Town of Brookline

BOARD OF SELECTMEN

Betsy DeWitt, Chairman

Nancy A. Daly

Richard W. Benka

Kenneth M. Goldstein

Neil A. Wishinsky

Melvin A. Kleckner, Town Administrator

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

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Harry K. Bohrs, Chair, 97 Toxteth Street 566-3556
Carla Benka, Vice-Chair, 26 Circuit Road 277-6102
Edith R. Brickman, 33 Pond Avenue, #407B 734-5090
Clifford M. Brown, 9 Hyslop Road 739-9228
Sumner J. Chertok, 80 Park Street, #65 734-1169
Lea Cohen, 1060 Beacon Street, #11 947-9713
Benjamin J. Franco, 275 Cypress Street 453-9413
Bernard Green 25 Alton Court, #1 857-225-0402
Nancy Heller, 40 Abbottsford Rd 277-6108
Amy Hummel, 226 Clark Road 731-0549
Sytske V. Humphrey, 46 Gardner Road 277-1493
Angela Hyatt, 87 Walnut Street 734-3742
Alisa G. Jonas, 333 Russett Road 469-3927
Janice Kahn, 63 Craftsland Road 739-0606
Bobbie M. Knable, 243 Mason Terrace 731-2096
Gerald P. Koocher, 285 Beverly Road 469-2432
Frederick Lebow, 71 Colchester Street 739-1930
Fred Levitan, 1731 Beacon Street 734-1986
Pamela Lodish, 195 Fisher Avenue 566-5533
Sean M. Lynn-Jones, 53 Monmouth Street 738-6228
Shaari S. Mittel, 309 Buckminster Road 277-0043
Michael Sandman, 115 Sewall Ave., No. 4 232-7125
Lee L. Selwyn, 285 Reservoir Road 277-3388
Stanley L. Spiegel, 39 Stetson Street 739-0448
Charles Swartz, 69 Centre Street 731-4399
Leonard A. Weiss, 46 Hawthorn Road 277-8403
Karen Wenc, 84 Summit Avenue 232-4983
Christine M. Westphal, 31 Hurd Road 738-7981

Anne Braudy, Executive Assistant, Town Hall 730-2115

MAY 28, 2013
ANNUAL TOWN MEETING
INDEX

ARTICLE NO.	TITLE
1.	Appointment of Measurers of Wood and Bark. (Selectmen)
2.	Approval of Collective Bargaining Agreements. (Human Resources)
3.	Annual Authorization of Compensating Balance Agreements. (Treasurer/Collector)
4.	Report on the Close-out of Special Appropriations / Bond Authorization Rescission. (Selectmen)
5.	Approval of Unpaid Bills of a Prior Fiscal Year. (Selectmen)
6.	Acceptance of Legislation to Increase Property Tax Exemptions. (Assessors)
7.	FY13 Budget Amendments. (Selectmen)
8.	Annual (FY14) Appropriations Article. (Advisory Committee)
9.	Amendment to Article 3.14 of the Town's By-Laws – Human Relations-Youth Resources -- reorganization and staff support. (Town Administrator)
10.	Amendments to the Town's By-Laws – Article 3.14 (Human Relations-Youth Resources) and Article 3.15 (Human Resources Office) -- change name of Commission to Human Rights Commission and Director and place with the Commission and Director the responsibility for developing, overseeing, implementing and enforcing equal opportunity and affirmative action policies. (Petition of Brooks A. Ames, Bobbie Knable, Frank Farlow, Mariela Ames, Larry Onie, and Arthur Wellington Conquest III)
11.	Amendment to Article 3.4 of the Town's By-Laws – Town Clerk -- require resolutions passed by Town Meeting to be mailed to all necessary parties within 30 days. (Petition of Patricia A. Connors)
12.	Amendment to Article 4.8 of the Town's By-Laws – Living Wage By-Law -- requires the posting of current notices about the by-law on Town and School websites and revises grievance notification. (Petition of Patricia A. Connors)
13.	Amendment to Article 7.6 of the Town's By-Laws – Newsrack Regulations -- revisions for more efficient enforcement mechanisms. (Dick Benka and Jean Stringham)

14. Amendment to Article 8.5 of the Town's By-Laws – Disorderly Behavior -- clarifies the definition and changes the penalty. (Stanley Spiegel and Nancy Heller)

15. Amendment to the Zoning By-Law – Section 2.07 ("G" Definitions, Gross Floor Area) -- revision to the calculation of Gross Floor Area for single-family and two-family dwellings with ceiling height in excess of 12 feet. (Department of Planning and Community Development)

16. Amendment to the Zoning By-Law – Section 2.12 ("L" Definitions, Lodger and Lodging House) -- allow for the possibility of in-room cooking facilities for lodging houses with affordability restrictions. (Department of Planning and Community Development)

17. Amendments to the Zoning By-Law – Section 2.13 ("M" Definitions) and Section 4.07 (Table of Use Regulation) -- moratorium on the sale of medical marijuana or related uses for a limited time period. (Department of Planning and Community Development)

18. Amendments to the Zoning By-Law – Section 4.07 (Table of Use Regulation) and Sections 6.02.4 a and c (Off-Street Parking Regulations) -- allowance of day care use and review of parking and drop-off and pick-up areas. (Department of Planning and Community Development)

19. Vote to Extinguish a Portion of a Town Easement at 280-292 Harvard Street. (Petition of Michael Maynard, Coolidge Corner Theater Foundation)

20. Vote to Accept an Easement at 280-292 Harvard Street from the Hamilton Charitable Corporation. (Petition of Michael Maynard, Coolidge Corner Theater Foundation)

21. Legislation to Authorize the Lease of Air Rights Over a Portion of a Municipal Off-Street Parking Area -- rear of the property located at 280-290 Harvard Street. (Petition of Michael Maynard, Board Chairman, Coolidge Corner Theater Foundation)

22. Resolution to Further Study Transit Signal Prioritization on the Beacon Street Corridor. (Petition of Michael Sanders and Christopher Dempsey)

23. Resolution Expressing Opposition to the Transportation of Canadian Tar Sands Products Through New England and to Support Low Carbon Fuel Standards. (Petition of Carol Oldham)

24. Reports of Town Officers and Committees. (Selectmen)

2013 ANNUAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2013 Annual Town Meeting to be held on Tuesday, May, 28, 2013 at 7:00 p.m.

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

ARTICLE 1

FIRST ARTICLE
Submitted by: Board of Selectmen

To see if the Town will establish that the number of Measurers of Wood and Bark be two, to be appointed by the Selectmen, 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 Selectmen to appoint two Measurers of Wood and Bark.

SELECTMEN'S RECOMMENDATION

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on March 27, 2013, on the vote offered by the Advisory Committee.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 1 seeks Town Meeting's approval to establish the number of persons to be appointed by the Selectmen as Measurers of Wood and Bark at two and permit the Board of Selectmen to appoint them.

DISCUSSION:
Since Time Immemorial this warrant article was the first article of the annual Town

Meeting. At the spring 2000 Town Meeting the article was dropped because the Measurers of Wood and Bark were considered to be unnecessary. But in the fall of that same year, Town Meeting required that this traditional article be reinstated. The Advisory Committee in its report at the time noted:

"Of course the Measurers of Wood and Bark are unnecessary! They've been unnecessary for as far back as anyone now living can remember! But it was a harmless tradition, which cost nothing (except for the paper and ink used to print the Article in the Combined Reports) and it was a link with our origins in a less mechanized society."

In fact, the Measures of Wood and Bark is a tradition deeply rooted in our town. And, we have heard anecdotally on the floor of Town Meeting of instances when they have been called upon to perform their duties. It was also suggested that they may aid our surveillance effort in regard to the potential spread of the Asian Longhorn Beetle.

The annual selection of one or more measurers of wood and bark is also a requirement of the General Laws, chapter 94, section 296, which has its origin in the Statutes of 1705-6.

In Brookline, the positions do not draw a salary, stipend, or other remunerative benefit, and the Town incurs no current financial cost or future OPEB liability for the two Measurers of Wood and Bark.

The Advisory Committee would not hear of uprooting such a fine tradition.

RECOMMENDATION:
By a vote of 17 in favor and 0 opposed, the Advisory Committee recommends FAVORABLE ACTION on the following vote:

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

XXX

Passed by a Unanimous Vote

ARTICLE 2

TOWN of BROOKLINE
Massachusetts

HUMAN RESOURCES OFFICE
333 Washington Street
Brookline, MA 02445
(617) 730-2120
www.BrooklineMA.gov

Sandra A. DeBow, Director
Human Resources Office

May 17, 2013

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

Re: May 2013, Town Meeting, Article 2, Approval of Collective Bargaining Agreements

1. Brookline Engineering Division Associates

Summary: The Town of Brookline and the Brookline Engineering Division Associates (BEDA) came to an Agreement on May 8, 2013 regarding the parties' collective bargaining agreement. The Agreement was ratified by the members of BEDA on May 14, 2013 and was unanimously ratified by the membership on May 16, 2013. The Board of Selectmen will review and vote on the contract on May 21, 2013.

Description: The contract is a three-year agreement commencing on July 1, 2012 and expiring on June 30, 2015. Under the Agreement, BEDA agreed to a wage package of:

Effective July 1, 2012	2%
Effective July 1, 2013	2%
Effective July 1, 2014	2%

The overall cost of the three-year contract is approximately 6.2%.

Under this Agreement, the Town will be able to improve administrative efficiencies by moving all BEDA members to an electronic pay advisories system. Also, new employees will now accrue their maximum vacation allotment at a slower rate than current

employees and no new employee will accrue more than four calendar weeks in any year. The Town made adjustments to the BEDA pay schedule following a classification study that the parties performed in 2009. In order to make the adjustment within the budgetary framework, BEDA further agreed to make adjustments to their current steps, pushing current employees back in steps and a reduction in their longevity at the lower gates.

ITEM	FY13	FY14	FY15	TOTAL	
7/1/12 - 2%	16,362	16,362	16,362	**49,085**	
7/1/13 - 2%		16,689	16,689	**33,378**	
7/1/14 - 2%			17,023	**17,023**	
Adjustment to "Median"			2,973	**2,973**	> Median = 3.7% for E5
Longevity			(850)	**(850)**	> Reduction of $125 in gates 1 and 2
TOTAL ROLL-OUT COSTS	**16,362**	**33,050**	**52,196**	**101,608**	

Each 1% =	8,181	8,344	8,511	
New Wages - $ =	16,362	16,689	19,145	
New Wages - % =	2.0%	2.0%	2.2%	6.2%
Wages on Base - $ =	16,362	16,689	19,145	
Wages on Base - % =	2.0%	2.0%	2.2%	6.2%

TOWN of BROOKLINE
Massachusetts

HUMAN RESOURCES OFFICE
333 Washington Street
Brookline, MA 02445
(617) 730-2120
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Sandra A. DeBow, Director
Human Resources Office

May 17, 2013

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

Re: May 2013, Town Meeting, Article 2, Approval of Collective Bargaining Agreements

2. Local 1358, American Federation of State, County, Municipal Employees, Council 93, AFL-CIO (AFSCME, Library)

Summary: The Town of Brookline and AFSCME, Local 1358, Library came to an Agreement on May 8, 2013 regarding the parties' collective bargaining agreement. The Agreement was ratified by the members of Local 1358 on May 16, 2013 with 19 voting in favor and 1 against. The Board of Selectmen will review and vote on the contract on May 21, 2013.

Description: The contract is a three-year agreement commencing on July 1, 2012 and expiring on June 30, 2015. Under the Agreement, AFSCME agreed to a wage package of:

Effective July 1, 2012	2%
Effective July 1, 2013	2%
Effective July 1, 2014	2%

The overall cost of the three-year contract is approximately 6.3%.

Under this Agreement, the Town will be able to improve administrative efficiencies by moving all AFSCME members to an electronic pay advisories system. Also, new paraprofessional employees will now accrue their maximum vacation allotment at a slower rate than current paraprofessional employees and no new paraprofessional employee will accrue more than four calendar weeks in any year. The Town made an adjustment to the longevity pay schedule, adding a greater benefit for those with 20 or more years of service, relative to those with lesser years of service; and increased the night shift differential by $2/shift to enable the Town Librarian to be able to recruit employees to work night shifts schedules.

ITEM	FY13	FY14	FY15	TOTAL	
7/1/12 - 2%	34,117	34,117	34,117	**102,351**	
7/1/13 - 2%		34,799	34,799	**69,599**	
7/1/14 - 2%			35,495	**35,495**	
Shift Differential		2,550	2,550	**5,100**	> $2/hr increase
Longevity Pay		2,850	2,850	**5,700**	> Add'l $25 for 1st 2 "gates" and $200 for last 2 "gates"
TOTAL ROLL-OUT COSTS	**34,117**	**74,316**	**109,812**	**218,245**	

Each 1% =	17,058	17,400	17,748	
New Wages - $ =	34,117	40,199	35,495	
New Wages - % =	2.0%	2.3%	2.0%	6.3%
Wages on Base - $ =	34,117	40,199	35,495	
Wages on Base - % =	2.0%	2.3%	2.0%	6.3%

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 2 asks Town Meeting to approve funding for a three-year (FY13-FY15) contract with two Town unions: Brookline Engineers Division Association (BEDA) and Local 1358, AFSCME (Library), Council 93, AFL-CIO. Both contracts call for a base wage increase of 6% over the course of the contract (2% in each FY13, FY14, and FY15) and adjustments to the Longevity Pay schedule. The 2% base wage increase fits within the budgeted Collective Bargaining Reserves for both FY13 and FY14. In addition, the Library contract increases the Shift Differential. Lastly, the BEDA contract makes adjustments to the pay schedule following a classification study that the parties performed in 2009. In order to make the adjustment within the budgetary framework, BEDA agreed to make adjustments to their current steps, pushing current employees back in steps.

Under the agreements, the Town will be able to improve administrative efficiencies by moving all members to an electronic pay advisories system. Also, new employees will now accrue their maximum vacation allotment at a slower rate than current employees and no new employee will accrue more than four calendar weeks in any year.

The Selectmen thank the Town's negotiating team and the unions for reaching an agreement that matches the realities of the current economic climate and does not exacerbate the long-term financial challenges the Town faces. Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on May 21, 2013, on the following:

VOTED: To approve and fund by an appropriation, provided for in the FY2013 (Item #20) budget, for the cost items in the following collective bargaining agreements that commence on July 1, 2012 and expires on June 30, 2015:

Brookline Engineers Division Association (BEDA)
Local 1358, AFSCME (Library), Council 93, AFL-CIO

all as set forth in the reports of Sandra DeBow, Director of Human Resources, dated May 17, 2013, which reports are incorporated herein by reference.

Passed by an Electronic Recorded Vote of 190 In Favor 18 Opposed and 3 Abstentions

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The Town has negotiated three collective bargaining agreements with AFSCME; the AFSCME library union; and the Engineers. These are three year contracts that begin on July 1, 2012 and end On June 30, 2015.

DISCUSSION:
Memos to the Board of Selectman by Sandra DeBow are included in the Selectmen's Recommendations. While there are minor differences in the three contracts, there are several common elements as well:

1. Wage Packages of 2% per year for three years for all.
2. All employees in these unions will now receive pay advisories electronically (no paper) and the AFSME union employees, including library employees, will join Engineers in receiving direct deposit of pay.
3. New employees will receive their maximum vacation days at a later time in their employment (15 yrs) than current employees (10 yrs) and will be subject to a limit of 4 weeks accrued per year. Potentially, payout of accrued vacation is an unfunded liability and the Town wanted better management in this area. Existing employees maintain their current vacation benefits.
4. For both AFSCME unions, the longevity pay scales were adjusted so that employees at the higher end receive somewhat more and the employees at the lower end receive less. For the Engineers, the steps were adjusted to more closely follow a classification study from 2009, so that current employees are pushed back in steps (but receive an increase in pay) and have a reduction in longevity at the lower end. This structure will provide a greater opportunity for advancement within a given pay grade.

5. All union contracts currently have language that allows a supervisor to put an employee on "sick notes" if he/she is absent for X number of days, depending on the collective bargaining agreement. The AFSCME bargaining units and Engineers have agreed that, if an employee is already required to bring in sick certificates, then a supervisor may ask that employee to get a sick certificate if the employee is absent due to a family sick day. This closes a contract loophole that was being misused.
6. For AFSCME union, four positions are removed from the bargaining unit because of their confidential or management roles. And the town will limit the payment for certain renewal of licenses to $250 per employee.
7. For the AFSCME library union, the night shift differential is increased by $2.00 to a total of $11.00 per shift.

These contracts will create a two tier system for vacation accrual. It will take longer for new employees to accrue vacation time, but existing employees will continue to accrue vacation under the schedule in existence prior to this contract. This change is consistent with the Town's ongoing efforts to negotiate total compensation and control costs.

During the discussion, Advisory Committee members asked about the Consumer Price Index, which is now 1.5% in the Boston area. For social security purposes, the 2013 cost of living is 1.7%. The wage packages as negotiated are slightly higher, but the Town has gained some benefits which will allow for better management of vacation and sick time usage..

The overall cost of these contracts is:
AFSCME (250 employees) --- 6.2%
AFSCME Library (30 employees) --- 6.3% (0.1% due to night shift differential)
Engineers (10 employees) --- 6.2%

RECOMMENDATION:
The Advisory Committee recommends FAVORABLE ACTION on all three contracts.

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.

TOWN of BROOKLINE
Massachusetts

HUMAN RESOURCES OFFICE
333 Washington Street
Brookline, MA 02445
(617) 730-2120
www.BrooklineMA.gov

Sandra A. DeBow, Director
Human Resources Office

April 22, 2013

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

Re: May 2013, Town Meeting, Article 2, Approval of Collective Bargaining Agreements

1. **Local 1358, American Federation of State, County, Municipal Employees, Council 93, AFL-CIO (AFSCME)**

Summary: The Town of Brookline and AFSCME, Local 1358 came to an Agreement on April 2, 2013 regarding the parties' collective bargaining agreement. The Agreement was approved by the Board of Selectmen on April 16, 2013 and ratified by the members of Local 1358 on April 17, 2013 by a vote of 110 (in favor) versus 11(against).

Description: The contract is a three-year agreement commencing on July 1, 2012 and expiring on June 30, 2015. Under the Agreement, AFSCME agreed to a wage package of:

Effective July 1, 2012	2%
Effective July 1, 2013	2%
Effective July 1, 2014	2%

The overall cost of the three-year contract is approximately 6.2%.

Under this Agreement, the Town will be able to improve administrative efficiencies by moving all AFSCME members to a direct deposit and electronic pay advisories system. Also, new employees will now accrue their maximum vacation allotment at a slower rate than current employees and no new employee will accrue more than four calendar weeks in any year. The Town will incorporate its practice of paying for the renewal cost of licenses for certain jobs but put in place a cap of $250 per employee per fiscal year that did not exist previously. Finally, the Town made an adjustment to the longevity pay schedule adding a greater benefit for those with 20 or more years of service, relative to those with lesser years of service.

AFSCME, LOCAL 1358 MOA, July 1, 2012 – June 30, 2015

ITEM	FY13	FY14	FY15	TOTAL	
7/1/12 - 2%	194,430	194,430	194,430	**583,289**	
7/1/13 - 2%		198,318	198,318	**396,637**	
7/1/14 - 2%			202,285	**202,285**	
Longevity Pay		16,275	16,275	**32,550**	> Add'l $25 for 1st 2 "gates" and $200 for last 2 "gates"
TOTAL ROLL-OUT COSTS	**194,430**	**409,023**	**611,308**	**1,214,760**	

Each 1% =	97,215	99,159	101,142	
New Wages - $ =	194,430	214,593	202,285	
New Wages - % =	2.0%	2.2%	2.0%	**6.2%**
Wages on Base - $ =	194,430	214,593	202,285	
Wages on Base - % =	2.0%	2.2%	2.0%	**6.2%**

SELECTMEN'S RECOMMENDATION

Article 2 asks Town Meeting to approve funding for a three-year (FY13-FY15) contract with the Town's AFSCME union. The contract calls for a base wage increase of 6% over the course of the contract (2% in each FY13, FY14, and FY15) and includes an adjustment to the Longevity Pay schedule. The 2% base wage increase fits within the budgeted Collective Bargaining Reserves for both FY13 and FY14.

Under the agreement, the Town will be able to improve administrative efficiencies by moving all AFSCME members to a direct deposit and electronic pay advisories system. Another key feature of the contract is that new employees will now accrue their maximum vacation allotment at a slower rate than current employees and no new employee will accrue more than four calendar weeks in any year.

The Selectmen thank the Town's negotiating team and the unions for reaching an agreement that matches the realities of the current economic climate and does not exacerbate the long-term financial challenges the Town faces. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 23, 2013, on the following:

VOTED: To approve and fund by an appropriation, provided for in the FY2013 (Item #20) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2012 and expires on June 30, 2015:

AFSCME Council 93, Local 1358

all as set forth in the report of Sandra DeBow, Director of Human Resources, dated April 22, 2013, which report is incorporated herein by reference.

Passed by an Electronic Recorded Vote of 190 In Favor and 17 Opposed with 4 Abstentions.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

As of the printing of these Combined Reports, the Advisory Committee has not scheduled a review of the recently ratified AFSCME contract approved by the Selectmen under this Article 2. A recommendation will be included in a Supplemental Mailing.

ARTICLE 3

THIRD ARTICLE
Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2014 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.

SELECTMEN'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 FY2014 budget to pay for these 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 Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on March 27, 2013, 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 FY2014 in accordance with General Laws Chapter 44, Section 53F.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 3 seeks Town Meeting's approval to authorize the Town Treasurer to enter into Compensating Balance Agreements in FY13.

Since 1985, state law has permitted cities and towns to enter into a Compensating Balance Agreement with a bank permitting the municipality to receive banking services without paying bank charges; in exchange, the municipality must agree to maintain an agreed to amount of deposits in the bank.

State law prohibits the Town's treasurer from entering into a compensating balance agreement without authorization from Town Meeting. Specifically, Town Meeting must first vote to permit the arrangement and note the duration of the permitted arrangement. Thereafter, the Treasurer can solicit the would-be banking provider after complying with a public tender process. Before the agreement can become effective, the Board of Selectmen must approve it. Brookline Town Meeting has routinely authorized these arrangements since the mid-1980s.

Reflecting the recent confluence of sustained low interest rates and the trend of increased banking fees, the Town, for the third time in the tenure of Mr. Cirillo, used the annually-approved authority to enter into a compensating balance arrangement during the current fiscal year.

DISCUSSION:
During previous appearances before the Advisory Committee, Mr. Cirillo has noted his long-standing predisposition against compensating balance arrangements. Prior to FY11, he supported the annual Town Meeting reauthorization so the Town could more effectively "shop" Brookline's business to competing banks—ultimately deeming it more advantageous to place Town funds in interest-bearing accounts while simultaneously negotiating service fees with those banks seeking the Town's business.

Historically, interest income had generally been sufficient to cover the majority of the Town's banking fees; however, the current low interest rates have made it such that this is no longer the case (with the result that the Town has seen an increasing level of bank

service charges). Until FY11, the increased amount of funds the Town would have to "park" in one account in exchange for no-fee banking under a compensating balance arrangement was deemed too large to justify such an arrangement.

Starting in FY11, however, the Town entered into a compensating balance agreement with a local bank after several financial institutions actively competed for the Town's treasury business. Separately, the Town has also shifted monies in and out of banks to maximize returns on its holdings.

Mr. Cirillo has on several occasions started that he is pleased with the agreement that still remains in force with the same local bank. For example, he has estimated that the Town will save approximately $23,000 in fees for maintaining $6MM on deposit at a currently competitive interest rate of .85%

In light of ever increasing bank service charges, historically low interest rates, the success the Town has had in utilizing the authorization to enter into compensating balance agreements proposed by this article, and Town Meeting's history of annually granting authorization to enter into these types of agreements, the Advisory Committee felt comfortable recommending favorable action on this article.

RECOMMENDATION:
By a vote of 18 in favor and none opposed, the full Advisory Committee unanimously recommends FAVORABLE ACTION on the motion offered by the Selectmen.

XXX

ARTICLE 4

FOURTH ARTICLE
Submitted by: Board of Selectmen

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, or act on anything relative thereto.

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.

SELECTMEN'S RECOMMENDATION

This is an annual article required by Section 2.1.4 of the Town's By-Laws. The Comptroller has furnished the tables that appear on the following pages and 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. No action by Town Meeting is required. Surplus funds from bond-financed projects may be appropriated by Town Meeting for any purpose for which a loan may be taken only under a warrant article calling for an appropriation that meets these requirements.

The Selectmen recommend NO ACTION, by a vote of 4-0 taken on March 27, 2013.

A vote of No Action was passed unanimously

ROLL CALL VOTE:
No Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article is annually submitted by the Board of Selectmen 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 this Article appear on the Annual Town Meeting Warrant regardless of whether a motion is being offered.

DISCUSSION:
As there are no close-outs or rescissions to consider, no motion is being made under this Article.

RECOMMENDATION:
By a vote of 18 in favor and none opposed, the Advisory Committee recommends NO ACTION on Warrant Article 4.

XXX

Available Budget Report - Capital Funds (Bond funded) for Fiscal Year 2013 as of 5/1/13

		Revised Budget	YTD Expended	YTD Encumbered	Available	Status
C142	PUTTERHAM MEADOWS GOLF	1,094,152	130,045	157,883	806,224	On-going work including drainage, bunkers, and cart paths.
C164	TOWN HALL/MAIN LIB GARAGE	336,138	137,133	31,875	167,130	Phase 3 to start in July, 2013 with completion in Oct, 2013.
C165	RUNKLE SCHOOL RENOVATION/ADDITION	9,201,977	7,340,363	579,194	1,282,420	In the process of closing out the project with the MSBA.
C167	FY11 TOWN HALL/LIBRARY GARAGE	950,000	0	0	950,000	Phase 3 to start in July, 2013 with completion in Oct, 2013.
C168	HEATH SCHOOL ADDITION	4,504,191	3,397,747	423,999	682,445	Secondary projects to be completed by Oct, 2013.
C171	UNIFIED ARTS BUILDING REPAIRS	1,300,000	0	0	1,300,000	Work to start in July, 2013 with completion in Dec, 2013.
	BUILDING CAPITAL	**17,386,458**	**11,005,288**	**1,192,951**	**5,188,220**	
C144	WASTEWATER SYSTEM IMPROVEMENTS	128,953	500	128,453	0	For sewer system improvements in Eliot St. area.
C150	MUDDY RIVER RESTORATION	745,000	0	0	745,000	Phase I underway. This funding is for the Town's share through Phase II.
C157	NEWTON ST LANDFILL	44,314	2,475	0	41,839	To be used to complete Transfer Station improvements.
C158	WASTEWATER SYSTEM IMPROVEMENTS	4,546,483	181,635	745,516	3,619,332	For on-going wastewater improvement projects.
C160	RESERVOIR AT FISHER HILL	800,308	13,606	196,679	590,023	Design complete. Construction to commence in 2013.
C166	CARLTON ST FOOTBRIDGE RESTORATION	1,400,000	7,960	146,391	1,245,649	Received final comments on 25% plans & specs. Responding to the same and moving forward with 75%.
C169	STORM DRAIN IMPROVEMENTS	500,000	78,309	109,975	311,716	For on-going sewer and drainage improvement projects.
C170	WATER MAIN IMPROVEMENTS	911,536	600,080	143,902	167,554	Various town-wide water system improvements 80% complete.
C172	WALDSTEIN / WARREN PLAYGROUND/FIELD	2,150,000	0	0	2,150,000	Design complete. Construction to commence in 2013.
	DPW CAPITAL	**11,226,594**	**884,566**	**1,470,916**	**8,871,112**	
	TOTAL	**28,613,052**	**11,889,854**	**2,663,866**	**14,059,332**	

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2013 as of 5/1/13

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K016	IT HARDWARE-SOFTWARE (MUNIS)	12,676	12,676	0	0	Project complete.
K017	FURNITURE,FIXTURES,EQUIPMENT	3,594	0	594	3,000	Available for minor office reconfigurations as needed.
K018	SCHOOL FURNITURE UPGRADES	50,000	49,830	170	0	Encumbrance completes the purchases.
	Sub-Total Finance Dept	**66,270**	**62,506**	**764**	**3,000**	
K084	GATEWAY EAST PROJECT	13,258	727	12,531	0	Being used for on-going design and engineering services as required by MassDOT.
K100	COMMERCIAL AREA IMPROVEMENTS	100,000	2,080	31,090	66,830	Various streetscaping projects underway.
	Sub-Total Dept of Planning & Community Development	**113,258**	**727**	**45,701**	**66,830**	
K016	IT HARDWARE-SOFTWARE	286,909	243,302	39,800	3,808	On-going projects; account to be substaintly spent by June, 2013.
K111	INTERCOM SYSTEM REPLACEMENT	264,136	135,037	6,917	122,182	Remaining funds to be expended during Summer, 2013.
	Sub-Total Information Technology Dept	**551,046**	**378,339**	**46,717**	**125,990**	
K008	BULLET PROOF VESTS	5,624	1,061	4,563	0	Encumbrance completes the purchases.
	Sub-Total Police Dept	**5,624**	**1,061**	**4,563**	**0**	
K009	FIRE APPARATUS REFURBISHING	50,357	49,890	0	467	Any unexpended balance to be closed out by 6/30/13.
	Sub-Total Fire Dept	**50,357**	**49,890**	**0**	**467**	
K002	ENERGY CONSERVATION	180,767	155,730	20,069	4,967	On-going projects; to be completed by Oct, 2013.
K010	ENERGY MANAGEMENT SYSTEMS	100,000	69,812	26,026	4,162	On-going projects; to be completed by Oct, 2013.
K022	TOWN-SCHOOL SECURITY-LIFE SAFETY	150,637	74,739	74,129	1,769	On-going projects; to be completed by Dec, 2013.
K029	MAINT. CRAFTSMAN GARAGE/PARKS FACILITY FEAS STUDY	24,000	18,250	3,750	2,000	Study to be competed in July, 2013.
K034	BHS REPAIRS (FLOOR)	25,000	20,667	0	4,333	Project complete. Any unspent balance to be closed by 6/30/13.
K036	OLD LINCOLN SCHOOL	599,942	25,894	0	574,048	Part of larger project to be started in July, 2013.
K037	MAIN LIBRARY RENOVATIONS	46,339	46,339		0	Project complete.
K038	PIERCE SCHOOL RENOVATIONS (AUDITORIUM)	1,194,589	28,806	1,030,375	135,408	Project underway; to be completed in Dec, 2013.
K041	RUNKLE SCHOOL	275	0	0	275	Project complete. Any unspent balance to be closed by 6/30/13.
K042	CLASSROOM CAPACITY EXPANSION	1,790,373	743,254	148,097	899,022	To be used for rental/leasing of space and for converting space in existing school buildings into classrooms.
K044	RUNKLE-DEVOTION STUDY	54,500	54,500	0	0	Project complete.
K045	TOWN HALL RENOVATIONS	18,496	9,790	6,400	2,306	Project complete. Any unspent balance to be closed by 6/30/13.
K047	TOWN/SCHOOL FACILITY ROOF REPAIR	448,984	331,186	117,798	0	Project complete. Any unspent balance to be closed by 6/30/13.
K050	ADA RENOVATIONS	62,739	53,147	9,500	92	Project complete. Any unspent balance to be closed by 6/30/13.
K075	HEATH SCHOOL FEASIBILITY AND DESIGN	180,045	180,000	45	0	Project complete. Any unspent balance to be closed by 6/30/13.
K098	FIRE STATION RENOVATIONS	941,336	27,362	13,775	900,199	Projects underway; to be completed in July, 2014.
K099	SENIOR CENTER CARPETING	110,000	75,286	0	34,714	2nd part of project to be completed in Oct, 2013.
K108	TOWN/SCHOOL HAZARDOUS MAT REMOVAL	74,973	18,582	22,195	34,196	On-going projects; to be completed in Dec, 2013.
K109	TOWN/SCHOOL BUILDINGS ELEVATOR	268,001	44	0	267,957	RFP underway; work to be completed Sept, 2014.
K110	TOWN/SCHOOL BUILDINGS ENVELOPE REPAIRS	227,031	0	0	227,031	2nd study to start in Summer.
K112	UNIFIED ARTS BUILDING REPAIR/RENOVATION - DESIGN	130,000	16,850	75,100	38,050	Work to commence July, 2013 and completed Dec, 2013.
K116	GOLF COURSE MAINTENANCE BLDG	500,000	20,000	20,000	460,000	In the design and bid phase.
K117	EMERGENCY GENERATORS/LIGHTS	125,000	79	85,120	39,801	Work to commence in May, 2013 and be completed in July, 2013.
K118	BHS SPACE NEEDS STUDY	50,000	0	50,000	0	Project underway; to be completed by June, 2013.
K119	DEVOTION SCHOOL RENOVATION	1,750,000	0	0	1,750,000	Architect to be selected.
	Sub-Total Building Dept	**9,053,027**	**1,970,317**	**1,702,379**	**5,380,329**	
K019	LINCOLN SCHOOL/KENNARD HOUSE	250,000	250,000	0	0	Project complete.
K031	PARKING LOTS REHABILITATION	152,541	152,541	0	0	Project complete.
K039	NEWTON ST. GUARDRAIL	3,000	3,000	0	0	Project complete.
K051	TREE MANAGEMENT	218,924	134,442	56,390	28,092	Funding planned for Spring, 2013 tree planting.
K052	BICYCLE ACCESS IMPROVEMENTS	148,040	0	0	148,040	Bids to be awarded 5/14/13.
K053	PAVEMENT OF FIRE TRAINING AREA	30,000	30,000	0	0	Project complete.
K054	STREET LIGHTING REPLACEMENT	171,169	2,418	2,351	166,400	Draft design completed. To be bid this Summer.
K055	CARLTON STREET FOOTBRIDGE	85,186	0	0	85,186	Received final comments on 25% design. Responding to the same and moving forward with 75%.
K056	SIDEWALK IMPROVEMENTS	664,520	20,736	9,265	634,520	On-going.
K057	CHESTNUT ST DRAIN/WILLOW POND	44,765	0	130	44,635	Waiting for the Muddy River project, which will cover the removal the sediments.
K058	STREET REHABILITATION	4,223,263	1,517,936	1,187,877	1,517,450	On-going.
K060	NEWTON ST LANDFILL SITE IMPROVEMENTS	503,975	389,788	109,108	5,080	On-going close out process.

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2013 as of 5/1/13

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K062	DANE PARK	29,151	0	0	29,151	Content and design for interpretive and wayfinding signage underway. Installation planned for 2013.
K065	RIVERWAY PARK IMPROVEMENT	86,369	0	0	86,369	Design on hold until Phase II of Muddy River Restoration Project commences.
K066	PLAYGROUND,FENCE,FIELD, EQUIPMENT	376,626	163,042	179,239	34,345	On-going.
K067	PATHWAY RECONSTRUCTION	113,690	0	0	113,690	Addington, Mason and Clinton Paths to be done this year.
K068	OLMSTED PARK IMPROVEMENTS	19,024	0	0	19,024	Planned improvements for damaged turf and shrub beds.
K070	LARZ ANDERSON PARK	50,000	0	0	50,000	Construction bid documents underway for wall replacement.
K071	LOST POND CONSERVATION AREA	48,997	385	0	48,612	Planning for wayfinding and interpretive signage.
K073	TOWN-SCHOOL GROUNDS REHAB	257,695	69,186	68,513	119,996	On-going.
K077	HEMLOCK TREE ASSESS/REMOVAL	7,812	0	7,812	0	On-going.
K078	MUDDY RIVER REMEDIATION	1,370,170	47,775	0	1,322,395	Phase I underway. This is for the Town's share through Phase II.
K080	PARK LIGHTING UPGRADE	80,841	0	0	80,841	Planning lighting upgrade improvements in the parks.
K083	TRAFFIC CALMING	34,592	4,511	1,023	29,058	On-going.
K085	HORACE JAMES CIRCLE TRAFFIC IMPROVEMENTS	149,959	0	0	149,959	Developer of Chestnut Sq. project in Newton will undertake improvements. To be closed out 6/30/13.
K088	MOUNTFORT ST TRAFFIC SIGNAL	106,438	0	938	105,500	Coordinating the reconst. of St. Mary's St. bridge project with MaDOT.
K089	NEWTON ST/W. ROXBURY PKWY TRAFFIC	147,900	0	0	147,900	Existing condition survey complete. Preparing 25% plans & specs for submittal to DCR.
K090	PEDESTRIAN ACCESS IMPROVEMENTS	45,000	0	45,000	0	Project underway (part of Village Square project).
K092	WASH ST/SCHOOL ST/CYPRESS TRAFFIC SIGNALS	103,000	103,000	0	0	Project complete.
K093	WATER METER REPLACEMENT	23,131	18,635	1,335	3,161	On-going.
K096	PARKING METERS	115,014	49,051	6,594	59,369	New single-head meters being installed.
K097	LANDFILL SETTLEMENTS	431,653	122,000	0	309,653	On-going.
K101	MUNICIPAL SERVICE CENTER REPAIRS	325,000	0	0	325,000	Working with consultant to develop plan for rehabilitation of floor.
K102	BILLY WARD PLAYGROUND	629,319	81,428	535,787	12,104	Construction underway.
K103	CLARK PLAYGROUND	429,938	421,903	6,826	1,208	Construction complete. Punchlist for contractors.
K104	WALDSTEIN PLAYGROUND	72,141	66,480	5,661	0	Design & construction bid documents underway.
K105	WARREN FIELD/PLAYGROUND	59,540	10,820	43,909	4,811	Design & construction bid documents underway.
K113	HARVARD ST/GREEN ST PEDESTRIAN STUDY	25,000	0	0	25,000	RFQ statements due in Spring 2013
K114	FISHER HILL RESERVOIR	3,250,000	0	0	3,250,000	Construction to commence in 2013.
K115	OLD BURIAL GROUNDS	280,000	918	19,082	260,000	Construction bid documents underway for structural stabilization of tombs.
	Sub-Total DPW	**15,163,383**	**3,659,995**	**2,286,839**	**9,216,550**	
K015	RFID RADIO FREQ IDENT SYSTEM	70,722	7,810	6,780	56,132	Funds to be used to install an automated materials handling system at the Coolidge Corner Library.
	Sub-Total Library	**70,722**	**7,810**	**6,780**	**56,132**	
	GRAND TOTAL	**25,073,687**	**6,131,685**	**4,092,704**	**14,849,298**	

ARTICLE 5

FIFTH ARTICLE
Submitted by: Board of Selectmen

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.

SELECTMEN'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 April 23, 2013.

ROLL CALL VOTE:
No Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article appears on the Annual Town Meeting Warrant in case unpaid bills from a prior fiscal year require payment. According to Massachusetts General Law, unpaid bills from a prior fiscal year may only be paid from current year appropriations with the specific approval of Town Meeting.

DISCUSSION:
The Town is not aware of any unpaid bills from a prior fiscal year. Therefore, no motion is being made under this Article.

RECOMMENDATION:
By a vote of 18 in favor and none opposed, the Advisory Committee recommends NO ACTION on Warrant Article 5.

A Vote of No Action Was Passed Unanimously

XXX

ARTICLE 6

SIXTH ARTICLE
Submitted by: Board of Assessors

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2013 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 of up to 100% in the property tax exemptions 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 FY2014 is approximately $55,000 and is funded from the tax abatement overlay reserve account.

SELECTMEN'S RECOMMENDATION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, and the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2014 is approximately $55,000 and is funded from the tax abatement overlay account. The law allows the Town to increase the exemption by up to 100% as indicated on the following schedule, which are recommended by the Board of Assessors:

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

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on March 27, 2013, on the following vote:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2014 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.

Passed by a Unanimous Vote

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Passage of Warrant Article 6 would allow the Town to continue its current practice of increasing state mandated property tax exemptions for several classes of taxpayers.

State law establishes categories of residents who are eligible for property tax exemptions of varying amounts. It is a matter of state law, not at Brookline's option, who may be (and who is not) eligible for these exemptions. While many exemption categories are automatic, several are subject to tests that may include means, occupancy and other limitations.

State law sets forth the base exemption amount for each eligible category. In some categories, the Commonwealth will reimburse the Town for a portion of the mandated base exemption amount. The Town may increase the mandated exemptions by any amount up to 100% of the base amount. The Town cannot, on its own, create new exemption categories or increase the existing exemptions such that they exceed the amounts proposed by this Warrant Article. Additionally, any increase must be uniform across all the exemption categories and the increased exemption may not cause an individual taxpayer's liability to be less than their previous fiscal year's tax liability.

The proposal before Town Meeting under Warrant Article 6 is whether or not to double the State-mandated exemptions, as follows:

Eligible Tax Exemption Recipients	Section of State Law (M.G.L. Ch. 59 §5) Allowing the Exemption	State Mandated Base Exemption	Brookline Exemption (If Article 6 is Approved)
Surviving Spouse	17D	$175	$350
Veteran (10% disability)	22	$400	$800
Veteran (loss of one hand, foot, or eye)	22A	$750	$1,500
Veteran (loss of both hands, feet, or eyes)	22B	$1,250	$2,500
Veteran (who by reason of disability has received assistance for "specialty adapted housing")	22C	$1,500	$3,000
Surviving Spouse of Killed or Missing in Action Soldier, Sailor or Member of National Guard	22D	$250	$500
100% Disabled Veteran	22E	$1,000	$2,000
Blind	37A	$500	$1,000
Elderly (70+ years)	41C	$500	$1,000

DISCUSSION:
The proposed doubling of the statutory exemptions requires annual re-authorization and Town Meeting has voted to double the statutory exemptions every year since 1989.

