Beacon Street is a major Urban Principal Arterial carrying over 35,000 vehicles per day.
- Beacon Street provides public transit connections for the MBTA Green Line C-Branch (train) with the MBTA 65 bus (Washington Street) and the MBTA 66 bus (Harvard Street), which is the second busiest bus route in the MBTA's system.
- Installing EV charging stations at transit connection points would be a crucial part of continuing Brookline's vision of a multi-modal, environmentally friendly transportation network. California, New York, and Maryland have sought to promote the environmental benefits of EVs and riding public transit by installing EVSE at transit stations and Massachusetts, Brookline in particular, can lead the New England Region in this area.
- Beacon Street regionally connects economic, medical, educational, employment, and entertainment destinations in Boston with Brookline and other communities to the west via automobile, light rail, and bike.
- Beacon Street locally connects residents with three of the Town's major commercial districts. This major thoroughfare consists of thriving mixed uses (retail, restaurant office, residential). Coolidge Corner at Harvard and Beacon Streets is an iconic shopping and cultural destination in the midst of a National Register of Historic Places District.

2. Provides Reliable Charging for "Garage Orphan" Residents

Fifty percent of Brookline properties are rental, not owner-occupied, and prospective EV purchasers living in rented dwellings are not in a position to invest in or adapt their home for EV charging. Furthermore, the majority of the Town's multifamily districts is clustered around and branch off of Beacon Street. Multi-unit dwelling (MUD) districts represent the Town's highest density, and in which the majority of housing lacks on-site parking—an aspect described as "garage orphans." In 2017 the EV Charging Study Committee chaired by SBCAC member Linda Olson Pehlke researched how garage orphans are less likely to purchase an EV if charging is not available where they live or park. Furthermore, the study found that in neighborhoods abutting Beacon Street nearly 2000 residents rent parking off-site.[3] This large segment is an opportunity to encourage EV purchases, but only if the Town provides reliable

charging in the public way and in Town-owned lots, and if it incentivizes private owners applying for open-air licenses to install EV chargers.

(For a spate of new MUDs be proposed, please note that the Town's Transportation Access Plan Guidelines requires that 2% of all parking spaces in major impact projects be equipped with EV chargers and another 15% be EV ready.)[4]

3. Introduces DC Fast Chargers to Business Districts

The Beacon Street project will be among the first to make DC fast chargers commercially available. DC fast chargers are planned for three commercial districts: Washington Square, Coolidge Corner, and St. Mary's near Fenway. Because a 50 kW fast charger can add about 100 miles of range in about 35 minutes for most electric vehicles, staff recommends a maximum limit of 30 minute parking in these parking spaces to encourage higher turnover in districts where parking is in demand. Designating DC fast chargers in the commercial districts offers a unique amenity to busy consumers, who may opt to shop in Brookline because of the convenience of adding range. The project was well received by members of the Brookline Chamber of Commerce in meeting last summer chaired by SBCAC member David Gladstone, a Brookline Bank officer.

4. Promotes Environmental Justice

The Town submitted its Climate Vulnerability Assessment and Action Plan[5] to the Massachusetts Department of Energy and Environmental Affairs in January 2018. The Vulnerability Assessment identified vulnerable populations (vulnerability due to low-income level, age, race/ethnicity, language isolation, lack of health insurance, and susceptibility to illness and injury) throughout Brookline. Although the median income in Brookline is relatively high, many of these vulnerable groups are in Census tracts or block groups along and near Beacon Street. In addition, the study identifies "hot spots"—some as large as 100-acres—concentrated along the majority of Beacon Street that can benefit from mitigation. ("Hot spots" are defined as the hottest 5% of land in the 101-community region of the Metropolitan Area Planning Council.) Furthermore, reducing emissions from traffic congestion in areas with vulnerable population is a priority. In addition, the social equity benefits of this project extend to providing residents who cannot afford to own a car with access to EV car share. Overall, the project dovetails exceptionally well with the Town's mitigation action plan targeting this neighborhood.

5. Reduces Traffic Congestion and Emissions with EV Car Share

To a qualified extent, car share is an alternative to car ownership. A 2016 study conducted by UC Berkeley researchers Susan Shaheen and Elliot Martin evaluated in five North American cities the impact one-way car share had on the reduction of greenhouse gas emissions and suppression of car ownership.[6] The study suggests that among the five cities between five and nine vehicles were either sold or never owned (that is, ownership was suppressed) for every one car share vehicle.

In addition, several North American cities are requiring developers to provide car share and commuter shuttles as an amenity—and to lower parking requirements, which in turn reduces traffic congestion and development costs. Brookline has been a longtime proponent of using car share programs, having been the first municipality to grant a public space to Zip Car, to reduce personal car ownership and by providing highly visible, redundant EV car share hubs on a major thoroughfare like Beacon Street we can once again place the Town at the forefront among cities promoting carpooling and car share.

Because the project proposed only all-electric car share vehicles and would source electric supply from renewable energy via the Town's Brookline Green Electricity program, it offers a viable way to decarbonize transportation.

6. Is Compatible with Bike Infrastructure Improvements

As part of a holistic green transport program, the EV charging project will increase support for multiple modes that do not rely on fossil fuels, especially the critical need for safe bike infrastructure on Beacon Street. Because of its short timeline, the EV infrastructure project makes it compatible with longer term projects like the Bridle Path Bike Lane project and has the support of that projects main proponent. EV equipment can be relocated when construction commences for the bike lane and temporarily made unavailable during pilots, trials, and other special events.

7. Makes Progress Toward a Regional Decarbonized Infrastructure

Although Beacon Street is not a state road, it is a corridor of regional significance. The investment value of the Beacon Street project was validated in Electrify America's Cycle 2 Investment Plan[7], recently distributed nationwide, which highlighted its partnership with the Town as a best practice for other municipalities to follow. Additionally the State often cites the Beacon Street project as a model to other communities, such as the cities of Cambridge, Boston, and Newton. Although local governments must provide reliable charging in the public way, it is staff's recommendation that State funds be deployed systematically to decarbonize an interstate network. The good news is that the State is participating in a nine-state council to devise a framework for a regional program to decarbonize transportation. The anticipated success of the Beacon Street Green Transport program may well serve as a best-in-class practice.

About the Partners

Eversource Make Ready Infrastructure Program

The Massachusetts Department of Public Utilities approved $45 million for the deployment of infrastructure upgrades in Eversource's service territory in Massachusetts. This investment would support approximately 3,500 Level 2 and DC fast charging points in up to 450 sites. www.eversource.com

Electrify America

Electrify America is investing $2 billion over the next 10 years in Zero Emission Vehicle (ZEV) infrastructure in cities across the United States, as part of the Volkswagen diesel-emissions settlement agreement.

Greenlots

Greenlots powers electric transportation with industry-leading software and services that equip drivers, site hosts and network operators to efficiently deploy, manage, and leverage EV charging infrastructure at scale. The technology brings together network management software, integrated charging optimization, grid balancing services and a driver-friendly mobile app - all in a single platform. Headquartered in Los Angeles, California, Greenlots has deployed projects in 13 countries around the world. https://greenlots.com/

Greenspot EV

Founded by the Shuster Group, Greenspot EV has implemented one of the only EV car-sharing programs in the United States through a pilot partnership with industry leaders. Greenspot provides easy access to EV charging stations by continuing to invest in curbside infrastructure for EVs. Greenspot works with municipalities and landlords to address the future challenges of urban mobility. Greenspot EV car share is deployed in New Jersey, Ohio, and Florida. The City of Newton has accepted a proposal. http://joingreenspot.com/

Links to Referenced Reports

1. Town of Brookline 2018 Climate Action Plan https://www.brooklinema.gov/658/Climate-Action

2. Eric Wood et al, "Regional Charging Infrastructure for Plug-In Electric Vehicles: A Case Study of Massachusetts" January 2017) https://www.nrel.gov/docs/fy17osti/67436.pdf (p.26, fig.23)

3. Select Board Climate Action Committee / Electric Vehicle Charging Study Subcommittee, "Report to Annual Town Meeting April 2017." https://www.brooklinema.gov/DocumentCenter/View/18795/Report-to-Annual-Town-Meeting-2017-v4

4. Town of Brookline Transportation Division, Transportation Access Plan Guidelines (January 2018). https://www.brooklinema.gov/DocumentCenter/View/13703/Transportation-Access-Plan-Guidelines-2018-PDF?bidId=

5. Town of Brookline Climate Vulnerability Assessment 2017 https://www.brooklinema.gov/DocumentCenter/View/13876/Town-of-Brookline_vulnerability-assessment_1219-2018-submitted?bidId=

6. Susan Shaheen and Elliott Martin, "Impacts of car2go on Vehicle Ownership, Modal Shift, Vehicle Miles Traveled, and Greenhouse Gas Emissions: An Analysis of Five North American Cities," Transportation Sustainability Research Center UC Berkeley (June 2016).