The mandated base exemptions will cost the Town approximately $55,000 before any State relief (estimated to be about $35,000). Should Article 6 pass, the cost of the exemptions will debited from the abatement overlay account. Gary McCabe, the Town's Chief Assessor, indicates that amounts paid by the Town have declined by approximately 15% since fiscal year 2010 due to mortality events and other demographic trends that have reduced the number of eligible taxpayers. Mr. McCabe indicated that 139 people took advantage of these exceptions in FY13.

RECOMMENDATION:
By a vote of 18 in favor and none opposed, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 7

SEVENTH ARTICLE
Submitted by: Board of Selectmen

To see if the Town will:

(A) Raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2013 budget or transfer funds between said accounts;

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

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The purpose of this article is to make any year-end adjustments to the current year (FY13) budget.

SELECTMEN'S RECOMMENDATION

There are no amendments to the FY13 operating budget. Therefore, the Selectmen recommend NO ACTION, by a vote of 4-0 taken on March 27, 2013.

A Vote of No Action Was Passed Unanimously

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article is annually submitted by the Board of Selectmen to make any year-end adjustments to the current fiscal year's budget.

DISCUSSION:
No year-end adjustments are necessary, and, therefore, no motion is being made under this Article.

RECOMMENDATION:
By a vote of 18 in favor and none opposed, the Advisory Committee recommends NO ACTION on Warrant Article 7.

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ARTICLE 8

Amendment offered by Robert I. Sperber, TMM-6

Amend Article 8, Section 13, Item #68 by inserting the following language:

"; provided that this sum of money be restricted to expenditures in connection with the use of the Old Lincoln School as a so-called swing space and not in any way connected to a new ninth elementary school."

ARTICLE 8

EIGHTH ARTICLE
Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2014 Budget

Appropriate the sums, or any other sum or sums, requested or proposed by the Selectmen or by any other officer, board or committee, for the fiscal year 2014 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, and fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with the option to purchase, or installment purchase of equipment; stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with G.L. Chapter 44, Section 53E½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F½, and as otherwise authorized; and provide for a reserve fund.

B.) Fiscal Year 2014 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $25,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for the development of a plan, including plans and specifications, for various garage floor sealants and water/oil separators.

2. Appropriate $256,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen, for the enhancement of town-wide hardware and software.

3. Appropriate $50,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen and the Economic Development Advisory Board, for commercial area improvements.

4. Appropriate $40,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen, for the design of the Riverway Park pedestrian and bicycle path.

5. Appropriate $85,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and the Preservation Commission, for improvements to the Devotion House and the Putterham School building.

6. Appropriate $510,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of fire engine #3.

7. Appropriate $245,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for making extraordinary repairs to Fire Stations.

8. Appropriate $40,000, 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 Board of Selectmen, for bicycle access improvements.

9. Appropriate $45,000, 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 Board of Selectmen, for a study of the Woodland Road / Hammond Street pedestrian crossing.

10. Appropriate $1,510,000, 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 Board of Selectmen, for the rehabilitation of streets.

11. Appropriate $283,000, 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 Board of Selectmen, for the rehabilitation of sidewalks.

12. Appropriate $540,000, 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 Board of Selectmen, for the conversion of Town-owned streetlights to LED's.

13. Appropriate $70,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for rehabilitation of the Transfer Station floor.

14. Appropriate $87,000, 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 Board of Selectmen and the Park and Recreation Commission, for the design of the renovation of Brookline Avenue playground.

15. Appropriate $660,000, 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 Board of Selectmen and the Park and Recreation Commission, for costs associated with improvements to the roadways and pathways at Larz Anderson Park.

16. Appropriate $295,000, 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 Board of Selectmen, for the renovation of playground equipment, fields, and fencing.

17. Appropriate $85,000, 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 Board of Selectmen, for the rehabilitation of Town and School grounds.

18. Appropriate $100,000, 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 Board of Selectmen and the Park and Recreation Commission, for the rehabilitation of tennis courts and basketball courts.

19. Appropriate $50,000, 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 Board of Selectmen and the Park and Recreation Commission, for the rehabilitation of comfort stations in parks and playgrounds.

20. Appropriate $170,000, 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 Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

21. Appropriate from the Sale of Lots special revenue fund (SW01) $100,000, 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 Board of Selectmen and the Cemetery Trustees, for the rehabilitation of roadways within Walnut Hills Cemetery.

22. Appropriate $50,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for school furniture upgrades.

23. Appropriate $65,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for ADA renovations to Town and School buildings.

24. Appropriate $250,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, in the case of School facilities, by the School Committee, for improvements to elevators in Town and School facilities.

25. Appropriate $125,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of emergency generators and/or installation of emergency lights or circuits.

26. Appropriate $150,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for energy conservation projects in Town and School buildings.

27. Appropriate $150,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for upgrades to energy management systems in Town and School buildings.

28. Appropriate $345,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and, in the case of School facilities, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

29. Appropriate $175,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for three School technology projects: wireless infrastructure, special education Language Based Learning Disabilities LLD classrooms, and/or a professional staff evaluation system.

30. Appropriate $375,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the upgrade of the electrical distribution system at the Pierce School.

31. Appropriate $1,750,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools.

32. Appropriate $2,500,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for remodeling, reconstructing, or making extraordinary repairs to the Municipal Service Center (MSC).

33. Appropriate $1,200,000, 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 Board of Selectmen and the Park and Recreation Commission, for costs associated with the construction of a park, playground and athletic fields at the site of the old Fisher Hill Reservoir.

34. Appropriate $1,350,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities.

35. Appropriate $3,000,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to the Old Lincoln School.

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 Board of Selectmen, 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 FY2014. 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 Board of Selectmen. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

SELECTMEN'S RECOMMENDATION

The Selectmen would like to thank the Town Administrator and his staff, the Advisory Committee, all Town Department Heads, the School Superintendent and his staff, and the School Committee for all of their efforts and collaboration in preparing this FY14 budget.

SELECTMEN'S BUDGET VOTE vs ADVISORY COMMITTEE'S BUDGET VOTE

The Board of Selectmen is in agreement with the Advisory Committee on all items in the FY14 Budget.

ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN

Since the Financial Plan was released on February 12th, there have been some modifications to the Operating Budget:

- Group Health Insurance budget – prior to joining the State's Group Insurance Commission (GIC), the Town knew its final rate increase for the ensuing fiscal year in mid-January, allowing the Town Administrator to incorporate that into the Financial Plan. With the move to the GIC, the Town must wait until March to find out what the rate increase will be. During the first week of March, the GIC met and voted on the FY14 rates. In the aggregate, the rates approved by the GIC are lower than the 5% across-the-board rate increase assumed in the FY14 Financial Plan. While there were varying rate increases for the many different GIC plans, the aggregate increase is approximately 3.5%.

Based on these new rates, the Group Health budget for FY14 could have been reduced by $347,807 to $24,443,517. However, a review of updated health insurance enrollment information showed that there had been an increase of 19 subscribers since January. In order to account for that growth, the FY13 base upon which the FY14 budget is built had to be increased, thereby reducing the $347,807 that would have been available for re-allocation by approx. $175K, leaving $172,620 available for re-allocation. Of that amount, $39,582 is the School's share and $133,038 is the Town's. The School's share of the savings has been added to their appropriation while the Town's share was added to the Reserve Fund in order to protect against potential impacts from the Federal budget sequestration.

- School Budget – during the course of the review of the budget, the School Department's need to reduce programs, including a proposal to cut the Enrichment and Challenge Support (ECS) program and the General Music program, was met with great resistance. These two programs enjoy widespread support from the parent community and eliminating them for FY14 did not appear to be the best option. Both the Town and the Schools were committed to working to avoid these reductions. The end result was a four-pronged approach that allows for both programs to be continued in FY14:

  - Cuts to other parts of the School budget ($118K)
  - Re-allocation of $144K from the Town budget to the School budget (Town budget cuts $144K of Capital Outlay from the Health, Building, Police, and Fire departments)
  - Shifting of costs from the School's General Fund budget to program-specific special revenue funds (School Lunch and Summer School) ($80K)
  - Additional use of School reserves ($300K)

  We applaud the Town and School administrations for developing a plan to save these programs for FY14. However, it needs to be clearly noted that FY15 stands to be a major budget challenge for the Schools and this approach is simply acting as a "bridge" from FY14 to FY15. Due primarily to the budget pressures caused by the enrollment growth in the K-8 schools, discussion on the need for an Override for FY15 have begun. It is likely that the Board of Selectmen will establish an Override Study Committee to determine whether substantially more revenue capacity than what is currently anticipated is unavoidably necessary in order to maintain desired levels of services. This evaluation should be conducted through a comprehensive and thorough examination of Town and School finances, services, expenditures and capital needs, as well as the community's ability to pay. In light of the significance of increased School expenditures and capital needs to the long-term financial picture, and the fact that Town-side services have recently been examined by an Efficiency Initiative Committee, it is expected that the evaluation will focus on School operations, finances and capital requirements as they work to support the community's long-term strategic vision.

- Town Budget – in addition to the $144K reduction in the Capital Outlay section of the General Fund budget explained above under "School Budget", the budget before

you includes one smaller difference in the Operating Budget from the Financial Plan as presented by the Town Administrator: an additional $4,083 was added to the Council on Aging (COA) budget for an increase in hours for a part-time Social Worker from 20 hrs/wk to 30 hrs/wk. This was funded via a reduction in the Information Technology Department budget (Telecomm line-item).

- Enterprise Funds – the final difference from the Financial Plan is the Water and Sewer Enterprise Fund budget. Due to current anticipated MWRA Assessments being less than originally planned for, that budget was decreased by $285,830 to $26.93 million.

It should also be noted that there is some uncertainty regarding the level of State Aid. In January, the Governor proposed a budget that was reliant upon $1.9 billion of new taxes to support substantial increases for transportation and education aid. Due, in part, to the assumed additional taxes, the Governor's budget proposal resulted in an increase in Ch. 70 funding of $2.8 million (31%) for Brookline. The Town Administrator cautiously assumed a lower level of growth in Ch. 70 for the Financial Plan ($1.75 million, 20%) because of the resistance by the Legislature to the Governor's tax plan. The House approved a budget in late-April that included an additional $1.4 million (+16%) in Ch. 70, clearly below the $1.75 million increase assumed in the budget before Town Meeting. This $367K difference was partially offset by an additional $127K in Unrestricted General Government Aid (UGGA) and a reduction in State Assessments, leaving a gap of approximately $225 thousand.

The Senate budget process is set to begin in mid-May, when the Senate Ways and Means Committee presents its budget. After the full Senate debates it and approves a budget, a Conference Committee will be named by leaders of both the House and Senate to resolve differences between the two budgets and present a final budget recommendation to the Legislature. The Governor then has 10 days to consider vetoes to the budget. It could be late-June before a final State budget is approved. At this point, we feel comfortable recommending that no changes to the budget being presented to Town Meeting be made. There is a chance, however, that the final outcome of the State budget may warrant amendments to the FY 2014 budget at the November, 2013 Fall Town Meeting.

BUDGET SUMMARY

As shown in Table 1 on the following page, the General Fund budget proposed by the Advisory Committee totals $229 million, of which $220.97 million is appropriated, reflecting an increase of $5.57 million (2.6%). The remaining $8.06 million is the so-called "Non-Appropriated" portion of the budget. Table 2 on page 8-9 details the entire FY14 budget, including enterprise / revolving funds. In total, the $257.16 million reflects a 2.4% increase. This budget recommendation includes a General Fund Operating Budget of $212.39 million, which represents an increase of $9.92 million (4.9%); revenue-financed capital of $8.58 million; enterprise / revolving funds of $30.76 million (gross); and non-appropriated expenses of $8.06 million.

TABLE 1

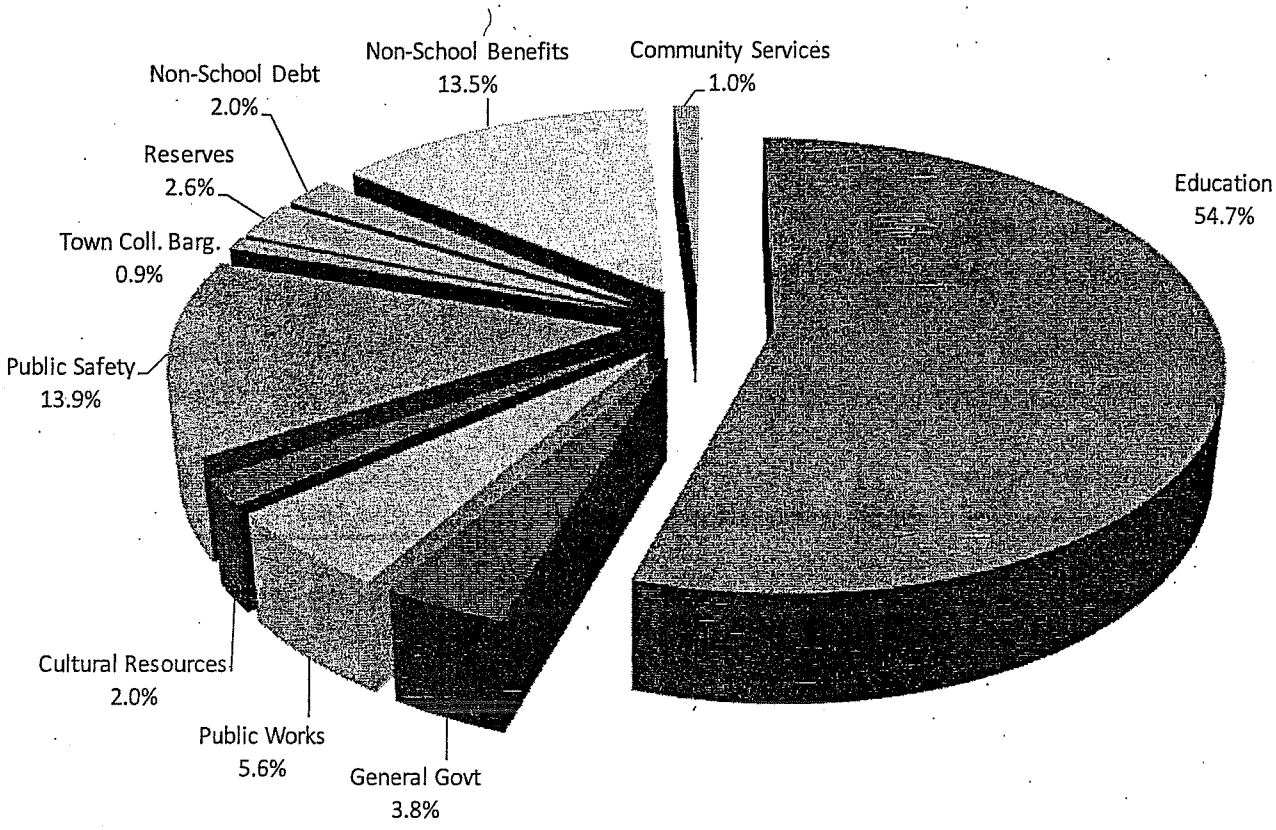
	FY2013 BUDGET	FY2014 BUDGET	INCREASE $	INCREASE %
REVENUE				
Property Tax	170,137,611	175,604,001	5,466,389	3.2%
Local Receipts	21,084,438	22,047,366	962,928	4.6%
State Aid	15,131,276	16,875,381	1,744,105	11.5%
Free Cash	5,336,413	7,655,155	2,318,741	43.5%
Other Available Funds	11,894,344	6,846,435	(5,047,909)	-42.4%
TOTAL REVENUE	**223,584,082**	**229,028,337**	5,444,255	2.4%
(LESS) NON-APPROPRIATED EXPENSES				
State & County Charges	6,087,819	6,222,733	134,914	2.2%
Tax Abatement Overlay	1,958,780	1,700,000	(258,780)	-13.2%
Deficits & Judgments	25,000	25,000	0	0.0%
Cherry Sheet Offsets	109,160	111,026	1,866	1.7%
TOTAL NON-APPROPRIATED EXPENSES	**8,180,759**	**8,058,759**	(122,000)	-1.5%
AMOUNT AVAILABLE FOR APPROPRIATION	**215,403,322**	**220,969,578**	5,566,256	2.6%
APPROPRIATIONS				
Town Departments	64,888,411	66,283,740	1,395,329	2.2%
School Department	79,079,823	82,780,770	3,700,947	4.7%
Non-Departmental Total	58,501,589	63,324,068	4,822,479	8.2%
General Fund Non-Departmental	56,208,800	60,694,188	4,485,388	8.0%
Water and Sewer Enterprise Fund Overhead *	1,855,987	2,125,747	269,759	14.5%
Golf Enterprise Fund Overhead *	155,037	150,416	(4,621)	-3.0%
Recreation Revolving Fund Overhead *	281,764	353,717	71,953	25.5%
OPERATING BUDGET SUBTOTAL	202,469,822	212,388,578	9,918,756	4.9%
Revenue-Financed CIP (Special Appropriations)	12,933,500	8,581,000	(4,352,500)	-33.7%
TOTAL APPROPRIATIONS	**215,403,322**	**220,969,578**	5,566,256	2.6%
BALANCE	**0**	**0**	**0**	

TABLE 2

	FY2013	FY2014	INCREASE/ $	%
REVENUE				
General Fund Revenue	223,584,082	229,028,337	5,444,255	2.43%
Water and Sewer Enterprise Fund	26,331,330	26,928,492	597,162	2.27%
(less Water & Sewer Overhead included in General Fund Revenue)	(1,855,987)	(2,125,747)	(269,759)	14.53%
Golf Enterprise Fund	1,204,000	1,210,000	6,000	0.50%
(less Golf Overhead included in General Fund Revenue)	(155,037)	(150,416)	4,621	-2.98%
Recreation Revolving Fund	2,388,655	2,624,069	235,414	9.9%
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(281,764)	(353,717)	(71,953)	25.5%
TOTAL REVENUE	**251,215,279**	**257,161,018**	5,945,739	2.4%
APPROPRIATIONS				
General Fund Operating Budget	202,469,822	212,388,578	9,918,756	4.9%
Non-Appropriated Budget *	8,180,759	8,058,759	(122,000)	-1.5%
Revenue-Financed CIP Budget	12,933,500	8,581,000	(4,352,500)	-33.7%
General Fund Total	223,584,081	229,028,337	5,444,255	2.4%
Water and Sewer Enterprise Fund	26,331,330	26,928,492	597,162	2.3%
(less Water & Sewer Overhead included in General Fund Revenue)	(1,855,987)	(2,125,747)	(269,759)	14.5%
Golf Enterprise Fund	1,204,000	1,210,000	6,000	0.5%
(less Golf Overhead included in General Fund Revenue)	(155,037)	(150,416)	4,621	-3.0%
Recreation Revolving Fund	2,388,655	2,624,069	235,414	9.9%
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(281,764)	(353,717)	(71,953)	25.5%
TOTAL APPROPRIATIONS	**251,215,279**	**257,161,018**	5,945,739	2.4%
BALANCE	**0**	**0**	**0**	

The fully-allocated $212.34 million General Fund Operating budget is broken out in the pie chart on the following page.

FULLY ALLOCATED FY2014 GENERAL FUND OPERATING BUDGET



FY2014 OVERVIEW

The FY 2014 Budget balances $257.16 million in revenue and expenses, including operation of the Town's enterprise activities. This budget represents an increase of 2.4% over the prior fiscal year. However, this rate of increase is understated for three reasons: (1) the accounting of $3.25 million of one-time revenues and expenses last year attributable to the sale of Town property at Fisher Hill and the use of those proceeds for the development of new parkland at Fisher Hill, (2) the use of $1.75 million from Overlay Surplus in FY 2013 for the feasibility/schematic design phase of the Devotion School project, and (3) the re-use of $560,000 of surpluses from prior Capital Improvement Program (CIP) accounts for new FY 2013 projects. When those are factored out, the growth of the budget in FY 2014 is 4.6%.

The highlights of the FY 2014 Financial Plan include:

- Increased State Aid.
- Additional funding for long-term Pension and OPEB liabilities in order to offset prior investment losses in the pension fund and reach the Annual Required Contribution (ARC) for OPEB's more quickly.

- Strong Free Cash position allowing for additional funding of the Capital Improvement Program (total CIP funding is equivalent to 8.4% of prior year net revenue).

- Proposed reorganization/consolidation of Human Relations/Youth Resources Department.

- Unprecedented growth in school enrollment restricting the School Department's ability to maintain class size and educational programs.

The FY 2014 Budget reflects a stabilizing economic situation after several years of retrenchment. All operating revenue sources are expected to experience positive growth in FY 2014. After suffering major losses in State Aid between FY 2008 and FY 2012, the Town's Chapter 70 education aid experienced a rebound in FY 2013. Continued growth in Chapter 70 aid is expected in FY 2014; however, the exact amount is uncertain at this time, as the State budget is not yet final for FY 2014. The Governor's budget proposal resulted in an additional $2.8 million (31% increase) for Brookline while the House budget included an additional $1.4 million (16% increase). The Senate budget process is set to begin in mid-May. The final outcome of the State budget may warrant amendments to the FY 2014 budget at the November, 2013 Fall Town Meeting.

The Town also continues to benefit from a reduced rate of increase in employee health insurance premiums. Since the Town's decision to join the State's Group Insurance Commission (GIC) in FY 2011, the cost for this major expense has moderated. FY 2014 rates are increasing, in the aggregate, 3.5%. This is less than the original estimate of 5%.

Despite an allocation of revenue providing the School Department with a 4.7% increase over their FY 2013 budget, unprecedented growth in school enrollment continues to place enormous pressure on the ability to maintain class size and educational programs. Clearly, this pressure will continue to be felt as school enrollment continues to increase and the Town is forced to re-open the Old Lincoln School in 2014. The B-SPACE Committee, a School Committee and Board of Selectmen initiated committee, is in the process of defining the manner in which the Old Lincoln School will be used and how other school space issues will be implemented in order to meet the classroom crunch. In addition, the Committee will be addressing longer-term budgetary consequences from the impacts of increasing school enrollment.

The FY 2014 Budget continues the conservative and modest approach that has served the Town well during the protracted economic downturn. Overall, funding for municipal departments is limited to a 2.2% increase, including the projected costs of increased salaries and wages. Full-time equivalent staffing in municipal departments is up slightly from FY 2013, resulting from targeted investments in the Health Department to meet demands imposed by new regulations (e.g., plastic bags and styrofoam bans) and in the DPW Transportation division to implement the new taxi medallion program.

The FY 2014 Budget complies with all Town financial policies, including a requirement to maintain an amount equivalent to no less than 10% of the Town's operating revenues in reserve. Investments in Pension and OPEB funding plans will help offset prior investment

losses and increase on-going funding commitments. Finally, the FY 2014 Budget includes a strong Capital Improvement Plan (CIP) that meets the challenges of expanding classroom capacity in public school buildings and the renovation of the Town's buildings, facilities and physical infrastructure.

Below is a summary table of the FY 2014 Budget. In the sections that follow, a more detailed review of revenues and expenditures is addressed.

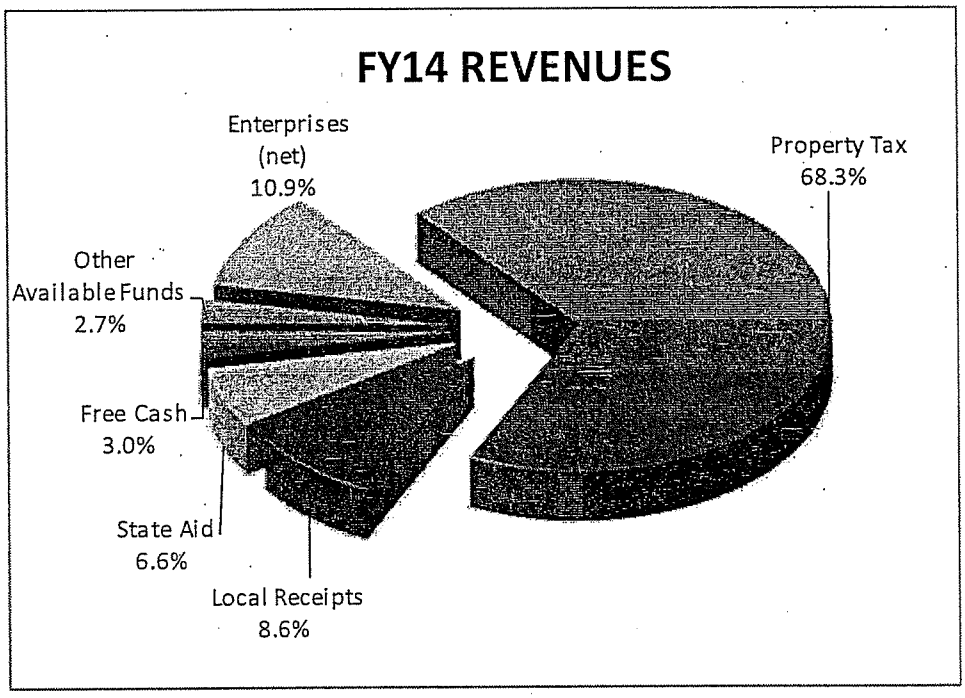
	FY 2013	FY 2014	$$$ CHANGE	% CHANGE
REVENUES				
Property Tax	170,137,611	175,604,001	5,466,389	3.2%
Local Receipts	21,084,438	22,047,366	962,928	4.6%
State Aid	15,131,276	16,875,381	1,744,105	11.5%
Free Cash	5,336,413	7,655,155	2,318,742	43.5%
Other Available Funds	11,894,344	6,846,435	(5,047,909)	-42.4%
Enterprises (net)	27,631,196	28,132,681	501,485	1.8%
TOTAL REVENUES	251,215,279	257,161,018	5,945,739	2.4%
EXPENDITURES				
Municipal Departments	64,888,410	66,283,740	1,395,330	2.2%
School Department	79,079,824	82,780,770	3,700,946	4.7%
Non- Departmental	58,501,588	63,324,068	4,822,479	8.2%
Special Appropriations	12,933,500	8,581,000	(4,352,500)	-33.7%
Enterprises (net)	27,631,196	28,132,681	501,485	1.8%
Non-Appropriated	8,180,759	8,058,759	(122,000)	-1.5%
TOTAL EXPENDITURES	251,215,279	257,161,018	5,945,739	2.4%

Revenues

Taxes: Property Taxes are projected to increase $5.5 million (3.2%) to $175,604,001 in FY 2014, representing more than two-thirds of the total revenue available to the Town. Of this amount, $4.2 million reflects the annual 2.5% allowable growth in the tax levy, $1.6 million from the value of new construction (New Growth) and $1.1 million for debt service on the High School project that the voters have excluded from the Proposition 2½ levy limit. The Town's property tax is overly reliant on residential property values. Despite the establishment of a higher tax rate for commercial property, the value of commercial, industrial and personal property in Brookline represents only 16.4% of the Town's total tax levy. The Town's goal is to increase the relative percentage of commercial and industrial tax base with development that is compatible with the neighborhood and limits negative impacts of traffic, noise and costly municipal services. In addition to the relief provided to residential taxpayers, additional commercial development adds jobs, vitality and residual revenue (e.g., meals taxes and parking meter receipts) for the Town. We look forward to improvement in the overall economy necessary to facilitate planned commercial development such as the project at 2 Brookline Place along the Brookline Avenue corridor.

Under state law, taxes on the value of automobiles (Motor Vehicle Excise) and taxes on hotels and on meals are included in the Local Receipts category.

Local Receipts: FY 2014 Local Receipts are projected to increase $962,928 (4.6%) to $22,047,366. This category of revenue represents a variety of sources generated by Town fees and charges. Most prominent are the Motor Vehicle Excise (MVE) tax, Parking and Traffic fines, Building Permit fees, the Trash Collection charge, and Local Option Taxes (meals and lodging). In FY 2014, Local Receipts are increasing for the third consecutive year, following the trend of the economic recovery. However, this level of Local Receipts has still not rebounded to the level the Town generated in FY 2008. This year, the projected growth comes from Benefit Reimbursements ($262,175), Local Option Taxes ($200,000), Parking Tickets ($200,000), MVE ($100,000), and the Medicare Part D Subsidy ($100,000), among other smaller increases.

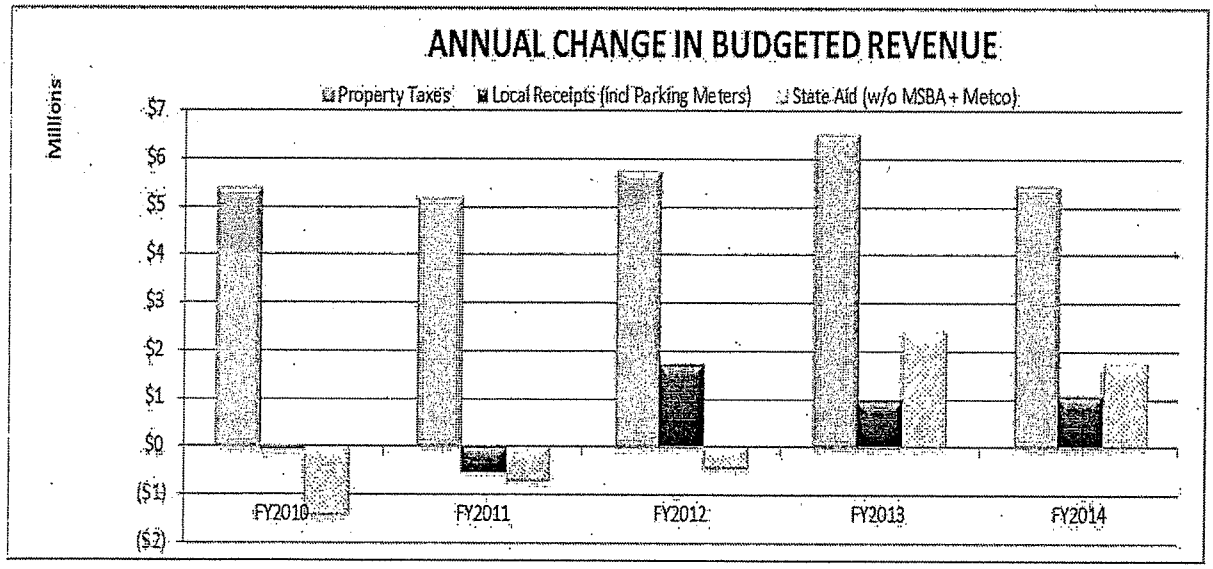


State Aid: The original FY 2014 Financial Plan assumed growth in State Aid of $1.7 million (11.5%) to $16,875,381, including reimbursement of school construction costs under the old SBA program. This level of aid represents the second consecutive year of an increase, after FY 2013 represented the first increase since FY 2008. Governor Patrick proposed a statewide increase of $226.2 million (5.4%) in the Chapter 70 Education funding category. For Brookline, which has experienced a dramatic increase in student enrollment with related impacts on the cost of special education and English learning services, the increase in aid was substantial ($2.8 million, 31.1%). However, the Financial Plan assumed a smaller rate of growth ($1.75 million, 19.6%) since the Governor's proposal was dependent upon the Legislature's willingness to adopt the broad based tax increases he included in his budget. The House ultimately approved a budget that included an increase of $1.4 million for Brookline. Unrestricted General Government Aid (UGGA) was originally estimated to be level funded in FY 2014 at $5.37 million. However, the House increased it by $126,936 for Brookline, helping to reduce the gap between what the budget assumes for Ch. 70 funding and what the House included. (There is a difference of $224,505 between what the Budget assumes for Net State Aid and what the House budget included.)

As stated in the "Actions Since the Release of the Financial Plan" section of this Recommendation, there is some uncertainty regarding the level of State Aid. It could be late-June before a final State budget is approved. At this point, we feel comfortable recommending that no changes to the budget being presented to Town Meeting be made.

There is a chance, however, that the final outcome of the State budget may warrant amendments to the FY 2014 budget at the November, 2013 Fall Town Meeting.

Free Cash: FY 2014 Free Cash proposed to fund the Budget is $7,655,155, an increase of $2.3 million (43.5%) from FY 2013. Free Cash represents the unrestricted fund balance from the prior fiscal year as certified by the State Department of Revenue. FY 2014 is the second year of the new financial policy that mandates a minimum level of operating reserves. The amount of certified Free Cash available for appropriation in FY 2014 is $9,654,859. In order to ensure that the Town's operating reserves will exceed 10% of operating revenues, the budget uses only $7.7 million of Free Cash for allocation in the FY 2014 Budget. Pursuant to the Town's financial policies, Free Cash is used only to support non-operating purposes. More than $4.8 million of the $7.7 million of Free Cash allocated to the FY 2014 Budget is being used to fund the CIP, with the remainder going toward reserves and employee benefit related trust funds.



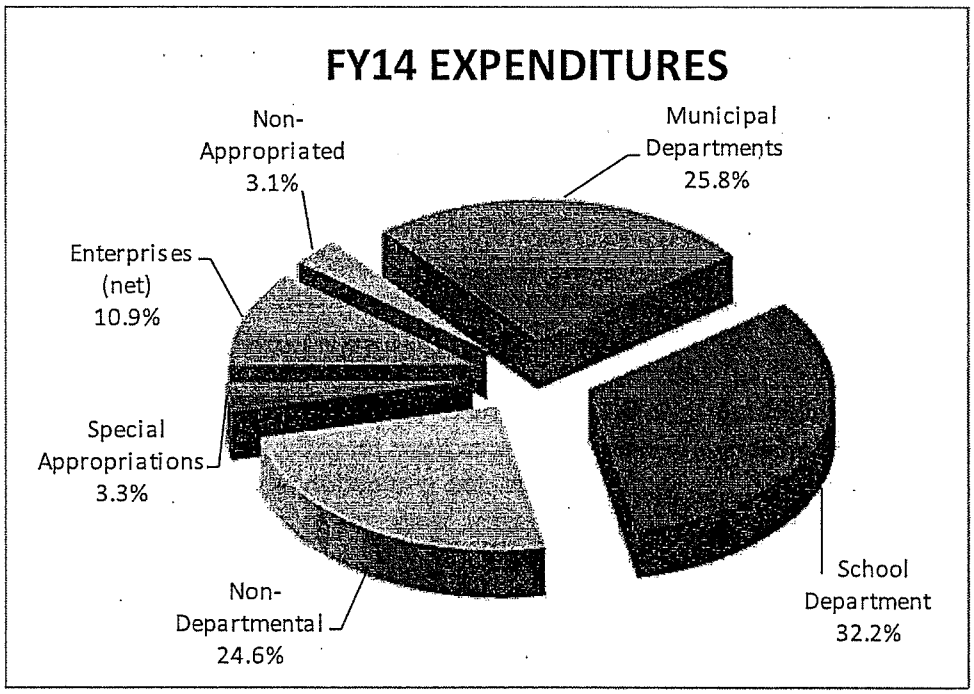
Other Available Funds: The FY 2014 Budget proposes the use of $6,846,435 in other funding sources. Of this amount, $4.1 million is from Parking Meters and $2.6 million is due to reimbursements from Enterprise/Revolving Funds. The $5 million (42.4%) decline in this category of revenue is the result of one-time monies used in FY 2013 for CIP purposes ($3.25 million from the proceeds of the sale of the Fisher Hill property that was earmarked for development of new parkland on Fisher Hill, $1.75 million from Overlay Surplus that funded the feasibility / schematic design phase of the Devotion School project, and $560,000 of "re-captured" funds from old capital projects). It should also be noted that an additional $25,000 (50% increase) from Cemetery trust funds are being used to reimburse the General Fund for expenses budgeted for in the DPW budget.

Enterprises: The Town operates and accounts for its Water/Sewer system and Golf Course as self-supporting enterprises. Similarly, most programs and services of the Recreation Department are accounted for in a separate Revolving Fund. The fees and other revenues attributable to these operations are proposed to be $28,132,681, net of the reimbursements to the General Fund mentioned above under Other Available Funds, an increase of $501,485 (1.8%). An equal amount is included in the expenditure side of the budget.

Expenditures

Municipal Departments: In FY 2014, the projected cost for all municipal (non-school) departments is $66,283,740, an increase over FY 2013 of 2.2% ($1.4 million). This amount includes a reserve for wage and salary increases for municipal employees, conditional upon negotiated settlements. The number of full-time equivalent personnel in municipal departments is being increased slightly from FY 2013 in response to unique demands. This includes targeted staffing in the Health Department to meet demands imposed by new regulations (e.g., plastic bags and styrofoam bans) and in the DPW Transportation Division to implement the new taxi medallion program. We have also brought the Building Department's pest control operation in-house after an unfavorable contractual experience. In anticipation of future reductions in the federal Community Development Block Grant (CDBG) program, we have transferred $26,506 in Planning and Community Development staff expenses from the grant back to the Town's budget. Finally, we have budgeted for a long overdue increase in the compensation rate for part-time election workers.

In general, any increase in departmental expenses was limited to an actual increase in personnel costs, materials or contracted services. A more detailed review of issues involving municipal department operations is included in Sections II and IV of the Financial Plan.



School Department: The allocation of funds to the School Department acknowledges the "bottom-line" budget authority of the School Committee. A formula has been developed that shares the projected change in the Town's general fund revenue from one year to the next on a 50/50 basis between municipal departments and the School Department, offset by respective shares of fixed costs such as personnel benefits and energy. The School Department continues to be impacted in FY 2014 by increasing enrollment. As a result, the temporary adjustment of the formula that takes into consideration the extraordinary impacts

of increased enrollment is maintained for FY 2014. This was achieved by distributing the projected increase of $750,000 in enrollment costs 50/50, with the Town absorbing $375,000. The proposed FY 2014 School budget is $82,780,770, inclusive of negotiated salary increases. This budget represents an increase of 4.7% ($3.7 million).

As explained in the "Actions Since the Release of the Financial Plan" section of this Recommendation, during the course of the review of the budget, the School Department's proposal to cut the Enrichment and Challenge Support (ECS) program and the General Music program was met with great resistance. These two programs enjoy widespread support from the parent community and eliminating them for FY14 did not appear to be the best option. Both the Town and the Schools were committed to working with the Schools to avoid these reductions. The end result was a four-pronged approach that allows for both programs to be continued in FY14:

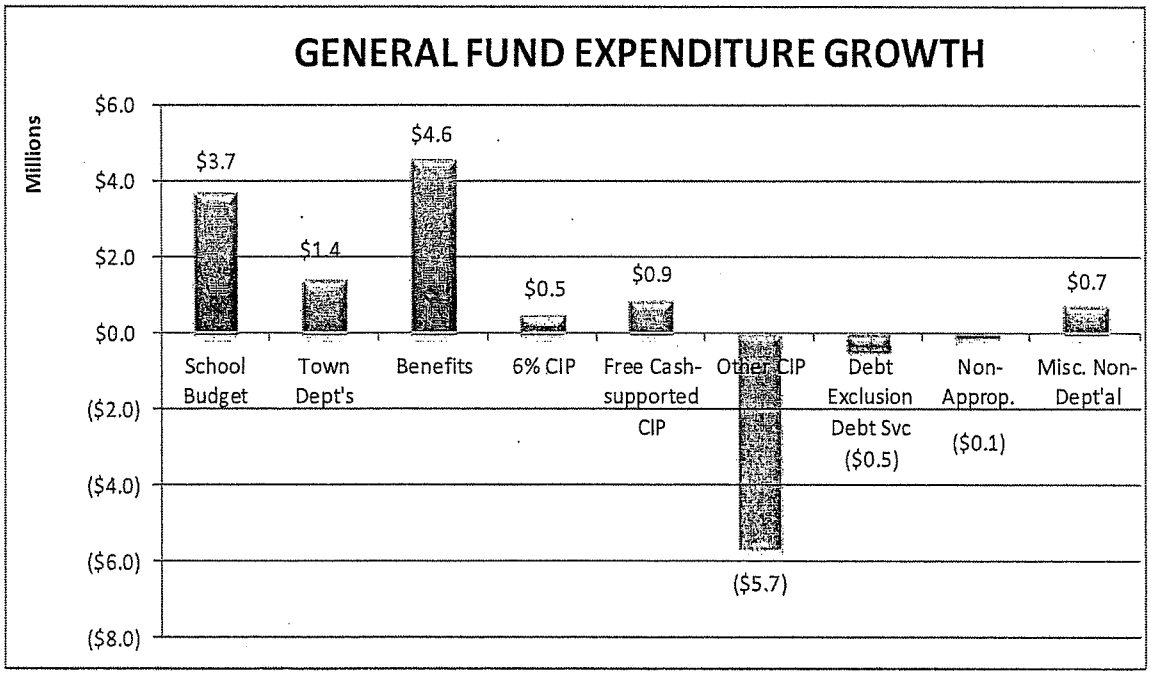
- Cuts to other parts of the School budget ($118K)
- Re-allocation of $144K from the Town budget to the School budget (Town budget cuts $144K of Capital Outlay from the Health, Building, Police, and Fire departments)
- Shifting of costs from the School's General Fund budget to program-specific special revenue funds (School Lunch and Summer School) ($80K)
- Additional use of School reserves ($300K)

We applaud the Town and School administrations for developing a plan to save these programs for FY14. However, it needs to be clearly noted that FY15 stands to be a major challenge for the Schools and this approach is simply acting as a "bridge" from FY14 to FY15. Due primarily to the budget pressures caused by the enrollment growth in the K-8 schools, thoughts of an Override for FY15 have begun. It is likely that the Board of Selectmen will establish an Override Study Committee to determine whether substantially more revenue capacity than what is currently anticipated is unavoidably necessary in order to maintain desired levels of services. This evaluation should be conducted through a comprehensive and thorough examination of Town and School finances, services, expenditures and capital needs, as well as the community's ability to pay. In light of the significance of increased School expenditures and capital needs to the long-term financial picture, and the fact that Town-side services have recently been examined by an Efficiency Initiative Committee, it is expected that the evaluation will focus on School operations, finances and capital requirements as they work to support the community's long-term strategic vision.