http://innovativemobility.org/wpcontent/uploads/2016/07/Impactsofcar2go_FiveCities_2016.pdf

8. Electrify America "National ZEV Investment Plan: Cycle 2 Public Version" (February 4, 2019), p. 17
https://www.electrifyamerica.com/our-plan

Town of Brookline

Final Report and Recommendations

of the Net Zero Ninth School Subcommittee

of the Select Board's Climate Action Committee[1]

March 25, 2019

Introduction

Before the Brookline Select Board's Climate Action Committee (SBCAC) formed the Net Zero Ninth School (NZNS) Subcommittee, it had received public comments and had its own discussions concerning whether the Town's already energy-efficient school building projects could be made even better by focusing specifically on the need to address climate change through state-of-the-art design. The decisions to construct a ninth elementary school and to expand the high school were recognized as prime opportunities to explore this issue, and, in response, the SBCAC created the NZNS Subcommittee in late summer 2016.

The subcommittee met regularly throughout 2017 and 2018 and into 2019. During that time, it worked with representatives from the School, Building, and Planning departments, as well as with the Massachusetts Department of Energy Resources, and other municipalities and individuals—including making site visits—to research Net Zero Energy concepts and the practical opportunities and obstacles to making them a reality in Brookline. During its work, the subcommittee's focus slowly broadened toward the ideas of zero carbon emissions and fossil fuel free buildings.

The subcommittee issued an interim report and recommendations in October 2017 to share what it had learned. This report is the final step in sharing information and making recommendations.

1. This report was approved by vote of the Select Board's Climate Action Committee at its meeting of March 25, 2019.

Major Changes

Since the committee's inception in 2016, changes in awareness, understanding, and commitment to address climate change have taken place on a town level and a global level, and have had significant impact on the work of the committee. The recent interest and concern in town about fuel choices for space heating, for example, is unprecedented. A brief history:

May 2017: Brookline Town Meeting passed Warrant Article 20, which committed Brookline to uphold the Paris Agreement on Climate Change, and Warrant Article 21, which established energy-efficiency goals and minimums for the ninth elementary school and the Brookline High expansion.

September 2018: The Brookline Select Board, in adopting Brookline's 2018 Climate Action Plan, revised its goal—originally set to conform with the Massachusetts Global Warming Solutions Act goal of 80% reduction of GHG emissions—to a goal of achieving zero greenhouse gas emissions for the government and the community by 2050.

October 2018: The Intergovernmental Panel on Climate Change (IPCC), a group of scientists convened by the United Nations, released its report, which said that to prevent a catastrophic rise of 2.7 degrees Fahrenheit of warming, CO_2 emissions must be reduced by 45 percent from 2010 levels by 2030, and 100 percent by 2050. The prospect of 12 years to make a difference has galvanized many in town.

November 2018: Brookline Town Meeting, in an atmosphere shaped not only by the October IPCC report, but also by deadly wildfires in California in early November and even by the September gas explosions in the Merrimack Valley, voted by a three-to-one margin not to authorize the Town to grant an easement for gas service to a new Fire Department facility.

November 2018. The National Climate Assessment was issued, stating that without "substantial and sustained reductions" in greenhouse gas emissions, climate change will hurt people, economies, and resources across the U.S.

December 2018: Brookline Town Meeting passed amendments to Warrant Articles 2 and 3, which imposed a condition that no funds be used during schematic design for non-emergency fossil-fuel operated building systems for the ninth elementary school and also the Driscoll School.

Where We Are Now

With increasing knowledge, our sub-committee has progressed from exploring Net Zero Energy school buildings to the simpler and more stringent target of Fossil Fuel Free school buildings. A Fossil Fuel Free building uses only electricity for its building systems. Since a building in Brookline typically cannot generate all the power it needs on-site, the long-term goal is to purchase electricity only from renewable sources on the power grid. Any electricity generated on site would be required to be provided by the wind or the sun. Building space heat and cooling would likely be supplied by ground-source heat pumps or air-source heat pumps.

The committee not only supports Fossil Fuel Free school buildings, but believes it is important to expand the concept to include all municipal building and substantial renovation projects (beyond school buildings). Therefore, the committee recommends the following high priority step:

1. **Commitment to Fossil Fuel Free Buildings**: The Town must commit to designing and constructing Fossil Fuel Free buildings on all new construction and major renovations of municipal facilities, to include (1) achieving high-energy-efficiency design[2] and operation; (2) generation, consumption, and storage of renewable energy; and (3) achieving fossil-fuel-free operation by using all-electric systems. A written policy should be promulgated by the end of 2019 by either the Select Board or the Building Commission or such a policy could be pursued by bylaw change or resolution of Town Meeting.