Non-Departmental: This is a large category of expenses that incorporates personnel benefits for municipal and school employees, debt service on bonds, insurance coverages and special reserve funds. The proposed budget for FY 2014 is $63,324,068, an increase of 8.2% ($4.8 million) from FY 2013. The largest of these expenses is the cost of health insurance for the Town's eligible employees and retirees (including employees and retirees of the School Department). In July of 2010, the Town joined the State's Group Insurance Commission (GIC), which provides health insurance for all state employees and retirees. The GIC plan has been very favorable for both the Town and its employees, resulting in substantial cost savings. In FY 2013, the rate of premium increase for the GIC plans increased in the aggregate by 2.2%. For FY 2014 Budget, the premium rate increase is 3.5% in the

aggregate. The Town continues to proactively fund its long-term liability for retiree health care benefits. Referred to as Other Post-Employment Benefits (OPEB), the FY 2014 Budget increases base funding by $450,000, adds an allocation of $400,000 from anticipated reimbursements from the Town's participation in the Medicare Part D (drug prescription) program, includes an allocation of $100,000 from the run-off in the Non-Contributory Pension line-item and adds $311,000 of reimbursements from Special Revenue Funds. Finally, there is an additional allocation of $500,000 from Free Cash. If the Town continues to fund this liability in this manner, we will reach the actuarially determined Annual Required Contribution (ARC) in approximately 10 years.

Special Appropriations: The Town funds its Capital Improvement Program (CIP) through a combination of current funding and debt. A portion of the cost of large school building projects is reimbursed by the Commonwealth of Massachusetts. The Town has successfully concluded its expansion/renovation of the Health and Runkle Schools, and has begun planning for a comprehensive project at the Devotion School, the Town's largest elementary school. We are pleased to report approval to reimburse approximately 40% of this project by the Massachusetts School Building Authority (MSBA). An additional appropriation of $1,750,000 will be used to increase existing school classroom capacity and a $3 million bond authorization is included to make necessary improvements to the Old Lincoln School so that it can play a role in addressing the enrollment problem. The revenue-financed portion of the 6% CIP Policy is $3,762,255 in FY 2014. When adding in a $4,818,745 allocation from available Free Cash, the total revenue-financed CIP is $8,581,000, representing a healthy 8.4% of the Town's prior year net revenue. A more detailed discussion of the CIP is included in Section VII of the Financial Plan.



Non-Appropriated: This category includes required expenses that are raised directly without appropriation by Town Meeting. This includes State Charges, of which the largest sum is the

Town's assessment to the MBTA ($5 million); the Overlay, which is a reserve for tax abatements and exemptions issued by the Board of Assessors ($1.7 million); and the Norfolk County assessment ($766,133). Overall, the cost of Non-Appropriated items in FY 2014 is $8,058,759, a decrease of 1.5% ($122,000) from FY 2013.

Enterprises: The Town funds its Water/Sewer, Recreation and Golf activities largely through self-supporting revenues. These are accounted for separately from the Town's General Fund through formal enterprise and revolving funds. The net cost of Enterprises in FY 2014 is $28,132,681, an increase over FY 2013 of 1.8% ($501,485). The Town is continuing to refine the costs of the enterprises, both direct and indirect, to ensure that the financial relationship between these funds and the General Fund is appropriate.

FY 2014 POLICY ISSUES AND INITIATIVES

A budget should be a management tool in additional to a plan to legally balance the Town's revenues and expenses for the following year. As a result, we use the budget process to strategically address certain management and operational issues for the Town. Below, please find those policy areas which received our attention this year.

- **Human Relations/Youth Resources Reorganization:** After 39 years of dedicated service to the Town of Brookline, Human Relations/Youth Resources Director Steve Bressler announced his retirement effective April 30, 2013. We wish Steve well and thank him for his countless contributions to Brookline town government and community life. Brookline is a very diverse and progressive community. Its commitment to human rights and opportunities for youth and other groups was strengthened by Steve's leadership and efforts.

  Since its inception in 1970, the scope of the Human Relations/Youth Resources Department has changed as society, the law and the organization of town government have evolved. Over time, the staffing for the Department has been reduced to just the Director. The departure of the Director provides an appropriate time to review the services that are provided under the Human Relations/Youth Resources umbrella. It is my intent to reorganize the staffing and jurisdiction of the Department to more effectively support human relations and youth services programming and to coordinate related human service functions of the Town. It is not my intent to lessen the Town's commitment to human relations or to eliminate the Human Relations/Youth Resources Commission. The Commission will remain an important Town body to advocate, oversee and advise the Board of Selectmen on matters relating to opportunities for disadvantaged persons in employment, housing and public services.

  Essentially, the reorganization involves merging and consolidating the Human Relations/Youth Resources Department within the Health and Human Services Department. The efficiencies in this consolidation will result in better coordination and expansion of a range of human services provided by the Town. The existing Human Services Coordinator position will be expanded to become the Human Relations and

Human Services Administrator. An additional professional position will be created to manage human relations and human services programming and to support the Administrator in staffing the Human Relations/Youth Resources Commission and other related citizen committees, including the Women's Commission and the Commission for the Disabled. In addition to making sense organizationally, the reorganization proposal results in a positive budget consequence: a budget savings of $42,000 will be realized through the reorganization.

- **Open Government:** The Town of Brookline continues to move forward in providing access to information, increased convenience of key transactions on-line and improving the responsiveness and communication of Town departments. To accomplish this, we must align our departmental operations to be more responsive to the needs of the public and to provide convenient and effective access to key information and services.

  - Building Better Tools: With the launch of BrookOnLine in 2011, our vision was to create a framework within our BrooklineMA.gov Website that would serve as the primary electronic access point for the public to "Interact and Transact" with the Town. While the initial goal was to provide added convenience by offering a consolidated suite of services that enable easier access to popular transactions, information our added focus will be to increase efficiency in servicing requests and improve communication with the public. Last year, the Town introduced its BrookOnLine suite of mobile applications, including: 1.) Citizen Reporter - providing citizens with a more direct and effective way to file complaints; 2.) E-Mail Notifications - giving citizens the power to tailor their electronic notifications from the Town; and 3.) On-Line Bill Presentment - offering a paperless and centralized payment system introducing notifications, automated payments and the ability to view payment history.

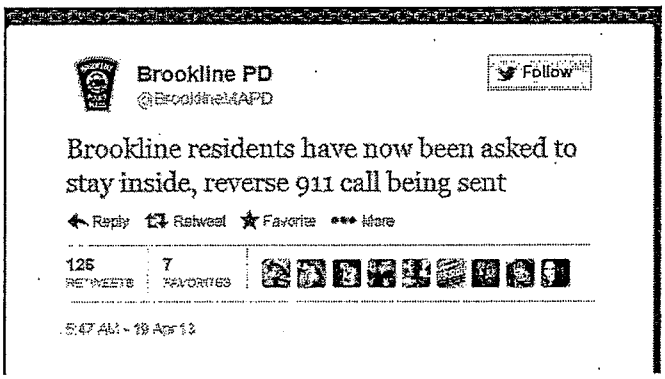
	Abandoned Bike	Broken Parking Meter	Damaged Sign	Graffiti	Other	Park Playground Equipment	Pothole	Public Trees	Roadway Plowing/Sanding	Sidewalk Repair	Streetlight	Unshoveled Sidewalk	Grand Total
All	30	514	331	246	40	26	139	98	7	186	272	96	1,985
CY 2012	26	348	234	186	0	24	112	96	4	149	228	22	1,429
Oct '12 - Jan '13	18	465	24	87	0	9	27	15	4	30	128	88	895
						% CLOSED WITHIN 7 DAYS							
All	36.7%	95.3%	54.7%	31.3%	65.0%	76.9%	76.3%	67.3%	42.9%	53.2%	36.4%	99.0%	64.1%
CY 2012	42.3%	93.7%	53.8%	30.1%	0.0%	75.0%	73.2%	66.7%	50.0%	49.7%	28.5%	95.5%	59.1%
Oct '12 - Jan '13	16.7%	98.9%	41.7%	14.9%	0.0%	66.7%	70.4%	80.0%	25.0%	43.3%	33.6%	98.9%	74.5%

In addition to being essential to improve the interaction with the public and the delivery of services, this app collects data that will enable important feedback to

key departments for use in strategic planning. We envision BrookOnLine serving as a Virtual Town Hall, an intuitive, convenient and responsive complement to our existing departmental organizations.

- Improving Communication: During FY 2013, The Town embraced and leveraged Social Media to improve communication with the public by providing better distribution of information, timely updates on key events and general and consolidation of many of the Town's important notices.

  The Town's Facebook page, www.facebook.com/brooklinema and Twitter account, @townofbrookline, were put to work during Hurricane Sandy in October, 2012, the blizzard known as Nemo in February, 2013, and the recent events following the tragic bombings at the Boston Marathon.



  In complimenting the existing BrooklineMA.gov website and its mobile counterpart, Social Media has proven to be effective as a large scale communication method better tailored to the public's interest in some instances. With the continued growth of smartphones and digital communications, the Town is well positioned to increase outreach and public engagement in Governmental affairs among our constituents.

- Performance Management: A major initiative in the Town Administrator's Financial Plan is the use of Performance Management in the Town's budgeting and operations. Unlike other trends or fads in management practices, we believe Performance Management is an established practice that is here to stay. The building blocks of Performance Management are basic and effective management principles: establishing strategic goals and objectives, regularly measuring progress towards these goals and making this information transparent to citizens and stakeholders. Performance management is the next and logical step from our requirement that each Department Head establish **SMART** goals (**S**pecific, **M**easurable, **A**ttainable, **R**ealistic and **T**imely). Performance management is a tool that will allow a Department to better represent its successes and challenges. The ultimate goal is to bring more rigor and rationality to the process of budgeting and management and to use data and facts as much as possible to drive our decision-making.

The manner in which the Town will implement Performance Management is varied and, to some degree, a work in progress. Over the last year, we have researched and experimented with many different approaches to using departmental data strategically. In 2012, we were fortunate to have been selected to participate in the Massachusetts Municipal Performance Management Program run by the Collins Center for Public Management in the McCormack Graduate School of Policy and Global Studies at UMass Boston. Our Public Works and Police Departments were the participants in this initiative and developed skills and experience to implement performance management in its operations. Along with the Human Resources Department, these departments will help mentor and train other departments in this process.

With respect to the FY 2014 budget process, we have encouraged departments to focus more on Efficiency and Effectiveness Performance Measures. Specifically, each department head has prepared at least three new measures that relate to their departmental objectives and help document actual progress toward meeting them. While we have retained prior Workload Indicators that help quantify aspects of each department's activities, we are hopeful that the new Performance Measures will better explain how effective a department is and help them achieve their objectives. Examples of the new Performance Measures include:

Department	Objective	Measure	FY13 EST	FY14 EST
Health	To continue to implement hand-held tablets for inspections with Information Technology Department and enhance GIS applications using updated software for all inspections, with a goal of providing on-line access to inspectional information and permit renewals.	% of inspectional and permit information available online.	6%	31%
IT	To continue to manage the lifecycle management strategy for all enterprise applications.	Enterprise Applications % Uptime	99.5%	99.5%
Police	To reduce crime in all categories through a variety of patrol procedures, tactics and emphasis on problem areas.	Part A Crime- Clearance Rate	45%	47%
DPW	To Measure the Effectiveness of Implemented Traffic Calming Projects	Reduction of Motor Vehicle Speed Post Traffic Calming measures	> 5 MPH	> 5 MPH
Building	To implement a new work order system (SchoolDude) as part of an effort to track work orders more closely, improve the time it takes to respond to and complete work orders, and look at the total allotment of time to complete jobs.	% of Work Orders Completed in less than 3 days	36%	45%

- Public Feedback: Another component within our Performance Management initiative is the decision to use the National Citizen Survey™ (NCS) to assess citizen attitudes toward and level of satisfaction with Town programs and services. In addition to statistics that demonstrate performance toward meeting objectives, it is actual citizen feedback that ultimately determines success in departmental performance. Within the FY 2014 Budget is $15,000 to implement the Survey. Developed by ICMA and the National Research Center, the NCS is a

low-cost survey instrument for local governments that has been developed by outside experts free of bias and establishes a neutral benchmark that all parties can accept. If done periodically, the survey will enable the Town to measure performance as viewed by residents. The NCS is currently used by over 500 municipalities in most states. In Massachusetts, the towns of Needham and Andover have used the NCS effectively. As a result, Brookline will also be able to compare itself with other "like" communities.

- Achieving the Goal of Open Government: By combining data collected by departments, outside entities and measuring against generally accepted benchmarks, the Town will be well positioned to quantify the level and public satisfaction associated with key services. It is our goal to easily represent the key service categories at multiple levels to aid in strategic planning for future budget sessions.

  The use of "dashboards" has become a popular way of summarizing key performance indicators for government agencies. Dashboards are a quick and easy way to show citizens and others important performance indicators and the status of major projects or activities. They provide municipalities with a stage on which to articulate goals, priorities and strategies, and to monitor activity through performance metrics. Over time, it is our goal to have each department produce a dashboard that represents the status of its major priorities and activities. Meanwhile, this FY 2014 Financial Plan includes an "executive level" dashboard that lists some of the major factors that makes a community successful. We have chosen to list the following factors: Quality of Community, Fiscal Strength, Public Safety, Public Health, and Education.

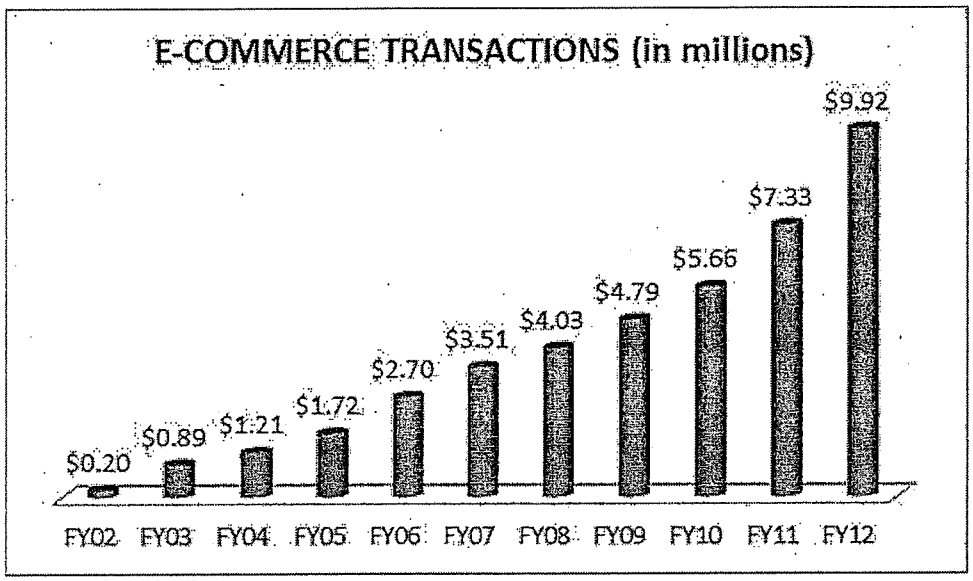
  In addition to the Dashboard, the Town continues to explore ways to engage its citizenry. This year, we have begun to explore a way to open the Town's financial "books" to the public. Referred to as "Open Checkbook", this web based feature has been used by the Commonwealth of Massachusetts and many other governments allowing users to review the details of expenditures in real time. We hope to establish a modest "proof of concept" during FY14 to best gauge the functionality and useful components to be fully implemented in the future.

  By combining performance metrics, financial data and key information in one portal, the public will have open and transparent access to governmental activities. It is our hope that Brookline becomes the model which others hope to follow.

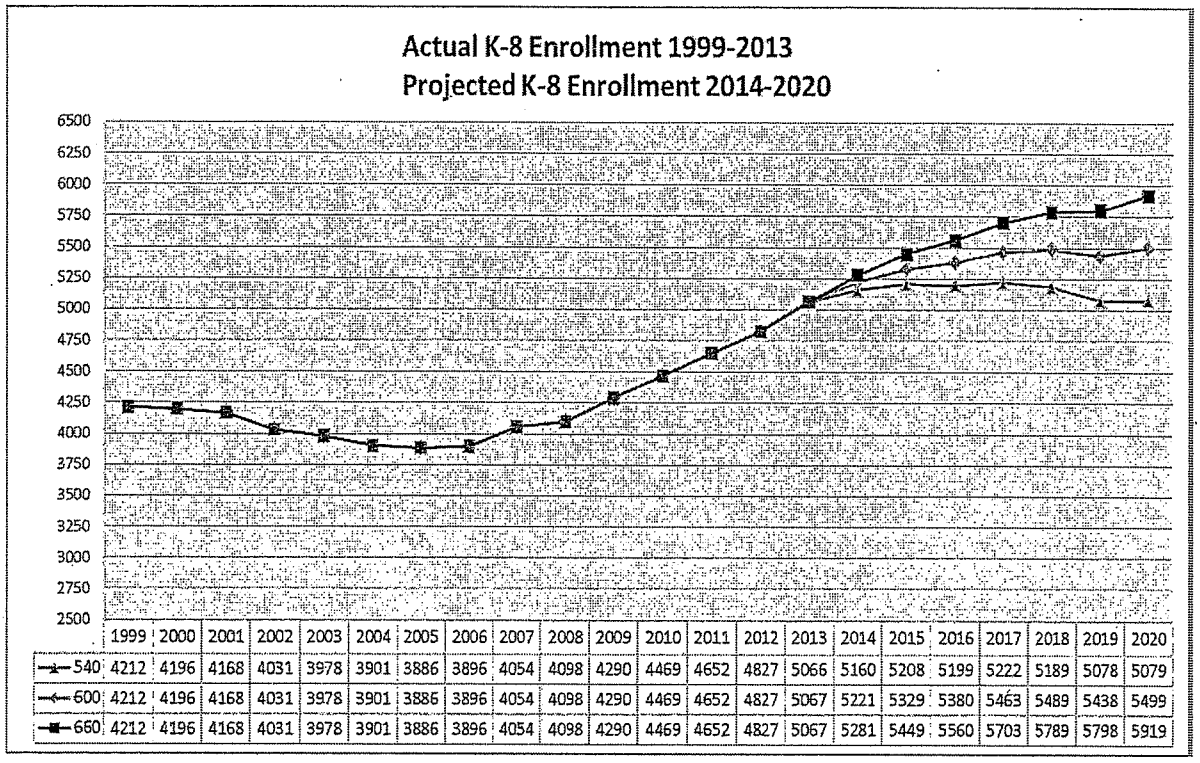
Town of Brookline Community Dashboard			
	2010	2011	2012
Quality of Community			
Bachelor's Degree or higher, % of persons age 25+			
Brookline			80%
Massachusetts			39%
Property Value	$14,841,644,460	$14,926,437,080	$15,264,163,420
Percentage of Affordable Housing Stock	8.03%	8.03%	8.08%
Storefront Vacancy Rates	6.1%	5.9%	5.2%
Recycling Rate	30.7%	34.3%	36.8%
Fiscal Strength			
Credit Rating	Aaa	Aaa	Aaa
Funding of Long-Term Liabilities (Funding Ratio)			
Pensions	67.3%	61.6%	55.9%
OPEB's	3.4%	6.3%	10.0%
Unreserved Fund Balance as a Percent of Revenue	10.5%	10.6%	11.2%
Residential Tax Bill	$7,370	$7,573	$7,840
Average Assessed Value of Single Family Home	$1,022,400	$1,027,300	$1,059,400
Average Assessed Value of Condo	$423,000	$423,900	$421,900
Public Safety			
Total Part A Crimes	1,048	961	944
Fire Response Time (Avg.)	3:30	3:37	3:48
Ambulance Response Time (% of Calls Responded to in <6 min)	94.10%	94.80%	93.40%
Public Health			
Life Expectancy			
Brookline	na	na	87 yrs old
Massachusetts	na	na	81 yrs old
Obesity Rate Among School-age Children			
Brookline	na	na	20.5%
Massachusetts	na	na	32.4%
Education			
SAT Scores			
Critical Reading	564	588	599
Math	598	613	630
Writing	571	594	606
Percentage of Students Enrolling in College	98	96	99
Four-Year Graduation Rate	90	90	91

- On-Line Transactions - The Town believes that use of the Internet will continue to revolutionize the way citizens transact business with their local government. In addition to providing more flexibility and convenience to users, on-line transactions should help the Town minimize time and labor to process them. Each department has been directed to enhance their information and transactions available on-line. In addition to the BrookOnLine features, other initiatives to enhance on-line transactions include the application for building permits and health permits. The Selectmen's Office has been working with a new agenda management system that integrates the setting of the meeting agenda with producing minutes of the meetings. The documentation associated with each agenda item is scanned and attached electronically to the agenda, which is then posted on-line for public access.

One obvious concern for the Town is the costs associated with processing third party credit card transactions. In FY 2014, the Town has budgeted $319,000 to fund the costs associated with in-line and on-line credit card transactions. The largest piece is $135,000 for accepting credit cards at parking meters. While these costs are a concern and will continue to be monitored, the use of credit cards in society is growing and is quickly becoming an expected form of payment to be accepted by government. Credit card acceptance is ubiquitous and the Town is well-positioned to continue to offer this payment option to residents.

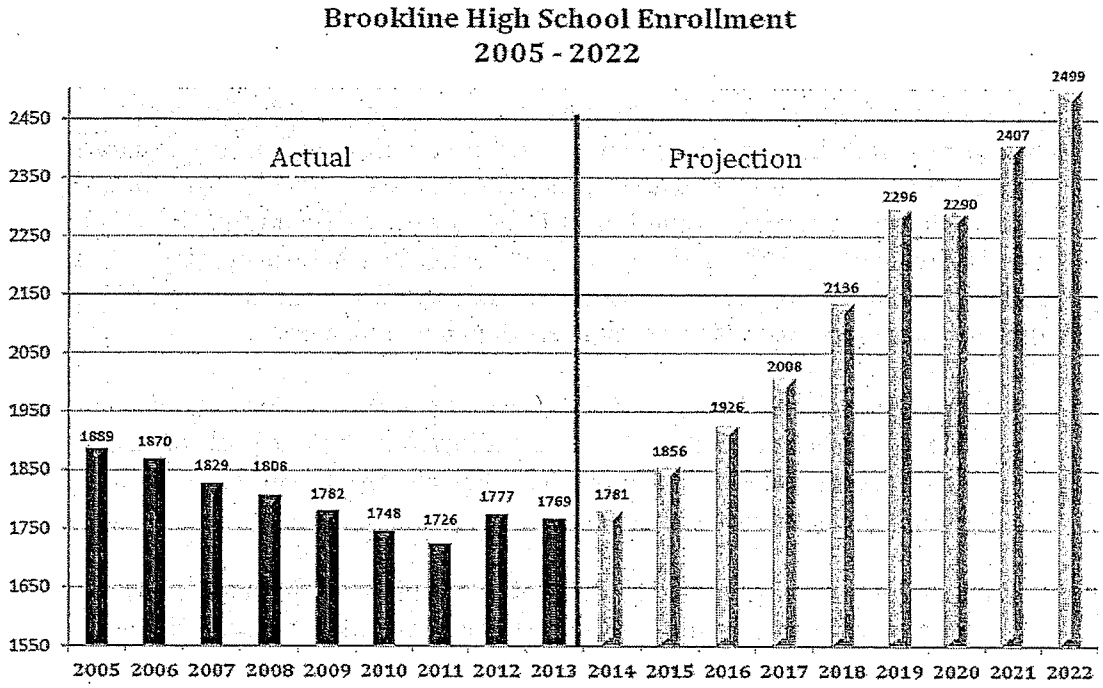


- **School Enrollment Challenge**: Much has been written and said about the unprecedented increase in school enrollment within the Brookline school system. A few statistics bear repeating. In Fiscal Year 2013, 660 new Kindergarten students entered the system, continuing a trend of increasing enrollment in this grade. Overall, K-8 enrollment has increased by 240 students this year, up to 5,067. It is expected that this trend will continue for the foreseeable future, with a projection of up to 5,900 students by FY 2020.



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
540	4212	4196	4168	4031	3978	3901	3886	3896	4054	4098	4290	4469	4652	4827	5066	5160	5208	5199	5222	5189	5078	5079
600	4212	4196	4168	4031	3978	3901	3886	3896	4054	4098	4290	4469	4652	4827	5067	5221	5329	5380	5463	5489	5438	5499
660	4212	4196	4168	4031	3978	3901	3886	3896	4054	4098	4290	4469	4652	4827	5067	5281	5449	5560	5703	5789	5798	5919

Naturally, this growth will impact the High School within a few years. As shown in the chart below, the current High School population of 1,769 will steadily increase, reaching a projected 2,500 students within 10 years.



Much of the focus on the enrollment issue to date has been on the physical space necessary to house all students within the existing K-8 school buildings. The Capital Improvement Program has allocated funding over the last few years to renovate/convert

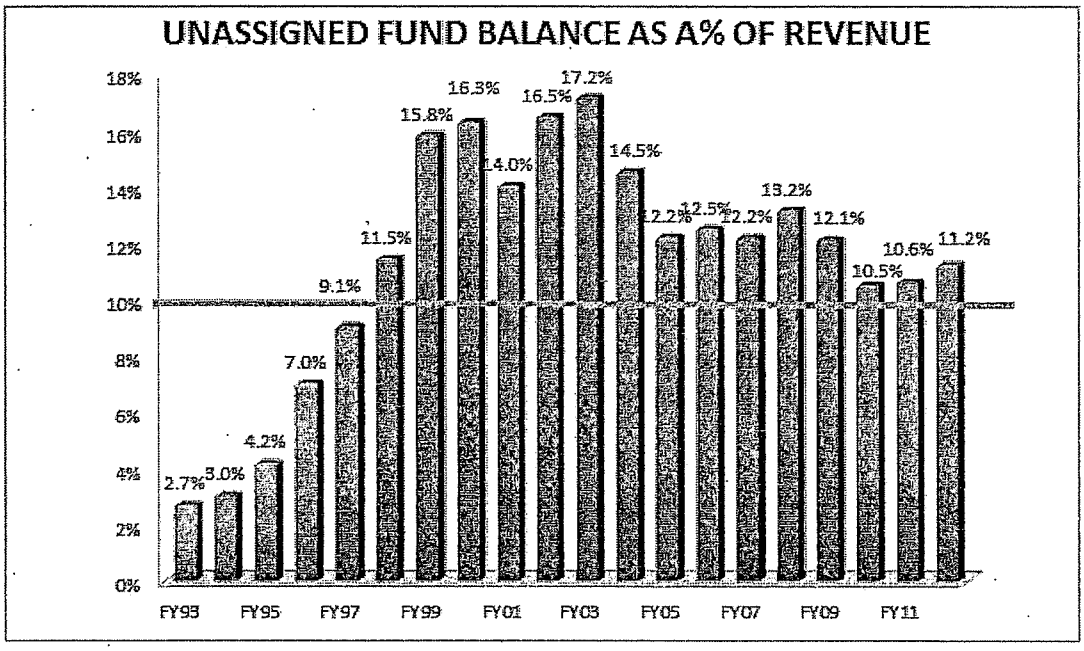
space within existing school buildings to create additional classrooms. This creative work has yielded the 37 new classrooms required to house the students. In addition, the Town recently completed expansion and renovation to the Heath and Runkle Schools. Planning is underway for the Devotion School renovation/addition project, the Town's largest elementary school building. Even with all of this work, classroom space will be insufficient in 2014 and beyond. For the mid-term, the School Department is evaluating the most effective way to re-open the Old Lincoln School on Route 9 to help accommodate this growth. In the shorter term, the School Department is aggressively pursuing the lease of private classroom space within Brookline to house the Pre-K school population, which will in turn free-up necessary classroom space in the K-8 grades. The use of modular classrooms at the Lawrence School is also being explored. Finally, difficult choices on assignment of school districts and creation of flexible "buffer zones" will be necessary to ensure that available space within the school system is used to its capacity. A feasibility study of the High School is also underway to begin planning classroom expansion of that building.

In addition to the space crunch, the effects of increasing enrollment on the operating budget are significant. It is estimated that the costs associated with enrollment growth (teaching personnel and related benefits) will total approximately $1 million in FY 2014. When the Town is required to re-open the Old Lincoln School in the fall of 2014, these costs will expand even further. With this in mind, the Board of Selectmen and the School Committee have established a special committee to consider a range of concepts for the new school and to evaluate the use of space and necessary renovations across the entire system. Referred to as B-SPACE (Brookline School Population & Capacity Exploration), this new committee is in the process of identifying options for and the costs of school space expansion.

- **Financial Reserves and Long-Term Liabilities:** The maintenance of financial reserves and funding of long-term liabilities are crucial to the Town's financial well-being and bond rating. In 2010, the Town was warned by the independent rating agency, Moody's Investors Service, of concerns over a downward trend in the Town's financial reserves. As a result, we re-convened the Fiscal Policy Review Committee (FPRC) to review the Town's financial policies and recommend revisions where necessary. The Committee produced a report with several recommendations, all of which the Board of Selectmen ultimately adopted. Two of the major recommendations were:

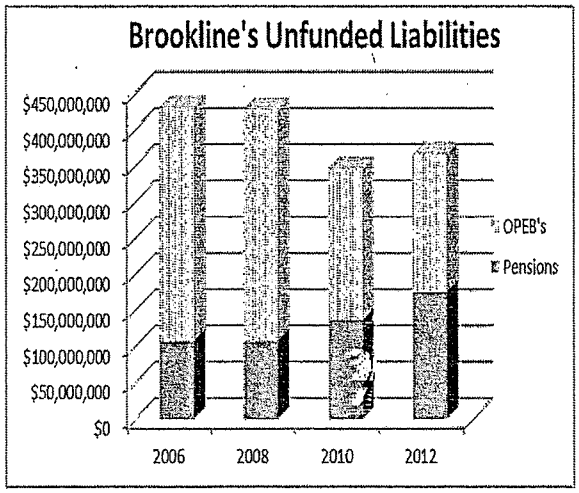
  1.) that Unreserved Fund Balance (UFB) be formally considered a priority in the Town's fiscal policies, and that the allocation of Free Cash be done in a manner that ensures the Town's year-end UFB not fall below an amount equivalent to 10% of General Fund revenues and

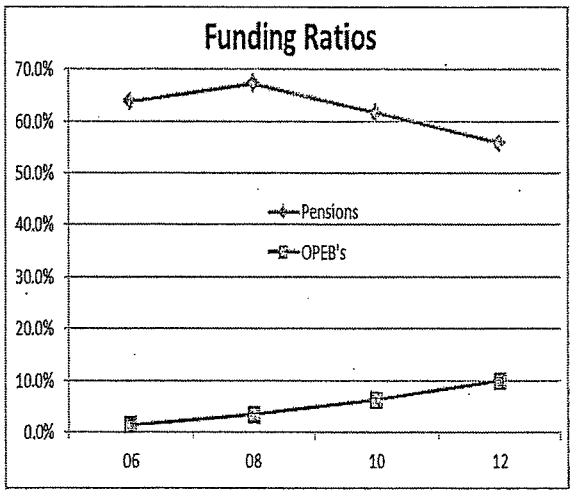
  2.) that long-term funding of the Town's unfunded financial liabilities, including employee Pensions and Other Post-Employment Benefits (OPEB's), be adopted as a formal fiscal policy of the Town.



These recommendations were fully implemented in FY 2013 and are proposed for FY 2014 as well. The Town's year-end Free Cash was certified at $9.6 million. Of this amount, $2 million will be unallocated and another $250,000 will be appropriated to the Stabilization Fund. These two actions will ensure that the Town's UFB level will remain above 10%. Free Cash will also be used to supplement the funding of long-term financial liabilities (pensions and OPEB's).

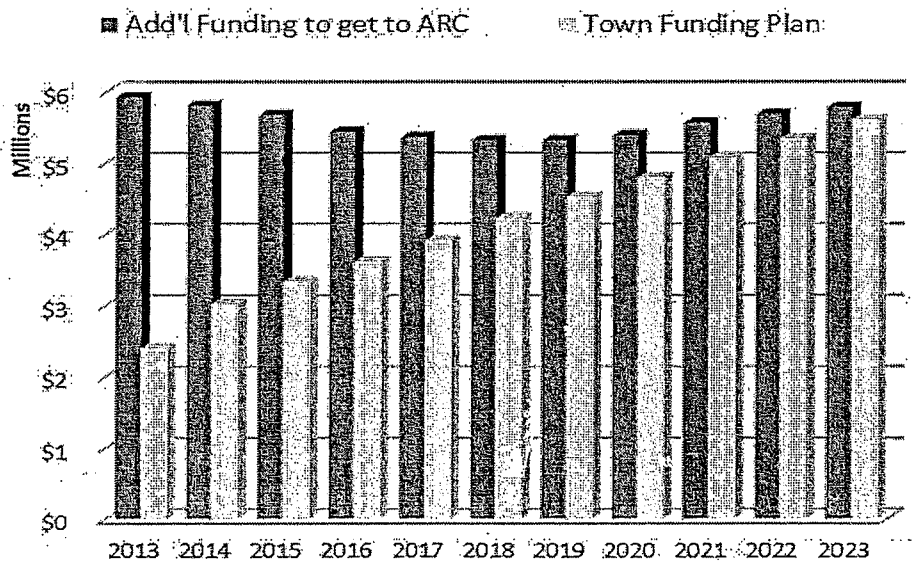
Unfunded liabilities for pensions and retiree health insurance (OPEB's) are significant for Brookline, the other 350 municipalities, and for the Commonwealth. According to the State Commission to Study Retiree Healthcare and Other Non-Pension Benefits, the unfunded OPEB liability for state and local government totals approximately $46 billion, a liability that is larger than the unfunded pension liability, which is $34 billion. As shown in the graph below left, Brookline's total unfunded liability for both pensions and OPEB's is approximately $365 million. The graph below right shows the funding ratios for both pensions and OPEB's. These graphs show that while a lot of prudent steps have been taken by the Town over the past few years, more work must be done.





Since our last actuarial study, the Town's Pension liability increased as a result of poor investment performance representative of underlying economic conditions. The Retirement Board voted to reduce the annual assumed rate of return from 8.15% to 7.75%, a prudent step many governments with defined benefit pensions are taking. In order to accomplish that and make up for the investment losses, two things occurred: (1) Town Meeting approved additional funding for the FY 2013 pension appropriation and (2) the Retirement Board extended the full-funding date two years from FY 2028 to FY 2030. With an eye toward being able to return to FY 2028 and / or being able to reduce the annual assumed rate of return, the Budget includes an additional $200,000 in the base pension appropriation (above the $933,000 increase required per the new schedule). In addition, a $500,000 allocation from Free Cash into the Pension fund is recommended for FY 2014.

The Town's OPEB funding plan calls for an annual $250,000 increase in on-going revenues. In an effort to reach the Annual Required Contribution (ARC) more quickly, an increase of $450,000 of on-going revenue is added to the OPEB appropriation, for a total of $2.2 million. In addition, $400,000 from the Medicare Part D Subsidy and $100,000 from the run-off in the Non-Contributory Pension line-item is included in the appropriation. Lastly, $311,000 of reimbursements from non-General Fund accounts that support personnel are added to the on-going appropriation. This brings the total base OPEB appropriation to $3 million. Similar to the recommendation for pensions, the budget calls for an investment of $500,000 from Free Cash to go toward the Town's OPEB liability in FY 2014. What seemed like an insurmountable problem a few years ago, the Town's ability to address the OPEB liability is becoming a reality. With $3 million in the base for FY 2014, the goal of reaching the ARC level is within our sights in about 10 years, as shown in the graph below. In addition to the funding side of the equation, the Town has been supportive of statewide efforts to reform the pension and retiree health insurance systems. Various pension reforms have already been enacted and the State is on the verge of reforming entitlement to health insurance benefits for retirees. These actions will have the effect of moderating the long-term liabilities for these benefits.



The maintenance of healthy reserves and the funding of long-term liabilities are essential to the Town and cannot be compromised, even in the face of constrained annual operating budgets.

- **Other Initiatives**: The FY 2014 budget includes a host of other initiatives worth mentioning. In most cases, these initiatives build upon progress made in prior years. They include:

  - Payroll System - The Town is in the process of converting its contracted payroll service in-house utilizing the existing MUNIS financial system. This conversion will ultimately save the Town approximately $65,000 annually and will integrate payroll with other components of the MUNIS system. In addition, the new MUNIS module to support payroll will include basic components to advance automation of human resource functions. Lastly, moving to this system will enable the Town to address the auditor's concerns regarding the segregation of duties between payroll and HR. On a related matter, the Town is strongly encouraging its employees to accept an electronic (paperless) paycheck with direct deposit to a bank.

  - Parking Meters - The Town has completed its plan to convert the on-street multi-space parking kiosks to single-space digital meters. The kiosks will remain in the municipal lots (and in the Beacon Street median near Fenway Park) but be converted to a "pay-by-space" system to avoid the necessity to print out a ticket and place it back in the vehicle. In connection with this new system, the Town has upgraded its enforcement technology with handheld/wireless devices. These devices will work with the multi-space machines to automatically detect violations and allow for the scanning of bar codes on Massachusetts vehicles, making the enforcement process easier, quicker and more accurate.

  - Energy Conservation and Efficiency – The Town continues its commitment to energy conservation and efficiency through the implementation of projects funded through the CIP, the Green Community grant program, and through operating budget investments like energy efficient vehicles. Following the success of the LED streetlight pilot program, the CIP includes funding to replace the remaining high-pressure sodium street lights with LED's over the next four years. The Town is also exploring creative ways to "go green" by utilizing partnerships with other communities and agencies in order to install solar panels on Town sites. We recently participated in the Metropolitan Area Planning Council's (MAPC's) regional procurement of SEMS (Solar Energy Management Services) along with 17 municipalities in the MAPC region. A SEMS contract allows us to benefit from low-cost solar electricity without the costs/risks of ownership and with no upfront cost to the community. We anticipate engaging with the selected vendor this spring and look forward to moving forward with this process.

  - Cemetery Trust Funds - In last year's Budget Message, the Town Administrator noted that he began a dialogue with the Trustees of Walnut Hill Cemetery about the level of revenue they allocate to support the on-going operation and maintenance of this beautiful facility. Historically, the Trustees authorize $50,000 in fee revenue

annually to support the facility. As a result of the discussions with the Trustees, the FY 2014 budget increases the amount of cemetery fees that reimburse the General Fund for expenses to $75,000, a 50% increase. In addition, the CIP includes $250,000 in FY's 2014 – 2016 for roadwork and $770,000 in Future Years for lot expansion, both of which will be funded via cemetery trust funds. We thank the Trustees for their willingness to work with the Town Administrator on this issue and ask that further discussions continue regarding the most prudent and reasonable manner of allocating and expending cemetery revenue.

- Consolidated Infrastructure Work Order System (CIWOS) - The Town preserves and maintains 55 buildings that contain the majority of the approximately 1,950 Town and School employees. In addition, there is an inventory of approximately 1,700 computers for personnel, 2,100 for students, and several hundred handheld computing devices with an enterprise-wide high-speed computing network as the common infrastructure across all facilities. The Technology Applications item in the CIP includes funding for a CIWOS that will allow for the consolidation of disparate systems into a uniform trouble ticketing and asset management application. Specifically, the application will:

  1. Create a singular ticketing system for town and school employees to report/request computing and building-related infrastructure services.
  2. Integrate asset management capabilities to maximize Brookline's capital investment and planning capabilities.
  3. Enable the public to better reserve public building facilities, schedule resources and increase efficient facility usage.

  By implementing this system, the Town will be able to better operate our facilities by streamlining the staff process for requesting and receiving assistance, managing assets and providing increased access and use by the public.

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 Board of Selectmen. This presentation is the culmination of months of work for those two

individuals, work involving the analysis of hundreds of revenue and expenditure line-items, making assumptions about economic conditions, and understanding state budget conditions.

The FY 2014 – FY 2018 Long Range Financial Projection for the General Fund makes the following key assumptions:

- In FY 2014 and FY 2015, $1.6 million of New Growth in the Property Tax Levy. In FY 2016, $1.7 million. In FY 2017 – FY 2018, a base of $1.7 million, augmented by additional levy growth from the 2 Brookline Place re-development.

- For State Aid in FY 2014, partial use of the Governor's budget proposal. The budget assumes an increase in Ch. 70 aid of $1.75 million and level-funding of Unrestricted General Government Aid (UGGA). For FY 2015, a 2.5% increase in Ch. 70 and level-funding of all other aid categories. For FY 2016 – FY 2018, annual 2.5% increases in Ch. 70 and UGGA and level-funding of all other aid categories

- For Local Receipts, FY 2014 reflects an increase of $913,000 (4.3%). In FY 2015 – FY 2018, limited growth is expected (approximately $275,000 / yr, or 1.2%). (A decrease in Ch. 121A payments is expected in FY 2017 due to the expiration of an agreement; those monies become part of the Property Tax base in that year.)

- Use of Free Cash continues to follow the Town's Free Cash Policy.

- A 2% wage reserve for all years for all municipal unions and increases as called for in the most recent contract with the teacher's union for FY 2013 and FY 2014, followed by 2% annual wage reserve for all school unions for FY 2015-2018.

- Inflation in most Services, Supplies, and Capital Outlay accounts of 1.5% - 2.5% (approximately $225,000 per year for the Schools and $250,000 for Town departments).

- Annual utility increases of $200,000.

- Annual Special Education growth of $750,000.

- Enrollment growth cost increases of $750,000 per year.

- Net Step increases in the School Department of $750,000 per year and $250,000 per year for Town Departments.

- Health Insurance rate increase of 5%, plus an increase in enrollment of 40, for FY 2014. For FY 2015-2018, assume 30 new enrollees per year and annual rate increases of 6% for FY 2015 – FY 2017; 5% for FY 2018.

- A FY 2014 OPEB appropriation that augments the Town's funding plan by both increasing the on-going appropriation by $200,000 above the regular $250,000 increase ($450,000 increase in on-going funding) and using $500,000 in Free Cash to

increase the assets in the fund. For FY 2015 – FY 2018, a continued commitment to increase the annual appropriation by $250,000 per year.

- A Pension appropriation based on the most recent funding schedule approved by PERAC (begun in FY 2014 and concluding in FY 2015) plus an additional $200,000 added to the base in FY 2014 and FY 2015. Also for FY 2014, a $500,000 deposit from Free Cash to increase the assets in the fund.

- 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 2015 and beyond, starting at $3.2 million in FY 2015 and reaching $9.3 million by FY 2018. 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.

	2014	2015	2016	2017	2018
REVENUE					
Property Taxes	**175,604,001**	**181,547,881**	**187,740,818**	**194,729,838**	**201,844,274**
Local Receipts	**22,047,366**	**22,324,045**	**22,582,970**	**22,312,461**	**22,591,423**
Motor Vehicle Excise (MVE)	4,950,000	5,049,000	5,149,980	5,252,980	5,358,039
Local Option Taxes	2,150,000	2,193,000	2,236,860	2,281,597	2,327,229
Licenses & Permits	1,180,975	1,180,975	1,180,975	1,180,975	1,180,975
Parking / Court Fines	4,200,000	4,200,000	4,200,000	4,200,000	4,200,000
General Government	3,287,391	3,354,195	3,399,181	3,445,582	3,512,218
Interest Income	700,000	717,500	735,438	753,823	772,669
PILOT's	1,125,000	1,152,700	1,180,654	673,867	687,344
Refuse Fee	2,600,000	2,600,000	2,600,000	2,600,000	2,600,000
Departmental & Other	1,854,000	1,876,675	1,899,883	1,923,636	1,952,948
State Aid	**16,875,381**	**17,142,881**	**17,551,319**	**17,969,968**	**18,399,084**
General Government Aid	5,454,692	5,454,692	5,588,943	5,726,550	5,867,597
School Aid	11,270,933	11,538,433	11,812,621	12,093,663	12,381,731
Tax Abatement Aid	38,730	38,730	38,730	38,730	38,730
Offset Aid	111,026	111,026	111,026	111,026	111,026
Other Available Funds	**6,846,435**	**6,961,108**	**7,100,238**	**7,327,434**	**7,409,924**
Parking Meter Receipts	4,100,000	4,100,000	4,100,000	4,100,000	4,100,000
Walnut Hill Cemetery Fund	75,000	75,000	75,000	75,000	75,000
State Aid for Libraries	41,555	41,555	41,555	41,555	41,555
Reimb./Pymts from Enterprise Funds	2,276,163	2,389,126	2,510,476	2,640,888	2,781,100
Reimb. from Rec Revolving Fund	353,717	355,427	373,207	392,130	412,269
Free Cash	**7,655,155**	**4,000,000**	**4,000,000**	**4,000,000**	**4,150,000**
Capital Improvements/Other Spec Approp.	4,818,745	3,182,274	3,278,724	3,381,052	3,487,751
Operating Budget Reserve	507,190	530,379	546,454	563,509	581,292
Strategic Reserves	2,329,220	287,347	174,822	55,439	80,957
TOTAL REVENUE	**229,028,337**	**231,975,914**	**238,975,345**	**246,339,702**	**254,394,705**
$$ Increase	5,394,256	3,080,577	7,001,506	7,366,484	8,057,183
% Increase	2.4%	1.3%	3.0%	3.1%	3.3%

	2014	2015	2016	2017	2018
EXPENDITURES					
Departmental	**65,333,740**	**67,075,678**	**68,683,664**	**70,407,850**	**72,128,391**
Personnel	47,290,353	48,590,353	49,750,353	51,020,353	52,280,353
Services	8,442,525	8,598,246	8,757,860	8,921,464	9,089,159
Supplies	2,083,304	2,135,387	2,188,772	2,243,491	2,299,578
Other	496,590	509,005	521,730	534,773	548,142
Utilities	5,432,006	5,632,006	5,832,006	6,032,006	6,232,006
Capital	1,568,962	1,590,682	1,612,944	1,635,763	1,659,153
Intergovernmental	20,000	20,000	20,000	20,000	20,000
Coll. Barg. - Town	**950,000**	**960,000**	**970,000**	**1,110,000**	**1,130,000**
Schools	**80,480,770**	**85,255,771**	**89,611,971**	**93,436,971**	**97,361,971**
Coll. Barg. - School	**2,300,000**	**1,881,200**	**1,350,000**	**1,400,000**	**1,430,000**
Non-Departmental - Benefits	**50,100,252**	**51,775,270**	**54,748,528**	**58,014,922**	**61,276,020**
Pensions	17,385,688	17,839,471	18,661,483	19,727,200	20,857,564
Group Health	24,618,704	26,240,314	27,967,770	29,807,972	31,471,773
Health Reimbursement Account (HRA)	70,000	70,000	70,000	0	0
Retiree Group Health Trust Fund (OPEB's)	3,514,360	3,321,860	3,607,110	3,903,335	4,219,346
EAP	28,000	28,000	28,000	33,000	33,000
Group Life	132,500	132,500	135,813	139,208	142,688
Disability Insurance	16,000	16,000	16,000	16,000	16,000
Workers' Compensation	1,720,000	1,500,000	1,550,000	1,588,750	1,628,469
Public Safety IOD Medical Expenses	400,000	400,000	400,000	400,000	400,000
Unemployment Compensation	450,000	350,000	325,000	300,000	305,000
Medical Disabilities	40,000	40,000	40,000	45,000	45,000
Medicare Coverage	1,725,000	1,837,125	1,947,353	2,054,457	2,157,180
Non-Departmental - General	**1,478,907**	**641,722**	**597,708**	**624,758**	**646,694**
Liability/Catastrophe Fund	154,115	72,968	43,092	46,368	48,600
Stabilization Fund	250,000	0	0	0	0
Affordable Housing	555,106	32,026	0	0	0
General Insurance	335,000	351,750	369,338	387,804	407,195
Audit/Management Services	130,000	130,000	130,000	135,000	135,000
Misc.	54,686	54,979	55,278	55,585	55,900
Non-Departmental - Debt Service	**9,583,111**	**9,979,936**	**10,873,946**	**10,635,589**	**14,308,068**
General Fund	9,583,111	9,979,936	10,873,946	10,635,589	14,308,068
Non-Departmental - Reserve Fund	**2,161,799**	**2,122,016**	**2,186,328**	**2,254,560**	**2,325,706**
Tax Supported	1,654,609	1,591,512	1,639,746	1,690,920	1,744,279
Free Cash Supported	507,190	530,504	546,582	563,640	581,426
Special Appropriations	**8,580,999**	**7,271,065**	**6,790,350**	**7,390,164**	**4,246,941**
Tax Supported	3,762,255	3,906,562	3,380,025	4,000,172	726,968
Free Cash Supported	4,818,745	3,183,024	3,279,493	3,381,840	3,488,559
Other	0	181,478	130,833	8,151	31,414
Non-Appropriated	**8,058,759**	**8,248,667**	**8,443,323**	**8,642,846**	**8,847,356**
State Assessments	6,222,733	6,370,141	6,521,235	6,676,106	6,834,848
Cherry Sheet Offsets	111,026	111,026	111,026	111,026	111,026
Overlay	1,700,000	1,742,500	1,786,063	1,830,714	1,876,482
Tax Titles - Deficits/Judgements	25,000	25,000	25,000	25,000	25,000
TOTAL EXPENDITURES	**229,028,337**	**235,211,324**	**244,255,819**	**253,917,660**	**263,701,148**
$$ Increase	5,394,255	6,182,987	9,044,495	9,661,841	9,783,488
% Increase	2.4%	2.7%	3.8%	4.0%	3.9%

	2014	2015	2016	2017	2018
CUMULATIVE SURPLUS/(DEFICIT)	0	(3,735,410)	(5,280,474)	(7,577,958)	(9,306,443)
DEFICIT AS A % OF OP REV	0.0%	-1.4%	-2.2%	-3.1%	-3.7%
Surplus / (Deficit) Prior to Collective Bargaining	3,250,000	(394,210)	(2,960,474)	(5,067,958)	(6,746,443)
Town Share of Surplus / (Deficit)	950,000	(65,381)	(813,698)	(1,189,648)	(1,588,205)
Town Collective Bargaining	950,000	960,000	970,000	1,110,000	1,130,000
Total Town Surplus / (Deficit)	0	(1,025,381)	(1,783,698)	(2,299,648)	(2,718,205)
School Share of Surplus / (Deficit)	2,300,000	(328,829)	(2,146,776)	(3,878,310)	(5,158,238)
School Collective Bargaining	2,300,000	1,881,200	1,350,000	1,400,000	1,430,000
Total School Surplus / (Deficit)	0	(2,210,029)	(3,496,776)	(5,278,310)	(6,588,238)

CAPITAL IMPROVEMENT PROGRAM (CIP)

Capital planning and budgeting is a critical undertaking for any government and is central to the delivery of essential services and the quality of life for 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. Since FY 1995, the Town has invested more than $370 million in the CIP. These efforts, which have been supported by the Board of Selectmen, the Advisory Committee, Town Meeting, and, ultimately, the taxpayers of Brookline, have helped address the backlog of capital projects, have dramatically improved the Town's physical assets and appearance, and have helped yield savings in the Operating Budget through investments in technology and energy efficiency. Although there is more to do in the areas of street and sidewalk repairs, parks/open space improvements, and school and town facilities upgrades, the commitment to capital improvements is clearly showing positive results.

The recommended FY 2014 – FY 2019 CIP calls for an investment of $170.9 million, for an average of approximately $28.5 million per year. Each year, many challenges present themselves when putting together a balanced CIP that addresses the priorities of the community while staying within CIP financing policies. This year has been a challenge like no other. The financial pressure exerted by the school overcrowding issue and other new, legitimate demands, coupled with maintaining other projects that are priorities of the Town, presents a number of challenges. The facts concerning school enrollment growth continue to be simple, yet daunting: what were recently Kindergarten classes of approximately 400 – 425 students are now classes of 600 – 666. As those classes move forward through the system, there will continue to be annual classroom space deficiencies. This not only results in immediate classroom space needs in the elementary schools, it also means that the High School will face space constraints in four to five years. This CIP continues to address the overcrowding issue in a comprehensive manner:

- $1.75 million is included in FY14 for Classroom Capacity. In both FY08 and FY10, Town Meeting appropriated $400,000 to address space needs, followed by $530,000

in FY11 and $1.75 million in FY13. All but approximately $1 million has been spent to fund the costs associated with creating additional classroom spaces in school facilities. That $1 million plus the $1.75 million proposed in this CIP will go toward funding the actions required to create the 15 additional classrooms projected to be needed over the next two years. Those monies are planned for the potential creation of temporary classrooms at the Lawrence school, renting/leasing of space outside of school buildings, and undertaking work in those remaining schools where it is still possible to convert areas not currently used for educational space into classrooms.

- $3 million is requested for the improvements at the Old Lincoln School required in order to prepare it for use as a school starting in SY14-15, a need brought on by the increase in enrollment. This is a critical component of the overall plan to address space needs, as it is expected to pull students from the schools that are currently pressed for space, thereby reducing enrollment at those schools. The exact type of school ("concept", 8th grade, etc.) will be determined by the School Committee with review and recommendations from the new B-SPACE Committee.

- The estimate for the Devotion School project has been increased to $90 million, reflecting the analysis done by HMFH as part of the Concept Study finalized in October, 2012. In order to fund this project without a Debt Exclusion Override, this CIP utilizes a 25-year bond term and uses short-term borrowing to coordinate timing with reductions in other debt costs. If the project cost exceeds $90 million or if the MSBA reimbursement is less than 40%, this project could very well require a Debt Exclusion Override. Even if these conditions are met, this project will have an enormous impact on the CIP. In both FY18 and FY19, the revenue-financed CIP will be compromised, eliminating or deferring smaller revenue-financed projects. Given this impact, and recognizing the Devotion School project's role in the overall classroom capacity solution, the Town must seriously consider whether it should seek tax override relief for this project. This is another issue that will be considered by the B-SPACE Committee.

All of this is being addressed while at the same time continuing to address on-going infrastructure improvements including streets, sidewalks, parks/playgrounds, and water/sewer systems. The core of any CIP should be the repair of and improvement to a community's infrastructure, and that is the case with this Proposed CIP. Governmental jurisdictions across the country continue to struggle with the issue of funding infrastructure needs, especially in these economic and budgetary times. Fortunately, Brookline's CIP policies (dedicated CIP funding) and taxpayer support (debt exclusions for Schools and an Override that included infrastructure needs) have allowed the community to fund these needs far more adequately than would otherwise be the case. For example, even with the pressure placed on the CIP by the school overcrowding issue and other high priority demands, this CIP continues the Town's commitment to upgrading its parks, playgrounds, and other open spaces. As proposed, this CIP renovates the following parks/playgrounds:

	TOTAL	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	Future Years
Fisher Hill - Field/Playground - Grant	400,000	400,000						
Fisher Hill - Field/Playground - Town	1,200,000	1,200,000						
Brookline Ave Playground	957,000	87,000		870,000				
Larz Anderson Park	9,060,000	660,000					2,700,000	5,700,000
Pierce Playground	1,010,000		90,000	920,000				
Playground Skatespot	220,000		20,000	200,000				
Corey Hill Playground	600,000			40,000	560,000			
Emerson Garden Playground	670,000			60,000	610,000			
Brookline Reservoir Park	1,580,000				80,000	1,500,000		
Harry Downes Field & Playground	880,000				80,000	800,000		
Murphy Playground	780,000				60,000		720,000	
Schick Playground	770,000						70,000	700,000
Soule Athletic Fields	550,000						50,000	500,000
TOTAL	**18,677,000**	**2,347,000**	**110,000**	**2,090,000**	**1,390,000**	**2,300,000**	**3,540,000**	**6,900,000**

In addition to the funding for parks and open spaces shown in the table above, the CIP also includes a plan to utilize Cemetery Funds for roadwork ($250,000 between FY14-16) and lot expansion ($770,000 in Future Years).

Another example of the CIP maintaining a commitment to a critical need while under the pressure brought on by school overcrowding is the funding of new fire apparatus and upgrades to fire stations. 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. Because of this policy, the Fire Department has an excellent and young stable of engines and ladders. The table below shows the funding included in order to maintain the commitment to modern fire apparatus:

	TOTAL	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
Engine #1 Rehab	185,000			185,000			
Spare Engine #5 Rehab	75,000			75,000			
Tower 1 Rehab	500,000					500,000	
Ladder #2 Replacement	850,000		850,000				
Engine #3 Replacement	510,000	510,000					
Engine #5 Replacement	550,000		550,000				
Engine #6 Replacement	600,000						600,000
TOTAL	**3,270,000**	**510,000**	**1,400,000**	**260,000**	**0**	**500,000**	**600,000**

A number of new non-School related demands were raised during this year's CIP process, the most significant in terms of cost being renovations at the Municipal Service Center (MSC), additional funding for the Fisher Hill Park project, and a proposal to replace all existing streetlights with LED's.

- The FY13 – FY18 CIP includes funding for floor repairs at the MSC. During CY12, DPW and the Building Department worked with consultants to develop the best plan to address both the structural issue with the floor and the space needs of DPW.

Preliminary findings of the study have suggested that the underlying cause of the MSC floor deterioration is due to the marginal sizing of the structural systems supporting the floor, causing the slab to move under heavy equipment loading. The preferred solution is to reconfigure the upper floor space to remove heavy equipment traffic and storage from the structural floor to significantly reduce the loading on the floor and relocate the existing shop space on the non-structural slab to provide additional space for heavy equipment storage. The floor could then be repaired permanently without the fear of future damage occurring due to slab movement. A $2.5 million bond authorization is requested in order to fund this project.

- In FY13, $3.25 million was appropriated for the Fisher Hill Park project, with funding coming from the sale of the Town-owned reservoir property across the street. This came after a $1.35 million bond was authorized in FY08 for the purchase of the land and for making it safe and accessible. The current estimate for the project as approved by the Design Review Committee (DRC) is $6.4 million. Several reasons for the increase in anticipated construction cost include:
    - The condition of the historic gatehouse has deteriorated significantly and should be stabilized beyond what was originally assessed.
    - Over the last 12 years, inflation has impacted the cost of all materials/supplies.
    - The extent of stormwater management and underground utilities was not known until final design.
    - The emphasis on significant tree planting and the need for invasive and hazard tree removal.
    - The cost of implementing universal accessibility.

  After accounting for both the $3.25 million appropriation and the two State grants the Town received for the project ($500,000 and $400,000), the gap in funding is $2.2 million. This CIP includes a $1.2 million bond authorization for the project, leaving $1 million to be raised from non-Town sources.

- Over the past year, the Town managed a pilot LED Streetlight project, installing 62 LED's. They were placed in both a commercial area and a residential area in order to gauge how they performed in both settings and to ascertain public acceptance. By all accounts, the pilot has been a success. This CIP includes a plan to replace all 3,600 streetlights with LED's over a four-year period, costing $540,000 per year. It is recommended for a FY14 commencement because of the significant operating budget relief this project promises. Once fully implemented, a 10-year payback is expected. With the life expectancy of LED's at 20 years, that means after paying off the purchase cost in the first 10 years, each of the next 10 years results in annual savings of $223,200, or $2.2 million over that second 10-year period.

Some of the major projects proposed in the CIP include:

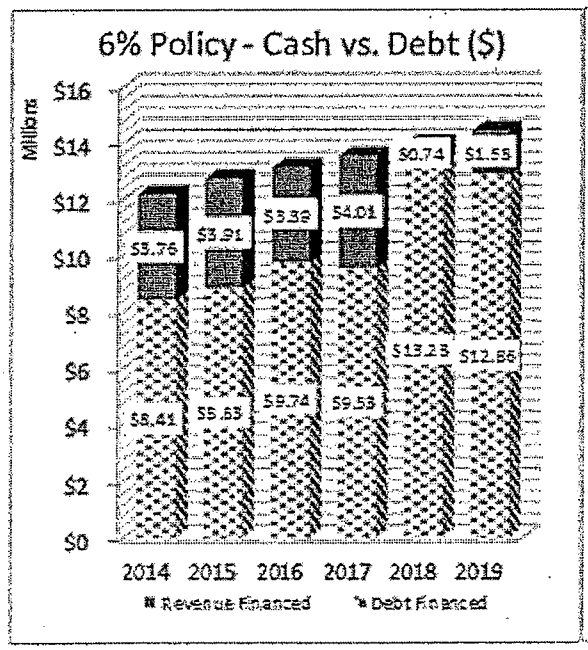
- Devotion School Rehab - $54 million of Town funding plus the possibility of $36 million of State funding (FY14)
- Village Square - $5.6 million (FY16) - - all outside funding
- Newton St. Landfill (Rear Landfill Closure) - $4.6 million (FY15)

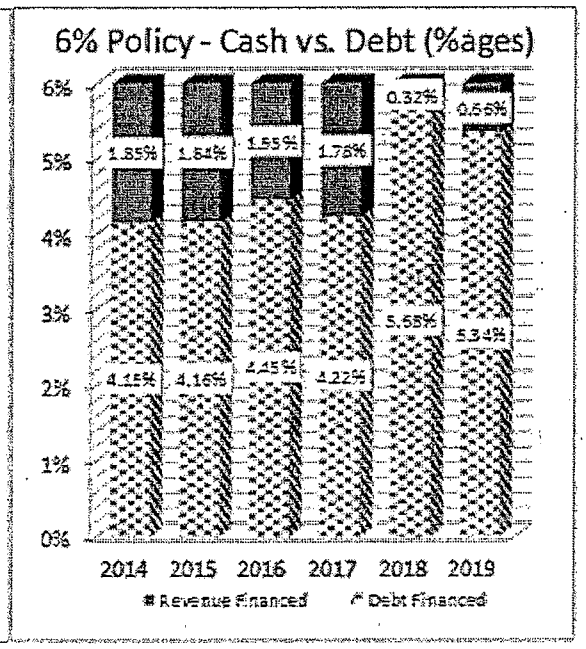
- Larz Anderson Park - $3.4 million (FY14 and FY19, plus $5.7 million in Future Years)
- Old Lincoln School - $3 million (FY14)
- MSC Renovations - $2.5 million (FY14)
- LED Streetlights - $2.2 million (FY14-FY17)
- Driscoll School HVAC - $2.2 million (FY15, FY17)
- Fire Station Renovations - $2 million (FY14-15, FY17, FY19, Future Years)
- Classroom Capacity – $1.75 million (FY14)
- Brookline Reservoir Park - $1.6 million (FY17-FY18)
- Fisher Hill Park - $1.2 million (FY14)
- Walnut Hills Cemetery - $1 million (FY14-FY16, Future Years)
- Pierce Playground - $1 million (FY15-FY16)

Continued major investments include:

- Street and Sidewalk Rehab - $17.2 million
- Parks and Open Space - $15.3 million
- Town/School Roofs - $5.4 million
- General Town/School Building Repairs - $4.7 million
- Fire Apparatus- $3.3 million
- Energy Conservation - $3.3 million
- Water & Sewer Infrastructure - $3 million
- Information Technology - $1.6 million
- Tree Replacement - $1.1 million

The CIP is very "tight" due to (1) the costs associated with addressing the school space issue, (2) the revised cost estimate for the Devotion School project, and (3) new debt service associated with the Old Lincoln School, MSC Renovations, and Fisher Hill Park. The graphs below show the split between revenue-financed and debt-financed CIP.





As the graphs show, the split between cash and debt is relatively consistent from FY14 – FY17. Then in FY18 and FY19, the split is more heavily weighted toward debt, with FY18 having very little revenue-financed CIP availability. Looking at it in dollar terms, there is only $739 thousand in revenue-financed CIP in FY18. In FY19, there is $1.6 million. While more than twice the availability than FY18, it is well below the normal levels of $3.5 million - $4 million. This poses significant challenges to funding "standard" revenue-financed projects such as streets/sidewalks, park projects, and smaller-scale Town/School facility upgrades.

Please read Section VII of the Financial Plan for an in-depth explanation of the CIP process, financing policies, and debt management.

CONCLUSION

This Financial Plan represents a prudent and realistic approach to funding the FY 2014 Budget and for planning the Town's operating and capital needs over the next several years. The ability of the Town to plan ahead was instrumental in surviving the economic downturn and will be essential to meeting the future challenge of increased enrollment in our public schools.

We are pleased that the financial condition of the Commonwealth of Massachusetts and the Town of Brookline have improved and can help support a Budget in FY 2014 that maintains municipal programs and services. It was difficult to accomplish this on the School side of the budget and it is apparent that to do the same in FY 2015 may be impossible without additional revenue. The Town as a whole must rise up to meet the unique challenges that school enrollment and other factors create for the School budget, as it is the most pressing and urgent need before all of us. As the Town has done in the past when faced with great challenges, we must continue to take the "Brookline approach" -- a thoughtful, thorough, and careful analysis of the issues -- in order to develop solutions.

RECOMMENDATION

As stated at the beginning of this Recommendation, the Board of Selectmen is in agreement with the Advisory Committee on all items in the FY14 Budget. By a vote of 5-0, taken on May 7, 2013, the Selectmen recommend FAVORABLE ACTION on the motion offered by the Advisory Committee.

The Board would like to thank the Town Administrator and his staff and the Advisory Committee again for another excellent job on preparing and reviewing the Town's budget, paying particular attention to applying the Financial Polices 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.

TOWN OF BROOKLINE'S FISCAL POLICIES
Adopted by the Board of Selectmen 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 Selectmen 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 Selectmen 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

OVERVIEW

The state economy, much like the national economy, has been scraping bottom for the past several years. This has created significant financial challenges for the Massachusetts municipalities and their citizens. While Brookline is a relatively strong community, we have not been immune to the financial strains. For the past several years we have retrenched and refocused efforts within our municipal budget to contend with the weakening economy. Positions were phased out, services were restructured with an eye towards savings and better delivery, and revenues were enhanced. In collaboration with our employees, we entered into the State GIC to reign in wildly escalating healthcare cost – saving monies for both the Town and our employees. While exceptionally challenging, the goal has been to structure a sustainable budget. That has meant looking beyond a single year and saving, incrementally, for coming challenges.

This fiscal discipline has kept us financially strong, but it does not eliminate every financial challenge. School Department costs, largely driven by increasing enrollment, continue to outpace our capacity to increase revenue. This pressure is going to have significant impacts financially, and perhaps socially, in the next few years. This year's FY14 budget serves as a bridge of sorts as we formulate our approach to those challenges coming over the horizon.

REVENUES AND EXPENSES

A number of sources support this year's revenues of just over $229M. State Aid accounts for $16.9M. While this is still not back to levels seen in years past, it is nonetheless a welcome increase of 11.5% over last year. Local Receipts increased by 4.6% to $22M. This includes revenues from such things as Building Permits and various fees and fines. It is also derived from Interest Income that, as one would expect, is negligible. The current FY13 experience for Building Permits suggests a surplus, so the FY14 estimate is increased $50K. While this is a positive, it is tempered by the fact that FY13 Building Permit revenue looks as though it may decline from FY12. In addition, most of the revenue is being generated from residential renovation permits. State-certified Free Cash available for FY14 is $9.7M. In keeping with our financial policies to maintain at least a 10% Unrestricted Fund balance (an area of considerable interest to bond-rating agencies), we have $7.7M of Free Cash available for appropriation. After allocations to a variety of strategic reserves (e.g. Liability/Catastrophe Fund, Operating Budget Reserve), $4.8M of Free Cash is available to our CIP.

The greatest contributor to our revenues, of course, is property tax. Property tax increases prescribed by Prop. 2 ½, including previously approved Override funds, helped by additional taxes generated from New Growth, increase the total property tax levy by 3.2% to $175.6M (representing more than 68% of our total revenue). When all revenue sources are aggregated, the sum is $229M, a 2.4% increase in Total Revenue. Operating Revenue increases $9.9M, or 4.9%. Of our $229M General Fund revenue, $8.1M is deducted for Non-Appropriated expenses (State/County charges of $6.2M, "Cherry Sheet" offsets of $111K, Tax Abatement Overlay of $1.7M). This leaves us with a total of $221M in Revenues for appropriation.

Balancing our revenues are our expenditures. Departmental expenditures (~70% of Total General Expenditures) increase by 3.5% to $149M ($82.8M Schools [+4.7%] / $66.3M

Town [+2.2%]). Non-Departmental expenditures of $63.3M increase 8.2% and include such things as Employee Benefits (79% of this category) [+10%], Reserves, Insurance, and Debt Service (15.2% of this category) [-4.6%]. Additionally, there are revenue-financed Special Appropriations (CIP) of $8.6M. This represents a decrease of ~34%; but remember that last year, unlike this, we had the benefit of funds from the sale of the Town's Fisher Hill property, and monies from the Overlay Surplus. There are also the Non-Appropriated expenses of $8.1M as mentioned above.

The proposed FY14 Budget is a thoughtful balance of priorities, given the financial resources available. What follows is a summary of that proposal.

Revenues

	$	% change
Property Tax	175,604,001	3.2
Local Receipts	22,047,366	4.6
State Aid	16,875,381	11.5
Free Cash	7,655,155	43.5
Other Funds	6,846,435	(32.5)
Total Revenue	229,028,337	2.4

Expenditures

	$	% change
Departmental	149,064,511	3.5
Non-Departmental	63,324,067	8.2
Special Appropriations (CIP)	8,581,000	(33.7)
Non-Appropriated Exp.	8,058,759	(1.5)
Total Expenditures	229,028,337	2.4

PERSONNEL

Personnel are the heart of any service organization; they are also the greatest cost. It is axiomatic that a budget can support only a certain number of employees at a certain level of compensation (wages + benefits). Therefore, it is important to be aware of the total level of compensation. This includes those sometimes hidden benefits in the forms of allowances, compensations, reimbursements and steps & lanes.

Of this year's $212.3M Operating Budget, more than 79% is dedicated to Personnel and Benefit expenses. Personnel increases 3.8% to $117.9M, and Benefits increase 10% to $50.1M. Much of the increase is linked to school enrollment and the need for additional staff.

For a number of years the Town has worked to streamline its service delivery, looking for a combination of improvements, cost savings and greater levels of efficiency. The Town has been successful on each of these fronts and has reduced the total number of Full Time Equivalent (FTE) positions on the Town side of the ledger by more than 30 over the past few years.

This year there are added positions within the budget aimed at increasing support and better service delivery.

These include an addition to the Pest Control Technician of 0.49 FTE within the Building Department in order to bring these operations in house. The service provided by an outside contractor was unsatisfactory and this will allow us better control and delivery. The cost is offset by a reduction in the maintenance line. Also included is an increase in the number of Clinical Social Workers in the Council on Aging, with an overall net total increase of 0.27 FTE in the budget. In the Health Department, a part-time Health Inspector has been added to assist with an increased workload associated with our new plastic container and shopping bag bylaws.

The larger personnel change involves Human Relations/Youth Resources (HR-YR) and Health. The longstanding Director of HR-YR recently retired. During his tenure (39 years) much changed. The position was originally established to support a then newly formed Commission. The charge to and mission of that Commission has remained relatively static since its inception in 1969 – though society and government changed markedly.

The proposed FY14 budget dissolves that now vacant position of HR-YR Director and integrates support for the Commission in the Health Department by replacing a Human Services Coordinator with a Human Relations/Human Services Administrator and adding an additional new full-time Human Services Specialist. It is believed that this will provide greater support and service delivery to the HR-YR Commission, as well as others such as the Brookline Commission for Women and the Commission for the Disabled. And, it couples this support with the Commission's clerical and administrative support that already resides within the Health Department.

This change is also cognizant of the fact that times, requirements and expectations have changed within the law and society. Much, though not all, of the concerns and daily oversight of the Commission related to the implementation diversity issues in the Town are integrated into the Town's departmental structure. With guidance from the Commission, the Board of Selectmen and the Human Resource Board (statutorily required to be staffed with employment professionals), the Human Resources Department implements policies on hiring, diversity and training programs and initiatives on an ongoing basis – much as Purchasing implements fair practices in procurements and contracts.

These proposed changes do not come without controversy and will be debated under Article 9 and 10 of this Warrant.

It is the sense of our Committee that a strong, focused and contemporary Commission is necessary to provide guidance on a number of diversity related and other issues in Brookline. We believe, though, that from a cohesive, effective and consistent implementation standpoint, service support should be provided to the Commission from those centers of strength and expertise within the Town's departmental structure.

We recognize as well that improvements and modifications may be in order to better promote the unencumbered flow of information and shorten lines of reporting. This will be discussed in more detail under Article 9.

Our number of Town FTE's in the General Fund increase by a net of 2.42 FTE's, bringing the total Town General Fund FTE count to 675.6 FTE's.

FTE's within Non-general Town Funds (Revolving Funds/Enterprise Funds) increase by 1.8 FTE to a total of 78.98 FTE's. This is driven by increased service within the Recreation Revolving Fund.

Personnel levels in the School Department reflect a much different dynamic. The Schools must contend with the levels and distribution of enrollment, and the demands of mandated programming and services. The pressures exerted by mandated and SPED programming, in part, necessitate increases in Aide positions in the School Budget. But the greatest pressure facing the Schools is enrollment growth. The total increase within the School Department (all funds) is 14.98 FTE's to a total of 1,172.7 FTE's. An expanded discussion and analysis of the School Department appears later in this report.

As always, better support, better quality, better service and better structure are the goals in staffing.

GROUP HEALTH & BENEFITS

Employee Benefits (including Pensions, Workers' Compensation, Unemployment, Life Insurance and Health Insurance) increase 10% to $50.1M, representing nearly 24% or our Operating Budget.

- Group Health

  Group Health benefits are provided to both active and retired employees of the Town and School. Group Health costs increase a total of 6.7% to $24.6M. For FY14 there are projected to be 2,991 enrolled employees (1,362 Town / 1,629 School). 48.7% of the enrollees are active employees, and 51.3% retired.

  This year's healthcare premium-rate increase is just 3.5% (in aggregate). It is a rate of increase that is in line with our overall revenue increase. This is a far cry from a few years ago before we entered the GIC (2010). While the *rate* increase is 3.5%, the full increase in healthcare *expense* is 6.7% driven by our increased number of employees.

  As employees retire and are replaced, we add to our healthcare roll – one active employee and one retiree associated with the same position for example. With the run up in student enrollment, School positions have also necessarily increased.

  Healthcare costs are not the budget-buster they once were, but with increases in staffing (primarily within the School Department) and additions to our retiree pool (impacting our OPEB liability) the overall increases in healthcare still outpace our capacity to raise revenue.

  Currently, the State is considering changes related to healthcare eligibility. Much as pension benefits have different levels of vesting related to years of service, so too may healthcare benefits. Changes along these lines would favorably and significantly impact our healthcare and OPEB costs in the future.

- Retiree Health

  Just as we provide healthcare benefits for our active employees, we have also made promises to provide healthcare benefits to our employees in retirement. These fall under the category of Other Post Retirement Benefits (OPEBs). The calculated unfunded liability for our retiree health obligation is $203M as of June 30, 2012.

  Healthcare costs have been escalating far in excess of inflation and far in excess of the rate of increase of Town revenue for some time. That is why it was so important for us to enter into the GIC. This has had a marked effect on our OPEB obligation, helping to reduce our unfunded liability substantially. In addition, the Town's adoption of Chapter 32B Section 18 several years ago allowed us to move retirees into a Medicare coverage program for marked savings.

  Brookline is one of only a few communities actively funding a Post-Retirement Benefits Trust ($16.2M). We wisely began regular appropriations toward this fund several years ago based on a structured OPEB funding plan. The plan calls for adding $250K incrementally each year to the base. With continued and disciplined adherence to the payment schedule, the initial funding timeline has been shortened.

  Enterprise funds now contribute to OPEB's and, per a Town Meeting voted resolution, a portion of one-time revenues are directed toward the fund. With continued adherence, the Town may reach the Annually Required Contribution (ARC) level in as little as a decade. Additional relief may be felt if there are future changes in State regulations regarding vesting requirements for post-retirement healthcare benefits.

  The FY14 recommendation brings the base appropriation to $3M. An additional $500K of Free Cash is also recommended to bring a total appropriation of $3.5M to the OPEB liability fund.

  The sooner we pay down this unfunded liability, the sooner we can reap the savings benefits.

- Pensions

  Pension benefits are provided for Town and School employees not covered as teachers. Many newer positions in the schools tend to be aides, and therefore may be eligible for the Town Pension System. Currently, there are 3,548 employees (active, inactive and retired) enrolled in the Town Pension System and each year the Town must allocate funds for their retirements. That annual amount is determined by a State-authorized funding schedule; Brookline has a payment scheduled now projected to reach full funding by 2030. This extension from a target of 2028 was done in concert with additional pension allocations over the last couple of years in order to help contend with previous poor investment returns – a market phenomenon with which all municipalities have had to contend. Fortunately, we gave this disciplined attention, reducing the hit to any given year.

  Taking a more realistic view of potential returns, the Retirement Board voted to reduce the assumed annual rate of return on investments from 8.15% to 7.75%. The current

unfunded Pension liability of $176M is addressed in the FY14 budget with a scheduled increased contribution of $933K, plus an additional $200K and augmented by $500K in Free Cash, bringing a total appropriation to Pensions of $17.3M.

CAPITAL IMPROVEMENTS PROGRAM (CIP)

The Town's FY04-FY19 proposed CIP anticipates investing $170.9M, averaging $28.5M annually. While some costs associated with increased school enrollment are included in the CIP (Devotion School addition/renovation, Old Lincoln School rehab', Classroom Capacity funding), there are certain to be additional cost based on decisions that may arise out of response strategies to address our pressing enrollment issue. This year (FY14) we are slated to authorize nearly $17M in new spending from our General Fund toward the CIP (pay-as-you-go and bonded). Funding for the CIP comes from grants (State/Federal), Enterprise Funds' budgets, tax revenues, Free Cash and Debt Financing. Our Financial Guidelines call for us to invest the equivalent of 6% of the prior year's net revenues, in addition to Free Cash, to bring the level up to at least 7.5%; for FY14 that level is 8.4%.

This year's CIP continues our commitment to street and sidewalk rehabilitation, streetlights, parks and playground rehabilitation, and technology among other things that we rely on daily. Several projects in particular contribute significantly to our CIP commitments.

$2.5M is slated for repairs and enhancements to our Municipal Services Center. After having moved additional heavy equipment into the garage, it became evident that the flooring structure was becoming stressed. These funds will be used for significant work improving the structure and site.

3,600 streetlights will be replaced with more energy efficient and longer lasting LED lights. The replacement program will be rolled out over several years at $540K a year beginning in FY14. These lights have a 20 year life expectancy and will pay for themselves in the first 10 years. After that, it is anticipated the Town will save nearly $2M in the remaining 10 years due to reduced maintenance and energy consumption reduced by 2/3's.

$2.3M is slated for parks and playgrounds. Of that, $1.2M is for Fisher Hill Park. This is Brookline's first major new piece of open-space in 40 years. The park will be both active and passive providing space and amenities to residents for a wide range of activities. Additional funding for this park came from the sale of Town-owned land ($3.25M) as well as grants of $0.9M and an appropriation of $1.35M in FY'08. This project has been developed over many years, with inflation impacting the initial cost estimates over the intervening 12 years. Additionally, there has been greater deterioration to the gatehouse than expected and other site conditions. Yet even with $5.4M in total funding, it falls short of the Design Review Committee's approved project cost of $6.4M. It is anticipated that the additional $1M in funding will be raised privately in support of a project that will endure as a legacy.

As noted, much of the CIP is dedicated to addressing the School's pressing space needs.

$3M is slated for work on the Old Lincoln School so it may be used to accommodate the burgeoning enrollment. Whether that is a "concept" school (e.g. Town-wide 8th grade) or

ultimately used as part of an extended BHS campus or other application, it will figure significantly into the Town's ultimate space accommodation plan and must be upgraded.

$1.75M is for increased Classroom Capacity. This likely means the addition of modular classrooms to schools such as Lawrence and/or the leasing of space. In past years, Town Meeting has appropriated over $3.1M for this purpose. Much of that was used for room reconfigurations and classroom additions. Nearly $1M remains and will be added to the FY14 appropriation.

Significantly, the Devotion School is anticipated to cost $90M, with $54M coming from the Town (bonded) and $36M reimbursed by the State. Financing would be done through a bond with a 25-year term, perhaps in concert with short-term Bond Anticipation Notes (BAN's). Given the significance and expected life-span of this new/rehabilitated structure, and the current climate of low borrowing costs, 25 years is perfectly prudent. There are, of course, still unknowns with regard to the final cost and the level of State reimbursement which could potentially change our funding approach. It has also been suggested that given the Devotion School's prominence in an overall system-wide classroom space solution, as well as the current favorable financing climate, that it may make sense to consider the Devotion School for a debt-exclusion over-ride. If the community choses to finance this project in that way, it would not be an outlandish concept. As presented in the proposed FY14 budget, however, the project is anticipated to be funded through non-exempt financing.

What are not currently anticipated in our CIP are the sleeping giants – needed new school facilities. The school system is woefully short of space. In addition, the now crowded elementary classes will begin entering the High School in the next few years, pushing it beyond its currently configured limits. Decisions made by the community and School Committee in the coming year will likely have dramatic impacts on our CIP in ways not currently presented.