While not as urgent, the following steps should also be considered because they support and document the process that will ensure achievement of the goals. These tasks would be completed by town staff in consultation with the SBCAC:

2. **Prepare a procedures manual**: This manual would document best practice procedures for (1) achieving Fossil Fuel Free buildings using whole-building design principles and (2) continuing to assess the behavior of building occupants to ensure long-term low energy consumption. The document will be informed by this committee's research, the Building Department's experience, and also by lessons learned from the high school expansion project.

3. **Propose changes to the Building Commission Bylaw**: The current bylaw from May 2013 should be updated to be consistent with procedures, particularly life-cycle cost analysis procedures, that ensure the exploration of and achievement of Fossil Fuel Free buildings, as well as continually improving energy-efficiency and cost-saving measures.

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2. Achieving a minimum LEED silver certification and an Energy Intensity Use (EUI) of 30 kBTU/ft^2/yr was approved by Town Meeting in the Warrant Article 21 resolution of May 2017. The committee recommends exploring whether these key requirements should be increased.

Where To Go Next

The two warrant-article amendments passed by Town Meeting in December 2018 prohibited the design of any building systems using fossil fuels for the two upcoming school building projects—the ninth elementary school and the Driscoll School. As a result, the NZNS Subcommittee has achieved its initial objective of studying, educating the public, and improving school building design, and other members of the community—particularly in Town Meeting—have embraced its goals and exceeded its original expectations.

However, we have gathered considerable knowledge and feel that the Select Board's Climate Action Committee (SBCAC) could benefit from establishing a new subcommittee to build on that knowledge and work toward future goals that the SBCAC may identify.

Continue to focus on buildings. Looking beyond schools to the larger community, buildings annually account for nearly 70% of greenhouse gas emissions in Brookline, broken down as follows: municipal buildings 2%, commercial buildings 20%, and residential buildings 48%.[3] In order to meet our GHG emissions reduction target, we must significantly reduce the carbon footprint of buildings.

- Expand the focus beyond municipal buildings to include commercial and residential property (rentals, condominiums, and 1-, 2-, and 3-family homes). To meet the ambitious goal of zero greenhouse gas emissions for the government and the community by 2050 or earlier, we must focus on the commercial and, especially, the residential sectors.
- Develop a site selection process for new municipal buildings that supports measures such as walkability, access to public transportation, and other sustainable and GHG-emission-reducing features.
- Explore whether zoning changes can be used to encourage or require greener buildings.
- Consider preservation and renovation of existing buildings in order to conserve the embodied carbon in the materials from which the buildings are constructed.
- Consider better sourcing of building materials, including analysis of embodied carbon.
- Encourage new buildings and renovations to use all-electric systems, that is, to be Fossil Fuel Free.
- Utilize new approaches for on-site energy storage and other new technologies that are consistent with Fossil Fuel Free buildings.
- Move toward purchase of electricity from 100% renewable energy sources.
- Design and prepare high-energy-efficiency buildings with onsite energy storage to be used as places of refuge during extreme weather events.
- Develop policies, user manuals, "energy dashboards," and occupant education for municipal buildings to monitor energy usage and improve energy management and operations.
- Continue to research and support techniques for better financial analysis of building design and operations.

3. Town of Brookline Greenhouse Gas Inventory Overview, May 21, 2010.

Focus on transportation. Transportation accounts for 30% of greenhouse gas emissions in Brookline.[4]

- Require Electric Vehicles (EVs) for school buses and other town-contracted transportation needs.
- Take the climate change implications of transportation options into consideration during site selection for any new municipal building projects.
- Purchase EVs for the municipal fleet.

Committee Members

Werner Lohe, Chair, SBCAC

Michael Berger, SBCAC

Benjamin Chang, SBCAC, School Committee Representative, stepped down summer 2018

Alan Leviton, SBCAC

Susan Martin, Climate Action Brookline

David Pantalone, Climate Action Brookline, joined fall 2018

David Pearlman, SBCAC, School Committee Representative, joined fall 2018

Deborah Rivers, SBCAC, AIA, LEED AP BD+C, joined fall 2018

Kathleen Scanlon, SBCAC, stepped down fall 2018

Staff Members

Maria Morelli, Senior Planner, Planning Department

Ray Masak, Project Manager, Building Department

4. Town of Brookline Greenhouse Gas Inventory Overview, May 21, 2010.

SELECT BOARD

Neil A. Wishinsky, Chair
Benjamin J. Franco
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