A detailed description of all FY14 CIP items is provided later in these Combined Reports.

DEBT AND DEBT FINANCING

As has been noted, the CIP is largely financed through debt (bonding). Projected total outstanding debt for FY14 is just over $75M, with total debt service (annual payments on that debt) at just over $12M ($8.9M from the General Fund). Of that $12M in debt service, however, $2.5M is financed through the Enterprise Funds, $0.6M through State SBA and $1.1M through debt exclusion funding (debt service on the BHS $43.8M renovation project will expire in FY20). As a percentage of General Fund revenue, Debt Service is approximately 4.2%, well in-line with what the ratings agencies expect to see (they look at between 5% - 10% as the proper range).

State law limits a town's level of debt to 5% of its Equalized Valuation (EQV); at 0.5% Brookline's level is but a tenth of that limit, and our CIP policy would not allow for such outstanding debt levels. Brookline's practice of long-term financial planning, and use of a relatively short maturation period of debt, help to prudently manage our debt levels. This is important, as debt service immediately impacts our Operating Budget.

The tables below detail the anticipated funding source (as percentages [rounded]) for the proposed FY14-FY19 CIP, and the CIP allocation by category for the same period.

CIP (6 Yr) Funding by Source (%)			CIP (6 Yr) Allocation by Category (%)	
General Fund Bond	46.9		Facility Renovation/Repair	66.9
Free Cash	12.4		Infrastructure	20.2
State/Federal Grants	27.9		Park/Open Space / Playgrounds	9.2
Utility Bond	0.2		Misc. & Other	1.6
Property Tax	10.2		Vehicles	1.9
CDBG	0.1		**Total**	**100.0**
All Other	2.3			
Overlay Res. Surplus	0.0			
Total	**100.0**			

SCHOOLS

Great communities and great school systems go hand in hand, and Brookline has long been revered for its schools; education is a core value and mission in our community.

That mission has been strained over the last few years with an unprecedented surge in school enrollment. Staff, facilities and funds have been spread thin, and now our school system is on the brink of significant change. We once had incoming kindergarten classes in the mid 400's; they are now in the 600's.

There is much speculation and varied analysis of this trend. And, it is not just Brookline that has been feeling it. Clearly there is some secular influence due to an increased birth-rate nationally. Nationally that bubble has peaked, and we would expect its maximal effect to have been felt this year. (Early indications are that we will likely see some reduction in the incoming class this year.) However, there are a host of other influences as well. Brookline is attractive – some might claim an attractive nuisance. Couples who have been living in homes for some time after their children left the school system have now sold to younger families. Larger houses have been divided into smaller units and populated by families with young children. People simply want to live in Brookline. But what is the saturation-rate?

We have a relatively low percentage of households with children in the system, even with an increase in enrollment. Interestingly, Brookline's population is aging while its child-bearing citizens are having greater numbers of children. Also, Brookline seems to be below average in regard to school-aged households relative to surrounding communities. Of course, Brookline's rather unique urban/suburban mix makes it a bit hard to characterize.

Undoubtedly, with more children comes greater community animation, life and energy. It is part of a regenerative process that keeps communities full and alive. It does, as well, pose challenges.

Even if incoming class sizes decline, we are still out of space. And simply adding classrooms does nothing to address the common areas. For the past few years everything short of broom closets have been converted for class space – and common space has been

lost in the process. This, even with new construction and the leasing of space from outside institutions.

Brookline must increase capacity for the current K-8 students, incoming students and at the High School where the enrollment surge will be migrating in a few years. Many things may influence or be influenced by the decisions we make: class size, class make-up, length of school day (primarily at BHS), concept school (e.g. town-wide 8th grade or new 9/10 school), new K-8 school, high school construction, just to name some. The community, School Committee and B-SPACE Committee need to collaborate closely and quickly.

What we must all understand is that things will be different. We have become very comfortable with our current neighborhood K-8 schools. But change is coming. And we must look past our own experiences and expectations to future families and students.

With increased enrollment come increased staffing costs; and with new facilities come additional staffing overhead costs, as well as increased maintenance and energy costs.

From a financial standpoint, this presents great challenges. There really is no capacity within our CIP for major new facilities – much less room in our budget for the associated staff. The Advisory Committee is extremely concerned that we set our goals and priorities, and realize that no major projects are likely to be feasible without some sort of a capital debt-exclusion and operating over-ride. These are the sorts of things that can send shocks of terror into many communities, but Brookline's experience, after a great deal of community engagement, has demonstrated this to be a very good investment in the past. But, it requires thoughtful analysis and significant preparation.

The Committee also has concerns about the Operating Budget. Even if you strip away the effects of the enrollment surge, increases in the School Budget outpace our capacity to raise revenue. In short, the School Department's portion of the Operating Budget is structurally unsustainable. There are a number of known factors contributing, and perhaps others yet to be understood. Mandated SPED programming is expensive and can easily outpace revenue growth (the School Department, though, has made tremendous strides to both control these costs and improve service), materials inflation can contribute, but employment costs tend to have the greatest effect. In the Superintendent's Budget Message he notes that the teaching staff has become younger in the past few years due to retirements, and younger staff will benefit from the current Steps and Lanes structure to a greater extent. This incentive structure grants additional automatic wage increases based on educational levels and years of service. The budgetary impact of Steps and Lanes is the equivalent of a nearly 2% wage increase – but it is automatic and in addition to any negotiated wage increases. If we expect to have good teachers, we must expect to pay them well – they are the soul of the learning experience. But by the same token, we should not be naïve as to our actual costs and true compensation levels.

This structural imbalance, coupled with the extreme pressures exerted by enrollments, has caused the School Department to reduce or eliminate positions and programming and forego important new initiatives. Reduced healthcare costs and savings on the Town side that have freed funds for use in the Schools have helped. But that takes us only so far. A renewed community commitment to our school system is needed.

This year we all witnessed the Sturm und Drang of potential program and position cuts. Fortunately, the School Department was able to restore those planned cuts to ECS, Music, Elementary Math Specialists and BHS staff because of freed Reserve Funds resulting from its spending freeze and additional one-time funding provided by reductions on the Town side. However, these are one-time funding sources, so it is understood that a solution will be needed in the coming year. It seemed counterproductive to gut programs you hope to reinstate a year later, not to mention the needless stress and distraction when everyone really needs to focus on the larger picture of physical capacity. This restoration plan is seen as a bridge for FY14 – but ultimately it needs to be a bridge that leads somewhere.

We have a School Committee, Superintendent and administration charged with running our school system. At the same time, we expect them to provide vision, innovation and leadership. Now add to that, conceive and manage a new building program and potential educational paradigm shift that will be sustainable into the future – and all within the next year.

What we can quickly forget is that these people also need to eat, sleep and come up for air. Are these potentially unreasonable, or at least unrealistic, demands?

The Advisory Committee believes that the Town should be willing and ready to provide resources should the Schools feel they need additional supports; specifically, for outside counsel or expertise in supporting a review of system needs and opportunities or strategies for changes. Given the significance of what our community faces, we should not expect changes to be simply near-term transactions, but rather a broad-based process. Support of such an effort would be very good value in the grand scheme of things.

What has been characterized as an enrollment crisis might better be characterized as a challenge – and in challenge is born opportunity. This is not a Town/School issue; it is a Brookline issue. And how we respond will define us as a community.

A detailed report and analysis is provided below, along with the Advisory Committee's favorable recommendation for funding of the School allocation.

Lost at C

Change is coming to Brookline. Certainly, change can be daunting and disorienting; and it may seem disruptive to reset our bearings. But it is an essential exercise as we prepare to set course.

The next few years will challenge us technically and financially. However, we are a thoughtful, energetic and creative community. It is why so many people want to live here – and it is both our blessing and our curse. More importantly, though, it is our source of strength.

We cannot fear change. We must embrace it, and in that embrace discover opportunity and renewal.

RECOMMENDATION
The Advisory Committee unanimously recommends FAVORABLE ACTION on Article 8 – the FY14 Budget.

Advisory Committee Report to Town Meeting on the
Public Schools of Brookline FY2014 Budget

[The 2014 Public Schools of Brookline (PSB) preliminary operating budget was revised to restore certain program reductions. This report reflects and discusses those changes. As such, it differs from the earlier published and distributed "The Superintendent's Preliminary Budget 2014".]

BACKGROUND/STRUCTURAL DEFICIT
The Advisory Committee's review of the 2014 PSB operating budget commenced as a traditional consideration of a one-year financial plan. But it quickly became apparent that the greatest concern is for the out years commencing with 2015. Since the operating budget overrides in 2008, the PSB has had a history of serious challenges in meeting the delivery of its strategic mission within available funding sources, which consist of:

- the annual Town appropriation of real estate taxes and other revenues
- fees and grants
- a portion of the Town's Capital Improvements Program (CIP)

The PSB's resource requirements have grown significantly in real terms due to:

- discretionary educational advances
- enrollment growth
- mandated services
- inflationary increases

The result has been a growing, significant structural deficit.

Revenues shortfalls have been met with largely stop-gap measures, including:

- nonrecurring sources of funding, such as the federal stimulus in 2010 and 2011 and the use of unspent funds from previous years' appropriations (principally "reserves" created by the delayed reimbursement of Special Education spending by the state)
- contract structuring to delay spending increases
- generous allocation of revenue through of the Town School Partnership (TSP)

And when these have proven insufficient, by planned spending reductions and unplanned spending freezes that are harmful to the quality of the PSB's mission.

Positively, revolving funds have been managed to make their operations more self-supported, lessening the long-established subsidy provided by the PSB General Fund. But these efforts are limited by the affordability of the attendant fees to the users and students. And over the

years, the PSB has made a variety of other improvements with positive financial impact that have not compromised mission.

The 2014 operating budget is no different, being balanced with substantial, nonrecurring sources of funding, both from its own assets and through the TSP. Stop-gap measures were stretched even further when it was decided to restore painful program cuts of $591,000 through additional nonrecurring funds and the TSP of $494,000 and other spending cuts of $97,000.

Further, the Town will hold the PSB harmless if there are shortfalls in certain revenue components that affect the PSB's operations.

While these measures have allowed for a balanced operating budget, they are not good solutions from a qualitative standpoint because they compromise the:

- immediate achievement of mission
- sustainability of the quality and scope of education

The existing situation is understated by an accompanying deferred investment in critical areas, such as:

- classroom space
- technology from both administrative and educational perspectives
- administrative resources, contributing to a dilution of effectiveness because higher-salaried/valued individuals are performing lower-valued tasks and functions
- data gathering to measure outcomes

Decisions on the deficit are made more complex by qualitative, sensitive issues, such as:

- neighborhood rather than district schools
- the K-8 elementary school model
- the benefits of class size
- early childhood education – 295 students
- allowing non-resident employees to attend PSB – 150 students
- the METCO program – 295 students

The benefits of the foregoing issues are appreciated, evaluated and measured differently across the spectrum of educators, students, parents, residents and the electorate.

Other factors that will exacerbate the deficit are:

- the benefit the Town has received recently from growth in state aid attributable to the formulae for determining the PSB's "foundation" budget is not likely to continue
- the non-financial concerns for quality educators, and the competitive landscape for attracting them, will dampen the ability to seek meaningful fiscal relief through collective bargaining

At present, there are no satisfactory means for dealing with the cumulative effects of inflation, mandated services, and real, discretionary growth. Solutions employed are:

- disadvantageous to the mission
- made with great reluctance by the PSB

- met with dissatisfaction by the affected community

2015 and BEYOND

The PSB is arguably the most valuable asset that the Town owns; it should be managed in within a philosophy and principles that respects that value. But in recent years, management of the mission has yielded to addressing and resolving the challenges of balancing the ensuing year's operating budget; the challenges and public reaction in 2014 demonstrate that this course of action is no longer a viable, continuing solution.

It was in this vein that the Advisory Committee recommended that the originally proposed program cuts should not be made in a one-year vacuum. It fully endorses the $591,000 of program restorations in:

- the teaching portion of Enrollment Challenge and Support - $264,000; 4.5 FTEs
- K-3 music - $213,000; 3.7 FTEs
- Elementary math specialist - $57,000; 1 FTE
- High school staffing - $57,000; 1 FTE

The restorations were made with the view that they were a practical bridge to the future, and are most definitely not based on philosophy or principle. These programs were just too highly-valued by educators, students and parents to be removed from the mission. There was no program review to assess their value, and it is a virtual certainty that they would have been restored when a lasting solution to the structural deficit was achieved...hopefully for fiscal 2015. So, the likelihood of a one-year hiatus simply did not make sense.

The most important goal in 2014 is for the PSB is to identify the resources, and attendant operating and capital costs, to provide a reasonably foreseeable, lasting educational program that is satisfactory to the Brookline community, both programmatically and from an affordability standpoint:

- the community must be involved in the assessment of underlying educational values, priorities and affordability
- third-party expertise is likely necessary to supplement knowledge resources available to the PSB's Central Administration and Town
- reliable and meaningful data to support the effort is paramount

The operating budgets of the Town and PSB do not comprehend the spending associated with third-party expertise and data gathering.

The financial implication of this effort will be the need for significant additional funding sources, which will include:

- relief of inflationary creep through the collective bargaining process, recognizing the importance of the non-financial concerns for quality educators
- well-founded reallocation and rationalization of existing resources
- new, non-tax revenue streams
- tax overrides

Time is short. The effort needs be completed by calendar year-end 2013, assuming an override vote is necessary in May 2014

This effort will present very difficult choices for PSB and Town management, affected communities and the electorate.

SUMMARY OF 2014's PSB OPERATIONS

Tables A, B and C at the end of this section provide selected information presented in the Superintendent's preliminary budget, as revised and through other information provided to the Advisory Committee.

The information includes analyses of revenues, spending and census data. Less detailed commentary is included in this report compared with prior years, reflecting the greater concern for 2015 and beyond.

The total revenue sources for the PSB's 2014 operating budget are over $136 million, of which over $121 million is an appropriation from the Town's General Fund. Some $83 million feeds the PSB's General Fund, while $38 million is spent through Town departments.

Nonrecurring sources of funds are close to $1 million.

The CIP for 2014 absorbs an additional $5 million to fund resources beyond major building renovations, including $1.7 million for classroom space in modulars and leased facilities. Viewed as a temporary measure, these costs are more appropriate for the operating budget, while viewed more permanently, the capital budget is understated.

In 2014, the PSB expects to provide education and services to 7,427 students and employs human resources that are measured as 1,164 full-time equivalents.

The $83 million 2014 PSB General Fund appropriation from the Town grew by $3.7 million from 2013.

But there is significant inflationary growth in the cost of human resources - the primary means of mission delivery. In 2014, human resource costs of $73 million represent 85% of the $86 million PSB General Fund. Organic salary growth of $3.5 million is driven by COLA ($2.3 million) and Steps and Lanes ($1.2 million). Some relief is provided by retirements and turnover ($.5 million), but over time this beneficial impact has declining.

In addition, the PSB's cost for employee health insurance is $13.5 million ($1 million increase from 2013), a large component of the $38 million spent through Town departments. The inflationary portion of the change is 5%.

Beyond inflation, K-8 enrollment matters require $392,000 and Special Education (SPED) $332,000.

RISKS IN THE 2014 OPERATING BUDGET

Both the PSB and the Advisory Committee believes that at this date there are significant "known" risks and challenges to the assumptions in the 2014 PSB operating budget for both revenue and spending, including:

- reduction in state aid
- reduction in federal grants as a consequence of sequestration

- reduction in the METCO grant
- regular education requirements beyond a $225,000 contingency
    - kindergarten enrollment growth beyond a 600 students assumption
    - additional teaching positions as a consequence of reductions in elementary classroom size
    - achieving planned section reductions at the high school
- SPED spending beyond a $250,000 contingency

There are different confidences in the likelihood that the appropriation of real estate taxes, and fees and grants, will yield a balanced budget.

The operating budget includes $700,000 of nonrecurring PSB reserve funds, and the PSB expects to use its remaining reserve funds of $400,000 to address a shortfall. And as mentioned earlier, the Town will hold the PSB harmless if there are shortfalls in certain revenue components that affect the PSB's operations.

Should this additional funding prove insufficient, the PSB's ability to reduce spending is limited. No additional planned spending reductions have been identified. And given that the underlying resource is teachers and other personnel, even if further planned cuts were identified, it is now beyond the date established by the collective bargaining agreement to provide notices that would allow reductions in force. The remaining tool available to the PSB to effect a spending reduction is largely an unplanned spending freeze in fiscal 2014. Planned or unplanned, there would be a compromise in the achievement of the mission.

If the PSB cannot close a budget shortfall, the Town would be required to address the situation through the TSP or a reserve fund transfer.

While The Advisory Committee recognizes the difficulty of assessing the likelihood and magnitude of a PSB operating budget shortfall in 2014, it recommends that the Town be prepared to act if necessary.

To this end, the Advisory Committee believes the PSB's 2014 managerial energies should optimize the success of the effort for a lasting solution in 2015 and beyond. And it believes that dealing with shortfalls from unachieved assumptions and changed circumstances could distract PSB management from its focus on the future. Fortunately, the Town has sufficient financial resources to facilitate these concerns through a willingness to consider reserve fund transfers as an alternative to reactionary spending freezes that compromise mission.

This recommendation is made in the same practical sense as underlies the restoration recommendation, and does not imply or suggest, nor should it be interpreted as, any relief for the commitment of the PSB to strong, sensible financial discipline.

TABLES:

Table A

Public Schools of Brookline

Funding Sources (revised to reflect restorations)

($ in $000s)

	2012	2013	2014				
			Budget (Note 1)				
	Actual	Forecast	Preliminary	Changes	Revised	Change from 2013	
	$	$	$	$	$	$	%
PSB:							
General Fund:							
Appropriation for PSB (Note 2)	75,387	79,080	82,587	194	82,781	3,701	4.7%
Tuition & fees, principally children of town employees	497	554	654		654	100	18.1%
Special Education Circuit Breaker	1,827	1,903	1,903		1,903		
Tecgnology							
Revolving fund reimbursements		200	100		100	(100)	
Nonrecurring sources (Note 3)	732	350	400	300	700	350	100.0%
Total PSB General Fund funding sources	78,443	82,087	85,644	494	86,138	4,051	4.9%
Grant Funds	5,253	5,518	5,392		5,392	(126)	-2.3%
Revolving Funds	5,539	6,310	6,541		6,541	231	3.7%
Total PSB funding sources	89,235	93,915	97,577	494	98,071	4,156	4.4%
Town appropriation for services benefiting PSB	32,000	34,000	38,000		38,000	4,000	11.8%
Total funding sources benefiting PSB	121,235	127,915	135,577	494	136,071	8,156	6.4%
General Fund appropriation subject to approval by Town Meeting			120,587	194	120,781		
Percent of total funding sources benefiting PSB					89%		
Total Town General Fund			220,920		220,920		
PSB appropriation as a percent of Town General Fund					55%		
Capital Improvements Program							
Ex Old Lincoln and Devotion		4,758	4,960		4,960		

Notes:

(1) Revised budget reflects decision to restore educational programs costing $591,000, achieved through $494,000 of additional funding and $97,000 of reallocation of resources in the original budget.

(2) Includes $1.1 and $4.0 million from overrides in 1995 and 2008.

(3) Principally arising from reimbursement of SPED costs and unspent funds from prior years' appropriations

Table B

Public Schools of Brookline

($ in $000s)

General Fund Spending by Resource (as shown in preliminary budget)

	2012	2013	2014		Change	
	$	$	$	% of Total	$	%
Personnel	65,468	69,037	72,678	85%	3,641	5.3%
Services	10,395	10,171	9,744	11%	(427)	-4.2%
Supplies	1,708	1,769	1,851	2%	82	4.6%
Other	441	542	875	1%	333	61.4%
Equipment	433	567	495	1%	(72)	-12.7%
Total spending	78,445	82,086	85,643	100%	3,557	4.3%

Resources by Grade/Program (as shown in preliminary budget)

	2013		2014			
					Enrollment (Note 1)	
General Fund	$	%	$	%	Total	SPED
Grades 1 through 8	34,211	42%	35,756	42%	4,621	717
SPED	22,088	27%	23,029	27%		
Portion attributable to out-of-district placements (Note 1)			5,794		82	82
Services only students					48	48
High school	16,107	20%	16,488	19%	1,781	296
Kindergarten	2,444	3%	2,657	3%	600	67
Unallocated	6,807	8%	7,714	9%		
Total General Fund	81,657	100%	85,644	100%		
Revolving Fund - Early Education			2,097		295	80
Grant Fund - METCO subsidy (Note 2)			1,273			
Census total (Note 3)					7,427	1,290

Notes:

(1) SPED census data as of 10/1/2012; Private Placements $s not included in total
(2) 295 METCO students throughout all grades
(3) 150 students of Town employees throughout all grades

Staffing by Function, Total of General, Grant and Revolving Funds (as shown in preliminary budget)

	FTEs	%
Teachers	601	52%
Aides/technicians	252	22%
School based support	154	13%
Food service/custodians	66	6%
Secretarial	48	4%
Principals/administration	25	2%
Central administration	18	2%
Total	1,164	100%

Table C

Public Schools of Brookline

2014 General Fund - Revenue and Expenditure Growth (revised to reflect restorations)
($s in 000s)

	$
Revenues:	
2013 General Fund	82,087
Changes in funding sources:	
Appropriation	3,701
Fee increases and improved collections	100
Revolving fund reimbursement	(100)
Circuit Breaker	
Nonrecurring sources	350
Net change	4,051
2014 General Fund	86,138
Expenditures:	
2013 General Fund spending	82,087
Changes in spending:	
Human resources	
Inflationary	
COLA	2,299
Steps and lanes	1,200
Retirements and turnover	(450)
K-8 enrollment related matters	392
Special Education:	
Human resources:	
Needs-based growth	426
Demand related reductions	(76)
Needs-based services and materials	75
Efficiencies in services delivery	(93)
Programmatic changes:	
BHS	144
Elementary:	
Literacy	96
Reductions, including $73 of middle grades music	(94)
Classroom consolidation - elementary $57; BHS $128	(185)
Non-categorized changes:	
General contingency	225
Administration initiatives	202
Supplies	109
2013 restorations	104
Management of funding sources to provide General Fund with additional opportunity	
Athletic revolving fund through high fees	(100)
Grants - avoidance of retirement contributions	(98)
CIP - absorption of wireless capability	(95)
Summer school	(30)
2014 General Fund spending	86,138

Advisory Committee Report on the FY2014
Capital Improvement Program (CIP)
Recommendations and Project Descriptions

34. GARAGES - FLOOR SEALANT & WATER/OIL SEPARATORS
Recommended - $25,000 (Property Tax/Free Cash)

In order to maintain the integrity of concrete floors in garages, proper maintenance, including removing and refinishing the seal coat on those floors, is required. The floors can deteriorate over time due to chemicals, normal wear and tear, cracks and unforeseen conditions. This project would remove and clean the surface of those floors, make any necessary concrete patches, and provide a seal coat to maintain the floor, which should last for 5 - 10 years. This work would be completed in the Main Library, DPW garages, the UAB, and the Pierce School.

All new garages are supposed to have water/oil separators. This program would add to or modify existing systems and add new systems, thereby allowing the Town to meet the environmental requirements of the DEP and EPA.

35. TECHNOLOGY APPLICATIONS
Recommended - $256,000 (Property Tax/Free Cash)

This annual appropriation is for funding the projects included in the Information Technology Department's Long-Term Strategic Plan, which serves as the framework for the selection and management of technology expenditures and is updated periodically by the Chief Information Officer (CIO). The appropriation also permits additional projects that meet the short-term objectives set by the CIO and appropriate committees who provide the guidance for the Town's approach to technology management. Primary focus areas for IT investments include Infrastructure Lifecycle Replacement, Enterprise Applications/Better Government Initiatives, School Technology, and Public Safety Enhancements. Special consideration is given to projects that reduce operating expenses and / or create efficiencies.

The FY 14 request includes support for a range of potential projects: continued implementation of Munis Payroll, document management workflow, upgrade for the Assessor system, consolidated work order systems, upgraded e-mail system, handheld computing, and Phase 3 of the Fire Department's Records Management Integration program.

36. COMMERCIAL AREAS IMPROVEMENTS
Recommended - $50,000 (Property Tax/Free Cash)

Commercial Areas improvements appropriation are intended to fund projects detailed in the Economic Development Division's Strategic Plan that serves as the framework for the selection and management of such improvements and is updated periodically by the Economic Development Advisory Board. Funds may also be directed to those projects that arise from time to time that are short-term in nature and need urgent attention to protect the Town's high-functioning commercial areas. Healthy commercial areas affect the quality of life and support the tax base. Public investment in the appearance of streets and other civic

spaces as well as in the enhancement of pedestrian amenities makes the Town's commercial areas more enjoyable ones in which to live, shop, dine, and work.

The FY 14 request proposes two projects: $10,000 for design work focused on Harvard Square, including the seating area adjacent to the free-standing clock; and $40,000 for directional signage for both cultural institutions, including educational institutions, and municipal parking lots. Cultural institutions will pay for sign replacement, if needed.

37. RIVERWAY PARK PEDESTRIAN / BICYCLE PATH IMPROVEMENTS
Recommended- $40,000 (Property Tax/Free Cash)

Dating back to at least 2006 when the Report of the Gateway East Citizens' Advisory Committee was issued, there has been interest in a safe, at-grade crossing for pedestrians and bicycles at Route 9 and The Riverway. The completion of a bike/pedestrian path in Olmsted Park has led to increased use of this park by pedestrians and bicyclists, but there still remains no safe and easy way to proceed from Washington Street, where the Olmsted Park path ends, across Brookline Avenue, and on to The Riverway.

The Gateway East Public Realm plan offered recommendations for this crossing that involved a widening of the median, reconfiguring existing traffic lanes, and a marked crossing. The conceptual design phase for the project is now ending, and the next step is to continue to move the project through the Department of Transportation's Transportation Improvement Program (TIP) process. The FY 14 request of $40,000 represents Brookline's share of the construction/bid documents costs. It is anticipated that CDGB and grant funding will make up the balance. A Federal Transportation Bill has earmarked funding ($540,000) for construction in FY 15. Total project cost is estimated at $1.5 million.

The Riverway Park Pedestrian/Bicycle Path Improvements, a project of both Department of Planning and Community Development and the Department of Public Works, is being coordinated with Village Square Circulation Improvements via the Transportation Board and Town's Director of Engineering and Transportation. There is also coordination with the Boston Transportation Department and State Department of Conservation and Recreation.

38. HISTORIC BUILDINGS REHAB - DEVOTION HOUSE AND PUTTERHAM SCHOOL
Recommended- $85,000 (Property Tax/Free Cash)

The Devotion House is in need of structural stabilization and window repair. The first and second floors towards the front corner of the house are sloping; recent investigation has shown this to be caused by inadequate support in the basement. The first and second floor sills may also need to be supported and/or replaced. In the meantime, the windows have been deteriorating and many have lost their ability to keep out the weather. The thirty-one (31) multi-pane window sashes need to be repaired. The frames and trim are also deteriorating and will need repairing or replacing. At the same time, one of the windows/sash at Putterham School needs to be replaced; it will be more efficient to do this work at the same time as the work at the Devotion House.

39. ENGINE #3 REPLACEMENT
Recommended - $510,000 (Property Tax/Free Cash)

Based on the current fire apparatus rehab / replacement policy, Engine #3, currently housed at Station 7, would be rehabbed in FY14 at an estimated cost of $160,000. Chief Ford is recommending a departure from this policy and requesting the purchase of a new Engine #3, thereby allowing the current Engine #3 to become a reserve engine, replacing Reserve Engine #1, now 20 years old. (Reserve Engine #1 will be sold.) The other reserve engine is #5, now 8 years old.) This proposed scheduling change is being proposed to avoid waiting until Reserve Engine #1 is almost 30 years old before it is replaced. Needing to use a 30-year old reserve engine would be an unsound outcome for both the public and for members of the Fire Department. Replacing Engine #3 in FY 14 will improve both the front-line and reserve apparatus of the Department.

40. FIRE STATION RENOVATIONS
Recommended - $245,000 (Property Tax/Free Cash)

A study has been made of the condition of the fire stations and what is needed to maintain the integrity of the floors and building, particularly in regard to newer, larger, and heavier fire equipment. The work outlined in the report includes flooring, shoring, beams, columns, and structural work. The report also includes recommendations for the HVAC systems, generators, lighting, sprinklers, fire alarms, mechanical, electrical, plumbing, and other peripheral systems

The scope of the overall project can be broken into three categories: (1) structural, (2) sprinkler systems / life safety systems, and (3) mechanical, electrical, and plumbing (MEP). The recommended approach was to fund all required structural work in the first year (beginning with $625,000 in FY12), then fund sprinkler and life safety systems by stations as prioritized by the Fire Chief (FY13 – FY15), and then undertake the MEP work (starting in FY 17).

The estimates for proposed work in FY 14 include $120,000 for Life Safety work at Station 4 (Route 9/Reservoir Road) and $125,000 for Life Safety work at Station 7 (Washington Square). Life Safety work includes smoke alarms, carbon monoxide detectors, fire enclosures for emergency generators, and upgraded annunciator panels.

41. BICYCLE ACCESS IMPROVEMENT
Recommended - $40,000 (Property Tax/Free Cash)

Dedicated on-street bicycle lanes on Beacon Street do not run the entire length of the street due to the available public right-of-way, on-street parking spaces, and traffic volumes. To accommodate bicycles in some instances, lane-sharing is necessary. A $40,000 CIP request would fund the installation of 101 sharrows (at a cost of $360 each) in areas where dedicated bicycle lanes aren't feasible. The remaining dollars would be used for a police detail ($4,075) and for other pre-formed traffic markings as well as line painting. It is anticipated that the pavement markings will last at least five years.

Recent studies by different national transportation organizations have led to the conclusion that sharrow pavement markings are more effective than signage in communicating the need to share the roadway. According to the Transportation Division's concept design, sharrow markings would be installed along Beacon Street inbound from the town line at Cleveland Circle to Washington Street, from Webster Street to Borland Street, and from Hawes Street to the town line at Audubon Circle, and along Beacon Street outbound from Pleasant Street to Summit Avenue.

42. WOODLAND RD. / HAMMOND ST. SAFETY IMPROVEMENTS STUDY
Recommended - $45,000 (Property Tax/Free Cash)

Woodland Road at Hammond Street is a large intersection that handles significant traffic in the morning, particularly when Beaver Country Day School or its summer camp are in session. Because the pavement width on Hammond Street is 54' (typical width is 27'+/-), vehicles tend to travel at high rates of speed, which makes it difficult for both pedestrians and vehicles to cross the street. The upgraded Chestnut Hill Shopping Center ("The Street") as well as the anticipated Fall 2013 opening of Wegman's and other retail stores at Chestnut Hill Square are expected to add to the number of vehicles using Hammond Street, making traffic worse and pedestrian use more hazardous.

This funding will be used to identify and quantify the issues, evaluate and recommend a solution, and estimate the cost of the conceptual solution.

43. STREET REHABILITATION - TOWN
Recommended - $1,510,000 (Property Tax/Free Cash), provided that there be prior notification to the Board of Selectmen of any changes to pedestrian, bicycle, or motor vehicle traffic patterns or pavement markings.

In 1992, the Department of Public Works (DPW) undertook a comprehensive study of its roads 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 Chapter 90 funding from the State.

The Override Study Committee (OSC), which undertook their study in CY07-08, determined that the Town had underfunded road and sidewalk maintenance and construction. Its analysis showed that while funding for road construction activities remained level, construction costs increased approximately 35% between 1997 and 2007, thereby reducing the amount of work that could be completed each year. Had the funding levels for roads been increased each year, the level of funding at that time would have been $1.35 million.

Based on the recommendations of the OSC, the 2008 Override approved by the voters included $750,000 for streets and sidewalks, to be increased annually by 2.5%. In FY14, the appropriation is recommended at $1.51 million (the original $1 million base, plus the $300,000 added in FY09 increased annually by 2.5%). These monies will finance the following work:

Reclamation - Griggs Road

Mill & Overlay - Babcock Street from Harvard Street to Devotion Street
- Chestnut Street from High Street to Town Line
- Aspinwall Avenue from Harvard Street to St. Paul Street
- Kent Street from Linden Street to Aspinwall Avenue
- Pond Avenue from Rotary to Jamaica Road

Micro Surface - Colbourne Crescent
- Mason Terrace
- Thorndike Street from Abbottsford Road to Harvard Street
- Chestnut Street from High Street to Franklin Street
- Gardner Road from Washington Street to Welland Road

STREET REHABILITATION - STATE $948,938 (State Grant)

The State provides monies under its Chapter 90 program for the maintenance of certain streets. About 1/3 of Brookline's streets are eligible for 100% State reimbursement. This money supplements the funding appropriated from Town funds for street rehabilitation. An annual $200 million statewide Ch. 90 program is assumed.

FY 14 Ch. 90 funds will finance the following work:

Reclamation - Gardner Road from Winthrop Road to Tappan Road
- Clyde/Lee Street (inbound) from Newton Street to Rte. 9

44. SIDEWALK REPAIR
Recommended - $283,000 (Property Tax/Free Cash)

The Department of Public Works has prepared a sidewalk management program that prioritizes repairs. Some sidewalks are reconstructed as part of the street reconstruction program; those that are not are funded under this program. The Override Study Committee (OSC), which undertook their study in CY07- 08, determined that the Town had underfunded road and sidewalk maintenance and construction. Based on the recommendations of the OSC, the 2008 Override approved by the voters included $750,000 for streets and sidewalks, to be increased annually by 2.5%. Of the FY09 override amount, $50,000 was appropriated for sidewalks. In FY14, the appropriation is recommended at $283,000 (the original $200,000 base, plus the $50,000 added in FY09 increased annually by 2.5%).

45. LED STREETLIGHT REPLACEMENT PROGRAM
Recommended- $540,000 (Property Tax/Free Cash)

The Town currently owns and maintains approximately 3,600 streetlights, purchased from NStar in 2001. The majority of the lights use the "cobra head" style fixture with high-pressure sodium lamps ranging from 100 watts to 400 watts. The annual energy cost budgeted for unmetered streetlights totals approximately $365,000.

In 2010, the DPW implemented a pilot program to replace 62 high-pressure sodium lamps with more efficient LED lamps ranging from 55 to 75 watts to determine both the acceptability by the public and the reduction of energy usage. In addition to the benefits of reduced energy use and a cleaner, more directed light (less light pollution), the industry standards for the bulb life of LEDs (20 years) is significantly longer than that of sodium lamps (six years), potentially reducing ongoing maintenance costs. This technology is no longer considered cutting edge, consequently a number of Massachusetts communities are striving to make this the new standard for their lighting systems, and it appears as though the price has plateaued.

As proposed, this project would completely replace the high-pressure sodium lamps with LEDs over the next four years. Based on industry standards, each LED saves $62 per year in energy costs. With 3,600 streetlights, that equates to $223,200 in savings in the utility budget per year. The cost of each LED is $600, resulting in a $2.16 million outlay. Therefore, the payback is approx. 10 years. With the life expectancy of LEDs at 20 years, that means after paying off the purchase cost in the first 10 years, each of the next 10 years results in annual savings of $223,200, or $2.2 million over that second 10-year period, in addition to potential maintenance savings. The Town will also continue to seek grant funding and rebate programs to reduce the payback period.

46. TRANSFER STATION CONCRETE FLOOR REPAIR
Recommended- $70,000 (Property Tax/Free Cash)

The existing concrete floor at the Transfer Station is cracking and exposing the reinforcing steel. Unless this is repaired, it is just a matter of time before heavy equipment will cause significant damage to the floor. Under this proposal, the floor will be pressure-washed to allow for inspection. Hydro-demolition will be performed to remove structurally deficient material to sound concrete. Exposed reinforcing steel will be cleaned free of concrete, rust or scale and all surfaces will be coated with a bonding agent. The floor will be covered with a one-component, cementitious, polymer-modified, self-consolidating concrete mix.

WATER DEPARTMENT GARAGE - ROOF REPLACEMENT
Recommended - $260,000 (Included in the Water and Sewer Enterprise Fund budget)

Guided by the 2008 Roof Study and its long-term roof repair and replacement schedule, the Building Department has recommended the replacement of the modified bitumen single ply roofing system at the Water Department facility on Netherlands Road in FY2014.

47. BROOKLINE AVENUE PLAYGROUND
Recommended - $87,000 (Property Tax / Free Cash)

The Brookline Avenue Playground is a four-acre park located in Precinct 4. The facility consists of a large athletic field, a fenced tot lot near the Lynch Center, and an open lawn with a play area. It is relatively flat and is partially located within the one hundred-year floodplain of the Muddy River. The play area behind the Lynch Center serves the Brookline Early Education program (housed in the Lynch Center), the nearby neighborhood, and the

greater community. It was last renovated in 1994 and is in need of new play equipment, safety surfacing, water play and accessibility improvements.

Also envisioned in this proposed project is the renovation of the athletic field that is used for soccer, football, youth baseball, and softball. It also hosts the Green Dog Program from dawn to 1 pm from March to November, and from dawn to dusk from December to February.

Funding for the project is estimated to total $957,000, with $87,000 in FY14 for design and $870,000 in FY16 for construction.

48. LARZ ANDERSON PARK
Recommended - $660,000 (Property Tax / Free Cash)

Larz Anderson Park, the largest park in Brookline, was formerly the Larz Anderson estate. Within its 61 acres are large expanses of lawn, slopes ideal for sledding, athletic fields, an outdoor skating rink, a relocated 18th century, one-room schoolhouse, playground, picnic area with outdoor grills, and original carriage house, currently the home of the Auto Museum. The park provides opportunities for active and passive recreation that are not available elsewhere in town.

The park's major roadway, extending from Newton to Avon Streets, is in deteriorated condition. FY14 funds will support both its renovation and the installation of support drainage structures and swales. These funds will also be used for the repair/replacement of pedestrian pathways throughout the park as well as those stairs that are in poor condition.

Future capital expenditures for Larz Anderson Park will likely be directed towards the replacement of the deteriorating Temple of Love and Fountain and undertakings that address the historic structures, walls, buildings, circulation, landscaping, lagoon, and sections of the park still in need of preservation and restoration.

49. PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE
Recommended- $295,000 (Property Tax / Free Cash)

This is an on-going town-wide program for 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. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

Allowing for year-to-year shifts in specific amounts, the breakdown of funds generally falls into the following categories:

- Fencing (fabric, posts, rails, backstops, barricades, related services and supplies): +/- $100,000
- Playground parts/repair/replacement: +/- $30,000
- Playground safety surfacing: +/- $30,000-$45,000
- Athletic fields and infields: +/- $60,000 - $75,000

- Park Furniture replacement (picnic furniture, benches): +/- $10,000
- General site repairs: +/- $25,000

50. TOWN/SCHOOL GROUNDS REHAB
Recommended- $85,000 (Property Tax / Free Cash)

Town and School grounds require on-going landscaping, structural improvements, and repair. These funds will be applied to landscape and hardscape needs such as plantings, regrading, reseeding, tree work, new concrete or asphalt walkways, trash receptacles, bike racks, drainage improvements, retaining walls, and repairs to stairs, treads, railings, benches, or other exterior structures. This program avoids expensive rehabilitation that would be necessary if these items were left to deteriorate.

51. TENNIS COURTS/BASKETBALL COURTS
Recommended- $100,000 (Property Tax / Free Cash)

The Town has 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 the phased reconstruction /renovation/ resurfacing of the courts.

52. COMFORT STATIONS
Recommended- $50,000 (Property Tax / Free Cash)

The Parks and Open Space Division of DPW maintains six comfort stations in various parks. These funds will be used for their renovation.

53. TREE REMOVAL AND REPLACEMENT
Recommended - $170,000 (Property Tax / Free Cash)

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 stormwater quality, provide oxygen, and reduce heat impact in the summer. This line item also includes funding for on-going management work in the four conservation properties (Hall's Pond Sanctuary, Amory Woods Sanctuary, D. Blakely Hoar Sanctuary, and the Lost Pond Sanctuary). Storm damage, disease, and old age continue to reduce tree canopies. The funds will be utilized to remove trees damaged by storms, disease, and old age and to provide structural, health, and safety pruning to prolong the life and viability of significant trees located in conservation and sanctuary areas. New trees will be planted in anticipation of the ultimate loss of existing mature trees.

54. WALNUT HILLS CEMETERY
Recommended - $100,000 (Cemetery Funds)

The Walnut Hills Cemetery was established by the Town in 1875. Designed to preserve the natural features and effects for the landscape, the Cemetery provides visitors with a place of

solace, natural beauty and quiet charm. The Walnut Hills Cemetery was listed in the National and State Registers of Historic Places in 1985.

In 2004, the Town completed a master plan for the Cemetery in order to set the parameters necessary to meet town cemetery needs of the future while maintaining the visual, service, quality and other features that make the Walnut Hills Cemetery such a valuable resource for the Town. Cemetery Trustees and staff recently completed the development of a new interment area at the Cemetery that will serve the Town's needs for the next 14 years.

A recent conditions assessment of the cemetery's roadways indicates that a program of replacement/resurfacing/repair is warranted. The goal is to maintain the historic vehicular circulation system through phasing in pavement improvements, resurfacing the drives, and to reconstruct areas that are beyond repair.

The challenge for the Town, staff and Trustees is to meet the various demands of today and to prepare for the future. To address these challenges, the financing plan for these capital improvements calls for using Cemetery Funds. The $250,000 total between FY14 – FY16 is for the above referenced roadway work and will be funded from the Sale of Lots/Service fund (SW01). Current plans for the $770,000 in Future Years, which is intended for lot expansion, is to use a combination of SW01 and an expendable trust fund (TW23) that is under the purview of the Trustees and does not require appropriation by Town Meeting. Meetings with the Trustees will continue, and they will include discussions regarding potential changes to how revenues received for the sale of lots are currently shared.

55. SCHOOL FURNITURE
Recommended- $50,000 (Property Tax/Free Cash)

This is a continuous program to upgrade furniture in all schools, which absorbs significant wear and tear annually. This program will replace the most outdated and worn items. It should be noted that CIP funds are used in combination with School Department funds to support this program.

56. TOWN/SCHOOL BUILDING - ADA RENOVATIONS
Recommended- $65,000 (Property Tax/Free Cash)

This annual program of improvements is requested in order to bring Town/School buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all. As the disabilities of students become increasing complex, this money becomes increasingly important in order to carry out appropriate accommodations in school buildings. These funds will be used on buildings that are not part of currently planned major renovations. Plans call for focusing on the High School (entrances and bathrooms) and the Soule Recreation Center (bathrooms) in the coming year.

57. TOWN/SCHOOL BUILDING - ELEVATOR RENOVATIONS
Recommended- $250,000 (Property Tax / Free Cash)

When a building is renovated, most elevators are upgraded (new controls, motors, cables,

refurbishment of the car, etc.). The buildings that have not been renovated have elevators that are close to 40 years old. Maintenance is an issue and parts are becoming increasingly difficult to find. This project would upgrade those cars and lifts with new equipment. Elevator renovations at the Pierce School are proposed for FY 14, coinciding with electric distribution upgrade and major renovation of the auditorium. Elevator renovations at the Lynch Center, BHS Physical Education building, and Unified Arts Building are scheduled in future years.

58. TOWN/SCHOOL BUILDING - EMERGENCY GENERATOR REPLACEMENT
Recommended - $125,000 (Property Tax/ Free Cash)

The Massachusetts Building Code requires that public buildings provide for emergency egress in case of a power failure. This is done by either emergency battery-powered lights or through the use of a generator. In FY 14, such work is scheduled to take place at the Pierce School.

59. TOWN/SCHOOL BUILDING - ENERGY CONSERVATION
Recommended - $150,000 (Property Tax/Free Cash)

With continued volatility in utility costs, it is imperative that monies be invested to decrease energy consumption in buildings. Programs include, but are not limited to, lighting retrofit and controls, energy efficient motors, insulation, and heating and cooling equipment. In addition, water conservation efforts will be explored. CIP funds for this program are combined with energy conservation grants awarded by the gas and electric utility companies. In FY 14, two gas-fired condensing boilers will be purchased and installed in the Soule Gym, and at the Baker and Pierce Schools, to be used during shoulder seasons. It is estimated that the maximum payback period for such purchases is five years.

60. TOWN/SCHOOL BUILDING - ENERGY MANAGEMENT SYSTEM
Recommended - $150,000 (Property Tax/Free Cash)

This project is to upgrade the energy management systems in town and school buildings. Most of the larger buildings have older (25 years) energy management systems that have gone beyond their life expectancy, and replacement parts are no longer available. These systems would be replaced and upgraded with new web-based systems integrated into the Town's existing computer network. The Building Department will continue to work in conjunction with the Information Technology Department on this project.

Software Upgrades are needed at the Public Safety Building, the High School, the Health Center, and the Municipal Service Center.

61. TOWN/SCHOOL BUILDING - SECURITY/LIFE SAFETY SYSTEMS
Recommended- $345,000 (Property Tax/Free Cash)

Over the last number of years, there have been several large capital projects that improved

the security situation of Town and School buildings. This program will extend the effort and improve areas where security may be lacking. In general, the plan calls for making all doors around the perimeter of a building more secure by replacing the doors, frames, door handles, and locks with electronic locks that may only be opened with a keypad and/or on a specific schedule. Only the front main entrance of the building would allow for general access. At the front door a speaker and doorbell will be added to connect to the building's existing intercom or phone system for use by visitors. The lighting around each building will be improved and placed on a timer. A small camera system connected to a computer will be added at the main entrance to monitor access to the building.

School buildings will be a priority. Most schools are reasonably secure, but based on an assessment by the Police Department, security can and should be improved. These funds will be used at various locations, including the High School, Fire Stations, Soule Recreation Center, Eliot Recreation Center, and the Libraries. There have been requests made to increase security for MDF/computer rooms due to thefts and vandalism. This will be reviewed. These funds would also be used to continue the on-going process of replacement and installation of new and upgraded burglar alarms, fire alarm systems, sprinkler systems, emergency lighting, and egress signs.

62. SCHOOL TECHNOLOGY
Recommended - $175,000 (Property Tax/Free Cash)

This $175,000 appropriation will allow the School department to move forward in three key areas:

- Complete the Wireless Infrastructure Project – $94,900 will complete the purchase of wireless access points, wiring and switches at the remaining elementary schools (Driscoll, Lawrence and Devotion) for enterprise wireless implementation.
- Outfit Special Education LLD Classrooms – $40,100 will allow the new Language Based Learning Disabilities (LLD) program classrooms at Brookline High School to be outfitted with the classroom technology (Smartboards, laptops and applications) to allow students to experience the appropriate Instructional Model for their individual needs. These classrooms will also serve as mainstream classrooms during other periods.
- Rollout of Evaluation System - $40,000 – expand the FY13 pilot of Teachpoint, a professional staff evaluation system. This funding will allow for a full rollout of the new evaluation system for all professional staff utilizing the Teachpoint application on iPads and laptops, allowing on-line classroom observation and immediate Evaluator/Evaluatee feedback and document sharing.

63. PIERCE SCHOOL – ELECTRIC DISTRIBUTION UPGRADE
Recommended- $375,000 (Property Tax/Free Cash)

The Pierce School has an outdated electrical system. The building was equipped with Federal breakers and distribution systems. Federal is a company that went bankrupt due to faulty equipment. Although the equipment is safe, breakers and parts do fail and replacement parts are not available. FY 13 funds ($37,500) were approved for plans and specs; the $375,000 requested for FY14 is for construction.

64. CLASSROOM CAPACITY
Recommended- $1,750,000 (Property Tax/Free Cash)

As has been previously documented, the Public Schools of Brookline have been experiencing K-8 elementary grade enrollment increases for the past eight years (1,166 students or 30% between FY 05 and FY 13). There are now more than 5,050 K-8 students compared with less than 3,900 in FY05. In January, 2013, the Brookline School Population and Capacity Exploration (B-SPACE) Committee, a joint committee of the Selectmen and the School Committee that includes various citizen representatives, was convened and charged with "gathering and analyzing data, and guiding a community discussion on programming and space planning that will accommodate rapid and unabated enrollment growth and support the educational goals of the Public Schools of Brookline."

In order to address this serious issue, various mitigation measures have been taken, the most significant being the Runkle School Renovation/Addition and the Heath School Addition. Other mitigation measures have primarily consisted of the remodeling and renovation to internal spaces within each of the schools. Over the past few years, the following appropriations have been made to fund the costs associated with creating the additional classroom spaces for the Schools:

$400,000 (FY08) $400,000 (FY10) $530,000 (FY11) $1.75 million (FY13)

Of the $1.75 million approved for FY13, a balance of approximately $900,000 remains for the costs associated with housing the projected enrollment needs for next school year (SY13-SY14). Current projections show the need for approximately 17 additional classrooms over the next two years. The remaining FY 13 funds, combined with the requested $1.75 million in FY 14 CIP funds, will be directed towards acquiring four modular classrooms for the Lawrence School; leasing space outside of school buildings, specifically at Temple Ohabei Shalom on Beacon Street and Temple Emeth on Grove Street; and undertaking work at the Driscoll, Pierce, Baker, Devotion, and (new) Lincoln Schools for the creation of additional classrooms and support space.

65. MUNICIPAL SERVICE CENTER RENOVATIONS
Recommended- $2,500,000 (General Fund Bond)

The Municipal Service Center (MSC) was built in 1999 at 870 Hammond Street to house the Highway and Sanitation Division. Several years after the completion of the facility, the reinforced concrete structural floor on the upper level vehicle storage area showed signs of deterioration from what was believed to be exposure to salts and fuels from the heavy equipment traffic. The floor was repaired and sealed with the understanding that resealing should occur every 5-7 years. This involves removal of the remaining sealants, shot blasting, floor prep, and reapplication of a new epoxy sealant.

As a cost savings measure and part of a reorganization of services, the Parks and Open Space Division of the DPW relocated to the MSC in the summer of 2009. The move provided better services and an improved operating environment for the employees of the Division, since their facility at Larz Anderson was substandard. However, the reorganization also created the need for additional vehicle and equipment storage at the MSC due to the closure of the Larz

Anderson facility, except for the storage of off-season vehicles and equipment.

Because of the persistent need for floor maintenance and the need to house additional parks equipment, a potential alternative plan to frequent expenditure of tax dollars for repairs to the floor was considered. In FY09, $40,000 was approved by Town Meeting for a study of the space and facility needs of both the Parks and Open Space Division and the Building Department's maintenance craftsmen. The study included an analysis of what, if anything, could be done at the MSC to address the Parks and Open Space Division's needs there, potentially freeing up space at the old facility at Larz Anderson.

Preliminary findings of the study have suggested that the underlying cause of the MSC floor deterioration is the marginal size of the structural systems supporting the floor, causing the slab to move under heavy equipment loading. The obvious solution is to reconfigure the upper floor space to remove heavy equipment traffic and storage from this structurally supported area, relocating such heavy equipment to the lower level and to the areas of the upper level where the slab rests on the ground and where shop space is now located. The floor could then be repaired permanently without the fear of future damage occurring due to floor movement.

The $300,000 in FY13 was appropriated as Phase 1 of this project, the first step of reinforcing and restabilizing the floor, floor preparation and floor sealing. Phase 2 of the project, estimated to take place in FY14 at a cost of $1,000,000, would include the relocation of the upper level wash bay to the lower level adjacent to the equipment repair shop and the salt storage shed and the relocation of the carpentry shop, traffic control shop and small equipment storage room to the structurally supported side of the upper level. This will eliminate all heavy traffic from the structurally supported portion of the slab and create additional heavy equipment parking on the ground slab portion of the upper level. Once completed, permanent repairs to the structurally supported floor can be completed with the Phase 1 (FY13) funds.

Phase 3 of the project, estimated to cost $1,000,000, would include the addition of floor area at the rear of the upper level of the garage for additional heavy equipment storage and include the reconfiguration of the vehicle doorways to provide for improved circulation within the garage for vehicle movement. Also included in this final phase would be the creation of additional material storage within the Transfer Station building to allow for the complete deactivation of the Larz Anderson facility and the removal of the buildings.

66. FISHER HILL FIELD/PLAYGROUND CONSTRUCTION

Recommended - $1,200,000 (General Fund Bond), provided that no funds for the preservation of the Gatehouse be expended until the plans for the preservation of the Gatehouse have been approved by the Preservation Commission

In 2001, the State Division of Capital Asset Management (DCAM) notified the Town that the ten-acre Fisher Hill Reservoir site, consisting of a reservoir, an 1887 granite and brownstone gatehouse, native and invasive vegetation, and a perimeter fence had been declared surplus property. The Town was offered the property for a direct municipal use. Having requested and been granted permission to review use alternatives for the site, the Board of Selectmen established a Master Planning Committee in 2002. The Committee evaluated several types

of municipal uses for the property, including affordable housing, open space protection and active/passive recreation.

In December 2002, the Committee recommended to the Selectmen that the Town develop a public park that incorporated an athletic field (smaller than regulation, but still able to accommodate high school sports), passive recreation and open space. "The design was to be compatible with the character of the neighborhood, be handicap accessible, provide a reasonable amount of parking, provide wooded areas and habitat, protect the historic gatehouse, and provide pedestrian access. " (Selectmen's Recommendation on Article 3, November 2003 Town Meeting, Combined Reports.) In January 2003, the Board of Selectmen established a Design Review Committee (DRC) to work within the guidelines set by the Master Planning Committee. The DRC held numerous public meetings over a period of nine months and developed a conceptual plan and program for the park with associated costs. The DRC's total estimated budget for land acquisition, improvements, and playing field development was $4.6 million.

In May 2003 Town Meeting approved a $1.35 million bond authorization for the acquisition and preliminary development of the reservoir site. Included in that sum was an estimated $500,000 for acquisition, $800,000 to make the property safe and accessible to the public for open space use, and $50,000 for design and construction documents. In the Fall of 2003, Town Meeting passed a home rule petition and the Town filed enabling legislation for the purchase of the State property. After several years, the property was purchased for $800,000.

In FY13, the Town approved $3.25 million for the next phase of the project: the creation of a new park that offered opportunities for both passive and active recreation. These dollars came from the sale of the Town's underground reservoir site on the opposite side of Fisher Avenue, which has since been transformed into a mixed-income housing development. The Park and Recreation Commission formed a Design Review Committee consisting of 11 members, four more than called for in the by-law, intending to have representatives from different constituencies including the Greenspace Alliance, the Conservation Commission and the Preservation Commission. Klopfer Martin Design Group was chosen to work with the Committee and other members of the public. A series of public meetings was held in 2011-2012 and included input from neighbors and abutters, among others. In addition, CBI Consulting Inc was commissioned to undertake a Conditions and Restoration Report on the Gatehouse; it was submitted in June 2012

Klopfer Martin Design Group submitted three different plans to the DRC. The "Base Bid" includes the elements that are necessary for the park to function and which cannot be added later without significant expense. The costs of these components (rounded-off) include: site preparation and demolition ($165,000), earthwork and grading ($732,000), plantings ($1,170,000) utilities ($306,000), pavements, surfaces and walls ($360,000), fences and gates ($111,000); and furnishings and site amenities ($322,000). The "Base Bid" totals $3.798 million with contingencies, within the currently available $4.2 million for the Fisher Hill park project.

The second plan ("Level 1 Park Alternates") calls for additional funds for the preservation of the gatehouse, introduces a fountain/water rill system, increases the planting budget,

upgrades the comfort station, adds slide and play features, and upgrades materials for the promenade. This work is estimated at $1,591,000 with contingencies

The third plan ("Level 2 Park Alternates") addresses the interior of the gatehouse, creates a shade structure, adds more benches, and increases the planting budget beyond Level 1's proposal. This work is estimated at $993,480 with contingencies.

At its June 2012 meeting, the DRC voted its preference for the Base Plan with Level 1 Park Alternates and submitted a request for an additional $1.2 million. In addition, the DRC expressed the intention of seeking an additional $1 million in private funds to support the Level 2 Park Alternates.

There is currently $4.2 million available for the project. This amount is comprised of $50,000 remaining from the FY 08 CIP allocation of $1.35 million; $3.25 million in FY 12 funds; and two state grants, secured by the Director of Parks and Open Space, totaling $900,000 to support acquisition and development costs. One of the two grants is dependent on park construction beginning in the fall.

A number of reasons have been offered for the increase in anticipated construction cost and subsequent request for the additional $1.2 million.

1.) Studies of the gatehouse revealed that its condition had deteriorated beyond what was initially assessed.
2.) Inflation has impacted the cost of construction materials and supplies since the 2003 Master Plan was developed.
3.) Due to the size and topography of the site, the extent of stormwater management and underground utilities was not known until final design.
4.) Significant funds for plant materials (approximately $1,170,000) in the base budget, with an additional $265,000 proposed for FY 14 funds, reflects both the request from Fisher Hill neighbors, particularly abutters, to be assured of privacy as well as the planners' concern that underplanting the 2.9 acres of woodland and buffer areas would encourage the growth of invasive vegetation. In addition, all but a small number of trees have been identified as invasive or hazardous and therefore will be removed.
5.) Accessibility: The cost of implementing universal accessibility is a significant cost and challenge, as the site has high earthen and stone berm walls that need to be cut, graded and shaped in order to provide safe access for all.

The 1887 granite and brownstone gatehouse has been highlighted as "an important visual marker of the historic nature of the site." Because of the building's architectural and historical significance, the Preservation Commission has participated in discussions regarding its stabilization.

67. TOWN/SCHOOL BUILDING - ROOF REPAIR/REPLACEMENT PROGRAM Recommended - $1,350,000 (General Fund Bond)

A master plan for repair and replacement of roofs on all town and school buildings was prepared by a consultant. The plan includes a priority list and schedule and calls for $29.3 million over a 20-year period, with $5.4 million required within the six-year period of this

FY14 – FY19 CIP. The roofs of the Main Library (EPDM), Pierce Primary School (slate, with a small area of rubber), and the Refrigeration Shed at Larz Anderson Park (EPDM) are scheduled for FY14, at a cost of $311,000, approximately $1,000,000, and $36,188, respectively.

68. OLD LINCOLN IMPROVEMENTS/MODIFICATIONS
Recommended - $3,000,000 (General Fund Bond) provided that no funds shall be committed until the scope of the project has been accepted by the School Committee and Board of Selectmen.

As noted in the "Classroom Capacity" item, the public schools have been experiencing K-8 Elementary enrollment increases for the past eight years. K-8 Elementary enrollment has grown by 1,166 students (30%) between FY05 and FY13. There are now more than 5,050 K-8 students compared with fewer than 3,900 in FY05. Part of the comprehensive plan to address school overcrowding includes modifying the Old Lincoln School (OLS) whose future programmatic use will be defined in the coming months.

OLS has served the Town in many ways over the last 20 years, including temporarily housing K-8 Schools, the High School (Freshman Campus), Police/Fire Operations, Town Hall, and the Health Center while those buildings were being renovated. For each of these types of use, the building was modified to meet the specific needs of the using agency. Almost $2 million has been spent on the building since 2004.

FY 14 CIP dollars would be used to renovate the bathrooms, upgrade the electrical system, replace the 1934 ventilators, replace the boiler/burner, and undertake necessary roof repairs. The repair or removal of the areas along the front of the building, including the garages, will be funded with the FY 13 $500,000 CIP allocation. The current schedule calls for garage work to start this summer.

A breakdown of the FY 14 funds includes:

- $625,000 for plumbing and fixture upgrades.
- $1.1 million for electrical upgrades.
- $425,000 for HVAC upgrades.
- $225,000 for miscellaneous roof repairs as outlined in the Roof Study (completed by Russo Barr).
- $255,000 for interior cosmetic and finish upgrades.
- $370,000 soft costs/architect/contingency.

These monies would also fund the development of plans and specifications. The schedule calls for the work to start in July 2013 with completion in time for the school to open in September 2014 for the 2014 – 2015 school year.

RECOMMENDATION

The Advisory Committee recommends Favorable Action on the following vote:

VOTED: To approve the budget for fiscal year 2014 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 I and II 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 Board of Selectmen 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.

iv) Within the Building Department appropriation, any transfer of more than $10,000 to or from repairs to public building appropriations.

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 Board of Selectmen, 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 FY2014 budget, and to solicit and award contracts for terms of 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 Board of Selectmen.

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 Board of Selectmen 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 Board of Selectmen shall be at the rate of $4,500 per year for the Chairman 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 $99,257 effective July 1, 2013, plus any adjustment approved by vote of the Board of Selectmen. 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 Board of Selectmen, 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 $1,210,000 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	$393,170
Purchase of Services	$129,978
Supplies	$148,200
Other	$4,100
Utilities	$98,462
Capital	$81,300
Debt Service	$179,374
Reserve	$25,000
Total Appropriations	$1,059,584
Indirect Costs	$150,416
Total Costs	$1,210,000

Total costs of $1,210,000 to be funded from golf receipts with $150,416 to be reimbursed to the General Fund for indirect costs.

7.) **WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling $26,928,493, 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	2,066,921	354,603	2,421,523
Purchase of Services	163,889	147,200	311,089
Supplies	102,020	21,000	123,020
Other	8,900	0	8,900
Utilities	159,123	0	159,123
Capital	420,300	161,500	581,800
Intergovernmental	5,950,348	12,650,000	18,600,348
Debt Service	1,166,668	1,163,657	2,330,325
Reserve	117,790	148,829	266,619
Total Appropriations	10,155,959	14,646,788	24,802,747
Indirect Costs	1,740,819	384,928	2,125,747
Total Costs	11,896,777	15,031,716	26,928,493

Total costs of $26,928,493 to be funded from water and sewer receipts with $2,125,747 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 $2,750,000.

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 $100,000.

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 $110,000.

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.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of $4,587,151, 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 $400,610, 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.

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:

Parking Meter Special Revenue Fund $4,100,000
[to the General Fund for the Department of Public Works - $2,050,000]
[to the General Fund for the Police Department - $2,050,000]

State Library Aid Special Revenue Fund [to the General Fund for the Library]	$ 41,555
Cemetery Sales Special Revenue Fund [to the General Fund for the Department of Public Works]	$ 75,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	$ 353,717

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 34 through 68, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #65 - 68, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

34.) Raise and appropriate $25,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for the development of a plan, including plans and specifications, for various garage floor sealants and water/oil separators

35.) Raise and appropriate $256,000, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen, for the enhancement of town-wide hardware and software.

36.) Raise and appropriate $50,000, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen and the Economic Development Advisory Board, for commercial area improvements.

37.) Raise and appropriate $40,000, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen, for the design of the Riverway Park pedestrian and bicycle path.

38.) Raise and appropriate $85,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and the Preservation Commission, for improvements to the Devotion House and the Putterham School building.

39.) Raise and appropriate $510,000, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of fire engine #3.

40.) Raise and appropriate $245,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for making extraordinary repairs to Fire Stations.

41.) Raise and appropriate $40,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for bicycle access improvements.

42.) Raise and appropriate $45,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for a study of the Woodland Road / Hammond Street pedestrian crossing.

43.) Raise and appropriate $1,510,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of streets, with notification, in advance of plans being submitted for bids, to the Board of Selectmen of any changes to pedestrian, bicycle, or motor vehicle traffic patterns or to pavement markings.

44.) Raise and appropriate $283,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of sidewalks.

45.) Raise and appropriate $540,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the conversion of Town-owned streetlights to LED's.

46.) Raise and appropriate $70,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for rehabilitation of the Transfer Station floor.

47.) Raise and appropriate $87,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the design of the renovation of Brookline Avenue playground.

48.) Raise and appropriate $660,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for costs associated with improvements to the roadways and pathways at Larz Anderson Park.

49.) Raise and appropriate $295,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.

50.) Raise and appropriate $85,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town and School grounds.

51.) Raise and appropriate $100,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the rehabilitation of tennis courts and basketball courts.

52.) Raise and appropriate $50,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the rehabilitation of comfort stations in parks and playgrounds.

53.) Raise and appropriate $170,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

54.) Appropriate $100,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Cemetery Trustees, for the rehabilitation of roadways within Walnut Hills Cemetery; to meet the appropriation, authorize the expenditure of $100,000 from the Sale of Lots special revenue fund (SW01).

55.) Raise and appropriate $50,000, to be expended under the direction of the Chief Procurement Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for school furniture upgrades.

56.) Raise and appropriate $65,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for ADA renovations to Town and School buildings.

57.) Raise and appropriate $250,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, in the case of School facilities, by the School Committee, for improvements to elevators in Town and School facilities.

58.) Raise and appropriate $125,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of emergency generators and/or installation of emergency lights or circuits.

59.) Raise and appropriate $150,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for energy conservation projects in Town and School buildings.

60.) Raise and appropriate $150,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for upgrades to energy management systems in Town and School buildings.

61.) Raise and appropriate $345,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and, in the case of School facilities, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

62.) Raise and appropriate $175,000, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for three School technology projects: wireless infrastructure, special education Language Based Learning Disabilities LLD classrooms, and/or a professional staff evaluation system.

63.) Raise and appropriate $375,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the upgrade of the electrical distribution system at the Pierce School.

64.) Raise and appropriate $1,750,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools.

Passed By A Two Thirds Vote

65.) Appropriate $2,500,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for remodeling, reconstructing, or making extraordinary repairs to the Municipal Service Center (MSC), and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $2,500,000 under General Laws, Chapter 44, Section7(3A), or pursuant to any other enabling authority; and authorize the Selectmen 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.

Passed By A Two Thirds Vote

66.) Appropriate $1,200,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for costs associated with the construction of a park, playground and athletic fields at the site of the old Fisher Hill Reservoir, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $1,200,000 under General Laws, Chapter 44, Section 7(25), or pursuant to any other enabling authority; and authorize the Selectmen 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; provided that no funds for the preservation of the Gatehouse be expended until the plans for the preservation of the Gatehouse have been approved by the Preservation Commission.

67.) Raise and appropriate $1,350,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen

Cont. –

and, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $1,350,000 under General Laws, Chapter 44, Section7(3A), or pursuant to any other enabling authority; and authorize the Selectmen 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.

68.) Raise and appropriate $3,000,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to the Old Lincoln School, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $3,000,000 under General Laws, Chapter 44, Section7(3A), or pursuant to any other enabling authority; and authorize the Selectmen 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; provided that no funds shall be committed until the scope of the project has been accepted by the School Committee and Board of Selectmen.

14.) **FREE CASH:** Raise and appropriate and transfer $7,655,155 from free cash for the following purposes:

a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $507,190;
b.) Stabilization Fund (MGL Chapter 40, Section 5B) – $250,000;
c.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $154,115;
d.) Reduce the tax rate (Special Appropriations) – $4,818,745;
e.) Housing Trust Fund – $555,106;
f.) Retiree Healthcare Liability Trust Fund (Chapter 472 of the Acts of 1998, as amended) - $500,000;
g.) Worker's Compensation Trust Fund (MGL Chapter 40, Section 13A) – $270,000;
h.) Unemployment Trust Fund (MGL Chapter 40, Section 5E) – $100,000;
i.) Contributory Retirement Pension Fund (MGL Chapter 32, Section 22) – $500,000.

XXX

FY14 BUDGET - TABLE 1

		FY11 ACTUAL	FY12 ACTUAL	FY13 BUDGET	FY14 BUDGET	$$ CHANGE FROM FY13	% CHANGE FROM FY13
	REVENUES						
	Property Taxes	155,898,463	162,674,174	170,137,611	175,604,001	5,466,389	3.2%
	Local Receipts	22,611,569	23,849,795	21,084,438	22,047,366	962,928	4.6%
	State Aid	13,808,845	13,796,975	15,131,276	16,875,381	1,744,105	11.5%
	Free Cash	4,590,079	5,380,264	5,336,413	7,655,155	2,318,742	43.5%
	Overlay Surplus	0	400,000	1,750,000	0	(1,750,000)	-100.0%
	Other Available Funds	5,080,435	6,218,966	10,144,344	6,846,435	(3,297,909)	-32.5%
	TOTAL REVENUE	**201,989,391**	**212,320,174**	**223,584,082**	**229,028,337**	**5,444,256**	**2.4%**
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Selectmen	637,941	633,913	625,898	647,749	21,851	3.5%
	2 . Human Resources	485,181	503,323	507,186	510,979	3,793	0.7%
	3 . Information Technology	1,399,699	1,399,122	1,463,774	1,667,878	204,104	13.9%
	4 . Finance Department	2,959,441	2,986,279	2,966,751	2,848,636	(118,115)	-4.0%
	5 . Legal Services	752,924	842,311	784,384	801,094	16,709	2.1%
	6 . Advisory Committee	19,065	22,121	21,118	23,643	2,525	12.0%
	7 . Town Clerk	613,978	577,160	625,299	533,900	(91,400)	-14.6%
	8 . Planning and Community Development	642,151	634,153	619,572	652,202	132,630	5.3%
	9 . Police	14,812,957	14,947,822	14,877,838	15,131,074	253,236	1.7%
	10 . Fire	12,192,327	12,855,469	12,435,279	13,024,946	589,667	4.7%
	11 . Building	6,868,280	6,823,180	6,890,412	7,011,359	120,947	1.8%
(1)	12 . Public Works	14,369,186	13,283,953	13,506,966	13,812,488	305,522	2.3%
	a. Administration	*784,885*	*799,178*	*794,483*	*807,490*	*13,006*	*1.6%*
	b. Engineering/Transportation	*904,244*	*1,096,910*	*1,099,701*	*1,206,829*	*107,128*	*9.7%*
	c. Highway	*4,760,574*	*4,774,773*	*4,776,451*	*4,850,441*	*73,991*	*1.5%*
	d. Sanitation	*2,668,210*	*2,873,192*	*2,938,452*	*2,944,662*	*6,210*	*0.2%*
	e. Parks and Open Space	*2,957,405*	*3,325,274*	*3,478,101*	*3,602,455*	*124,354*	*3.6%*
	f. Snow and Ice	*2,293,867*	*414,627*	*419,777*	*400,610*	*(19,167)*	*-4.6%*
	13 . Library	3,550,657	3,621,074	3,683,992	3,636,885	(47,107)	-1.3%
	14 . Health	1,100,297	1,158,084	1,122,059	1,229,088	107,029	9.5%
	15 . Veterans' Services	281,170	273,859	290,996	292,074	1,078	0.4%
	16 . Council on Aging	775,730	770,862	858,351	816,036	(42,315)	-4.9%
	17 . Human Relations	106,203	108,596	104,251	0	(104,251)	-100.0%
	18 . Recreation	895,904	1,003,409	1,014,283	1,028,713	14,430	1.4%
(2)	19 . Personnel Services Reserve	750,000	715,000	715,000	715,000	0	0.0%
(2)	20 . Collective Bargaining - Town	475,000	1,175,000	1,775,000	1,900,000	125,000	7.0%
	Subtotal Town	*62,463,090*	*62,444,692*	*64,888,409*	*66,283,741*	*1,395,332*	*2.2%*
	21 . *Schools*	*72,043,133*	*75,387,189*	*79,079,824*	*82,780,770*	*3,700,946*	*4.7%*
	TOTAL DEPARTMENTAL EXPENDITURES	**134,506,223**	**137,831,881**	**143,968,234**	**149,064,511**	**5,096,278**	**3.5%**
	NON-DEPARTMENTAL EXPENDITURES						
(1)	22 . Employee Benefits	39,606,017	41,529,043	45,547,008	50,100,251	4,553,244	10.0%
(3)	*a. Pensions*	*13,975,800*	*14,556,225*	*15,767,048*	*17,385,688*	*1,618,640*	*10.3%*
	b. Group Health	*19,906,659*	*21,546,572*	*23,078,372*	*24,618,704*	*1,540,332*	*6.7%*
	c. Health Reimbursement Account (HRA)	*0*	*0*	*125,000*	*70,000*	*(55,000)*	*-44.0%*
(3)	*d. Retiree Group Health Trust Fund (OPEB's)*	*2,012,531*	*1,801,527*	*2,601,928*	*3,514,360*	*912,431*	*35.1%*
	e. Employee Assistance Program (EAP)	*25,282*	*25,180*	*28,000*	*28,000*	*0*	*0.0%*

		FY11 ACTUAL	FY12 ACTUAL	FY13 BUDGET	FY14 BUDGET	$$ CHANGE FROM FY13	% CHANGE FROM FY13
	f. Group Life	*129,218*	*129,889*	*130,000*	*132,500*	*2,500*	*1.9%*
	g. Disability Insurance	*13,206*	*13,279*	*16,000*	*16,000*	*0*	*0.0%*
(3)	*h. Worker's Compensation*	*1,350,000*	*1,250,000*	*1,200,000*	*1,720,000*	*520,000*	*43.3%*
(3)	*i. Public Safety IOD Medical Expenses*	*325,000*	*300,000*	*560,660*	*400,000*	*(160,660)*	*-28.7%*
(3)	*j. Unemployment Compensation*	*400,000*	*350,000*	*350,000*	*450,000*	*100,000*	*28.6%*
	k. Medical Disabilities	*20,248*	*26,989*	*30,000*	*40,000*	*10,000*	*33.3%*
	l. Medicare Coverage	*1,448,073*	*1,529,382*	*1,660,000*	*1,725,000*	*65,000*	*3.9%*
(2)	23 . Reserve Fund	1,603,475	605,103	1,946,946	2,161,799	214,853	11.0%
	24 Stabilization Fund	71,868	253,092	0	250,000	250,000	#DIV/0!
	25 Affordable Housing	0	355,264	251,363	555,106	303,743	120.8%
	26 . Liability/Catastrophe Fund	455,500	141,959	253,669	154,115	(99,554)	-39.2%
	27 . General Insurance	251,526	248,469	275,000	335,000	60,000	21.8%
	28 . Audit/Professional Services	138,560	129,335	130,000	130,000	0	0.0%
	29 . Contingency Fund	14,791	12,895	15,000	15,000	0	0.0%
	30 . Out-of-State Travel	0	1,403	3,000	3,000	0	0.0%
	31 . Printing of Warrants & Reports	19,205	14,219	20,000	25,000	5,000	25.0%
	32 . MMA Dues	11,417	11,178	12,729	11,686	(1,043)	-8.2%
	Subtotal General	*962,867*	*1,167,814*	*2,907,707*	*3,640,706*	*732,999*	*25.2%*
(1)	33 . Borrowing	9,491,021	10,112,066	10,046,874	9,583,111	(463,763)	-4.6%
	a. Funded Debt - Principal	*7,264,649*	*7,955,436*	*7,422,382*	*7,207,338*	*(215,044)*	*-2.9%*
	b. Funded Debt - Interest	*2,176,113*	*2,142,824*	*2,464,492*	*2,215,772*	*(248,719)*	*-10.1%*
	c. Bond Anticipation Notes	*0*	*0*	*100,000*	*100,000*	*0*	*0.0%*
	d. Abatement Interest and Refunds	*50,259*	*13,806*	*60,000*	*60,000*	*0*	*0.0%*
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**50,059,905**	**52,808,923**	**58,501,588**	**63,324,067**	**4,822,479**	**8.2%**
	TOTAL GENERAL APPROPRIATIONS	**184,566,128**	**190,640,804**	**202,469,822**	**212,388,579**	**9,918,756**	**4.9%**
	SPECIAL APPROPRIATIONS						
	34 . Garage Floor Sealant and Water/Oil Separators (revenue financed)				25,000		
	35 . Technology Applications (revenue financed)				256,000		
	36 . Commercial Areas Improvements (revenue financed)				50,000		
	37 Riverway Park Pedestrian/Bike Path - Design (revenue financed)				40,000		
	38 Historic Building Rehab (Devotion House & Putterham School) (revenue financed)				85,000		
	39 . Fire Engine #3 (revenue financed)				510,000		
	40 . Fire Station Renovations (revenue financed)				245,000		
	41 . Bicycle Access Improvements (revenue financed)				40,000		
	42 . Woodland Rd. / Hammond St. Study (revenue financed)				45,000		
	43 . Street Rehabilitation (revenue financed)				1,510,000		
	44 . Sidewalk Repair/Reconstruction (revenue financed)				283,000		
	45 . LED Streetlight Conversion (revenue financed)				540,000		
	46 . Transfer Station Floor (revenue financed)				70,000		
	47 . Brookline Ave. Playground - Design (revenue financed)				87,000		
	48 . Larz Anderson Park - roadway/pathway improvements (revenue financed)				660,000		
	49 . Playground Equipment, Fields, Fencing (revenue financed)				295,000		
	50 . Town/School Grounds Rehab (revenue financed)				85,000		
	51 Tennis Courts / Basketball Courts (revenue financed)				100,000		
	52 Comfort Stations (revenue financed)				50,000		
	53 . Tree Removal and Replacement (revenue financed)				170,000		
	54 . Walnut Hills Cemetery - roadway work (special revenue fund)				100,000		

		FY11 ACTUAL	FY12 ACTUAL	FY13 BUDGET	FY14 BUDGET	$$ CHANGE FROM FY13	% CHANGE FROM FY13
	55 . School Furniture Upgrades (revenue financed)				50,000		
	56 . Town/School ADA Renovations (revenue financed)				65,000		
	57 . Town/School Elevator Renovations (revenue financed)				250,000		
	58 . Town/School Emergency Generator Replacement (revenue financed)				125,000		
	59 . Town/School Energy Conservation Projects (revenue financed)				150,000		
	60 . Town/School Energy Management Systems (revenue financed)				150,000		
	61 . Town/School Building Security / Life Safety (revenue financed)				345,000		
	62 . School Technology (revenue financed)				175,000		
	63 . Pierce School Electric Distribution Upgrade (revenue financed)				375,000		
	64 . Classroom Capacity (revenue financed)				1,750,000		
	65 . Municipal Service Center Renovations (bond)				2,500,000		
	66 . Fisher Hill Field/Playground - Town (bond)				1,200,000		
	67 . Town/School Building Roof Repair/Replacement (bond)				1,350,000		
	68 . Old Lincoln School Renovations (bond)				3,000,000		
(4)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**7,102,000**	**7,379,000**	**12,933,500**	**8,581,000**	**(4,352,500)**	**-33.7%**
	TOTAL APPROPRIATED EXPENDITURES	**191,668,128**	**198,019,804**	**215,403,322**	**220,969,579**	**5,566,256**	**2.6%**
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	102,036	106,839	109,160	111,026	1,866	1.7%
	State & County Charges	5,576,032	5,671,508	6,087,819	6,222,733	134,914	2.2%
	Overlay	1,795,169	1,910,493	1,958,780	1,700,000	(258,780)	-13.2%
	Deficits-Judgments-Tax Titles	8,615	7,374	25,000	25,000	0	0.0%
	TOTAL NON-APPROPRIATED EXPEND.	**7,481,852**	**7,696,214**	**8,180,759**	**8,058,759**	**(122,000)**	**-1.5%**
	TOTAL EXPENDITURES	**199,149,980**	**205,716,018**	**223,584,082**	**229,028,338**	**5,444,255**	**2.4%**
	SURPLUS/(DEFICIT)	**2,839,411**	**6,604,156**	**0**	**0**		

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) 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 #33).

FY14 BUDGET - TABLE 2

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)	619,901	14,118	4,000	7,600		2,130			647,749
Human Resources Department (Human Resources Director)	269,086	200,503	9,000	31,000		1,390			510,979
Information Technology Department (Chief Information Officer)	946,386	614,322	33,850	32,550		40,769			1,667,878
Finance Department (Director of Finance)	1,986,207	754,949	43,697	18,865	2,318	42,600			2,848,636
Legal Services (Town Counsel)	562,335	127,559	2,800	105,400		3,000			801,094
Advisory Committee (Chair, Advisory Committee)	20,503		2,275	570		295			23,643
Town Clerk (Town Clerk)	443,663	77,887	9,750	1,400		1,200			533,900
Planning and Community Department (Plan. & Com. Dev. Dir.)	619,215	16,025	9,212	4,550		3,200			652,202
Police Department (Police Chief)	13,570,473	385,669	221,750	64,000	448,897	440,284			15,131,074
Fire Department (Fire Chief)	12,217,122	154,755	146,260	27,650	247,024	232,134			13,024,946
Public Buildings Department (Building Commissioner)	1,977,182	2,213,679	23,170	5,350	2,728,878	63,100			7,011,359
Public Works Department (Commissioner of Public Works)	7,331,492	3,391,940	915,750	40,900	1,412,406	700,000	20,000		13,812,488
Public Library Department (Library Board of Trustees)	2,560,256	173,834	552,460	3,700	320,634	26,000			3,636,885
Health Department (Health Director)	963,409	196,963	19,700	4,570	40,896	3,550			1,229,088
Veterans' Services (Veterans' Services Director)	155,120	2,609	650	133,185		510			292,074
Council on Aging (Council on Aging Director)	678,482	42,732	18,000	2,900	68,722	5,200			816,036
Human Relations/Youth Resources (Human Relations Dir.)									
Recreation Department (Recreation Director)	704,520	74,982	70,980	12,400	162,231	3,600			1,028,713
School Department (School Committee)									82,780,770
Total Departmental Budgets	**45,625,353**	**8,442,525**	**2,083,304**	**496,590**	**5,432,006**	**1,568,962**	**20,000**		**146,449,511**
DEBT SERVICE									
Debt Service (Director of Finance)								9,583,111	9,583,111
Total Debt Service								**9,583,111**	**9,583,111**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	17,255,688								17,255,688
Non-Contributory Pensions Contribution (Director of Finance)	130,000								130,000
Group Health Insurance (Human Resources Director)	24,618,704								24,618,704
Health Reimbursement Account (HRA) (Human Resources Director)	70,000								70,000
Retiree Group Health Insurance - OPEB's (Director of Finance)	3,514,360								3,514,360
Employee Assistance Program (Human Resources Director)	28,000								28,000
Group Life Insurance (Human Resources Director)	132,500								132,500
Disability Insurance	16,000								16,000
Workers' Compensation (Human Resources Director)	1,720,000								1,720,000
Public Safety IOD Medical Expenses (Human Resources Director)	400,000								400,000
Unemployment Insurance (Human Resources Director)	450,000								450,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	1,725,000								1,725,000
Total Employee Benefits	**50,100,251**								**50,100,251**
GENERAL / UNCLASSIFIED									
Reserve Fund (*) (Chair, Advisory Committee)				2,161,799					2,161,799
Stabilization Fund (Director of Finance)				250,000					250,000
Liability/Catastrophe Fund (Director of Finance)				154,115					154,115
Housing Trust Fund (Planning & Community Develpoment Dir.)				555,106					555,106
General Insurance (Town Administrator)		335,000							335,000
Audit/Professional Services (Director of Finance)		130,000							130,000
Contingency (Town Administrator)				15,000					15,000
Out of State Travel (Town Administrator)		3,000							3,000
Printing of Warrants (Town Administrator)	5,000	10,000	10,000						25,000
MMA Dues (Town Administrator)				11,686					11,686
Town Salary Reserve (*) (Director of Finance)	1,900,000								1,900,000
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	**2,620,000**	**478,000**	**10,000**	**3,147,706**					**6,255,706**
TOTAL GENERAL APPROPRIATIONS	**98,345,604**	**8,920,525**	**2,093,304**	**3,644,296**	**5,432,006**	**1,568,962**	**20,000**	**9,583,111**	**212,388,579**

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

Panel, as separately voted, by a
unanimous vote

ARTICLES 9 + 10

COMMITTEE ON TOWN ORGANIZATION AND STRUCTURE (CTO&S) SUPPLEMENTAL RECOMMENDATION

Both articles 9 and 10 propose changing or adapting the Town's governmental structure for dealing with human relations issues, both within the Town's workforce and more generally within the Town itself. As such, and according to the by-law under which CTO&S operates, it felt it appropriate to review both articles and recommend its findings to the 2013 Annual Town Meeting.

CTO&S met with petitioners and supporters of both articles, the chairperson of the Human Relations Youth Resources Commission, the Human Resources Director, Associate Town Counsel and the Town Administrator. We also held a public hearing on both articles. While all members of the Committee are familiar with and have followed the operations of both the Human Relations and Youth Resources Commission and Department for decades, the Committee recognizes that times have changed, the human relations issues facing the Town today are different from those of 40 years ago and that some changes in the charter, focus and perhaps organizational structure may be beneficial. However, the Committee also recognizes that the issues involved are complex and not as simple as they may first appear. This became obvious during our discussions during which a variety of questions arose, including:

- Which duties spelled out in the current HRYR by-law should be retained, which should be deleted and which should be moved to other areas of the Town's governmental structure, given the numerous changes that have occurred over the past 4 decades in human relations and youth resources needs and town functions? These include challenges in dealing with discrimination in both the Town's internal and external workplace and housing; how we can achieve effective outreach; our needs related to youth resources; the other assorted functions the HRYR Department has assumed over the years; and the redistribution of related activities that has occurred in various Town agencies such as the School Department, the Recreation Department, the Human Resources Office, etc.

- How do the proposed changes of Article 9 or Article 10 conform with the responsibilities spelled out in the large number of Town, State and Federal laws, agreements and guidelines that the Town is on record to support?

- How should the responsibilities of the current HRYR function and those of the current Human Resources function be best allocated in the future to provide minimum overlap and maximum effectiveness.

- If the primary responsibility for non-discrimination and affirmative action is moved to a lower reporting level than is currently the case, can it have the necessary clout to be effective across the Town's departments? Will this lower level reporting structure best serve the external issues of non-discrimination in businesses in the Town, in fair housing, etc? If the primary responsibility stays at a first tier reporting relationship to the Town Administrator, what issues need to be more clearly separated in relationship to the Town workforce between the HRYR function operating at one level and the Human Resources function operating at a different level?

- If the HRYR function is maintained in its current organizational structure, is its one person departmental operation viable in today's governmental structure?

- Based on answers to all of the above issues and questions, how should the charter of the HRYR Commission be changed to best meet today's needs?

Based upon CTO&S's assessment that these issues have not been adequately answered by either the proponents of Articles 9 or 10, we were pleased that the Selectmen saw fit to create a Selectmen's Committee to address these kinds of issues in depth and to report back to a future Town Meeting with its recommendations after thorough study. We believe that this is the wise course of action.

This obviously raises the question of why not recommend referral of both Articles 9 and 10 until the Selectmen's Study Committee reports out its findings. This was discussed at some length within the Committee and there was some sentiment for such action so that the Study Committee's final findings were not prejudiced by adoption of either article. However, the issue then became how do the various HRYR duties that still have to be performed get done in the interim. We believe that the Selectmen's proposal to put in place the interim structure outlined under Article 9, with the clear sun-setting provision as recommended under the Selectmen's vote on Article 9, is a better way to accomplish this as compared to the alternative of hiring a new but temporary person at the Director level as spelled out within the current structure. Neither way is optimal but CTO&S believes that there is less complication and better organizational support in the former than in the latter.

We also believe that regardless of how all of this works out, the HRYR Commission should be brought up to full strength as soon as practically possible. It is probable, given the scope of the issues involved, that the Study Committee will not report out in time for action at the 2013 Fall Town Meeting and that therefore it will be a year from now that any recommended changes come before Town Meeting. Based on this projection, we believe that keeping the Commission with vacancies for another year is not consistent with the Town's longstanding commitment to its functions and advocacy.

Based on all of the above, CTO&S recommends the following actions:

- On article 9, by a 4-1 vote, adoption of the vote under the Selectmen's recommendation

- On article 10, by 4 votes in favor, 1 vote in abstention, referral of the substance of Article 10 to the Selectman's Committee on Diversity, Equal Employment Opportunity and Affirmative Action. We would further urge the Committee to consider its charge broadly and examine all of the corollary issues associated with the recently discussed changes in the structure and charter of the HRYR function.

- CTO&S urges the Selectmen to begin the process of soliciting new members to the HRYR Commission with the objective of bringing the Commission to effective and full strength as soon as practically possible.

ARTICLE 9

NINTH ARTICLE
Submitted by: Town Administrator

To see if the Town will amend the General By-Laws, Article 3.14, Division of Human Relations – Youth Resources, Sections 3.14.1 and 3.14.2 as follows (language to be deleted appears as a strike-out and new language is underlined):

ARTICLE 3.14
DIVISION OF HUMAN RELATIONS - YOUTH RESOURCES

SECTION 3.14.1 ESTABLISHMENT

There is hereby established a ~~Division of~~ Human Relations-Youth ~~Youth Resources, consisting of a Human Relations-Youth~~ Resources Commission. The Human Relations-Youth Resources Commission shall consist of fifteen (15) citizens of the Town. Members of said Commission shall be appointed by the Selectmen and shall hold office for a period of three (3) years except that of the fifteen (15) members first appointed; five (5) shall be appointed for one (1) year, five (5) shall be appointed for (2) years and five (5) shall be appointed for three (3) years. The terms of office expire on August 31, unless otherwise specified by the Selectmen or unless such appointment is for an indefinite term.

All members of said Commission shall serve without compensation. In the event of the death or resignation of any member, his successor shall be appointed to serve the unexpired period of the term for which such member has been appointed. A member may be removed by the Selectmen at any time when, in their judgment, the public interest so requires.

SECTION 3.14.2 ~~DIRECTOR OF~~STAFF SUPPORT TO HUMAN RELATIONS-YOUTH RESOURCES COMMISSION

~~There~~The Board of Selectmen, upon the recommendation of the Town Administrator shall ~~be a Director of Human Relations-Youth Resources who shall be the~~ appoint professional and/or administrative ~~head of a department~~staff and other resources as may be necessary from time to time to assist the Commission in the administration of its functions and policies under this Article. ~~The Selectmen shall appoint and may remove, when in their judgment the public interest so requires, and may fix the compensation of said Director. The Selectmen shall have the authority to create subordinate staff positions in said department and the Director, with the approval of the Selectmen, may appoint persons to fill these positions, and he may remove them with the approval of the Selectmen. The Director shall have full charge and supervision of the work of the department and its personnel. He shall, in the performance of his duties and responsibilities, be directly responsible to and subject to the direction, authority and control of the Board of Selectmen. The Director shall perform such duties and~~

~~responsibilities as may be assigned to him from time to time by the Board of Selectmen in carrying out the policies of the Commission, including the obtaining of compliance by contractors of the nondiscrimination provisions in Town contracts. The Director shall act as technical advisor to the Board of Selectmen, the Commission and other Town agencies or officials on Human Relations-Youth Resources matters, with especial reference to nondiscrimination, and publish and distribute such copies of reports as the Board of Selectmen may authorize in relation thereto. The Director shall be responsible for keeping the agenda for Commission meetings, the records, files, indexes, correspondence, and other data relating to the functioning of the Commission. In addition the Director shall cooperate with the Commission in the fulfillment of the Commission's responsibilities under this Article, provide full staff services to the Commission, and shall carry out such assignments as the Commission may request from time to time with the consent of the Board of Selectmen.~~

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

The general duties of the Commission shall include:

(a) The development of opportunities within Brookline and the Metropolitan area, for those who are discriminated against and restricted by their race, color, national origin or ancestry, religion, sex or age, sexual orientation, and the elimination of all and any barriers to their choice of jobs, education and housing; and

(b) Increase communications across racial lines to destroy stereotypes, to halt polarization, end distrust and hostility, and create common ground for efforts toward public order and social justice; and

(c) Increase the capacity of public and private institutions to respond to the problems of the disadvantaged so as to augment their power to deal with the problems that affect their own lives.

To carry out its general duties the Commission shall:

(d) With the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices as reasonably pertain to the work of each department of the Town and to the nature and size of its work force, to insure that applicants are sought and employed and that employees are treated during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation.

(e) With the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices of Town Contractors as reasonably pertain to the work of the contract and to the nature of the contractor's work force, to insure that applicants are sought and employed, and that employees are treated, during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation.

(f) Administer with the appropriate departments and agencies of the Town, the affirmative action program relating to contracts to be awarded by any agency of the Town as set forth in Article 4.5 of these By-laws.

(g) Initiate, receive, secure the investigation of and seek the satisfactory adjustment of complaints charging discrimination, or failure to take, or delay in taking appropriate action, or abuse of authority in connection therewith by any Town agency, Town official or employee which may be brought to the Commission's attention.

(h) Institute and assist in the development of educational programs to further community relations and understanding among employees of all agencies within the Town.

(i) Develop educational programs for the general community, recommend legislation, issue publications and reports, do research in the field of human relations and cooperate with other private and public agencies in the promotion of equal rights and opportunities.

(j) Do anything else deemed appropriate in the furtherance of its general duties and not inconsistent with law or the Town By-laws.

To carry out its general duties as they relate to Youth Resources the Commission shall:

(k) Develop and sustain full coordination, communication and cooperation among all public and private agencies, departments and groups which relate to youth in the community.

(l) Continually evaluate effectiveness of all programs relating to youth.

(m) Serve as an advocate for youth and to increase the capacity of public and private agencies to respond to youth needs.

(n) Increase and sustain open communication and foster positive relations among youth from the various socio-economic, ethnic, religious and cultural segments of the community.

(o) Promote and maintain communication and cooperation between youth and adults.

(p) Act as technical and program adviser to the Board of Selectmen.

(q) Keep informed on trends and developments in youth research and services elsewhere, and determine their applicability to Brookline.

(r) Participate in regional and inter-community youth advocacy and program planning boards, councils and committees.

(s) Provide direct service and/or assist in the initiation, implementation and development of suitable programs for youth in the community.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this By-law, the Commission shall adopt such procedural rules and regulations as it deems necessary and appropriate, shall hold public hearings, shall appoint subcommittees to concern themselves with specific human relations problems and shall consult with and hire any necessary consultants. The power of the Commission to consult with and hire consultants shall in no event exceed the sum or sums which may from time to time be appropriate for such purposes.

SECTION 3.14.5 INFORMATION AND COOPERATION

All departments and agencies in the Town shall cooperate fully with the Commission. They shall comply with its requests for information concerning practices inconsistent with the Town policy of non- discrimination. Upon receipt of recommendations in writing from the Commission for giving effect to that policy, each department or agency shall submit a reply within a reasonable time, indicating the disposition of and action taken with regard to such recommendations.

SECTION 3.14.6 ANNUAL REPORT

The Commission shall submit an Annual Report to the Board of Selectmen detailing its activities; such report will be published in the annual report of the Town.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

After 39 years of dedicated service to the Town of Brookline, Human Relations/Youth Resources Director Steve Bressler announced his retirement effective April 30, 2013. We wish Steve well and thank him for his countless contributions to Brookline town government and community life. Brookline is a very diverse and progressive community. Its commitment to human rights and opportunities for youth and other groups was strengthened by Steve's leadership and efforts.

Since its inception in 1970, the scope of the Human Relations/Youth Resources Department has changed as society, the law and the organization of town government have evolved. Over time, the staffing for the Department has been reduced to just the Director. The departure of the Director provides an appropriate time to review the services that are provided under the Human Relations/Youth Resources umbrella. It is my intent to reorganize the staffing and jurisdiction of the Department to more effectively support human relations and youth services programming and to coordinate related human service functions of the Town. It is not my intent to lessen the Town's commitment to human relations or to eliminate the Human Relations/Youth Resources Commission. The Commission will remain an important Town body to advocate, oversee and advise the Board of Selectmen on matters relating to opportunities for disadvantaged persons in employment, housing and public services.

Essentially, the reorganization involves merging and consolidating the Human Relations/Youth Resources Department within the Health and Human Services Department. The efficiencies in this consolidation will result in better coordination and expansion of a range of human services provided by the Town. The existing Human Services Coordinator position will be expanded to become the Human Relations and Human Services Administrator. An additional professional position will be created to manage human relations and human services programming and to support the Administrator in staffing the Human Relations/Youth Resources Commission and other related citizen committees, including the Women's Commission and the Commission for the Disabled. In addition to making sense organizationally, the reorganization proposal results in a positive budget consequence: a budget savings of $42,000 will be realized through the reorganization.

SELECTMEN'S RECOMMENDATION

Article 9 seeks a by-law change consistent with a staff reorganization proposal by the Town Administrator. It does not seek to alter the structure or any of the existing responsibilities of the Human Relations Youth Resources Commission.

The Board of Selectmen supports the Town Administrator's proposal to reorganize and strengthen the staff support to the Human Relations-Youth Resources Commission and related functions. The efficiencies in this consolidation will result in better coordination and expansion of a range of human services provided by the Town. The consolidated Human Relations and Human Services Administrator position, combined with a new professional position and other administrative resources available in the Health Department, will create a more robust and effective organization to achieve results.

The main concern of the Board was how this revised structure might be appropriate in the future given the establishment of a special study committee on Diversity, Equal Employment Opportunity and Affirmative Action. Ultimately, the Board modified the motion under this Article to incorporate a "sunset provision", so called, that requires a review of this administrative reorganization in the likely event that the Selectmen's Committee will propose further changes to Article 3.14.

Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 7, 2013, on the following:

VOTED: that the Town amend Article 3.14 of the General By-Laws, Division of Human Relations – Youth Resources, as follows: (language to be deleted appears as a strike-out and new language is underlined):

ARTICLE 3.14
DIVISION OF HUMAN RELATIONS - YOUTH RESOURCES

SECTION 3.14.1 ESTABLISHMENT

There is hereby established a ~~Division of~~ Human Relations-Youth ~~Youth Resources, consisting of a Human Relations-Youth~~ Resources Commission. The Human Relations-Youth Resources Commission shall consist of fifteen (15) citizens of the Town. Members of said Commission shall be appointed by the Selectmen and shall hold office for a period of three (3) years except that of the fifteen (15) members first appointed; five (5) shall be appointed for one (1) year, five (5) shall be appointed for (2) years and five (5) shall be appointed for three (3) years. The terms of office expire on August 31, unless otherwise specified by the Selectmen or unless such appointment is for an indefinite term.

All members of said Commission shall serve without compensation. In the event of the death or resignation of any member, his successor shall be appointed to serve the unexpired period of the term for which such member has been appointed. A member may be removed by the Selectmen at any time when, in their judgment, the public interest so requires.

SECTION 3.14.2 ~~DIRECTOR OF~~STAFF SUPPORT TO HUMAN RELATIONS-YOUTH RESOURCES COMMISSION

~~There~~The Board of Selectmen, upon the recommendation of the Town Administrator shall ~~be a Director of Human Relations-Youth Resources who shall be the~~ appoint professional and/or administrative ~~head of a department~~staff and other resources as may be necessary from time to time to assist the Commission in the administration of its functions and policies under this Article. ~~The Selectmen shall appoint and may remove, when in their judgment the public interest so requires, and may fix the compensation of said Director. The Selectmen shall have the authority to create subordinate staff positions in said department and the Director, with the approval of the Selectmen, may appoint persons to fill these positions, and he may remove them with the approval of the Selectmen. The Director shall have full charge and supervision of the work of the department and its personnel. He shall, in the performance of his duties and responsibilities, be directly responsible to and subject to the direction, authority and control of the Board of Selectmen. The Director shall perform such duties and responsibilities as may be assigned to him from time to time by the Board of Selectmen in carrying out the policies of the Commission, including the obtaining of compliance by contractors of the nondiscrimination provisions in Town contracts. The Director shall act as technical advisor to the Board of Selectmen, the Commission and other Town agencies or officials on Human Relations-Youth Resources matters, with especial reference to nondiscrimination, and publish and distribute such copies of reports as the Board of Selectmen may authorize in relation thereto. The Director shall be responsible for keeping the agenda for Commission meetings, the records, files, indexes, correspondence, and other data relating to the functioning of the Commission. In addition the Director shall cooperate with the Commission in the fulfillment of the Commission's responsibilities under this Article, provide full staff services to the Commission, and shall carry out such assignments as the Commission may request from time to time with the consent of the Board of Selectmen.~~

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

The general duties of the Commission shall include:

(a) The development of opportunities within Brookline and the Metropolitan area, for those who are discriminated against and restricted by their race, color, national origin or ancestry, religion, sex or age, sexual orientation, and the elimination of all and any barriers to their choice of jobs, education and housing; and

(b) Increase communications across racial lines to destroy stereotypes, to halt polarization, end distrust and hostility, and create common ground for efforts toward public order and social justice; and

(c) Increase the capacity of public and private institutions to respond to the problems of the disadvantaged so as to augment their power to deal with the problems that affect their own lives.

To carry out its general duties the Commission shall:

(d) With the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices as reasonably pertain to the work of each department of the Town and to the nature and size of its work force, to insure that applicants are sought and employed and that employees are treated during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation.

(e) With the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices of Town Contractors as reasonably pertain to the work of the contract and to the nature of the contractor's work force, to insure that applicants are sought and employed, and that employees are treated, during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation.

(f) Administer with the appropriate departments and agencies of the Town, the affirmative action program relating to contracts to be awarded by any agency of the Town as set forth in Article 4.5 of these By-laws.

(g) Initiate, receive, secure the investigation of and seek the satisfactory adjustment of complaints charging discrimination, or failure to take, or delay in taking appropriate action, or abuse of authority in connection therewith by any Town agency, Town official or employee which may be brought to the Commission's attention.

(h) Institute and assist in the development of educational programs to further community relations and understanding among employees of all agencies within the Town.

(I) Develop educational programs for the general community, recommend legislation, issue publications and reports, do research in the field of human relations and cooperate with other private and public agencies in the promotion of equal rights and opportunities.

(j) Do anything else deemed appropriate in the furtherance of its general duties and not inconsistent with law or the Town By-laws.

To carry out its general duties as they relate to Youth Resources the Commission shall:

(k) Develop and sustain full coordination, communication and cooperation among all public and private agencies, departments and groups which relate to youth in the community.

(l) Continually evaluate effectiveness of all programs relating to youth.

(m) Serve as an advocate for youth and to increase the capacity of public and private agencies to respond to youth needs.

(n) Increase and sustain open communication and foster positive relations among youth from the various socio-economic, ethnic, religious and cultural segments of the community.

(o) Promote and maintain communication and cooperation between youth and adults.

(p) Act as technical and program adviser to the Board of Selectmen.

(q) Keep informed on trends and developments in youth research and services elsewhere, and determine their applicability to Brookline.

(r) Participate in regional and inter-community youth advocacy and program planning boards, councils and committees.

(s) Provide direct service and/or assist in the initiation, implementation and development of suitable programs for youth in the community.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this By-law, the Commission shall adopt such procedural rules and regulations as it deems necessary and appropriate, shall hold public hearings, shall appoint subcommittees to concern themselves with specific human relations problems and shall consult with and hire any necessary consultants. The power of the Commission to consult with and hire consultants shall in no event exceed the sum or sums which may from time to time be appropriate for such purposes.

SECTION 3.14.5 INFORMATION AND COOPERATION

All departments and agencies in the Town shall cooperate fully with the Commission. They shall comply with its requests for information concerning practices inconsistent with the Town policy of non- discrimination. Upon receipt of recommendations in writing from the Commission for giving effect to that policy, each department or agency shall submit a reply within a reasonable time, indicating the disposition of and action taken with regard to such recommendations.

SECTION 3.14.6 ANNUAL REPORT

The Commission shall submit an Annual Report to the Board of Selectmen detailing its activities; such report will be published in the annual report of the Town.

SECTION 3.14.7 Sunset Provision with Respect to Certain Amendments

The amendments to Section 3.14 of the General By-Laws as approved at the May 28, 2013 Annual Town Meeting under Article 9 are effective only until such time as Town Meeting takes action with respect thereto based upon the final report and recommendation of the Committee on Diversity, Equal Employment Opportunities and Affirmative Action, and any such action becomes effective.

Passed by a Counted Vote of 200 In Favor and 1 Opposed

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Town of Brookline has had a formal affirmative action policy since 1973 aimed at reducing discrimination and encouraging diversity in the Town's workforce. The Town also has had a formal policy of combatting discrimination in the community at large since 1970. These two streams of activity – encouraging diversity in Town employment and promoting it in the community – are distinct from one another but related.

Responsibility for promoting diversity in the community at large is the responsibility of the Commission on Human Relations/Youth Resources (HR/HY), supported by the Director of Human Relations, both of which are described in Article 3.14 of the bylaws.[1]

Responsibility to promote diversity in Town employment is divided. In practice, the task rests with the Director of Human Resources, assisted by the Human Resources Board, which is made up of people who have professional qualifications in the field of employment law and human resources. However, the Director of Human Relations, not the Director Human Resources, has been the Affirmative Action Officer for the Town. Thus Human Relations has prepared the annual Equal Economic Opportunity (EEO) reports that the Town files with the Commonwealth. And under the current bylaw, the Human Relations/Youth Resources Commission is responsible for drafting the Town's Affirmative Action policy.

[1] From the Human Resources page on the Town web site: The Human Relations-Youth Resources Commission is Brookline's official town agency working in the areas of intergroup relations, civil rights and youth advocacy. The Commission seeks to develop opportunities within Brookline for those who are discriminated against, eliminating barriers to their choice of jobs, education and housing; to increase communication to destroy stereotypes, halt polarization, end distrust and hostility, and create common ground for efforts toward public order and social justice; to increase the capacity of public and private institutions to respond to the problems of the disadvantaged so as to augment their power to deal with problems that affect their lives.

Meanwhile, in the 40-plus years since Brookline adopted its AA/EEO policies, society has changed and vastly broadened the definition of disadvantaged groups. And while racial prejudice certainly remains, it is not the sole focus of diversity efforts within the government or in the community at large.

Summary of Article 9

The longstanding Director of Human Relations is retiring. For the last several years, he has been a one-person department, operating largely without support staff. In view of his retirement, Article 9 seeks to change the structural support for human relations by eliminating the one-person Department of Human Relations and shifting its responsibilities to the Health Department. The rationale for the change is that the Health Department has both support staff and a Director who has a strong social justice agenda. Article 9 would retain the Human Resources/Youth Resources Commission in its current form and with the same set of responsibilities it has had since 1970.

Support for the HR/YR Commission and reporting on AA/EEO matters would be handled by elevating Dr. Lloyd Gellineau to a newly created position, Human Relations and Human Services Administrator, reporting to Dr. Balsam, and an additional professional who would support related citizen committees including the Women's Commission and the Commission for the Disabled.

In reporting to the Advisory Committee, Sandra Debow, the Director of Human Resources, outlined her department's efforts and initiatives since 2009/2010 to increase diversity in town employment. As well, she noted the importance of initiatives in recruitment, hiring, training and development being coordinated cohesively through the Human Resources Department. Town Administrator Mel Kleckner said that the preservation of a separate one or two person Human Rights Department as contemplated by Article 10 was not good or effective management practice. He explained that Dr. Gellineau will be afforded direct access to the executive level of the Town with regard to diversity policies.

Finally, Article 9 contains a "sunset" clause, though not insistent, expects this to come back to Town Meeting after the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action has issued its report and recommendation.

Summary of Article 10

Article 10 is much more ambitious and runs counter to the intentions of Article 9.

- Article 10 retains the departmental status of Human Relations, renamed Human **Rights**, as a separate department headed by a director on the basis that affirmative action and diversity efforts deserve the status of a being the responsibility of a separate department.
- It removes the power for the adoption and oversight of expanded affirmative action and equal opportunity policies relative to employment practices from the Human Resources Board and Director and vests it instead in the renamed Human Rights Commission.

- It assigns responsibility for the Human Rights Commission to "...remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote and retain employees who are members of under-represented groups."[2]

Article 10 proponents gave the Rooney Rule as an example of their approach to increasing minority representation at the manager/director level in particular.[3]

The proponents say that that their article seeks to "adopt an affirmative action policy consistent with ...Executive Order 526." The 2011 order by Governor Patrick directs each agency of state government to adopt affirmative action plans and submit them to the Office of Diversity and Equal Opportunity, a unit of the state's Department of Human Resources.

The petitioners for Article 9 point out that leaving responsibility under the purview of Human Resources conforms more closely to the pattern established by Executive Order 526. Further, while Executive Order 526 calls for the establishment of a Non-discrimination, Diversity and Equal Opportunity Council, this council is *advisory only* and has none of the broad authorities sought for the proffered Human Rights Commission by the proponents of Article 10.

And, Article 10 does not recommend specific professional qualifications or backgrounds for Commission members despite being assigned new and greater responsibilities.

Committee comments:

The Advisory Committee noted that Article 9 does not address the split responsibility for adopting, overseeing and implementing AA/EEO policies. Responsibility would continue to be divided between the Human Resources/Youth Resources Commission, the Human Resources Department and the Human Resources Board. However, Article 9 probably improves things by moving support for human relations to the Health Department and provides adequate staff to a department that already has a strong social justice agenda.

Article 10 reduces the AA/EEO role of the Human Resources Board, whose members are required to have professional experience in employment matters, and assigns it to a commission whose members do not necessarily have those qualifications. Proponents of Article 10 point out that Human Resources Board members may not have experience with AA/EEO matters. On the other hand, the HR/YR's draft AA policy requires quarterly reporting by all 25 department heads, a volume of reporting that is likely too excessive and, if the reports are substantive, will be beyond the commission's ability to review. That may indicate a level of inexperience on the Commission's part with the practical matters of administration and management.

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[2] It is unclear what the term 'remedy the effects of' means. Given the pattern of Federal court rulings on affirmative action programs, proactive remedies are somewhat limited, but if the Town follows the pattern established by the Commonwealth it seems unlikely that we would cross the boundaries set by the courts.

[3] The rule, named after the former owner of the Pittsburgh Steelers, requires teams recruiting head coaches and senior operations personnel to look at minority candidates.

Bylaw Article 3.14 bylaw covers five activities.

(1) Development of affirmative action guidelines
(2) Human relations in the broader community
(3) Contractor compliance with Town AA/EEO policy
(4) Youth services
(5) Fair housing

The current administrative structure does not seem to be adequate, or perhaps even appropriate to address these related but distinct tasks. Articles 9 and 10 both try to modify the existing structure somewhat when the question that should be answered is "what would we do if we were starting from scratch."

ARTICLE 9 RECOMMENDATION

Generally, Article 9 moves in the proper direction and builds on reasonable management practices. Also, the "sunset" provision anticipates this will come back to Town Meeting with the benefit of analysis and recommendations from the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action.

Therefore, by a vote of 12-3-1, the Advisory Committee strongly recommends FAVORABLE ACTION on Article 9 as voted by the Selectmen.

ARTICLE 10 RECOMMENDATION

Article 10 is an edited form of the existing HR-YR Commission definition (not comprehensively revisited or revised since its inception several decades ago).

The reach of the Commission and new Human Rights Director envisioned under Article 10 is not an ideal model for the implementation of good and effective management. And, is an approach that seems to look backward as much as forward.

While the Advisory Committee recommends against this proposed article, issues that its consideration have highlighted deserve thoughtful deliberation.

Therefore, by a vote of 17-7-1, the Advisory Committee recommends REFERRAL of the subject matter of Article 10 to the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action, with the expectation that an article will be submitted to a future Town Meeting to align responsibilities for the tasks included within Bylaw Article 3.14 in more optimal way.

CAVEAT

As this report was being sent to print, it was brought to our committee's attention that the petitioners of Article 10 intend to file a new motion or amendment. We do not have the language of that proposal or know if the final language has yet been vetted by the Moderator and, therefore, have not considered it as of this writing.

However, we expect to have something between now and Town Meeting for consideration or reconsideration. What it is, and whether it changes the direction and

dynamic of the conversation, is still unknown. But, the Advisory Committee will consider it when it is made available and provide a report to Town Meeting in the Supplemental Mailing.

XXX

ARTICLE 10

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

At its May 21, 2013 meeting, the Board of Selectmen reconsidered their prior action on Article 10 (to recommend referral to a Selectmen's committee) in order to review revised language that the Petitioners have proposed and to consider recent action by the Advisory Committee.

The Board recognized that the Petitioners have made a number of changes to address concerns raised by this Board, the Advisory Committee, and others. However, the language continues to include many responsibilities for the Human Relations Youth Resources Commission that would overlap or conflict with those of the Human Resources Board and to raise issues of employee privacy. Therefore, the Board believes that, even as revised, Article 10 should be referred to the Selectmen's Committee on Diversity, Equal Employment Opportunities, and Affirmative Action for further study and recommendation to a future Town Meeting. Please see the Board's original write-up on Article 10 for a fuller explanation of this recommendation.

The Board did vote to recommend new language recommended by the Advisory Committee that would clarify Town Meeting's referral to the Selectmen's Committee. This language requests that the Board of Selectmen, in consultation with such Selectmen's Committee, formulate an equal employment opportunity/affirmative action policy for the Town taking into consideration, as appropriate, Governor Deval Patrick's Executive Order 526, the underlying applicable state and federal law, and the December 11, 2012 Human Resources Board Equal Employment Opportunity Policy. Because the Selectmen do intend to formulate a new EEO/AA policy for the Town, the Board is in complete agreement with this provision.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

NEW MOTION

In this latest iteration, Article 10 is now proposed as an amendment to Article 9. Article 10 amends by replacing Article 9, with the exception of Article 9's administrative change to distribute the duties of the vacant Human Relations-Youth Resources Director position to other positions in Town. Article 10 would also retain a "sunset" clause applicable only to the administrative change – not the entirety of policy changes in the amending language.

For more specifics on the original article, consult the Advisory Committee's original report found in the Combined Reports on page 10-27.

BACKGROUND

The petitioners of Article 10 deserve much credit for bringing a long neglected discussion to the floor of Town Meeting and the community. The Human Relations –Youth Resources (HR-YR) Commission and its policies relative to affirmative action and diversity in the workplace, as guided by that Commission, were conceived and formed decades ago in a far different environment. We have been remiss in not thoughtfully and fully re-evaluating the Commission and those policies in the intervening years. For this reason, the Board of Selectmen has formed the Committee on Diversity, Equal Employment Opportunities and Affirmative Action to reassess, reappraise and perhaps even reconstitute in a different form, the HR-YR Commission and our Town policies relative to these issues and workplace diversity.

DISCUSSION

Article 9, which Article 10 seeks to amend, is administrative; it leaves the HR-YR Commission unchanged and simply redistributes the duties of the vacant Director position to other (and newly added) Town positions. It is a structure designed to provide better support not only to the HR-YR Commission but to others as well. It is a change the Advisory Committee believes is much needed and why we recommended favorable action on that article. Article 9 also has a "sunset" provision, recognizing that the proponents of Article 10 raise important questions that should be referred to the Selectmen's Committee on Diversity.

Article 10, by contrast, seeks to make changes to the responsibilities and mission of the HR-YR Commission itself and to make substantive policy changes relative to Affirmative Action (AA) and Equal Employment Opportunity (EEO).

Currently, The HR-YR Commission is charged with adopting Affirmative Action guidelines. However, the Commission has not regularly kept current with AA policies nor has it actively guided EEO. Those efforts have been led by the Human Resources Director and the Human Resources Board. The current by-law distributes these authorities, though it is ultimately the Board of Selectmen that sets policy.
It is important to understand that to have effective AA, EEO and diversity policies, they must be cohesively integrated into hiring practices, the workplace and training programs– it is essential to coordinate this through Human Resources. The Governor's own, often quoted, Executive Order 526 recognizes this necessity.

It is equally important to understand that there must also be a separate body that can review, recommend and help formulate policy from the advantage of a different viewpoint. And the HR-YR Commission, or commission by any other name, should be in place to do that.

And, it is necessary to have a citizen group with a place at the table that is involved in setting recruitment and employment policies, just as there are in budgeting, conservation and transportation. However, with issues as complex and interwoven as this, no one commission should dominate the table.

Article 10, in both its original and its amended form as presented to the Advisory Committee, seeks to change that shared ownership by reducing the AA/EEO role of the Human Resources Director and the Human Resources Board; a board whose members are required to have professional experience in employment matters. Instead, the Article proposes to assign this authority to a commission whose members do not necessarily have those professional qualifications.

Proponents of Article 10 point out that the Human Resources Board members may not have experience with AA/EEO matters. On the other hand, the HR-YR Commission members may not be as well versed in the practical aspects of managing employees. For example, the Commission's draft AA policy requires an excessive level of reporting – 100 reports a year, one each quarter from each department -- that will probably be beyond the Commission's ability to review.

Simply changing the way policy writing is managed is neither necessary nor sufficient to achieve a higher level of minority employment by the town. It requires a broader and more thoughtful approach. We should make it clear to our elected and administrative leaders that they need to support what Human Resources has already started to do, and to direct Human Resources to push forward. And, we should allow the Diversity Committee to do its work in considering the role and mission of the HR-YR Commission and the interconnected dependencies of our various Boards, Committees, Commissions and Departments as they relate to our AA, EEO and diversity initiatives.

CONCLUSION

With the best of intentions, Article 10 seeks to rebuild, rebrand and refocus a Commission by cutting and pasting the existing, and likely outdated, by-law. The Commission and the issues addressed by this Article, however, deserve a more rigorous and contemplative approach.

The Advisory Committee believes that a strong, focused and contemporary Commission is necessary to provide guidance on diversity and related issues. We note, though, that from a cohesive, effective and consistent implementation standpoint, support should be provided to the Commission from those centers of strength and expertise within the Town's departmental structure. And, that the Board of Selectmen should be able to draw from the expertise and observations of more than just a single Commission.

Note: The petitioners modified their language during our most recent Advisory Committee meeting and indicated consideration of additional changes. Since then, they have reportedly also removed the two "exception" clauses that affect the Human

Resources Board and Human Resources Department in Sec. 3.15.6 and Sec. 3.15.9. We don't know of any further modifications beyond that.

While those are welcome and significant changes, the multiple versions and continual revisions of Article 10 reflect the difficulty of changing Town Policy without first giving broad-based and careful consideration to the issues identified by the article's proponents. That is why the most appropriate action is referral to a committee whose members are committed both professionally and philosophically to the good of the Town and the purposes underlying Article 10.

The Advisory Committee's referral motion acknowledges the positive intent of the Governor's Executive Order 526 (even if not technically suitable to be embedded in a by-law) and the productive work of the Human Resources Board and Department on a new Town EEO policy.

RECOMMENDATION

By a vote of 23-2-1, the Advisory Committee strongly recommends referral of the subject matter of Article 10 to the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action.

Voted: ~~MOVED:~~ To refer the subject matter of Article 10 to the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action, with a request that the Board of Selectmen, in consultation with such Selectmen's Committee, formulate an equal employment opportunity/affirmative action policy for the Town, taking into consideration, as appropriate, Governor Deval Patrick's Executive Order 526, the underlying applicable state and federal law, and the December 11, 2012 Human Resources Board Equal Employment Opportunity Policy.

Passed by an Electronic Resource Vote of 144 In Favor, 61 Opposed and 3 Abstentions.

ARTICLE 10

MOTION 1 OF 2 MOTIONS TO BE MOVED BY PETITIONERS

VOTED: that the Town amend Section 3.14 of the Town By-laws, as previously amended by the action taken under Article 9, as follows:

(1) By changing the term "Human Relations-Youth Resources Commission," wherever the same shall appear in said Section 3.14, to "Human Rights Commission;"

(2) By amending subsections (a), (d) and (e) of Section 3.14.3 as follows:

The general duties of the Commission shall include:

(a) The development of opportunities within Brookline and the Metropolitan area for those who are discriminated against and restricted by their race, color, national origin or ancestry, religion, sex or age, sexual orientation **or gender identity**, and the elimination of all and any barriers to their choice of jobs, education and housing; and

To carry out its general duties the Commission shall:

(d) With the approval of the Selectmen adopt **and** ~~such~~ **monitor equal opportunity and** affirmative action ~~guidelines~~ **policies** to ~~, relative to employment practices as reasonably pertain to the work of each department of the Town and to the nature and size of its work force,~~ **identify and eliminate discriminatory barriers in the workplace; identify, recruit, hire, develop, promote and retain qualified employees who are members of under-represented groups; and to ensure equal opportunity and to increase diversity in all facets, terms and conditions of Town employment**. ~~**insure that applicants are sought and employed and that employees are treated during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation**~~
(e) With the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices of Town Contractors as reasonably pertain to the work of the contract and to the nature of the contractor's work force, to insure that applicants are sought and employed, and that employees are treated, during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation **or gender identity**.

(3) By amending Section 3.14.5 by adding a comma and the words, "equal opportunity and affirmative action" at the end of the second sentence.

MOTION 2 OF 2 MOTIONS TO BE MOVED BY PETITIONERS

VOTED: that the Town amend Section 3.15 of the Town By-laws as follows:

(1) By amending subsection 3.15.2 (e) and (g) as follows:

> The Town of Brookline Human Resources program shall be consistent with all applicable State and Federal Laws and with well accepted merit principles, which include, but are not limited to:
>
> (e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, gender, sexual orientation **or gender identity**, marital status, handicap or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and
>
> (g) in cooperation with the ~~Department of~~ Human ~~Relations-Youth Resources~~ **Rights Commission and its staff**, striving for diversity in the Town workforce by, among other things, adhering to the Town's **equal opportunity and** affirmative action ~~guidelines~~ **policies**, and generally assuring an environment throughout Town government that fosters community relations, mutual respect, understanding and tolerance.

EXPLANATION

Article 10 provides for the Town to adopt an equal opportunity and affirmative action policy to:

- identify and eliminate discriminatory barriers in the workplace;
- identify, recruit, hire, develop, promote and retain qualified employees who are members of under-represented groups; and to
- ensure equal opportunity and to increase diversity in all facets, terms and conditions of Town employment.

Article 10 leaves the Board of Selectmen with the ultimate authority to shape the policy and to assign responsibility for its implementation. Under Article 10, the re-named Human Rights Commission is responsible for adopting and monitoring the policy "with the approval of the Selectmen." The Selectmen therefore retain the power to determine

how to best implement the goals of the policy. Article 10 does not exclude the Human Resources Department and Human Resources Board's from having responsibility for implementing and making recommendations regarding the policy. It expressly provides for the policy to be part of the Human Resources program (Section 3.15.2(g)). And it leaves intact the Human Resources Department and Human Resources Board's authority to make recommendations to the Board of Selectmen regarding all human resources policies (Section 3.15.6 & 3.15.9).

ARTICLE 10

TENTH ARTICLE
Submitted by: Petition of Brooks A. Ames, Bobbie Knable, Frank Farlow, Mariela Ames, Larry Onie, and Arthur Wellington Conquest III

To see if the Town will amend the General By-laws in the following manner:

By amending Section 3.14.1, Section 3.14.2, Section 3.14.5, Section 3.15.2, Section 3.15.6, and Section 3.15.9 as follows:

ARTICLE 3.14
DIVISION OF HUMAN RELATIONS - YOUTH RESOURCES

SECTION 3.14.1 ESTABLISHMENT

There is hereby established a Division of Human ~~**Relations-Youth Resources**~~ **Rights**, consisting of a Human ~~**Relations-Youth Resources**~~ **Rights** Commission. The Human ~~**Relations-Youth Resources**~~ **Rights** Commission shall consist of fifteen (15) citizens of the Town. Members of said Commission shall be appointed by the Selectmen and shall hold office for a period of three (3) years except that of the fifteen (15) members first appointed; five (5) shall be appointed for one (1) year, five (5) shall be appointed for (2) years and five (5) shall be appointed for three (3) years. The terms of office expire on August 31, unless otherwise specified by the Selectmen or unless such appointment is for an indefinite term.

All members of said Commission shall serve without compensation. In the event of the death or resignation of any member, his successor shall be appointed to serve the unexpired period of the term for which such member has been appointed. A member may be removed by the Selectmen at any time when, in their judgment, the public interest so requires.

SECTION 3.14.2 DIRECTOR OF HUMAN ~~**RELATIONS-YOUTH RESOURCES**~~ **RIGHTS**

There shall be a Director of Human ~~**Relations-Youth Resources**~~ **Rights,** who shall be the administrative head of a department to assist the Commission in the administration of its functions and policies under this ~~Article~~ **By-law**. The Selectmen shall appoint and may remove, when in their judgment the public interest so requires, and may fix the compensation of said Director. The Selectmen shall have the authority to create subordinate staff positions in said department and the Director, with the approval of the Selectmen, may appoint persons to fill these positions, and he may remove them with the approval of the Selectmen.

The Director shall have full charge and supervision of the work of the department and its personnel. He shall, in the performance of his duties and responsibilities, be directly responsible to and subject to the direction, authority and control of the Board of Selectmen. The Director shall perform such duties and responsibilities as may be assigned to him from time to time by the Board of Selectmen in carrying out the policies of the Commission, including **overseeing the implementation of equal opportunity and affirmative action policies and** the obtaining of compliance by contractors of the nondiscrimination provisions in Town contracts.

The Director shall act as technical advisor to the Board of Selectmen, the Commission and other Town agencies or officials on ~~**Human Relations-Youth Resources**~~ matters **addressed by this bylaw**, with especial reference to nondiscrimination **and achieving the goal of increased diversity**, and publish and distribute such copies of reports as the Board of Selectmen may authorize in relation thereto. The Director shall be responsible for keeping the agenda for Commission meetings, the records, files, indexes, correspondence, and other data relating to the functioning of the Commission. In addition the Director shall cooperate with the Commission in the fulfillment of the Commission's responsibilities under this Article, provide full staff services to the Commission, and shall carry out such assignments as the Commission may request from time to time with the consent of the Board of Selectmen.

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

The general duties of the Commission shall include:

(a) The development of opportunities within Brookline and the Metropolitan area, for those who are discriminated against and restricted by their race, color, national origin or ancestry, religion, sex or age, sexual orientation **or gender identity**, and the elimination of all and any barriers to their choice of jobs, education and housing; and

(b) Increase communications across racial lines to destroy stereotypes, to halt polarization, end distrust and hostility, and create common ground for efforts toward public order and social justice; and

(c) Increase the capacity of public and private institutions to respond to the problems of the disadvantaged so as to augment their power to deal with the problems that affect their own lives.

To carry out its general duties the Commission shall:

(d) With the approval of the Selectmen adopt **and supervise** such **equal opportunity and** affirmative action **policies** relative to employment practices as reasonably pertain to the work of each department of the Town and to the nature and size of its work force, to ~~**insure that applicants are sought and employed and that employees are treated during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation**~~ **identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote and retain employees who are**

members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms and conditions of Town employment.

(e) With the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices of Town Contractors as reasonably pertain to the work of the contract and to the nature of the contractor's work force, to insure that applicants are sought and employed, and that employees are treated, during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation **or gender identity**.

(f) Administer with the appropriate departments and agencies of the Town, the affirmative action program relating to contracts to be awarded by any agency of the Town as set forth in Article 4.5 of these By-laws.

(g) Initiate, receive, secure the investigation of and seek the satisfactory adjustment of complaints charging discrimination, or failure to take, or delay in taking appropriate action, or abuse of authority in connection therewith by any Town agency, Town official or employee which may be brought to the Commission's attention.

(h) Institute and assist in the development of educational programs to further community relations and understanding among employees of all agencies within the Town.

(i) Develop educational programs for the general community, recommend legislation, issue publications and reports, do research in the field of human relations and cooperate with other private and public agencies in the promotion of equal rights and opportunities.

(j) Do anything else deemed appropriate in the furtherance of its general duties and not inconsistent with law or the Town By-laws.

To carry out its general duties as they relate to Youth Resources the Commission shall:

(k) Develop and sustain full coordination, communication and cooperation among all public and private agencies, departments and groups which relate to youth in the community.

(l) Continually evaluate effectiveness of all programs relating to youth.

(m) Serve as an advocate for youth and to increase the capacity of public and private agencies to respond to youth needs.

(n) Increase and sustain open communication and foster positive relations among youth from the various socio-economic, ethnic, religious and cultural segments of the community.

(o) Promote and maintain communication and cooperation between youth and adults.

(p) Act as technical and program adviser to the Board of Selectmen.

(q) Keep informed on trends and developments in youth research and services elsewhere, and determine their applicability to Brookline.

(r) Participate in regional and inter-community youth advocacy and program planning boards, councils and committees.

(s) Provide direct service and/or assist in the initiation, implementation and development of suitable programs for youth in the community.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this By-law, the Commission shall adopt such procedural rules and regulations as it deems necessary and appropriate, shall hold public hearings, shall appoint subcommittees to concern themselves with specific human relations problems and shall consult with and hire any necessary consultants. The power of the Commission to consult with and hire consultants shall in no event exceed the sum or sums which may from time to time be appropriate for such purposes.

SECTION 3.14.5 INFORMATION AND COOPERATION

All departments and agencies in the Town shall cooperate fully with the Commission. They shall comply with its requests for information concerning practices inconsistent with the Town policy of non-discrimination, **equal opportunity and affirmative action**. Upon receipt of recommendations in writing from the Commission for giving effect to that policy, each department or agency shall submit a reply within a reasonable time, indicating the disposition of and action taken with regard to such recommendations.

SECTION 3.14.6 ANNUAL REPORT

The Commission shall submit an Annual Report to the Board of Selectmen detailing its activities; such report will be published in the annual report of the Town.

ARTICLE 3.15
HUMAN RESOURCES PROGRAM, BOARD AND OFFICE

SECTION 3.15.1 PURPOSE AND INTENT

The purpose of this bylaw is to ensure the establishment of fair and equitable Human Resources policies for the Town of Brookline and its employees; and to provide a system of Human Resources administration that is uniform, fair, and efficient and which represents the mutual interests of the citizens of the Town and the employees of the Town.

SECTION 3.15.2 HUMAN RESOURCES PROGRAM TO BE CONSISTENT WITH ACCEPTED MERIT PRINCIPLES AND APPLICABLE STATE AND FEDERAL LAWS

The Town of Brookline Human Resources program shall be consistent with all applicable State and Federal Laws and with well accepted merit principles, which include, but are not limited to:

(a) the recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills including open consideration of qualified applicants for initial appointment;

(b) providing just compensation for all employees;

(c) providing training and development for employees, as needed, to assure the advancement and high quality performance of such employees;

(d) retaining employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, gender, sexual orientation **or gender identity**, marital status, handicap or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and

(f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.

(g) in cooperation with the ~~Department of~~ Human ~~Relations-Youth Resources~~ **Rights Commission and Director**, striving for diversity in the Town workforce by, among other things, adhering to the Town's **equal opportunity and** affirmative action ~~guidelines~~ **policies**, and generally assuring an environment throughout Town government that fosters community relations, mutual respect, understanding and tolerance.

SECTION 3.15.3 APPLICATION

All Town Departments and employees in those departments, except the School Department, and Department Heads/Senior Administrators as defined by the Board of Selectmen, shall be subject to the provisions of this by-law.

SECTION 3.15.4 CONFLICT WITH COLLECTIVE BARGAINING CONTRACTS

In the event of a conflict between the provisions of this bylaw and policies adopted hereunder and the provisions of any duly executed collective bargaining agreement, the provisions of the collective bargaining contract shall prevail.

SECTION 3.15.5 HUMAN RESOURCES BOARD

There shall be a Human Resources Board (the Board), comprised of five (5) residents of the town, for three (3) year staggered terms, appointed by the Board of Selectmen. No

elected officials, except Town Meeting Members, no members of the Advisory Committee, no members of any standing Board or committee having charge of the expenditure of money, and/or employees and retirees of the Town shall be appointed to the Board. Members shall serve without compensation.

The Board shall hold meetings at least once a month at such time as it may determine unless there is not current business before it. Additional meetings may be held at such times as the Board may determine.

Annually, at its first meeting after the annual appointment process, the Board shall organize by electing a chairman and a secretary, who shall be members of the Board and shall hold office for one (1) year, or until their successors are elected and qualified.

Members of the Personnel Board at the time of the adoption of this bylaw shall be members of the Human Resources Board for the duration of their term(s), and shall be eligible for reappointment.

Candidates for the Human Resources Board must be qualified for such appointment by virtue of relevant and significant experience or training, including service as Human Resources executives, as labor or employment law lawyers; as business executives; or as Human Resources/employment or labor law academicians; or by equivalent qualifications.

The Board of Selectmen/Town Administrator shall provide sufficient staff assistance to the Board so that it can accomplish its tasks.

SECTION 3.15.6 FUNCTIONS OF THE HUMAN RESOURCES BOARD

The Human Resources Board shall 1) provide general recommendations for the Human Resources program; 2) adjudicate grievances and/or complaints arising under the provisions of this bylaw or policies/plans established hereunder; 3) adjudicate grievances arising under the provisions of the Town labor contracts as provided by such contracts or as assigned by the Board of Selectmen; 4) Review and approve, subject to staffing levels established by the Board of Selectmen, the title or classification and pay grade of each new or changed position subject to this bylaw, prior to Board of Selectmen final budget review and/or the effective date of any of the title/classification or pay grade changes; 5) perform special studies or projects as requested by the Board of Selectmen; 6) report at least annually to the Board of Selectmen regarding the human resources program/practices and any recommended changes therein, and 7) consider and recommend to the Board of Selectmen the adoption, modification and elimination of Human Resources policies **except with respect to equal opportunity and affirmative action policies adopted pursuant to Section 3.14.3(d)**.

SECTION 3.15.7 HUMAN RESOURCES OFFICE

There shall be a Human Resources Office (the Office) which shall be a unit of the Selectmen's Office. The Human Resources Director (the Director) appointed by the Board of Selectmen on recommendation of the Town Administrator in accordance with

the Town Administrator Enabling Act, Chapter 270 of the Acts of 1985, as amended, shall be responsible for the administration of the Office and the Human Resources Program, including attendance at all meetings of the Human Resources Board.

The Human Resources Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator.

SECTION 3.15.8 FUNCTIONS OF THE HUMAN RESOURCES OFFICES

The functions of the Human Resources Director shall include, but not be limited to the following: staff responsibility for negotiation and administration of labor contracts; recruitment and employment of employees; administration of sexual harassment policy; group health and life insurance; worker's compensation; safety; unemployment compensation; employee training and evaluation; monitoring and administration of employee leave; and other Human Resources programs or benefits and any other function assigned by the Town Administrator.

The Human Resources Director shall ensure that all Human Resources activities are conducted in accordance with current professional standards.

SECTION 3.15.9 HUMAN RESOURCES POLICIES

Written policies to implement the Town's Human Resources program, as approved by the Board of Selectmen, shall be developed and adopted under the authority of this bylaw.

Written Human Resources Policies including, without limitation, existing classification and salary grade plans, miscellaneous regulations affecting salaries and the general provisions of the pay plan, existing at the time of adoption of this bylaw shall remain in effect until changed or abolished.

Human Resources Policies may be adopted, changed, or deleted by the Board of Selectmen upon recommendation by the Human Resources Board or Human Resources Director **except with respect to equal opportunity and affirmative action policies adopted pursuant to Section 3.14.3(d).** All policies shall be in written format, and copies shall be filed and available in the Human Resources Office for review by the public at reasonable time during normal business hours.

Any new/modified Human Resources policies which require the expenditure of Town funds shall not be implemented until such funds have been appropriated by Town Meeting.

Employees may request adoption, modification, or deletion of policies by written request to the Human Resources Board. In such cases, the Human Resources Board shall meet with the employees to discuss the requests.

SECTION 3.15.10 POSITION CLASSIFICATION AND PAY PLAN

A position Classification and Pay Plan for all employees covered by this bylaw shall be established by the Human Resources Director and approved by the Human Resources Board and the Town Administrator. The Plan shall be in written format and copies shall be available in the Human Resources Office for review by the public at reasonable times during normal business hours. Only job titles specified in the Classification and Pay Plan, or abbreviations approved by the Human Resources Director, shall be used for all official purposes.

The Classification and Pay Plan may be amended by additions, changes or deletions by the Human Resources Director with approval of the Human Resources Board and the Town Administrator.

Any changes in the Classification and Pay Plan which require expenditure of Town funds shall not be implemented until such funds have been appropriated by Town Meeting, except in emergency cases with the approval of the Board of Selectmen and the Advisory Committee.

Employees may request changes to the Classification and Pay Plan by written request to the Human Resources Director. In such cases the Human Resources Director shall meet with the employees to discuss the requests. The Human Resources Director shall advise the Human Resources Board of all requests denied by the Director and the reasons therefore. The Human Resources Board may request reconsideration if deemed appropriate.

No person shall be newly appointed, promoted, employed or paid as an employee in any position subject to the provisions of this bylaw except for short periods of emergency service unless such position, on a case by case basis, has been reviewed by the Human Resources Director and a determination made that the position is properly classified and graded.

SECTION 3.15.11 GRIEVANCE PROCEDURE

The following grievance procedure shall be available to those employees of the Town whose rights under the Human Resources bylaw have, in their opinion, been prejudiced in any way and covering all grievances except those that would properly be under the jurisdiction of the Civil Service Commission or other duly established appeal boards or agencies. As used in this section, the word "grievance" shall be construed to mean any dispute between an employee and his supervisors arising out of an exercise of administrative discretion by such supervisor or supervisors. Expressed time limits must be observed except in cases where it is impossible to do so, or where the parties mutually agree in writing to extend the time limits.

Step I. The employee shall take up his grievance orally with his immediate supervisor within fifteen (15) calendar days of the occurrence of the grievance. The supervisor shall reach a decision and communicate it orally to the employee within seven (7) calendar days of the date of the submission of the grievance.

Step II. If the grievance is not settled at Step I, the employee shall within five (5) working days present his grievance in writing to his supervisor who shall forward it to the Department Head who shall hold a hearing within five (5) working days if required. At this hearing there shall be present the employee and one (1) representative if he requests it, his supervisor, the Department Head and the Human Resources Director, who shall also be the recorder. Within five (5) working days of the hearing, the Department Head shall render his decision in writing to the employee.

Step III. If the grievance is not settled at Step II, all records and facts in the case shall be referred to the Human Resources Board for adjudication. Those present at Step II shall appear at this hearing. The Human Resources Director shall be the recorder. Within ten (10) working days of the hearing which shall be the next regular meeting of the Board except in cases of emergency, the employee shall be notified in writing through the Department Head as to the decision of the Board which shall be final.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Article seeks to amend the General By-laws by changing the name of the Human Relations-Youth Resources Commission and Human Relations-Youth Resources Director to the Human Rights Commission ("Commission") and Human Rights Director ("Director"). It seeks to clearly reaffirm that the Commission and Director shall be responsible for developing and overseeing the implementation of equal opportunity and affirmative action policies and establishes that the Town shall adopt an affirmative action policy consistent with Governor Deval Patrick's Executive Order 526.

The Selectmen have indicated that the by-laws are confusing as to the respective responsibilities of the Commission and the Human Resources Board for revising the 1994 Affirmative Action Plan and developing equal opportunity policy. This article proposes to resolve that confusion by clearly placing with the re-named Commission and Director the responsibility for developing and overseeing the implementation of equal opportunity and affirmative action policies. The intent of the article is to reaffirm the Commission and Director's original standing and authority with respect to issues relating to diversity and equal opportunity.

The Article would provide for the Town to adopt a policy of affirmative action consistent with Executive Order 526, signed by Governor Deval Patrick on February 17, 2011. To that end, it provides, as does Executive Order 526, that the Town shall "identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote, and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms, and conditions of Town employment."

Changes in the names of Commission and Director are intended to more clearly reflect their principle purpose and, as a side benefit, to eliminate the constant confusion between

the current names of the Human Relations and Youth Resources Commission and Director and the Human Resources Board and Department.

The petitioners intend to provide an expanded explanation for submission with the combined reports.

ARTICLE 10
MOTION 1 OF 2 MOTIONS TO BE MOVED BY PETITIONERS

VOTE: that the Town amend Section 3.14 of the Town By-laws, as previously amended by the action taken under Article 9, as follows:

(1) By changing the term "Human Relations-Youth Resources Commission," wherever the same shall appear in said Section 3.14, to "Human Rights Commission;"

(2) By amending subsections (a), (d) and (e) of Section 3.14.3 as follows:

The general duties of the Commission shall include:

(a) The development of opportunities within Brookline and the Metropolitan area for those who are discriminated against and restricted by their race, color, national origin or ancestry, religion, sex or age, sexual orientation **or gender identity**, and the elimination of all and any barriers to their choice of jobs, education and housing; and

To carry out its general duties the Commission shall:

(d) With the approval of the Selectmen adopt **and** ~~such~~ **oversee equal opportunity and** affirmative action ~~guidelines~~ **policies,** relative to employment practices as reasonably pertain to the work of each department of the Town and to the nature and size of its work force, to **identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms and conditions of Town employment**. ~~insure that applicants are sought and employed and that employees are treated during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation~~
(e) With the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices of Town Contractors as reasonably pertain to the work of the contract and to the nature of the contractor's work force, to insure that applicants are sought and employed, and that employees are treated, during their employment without regard to their race, color, national origin or ancestry, or religion, sex or age, or sexual orientation **or gender identity**.

(3) By amending Section 3.14.5 by adding the words, "equal opportunity and affirmative action" at the end of the second sentence; and

(4) By amending Section 3.14.7, as added by the vote adopted under Article 9, to change "Section 3.14" in the first line to "Section 3.14.2."

MOTION 2 OF 2 MOTIONS TO BE MOVED BY PETITIONERS

VOTE: that the Town amend Section 3.15 of the Town By-laws as follows:

(1) By amending subsection 3.15.2 (e) and (g) as follows:

> The Town of Brookline Human Resources program shall be consistent with all applicable State and Federal Laws and with well accepted merit principles, which include, but are not limited to:
>
> (e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, gender, sexual orientation **or gender identity**, marital status, handicap or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and
>
> (g) in cooperation with the ~~Department of~~ Human ~~Relations Youth Resources~~ **Rights Commission and its staff**, striving for diversity in the Town workforce by, among other things, adhering to the Town's **equal opportunity and** affirmative action ~~guidelines~~ **policies**, and generally assuring an environment throughout Town government that fosters community relations, mutual respect, understanding and tolerance.

(2) By amending subsection 3.15.6 as follows:

> The Human Resources Board shall 1) provide general recommendations for the Human Resources program; 2) adjudicate grievances and/or complaints arising under the provisions of this bylaw or policies/plans established hereunder; 3) adjudicate grievances arising under the provisions of the Town labor contracts as provided by such contracts or as assigned by the Board of Selectmen; 4) Review and approve, subject to staffing levels established by the Board of Selectmen, the title or classification and pay grade of each new or changed position subject to this bylaw, prior to Board of Selectmen final budget review and/or the effective date of any of the title/classification or pay grade changes; 5) perform special studies or projects as requested by the Board of Selectmen; 6) report at least annually to the Board of Selectmen regarding the human resources program/practices and any recommended changes therein, and 7) consider and recommend to the Board of Selectmen the adoption, modification and elimination of Human Resources policies **except with respect to equal opportunity and affirmative action policies approved by the Board of Selectmen pursuant to Section 3.14.3(d)**.

(3) By amending the third paragraph of subsection 3.15.9 as follows:

Human Resources Policies may be adopted, changed, or deleted by the Board of Selectmen upon recommendation by the Human Resources Board or Human Resources Director **except with respect to equal opportunity and affirmative action policies approved by the Board of Selectmen pursuant to Section 3.14.3(d).**

EXPLANATION

Background

In 1969 the country was in turmoil. President Kennedy had recently been shot, and in the next few years, many leaders of the Black Power movement, Martin Luther King, Jr., and then Senator Robert Kennedy were killed. The Kerner Commission was formed to develop recommendations on how to right the wrongs of the past and bring the nation out of this period. Central to its report was a recommendation that municipalities across the nation create human rights commissions to deal concertedly with the range of racial and ethnic problems that had caused this turmoil.

In Brookline a committee was established, which in turn created five subcommittees. Over sixteen months of biweekly meetings, "well over 130" citizens participated in preparing a ¾"-thick report containing a draft that became what is today the Human Relations-Youth Resources (HR-YR) by-law.

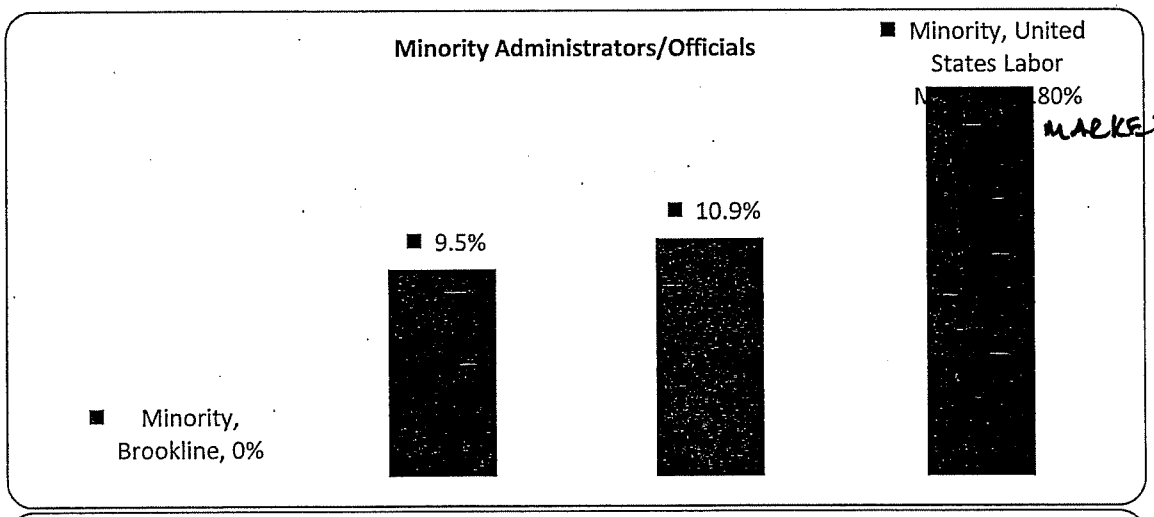
The "wrongs of the past" referred, first and foremost, to slavery—some ten generations of deeply habituated ways of seeing the world, from both sides of that fence. Churches, schools, governments—all of our institutions were deeply involved. But segregation of housing and schools long outlasted slavery, and in the last few decades the promising early attempts to eliminate segregation have been almost completely reversed. Worse, an entire generation of black youth have been criminalized by drug laws that penalize minorities much more heavily than the majority. Much more could of course be said about the problematic treatment of largely Hispanic immigrants, and politically suspect minority groups like the Japanese during WWII and Muslims during the past decade. As a nation, we sorely need policies and institutions that enlist all the available resources to bring us together.

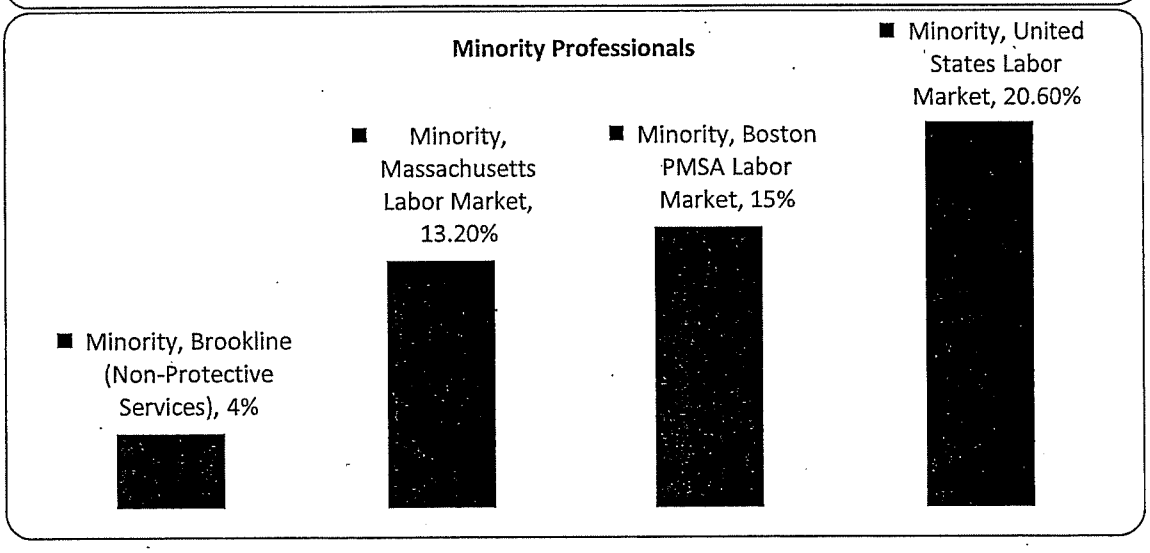
Brookline is no exception to this rule. During hearings before the Selectmen, an Advisory Committee subcommittee and the Committee on Town Organization & Structure (CTO&S) it has become clear that all are in basic agreement with the petitioners' original concern that generated this article—that Brookline, too, has faced, with little change for many years, a substantial problem with racial diversity. This has two primary components: the color of our workforce (both town-side and schools), and the distinctly limited efficacy of past Town efforts to deal with complaints of discrimination in a manner that reduces tensions in the life of our community.

After decades of stasis, the Town has begun to achieve some progress in the last few years in diversifying its work force—but only at the lowest levels, not in its lower,

middle and upper management positions. Although the percentage of people of color among our residents continues to grow, Town positions other than those at the lowest levels remain very nearly as free of minorities as they were four decades ago. The two graphs on the next page show the percentage of minorities in the Town's workforce in relation to the percentages in Boston's primary metropolitan statistical area (PMSA) labor market and in the state and national labor markets. In both graphs, note that Brookline does not hire exclusively Brookline residents. In fact, we draw most of the Town's workforce from outside Brookline, which makes these graphic comparisons relevant.

In the first graph, Brookline's "administrators/officials" are our department heads and Town Administrator. Not one of our 25 department heads is a minority. In the second graph, "professionals" are employees with specialized knowledge usually acquired in college or work experience, such as personnel workers, registered nurses, lawyers, accountants, engineers, teachers, librarians, social workers, and public safety captains and lieutenants.





The petitioners of Article 10 believe that the retirement of the Human Relations Director presents an opportune moment for Town Meeting to rededicate itself to the goals first expressed 40 years ago in the HR-YR by-law. The Commission has grown quiet over the decades as the passions that created it have cooled, and as the political climate—in particular, the rulings of the recent Supreme Court concerning affirmative action—has encouraged passivity and resignation. But in Brookline this has begun to change in the past two years as the HR-YR Commission has once again begun to focus closely on diversity issues. This needs to be continued and nurtured by the Selectmen (and by the Commission itself) through special outreach to increase minority representation in the Commission's membership, and in general through the appointment of members dedicated first of all to accomplishing the central purposes of the Commission.

Content of article

Article 10 adopts the structure proposed by the Town Administrator in Article 9, including the sunset provision. In addition to adopting Article 9, Article 10 amends the General By-laws by (a) changing the name of the HR-YR Commission to the Human Rights Commission ("Commission"); (b) providing that the Town shall adopt an affirmative action policy consistent with Governor Patrick's Executive Order 526 concerning non-discrimination, diversity, equal opportunity and affirmative action; and (c) reaffirming that the Commission, in collaboration with the Selectmen, is the agency primarily responsible for developing and providing oversight for the implementation of the Town's equal employment opportunity and affirmative action policies.

(a) Name change

The change in the name of the Commission is intended to more clearly reflect its principle purpose and, as a side benefit, to substantially decrease the constant confusion between the current name of the Human Relations-Youth Resources Commission and those of the Human Resources Board and Department.

(b) Governor Patrick's Executive Order 526

To strengthen our ability to establish greater diversity in the higher levels of our workforce, the Article asks that the Town adopt a more vigorous policy of affirmative action modeled on that established at the state level by Governor Patrick's Executive Order 526. It does so by providing, in the words of that Executive Order, that the Town shall "identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote, and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms, and conditions of Town employment."

Governor Patrick was President Clinton's top Justice Department official for matters of equal employment opportunity and affirmative action. He and his current diversity managers have been working for six years with striking success in achieving greater diversity in the state workforce and are extraordinarily well versed in how to do so in the current politically restricted terrain. His two top diversity appointees capably

demonstrated their broad experience and knowledge at the May 1 diversity forum and are prepared to provide advice and support to Brookline.

(c) Responsibility for developing affirmative action policies

The Selectmen maintain that the by-laws are confusing with regard to where this responsibility currently resides. In fact, for four decades the HR-YR by-law (3.14) has unambiguously granted this responsibility to the Commission: "[T]he Commission shall ... with the approval of the Selectmen adopt such affirmative action guidelines relative to employment practices as reasonably pertain to the work of each department of the Town..." Likewise, Section 3.15.2(g) of the Human Resources (personnel) by-law provides that the Human Resources (personnel) program "[shall cooperate] with the Department of Human Relations-Youth Resources, "striving for diversity in the Town workforce by ... adhering to the Town's affirmative action guidelines."

Any confusion arises because the Human Resources (personnel) by-law passed in 2001 instructs the HR Board to recommend unspecified "Human Resources policies." Apparently no one noticed that this phrase could be construed to include a specific type of policy already expressly assigned to the Human Relations Commission.

The intent of Article 10, then, is to clarify and reaffirm the longstanding responsibility of the HR-YR Commission with respect to issues relating to diversity and equal opportunity. It therefore continues to assign to the Commission the primary role in developing the Town's affirmative action policies (reworded now as "equal opportunity and affirmative action policies") and adds to that role oversight of implementation of those policies. It resolves any lingering confusion by adding wording to the Human Resources (personnel) by-law in two places to render it clearly consistent with the Human Relations by-law:

Section 3.15.6 Functions of the Human Resources Board
... The Human Resources Board shall ... 7) consider and recommend to the Board of Selectmen the adoption, modification and elimination of Human Resources policies except with respect to equal opportunity and affirmative action policies approved by the Board of Selectmen pursuant to Section 3.14.3(d).

Section 3.15.9 Human Resources Policies
... Human Resources policies may be adopted, changed or deleted by the Board of Selectmen upon recommendation by the Human Resources Board or Human Resources Director except
with respect to equal opportunity and affirmative action policies approved by the Board of Selectmen pursuant to Section 3.14.3(d).

Why should HR-YR Commission, and not Human Resources Board, develop AA/EEO policy?

In recent months both of these bodies have submitted draft policy updates to the selectmen. To understand their differences in approach, it is instructive to review the

table at the end of this explanation, which compares the two drafts as well as current Massachusetts policy in this area. Like Governor Patrick's executive order, in a number of respects the Commission's draft is more aggressive in pursuing greater diversity than the Personnel Board's.

The Human Resources Board also has a long list of other responsibilities on its plate: pensions, group health, group life insurance, disability insurance, unemployment compensation, Medicare taxes, determining employment compensation levels, adjudicating employee grievances and complaints, and developing a broad range of personnel policies other than those pertaining to affirmative action and equal employment opportunity. The HR-YR Commission, on the other hand, is dedicated primarily to diversity issues. Like other commissions, this 15-member group consists of passionately interested, highly committed individuals with a range of experience and expertise in the areas of Commission focus.

It is important to note that Article 10 leaves the ultimate authority to approve the Town's equal employment opportunity and affirmative action policies in the hands of the Selectmen. Prior to approval, the Selectman may of course call upon the specialized expertise of any other individual or department. The petitioners contemplate that the details of any affirmative action and equal employment opportunity policy will be worked out in collaboration with the Selectmen, the department heads and Human Resources.

POLICY COMPARISON

	Human Relations Commission	**Massachusetts**	**Human Resources (personnel)**
What is the purpose of the policy?	To "identify and eliminate discriminatory barriers [and] remedy the effects of past discriminatory practices"	To "identify and eliminate discriminatory barriers in the workplace [and] remedy the effects of past discriminatory practices" (Gov. Patrick, Exec. Order 526)	To "ensure non-discrimination"
	To "identify, recruit, hire, develop, promote and retain qualified employees who are members of under-represented groups"	To "identify, recruit, hire, develop, promote, and retain employees who are members of under-represented groups" (Exec. Order 526)	To "hire the most qualified candidates from diverse pools of applicants for every position"
	To "ensure diversity	To "ensure diversity	To "*take steps to*

	and equal opportunity in all facets, terms, and conditions of Town employment"	and equal opportunity in all facets, terms, and conditions of State employment" (Exec. Order 526)	create a workforce that is welcoming and inclusive of all and allows an equal opportunity for all to work to their potential"
Who is responsible for policy implementation?	Commission, Department Director, other department heads, Town Administrator	Civil Rights Officer, Chief Executive Officer (Equal Employment Opportunity and Affirmative Action Plan, Executive Office of Transportation)	Human Resources Director
Is workforce analysis to identify need for action required?	Yes	Yes	Not yet: "Human Resources Dept shall design and implement audit and reporting systems that measure the effectiveness of this EEO Policy, and where necessary, reflect the need for remedial action."
Examine diversity in supervisory/ management positions?	Yes	Yes	No
Examine basis for selection/rejection of diverse applicants?	Yes	Yes	No
Examine basis for selection/rejection of diverse applicants?	Yes	Yes	No
Examine basis for terminations of diverse applicants?	Yes	Yes	No
Action steps to address challenges?	Yes	Yes	No

Rooney Rule?	Yes	Note: Rooney Rule has been adopted by Chicago Federal Reserve Bank.	No
Rule 10 minority lists for Civil Service hires and promotions?	Yes	Yes	No
Diverse candidates encouraged to apply for promotions?	Yes	Yes	No
Requirement to change any promo-tional process that leads to unfair exclusion of diverse candidates from management positions?	Yes	Yes	No
Regular meetings with department heads to review progress?	Yes	Monthly reports by Civil Rights Officer to Secretary of Transportation	No

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SELECTMEN'S RECOMMENDATION

The Town of Brookline has been committed to equal employment opportunities, full diversity and affirmative action for many years. In recent federal court decisions, employer options for affirmative action have been limited to some extent, but as a Town we have pursued a policy of openness and inclusion in hiring and promotions.

According to the Petitioners, Article 10, seeks to "*clearly reaffirm* that the Commission and Director *shall be responsible for developing and overseeing the implementation of equal opportunity* and affirmative action policies and establishes that the Town shall adopt an affirmative action policy consistent with Governor Deval Patrick's Executive Order 526. The Board of Selectmen believe that Article 10 does not and cannot meet the Petitioners' stated objectives, however well intended. Article 10 goes beyond "reaffirming" the Commission's" responsibilities as it expands the scope to Equal Opportunity, without detailing where Affirmative Action begins and Equal Employment ends., The expansion creeps into the Human Resources arena as the warrant article seeks

to amend the Human Resources bylaw, 3.15, as well as its own. This is troubling as the breadth and depth of that expansion has not been clearly articulated. Further, the Human Relations bylaw is broader than mere oversight of the Town's Affirmative Action, however that is being defined, and the unbalanced focus on EEO of the Town's workforce puts the Commission's other roles within the bylaw at a disadvantage. Those bylaw provisions should not be diminished without more consideration.

The Petitioners claim they seek to adopt an affirmative action policy consistent with the Governor's Executive Order 526, however when pressed, they clearly indicate that it varies from the Governor's Executive Order that places the majority of Affirmative Action and Equal Employment under the authority of the state's Human Resources Division, not a volunteer commission or board. Warrant Article 10's unabashed expansion into supervision or "oversight" of all Human Resources functions blurs and confuses the role of the Human Resources Office and the Human Resources Board that is responsible for ensuring "the establishment of fair and equitable Human Resources policies for the Town of Brookline and its employees; and to provide a system of Human Resources administration that is uniform, fair and efficient." Any bylaw change to either 3.14 or 3.15 must address this potential policy conflict. The significant changes proposed by the Petitioners require very careful review. In fact, the great expansion of powers for the Human Relations/Youth Resources or Civil Rights Commission under this warrant article would, in effect, turn the Commission into a second Human Resources Board.

The revisions to Article 3.14.3 would grant the Commission the authority to adopt <u>and supervise</u> (petitioners have said that they will change the word "supervise" to "oversee") such <u>equal opportunity and</u> affirmative action <u>policies</u> relative to employment practices as reasonably pertain to the work of each department of the Town and to the nature and size of its work force, to <u>identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in facts, terms and conditions of Town employment.</u> This unprecedented and wide-ranging oversight of all hiring and promotions by a citizen committee not only directly conflicts with the Town's Human Resources Department's responsibilities but it raises serious concerns about the privacy rights of employees and job applicants, including minorities, by having the bases for individual employment decisions examined by the citizen Commission, which is governed by the Open Meeting Law. Each individual's qualifications, abilities, job performance, professional competence, and possibly past mistakes could be discussed in a meeting open to the public and the press.

In addition, while the Town eliminated Civil Service for most Town departments a few years ago through a Home Rule Petition to the state legislature, the Police and Fire Departments are still subject to Civil Service which does not allow hiring and promotions outside of the Civil Service testing procedures. Members of those departments have adamantly defended that system as providing maximum fairness for all members of the Department. In recent years, due in part to the ability under that system to give preference to veterans, both public safety departments have continued to increase their diversity at the initial hiring stage. For non-public safety personnel, this change allowed

the Human Resources Department to significantly alter its recruitment processes and to use new approaches for recruitment, to develop a more diverse applicant pool.

The Board of Selectmen share the Petitioners' desire to have a vibrant and diverse community. The Town of Brookline has a history of recognizing and valuing racial and ethnic diversity as a vital characteristic of the Town and, as the 2010 US Census data confirms, Brookline is increasing diverse. More so, the Town believes that a workplace that attracts and retains diverse personnel will allow it to serve its citizenry more strategically and productively. No group, based on race, color, religious creed, national origin, ancestry, gender, age, handicap, sexual orientation, gender identity or military background, should be under-represented or under-utilized in the Town's workforce. Such policies governing all matters of employment from recruitment to retirement must have components of equality in them to ensure the Town's diversity objectives and priorities are achieved and maintained, whether named "EEO or Diversity and Inclusion or Affirmative Action.

Concentrated, strategic work in the area of Diversity and Inclusion is being done under the direction of the Board of Selectmen and the Human Resources Department. In the Fall of 2010, the Board made a commitment to expanding diversity when it joined the Commonwealth Compact, a collaboration of higher education institutions and for-profit and non-profit organizations of which Brookline is one of the first and most active municipalities to participate in this important dialogue. The Commonwealth Compact was initiated in 2007 in large part by Steve Crosby, former Dean of the McCormack Graduate School of Policy Studies at the University of Massachusetts Boston and former Suffolk County District Attorney Ralph Martin. The Compact's stated goal "is to help make 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." As a signatory to the Compact, the Town must regularly submit its workforce data, which includes examination of the Town's leadership commitment to diversity and inclusion. The Town has expended funds to bring in the Mass. Commission Against Discrimination's Training Division to train 175 of its supervisors, from Town Administrator to working foreman, under the requirements of the state's anti-discrimination laws. The Human Resources Director with the help of Dr. Lloyd Gellineau, the proposed candidate for the position under Article 9, performed a first-ever workforce diversity survey in an attempt to establish an understanding of employee views, and their level of understanding and opinions regarding diversity, the various protected classes and discrimination. In addition, the Board recently set up a Diversity Committee of highly qualified professionals in the area of civil rights, diversity, and personnel practices to move us to the current best practices in the area of workforce affirmative action, diversity and inclusion.

This warrant article has brought attention to the fact that the 40-year-old bylaw concerning the Human Relations/Youth Resources Commission is significantly out of date and needs serious revision to have that Commission, under whatever name is deemed appropriate, play a significant role in the future. For example, at its very core, the term "affirmative action" lacks a specific meaning in the context of Article 10 and in general usage. To some, affirmative action in hiring means preferences awarded to a protected class candidate even when that candidate is less qualified than other candidates.

To others, affirmative action is not a matter of preferences between job candidates at all but positive steps taken to assure that protected class candidates are included in the candidate pool. There are a range of other possible definitions as well. The Board of Selectmen feels that, before a commission is charged with influencing affirmative action policy decisions, the Town should define what will constitute affirmative action in our community. This is an issue for which the Committee on Diversity, Equal Employment Opportunities, and Affirmative Action will offer important and educated guidance.

In sum, the Board believes that there are a number of serious flaws with the proposed changes in Article 10 which places the responsibility for "overseeing the implementation of equal opportunity and affirmative action policies and obtaining compliance by contractors of the nondiscrimination provisions in Town contracts" with the Director of the newly renamed Civil Rights Department, who would assist the Commission in the administration of its functions and policies. Currently, most of that responsibility rests with the Human Resources Director and the Human Resources Board, which, as required by its bylaw, is comprised of professionals in the human resources of employment law field. We would no longer have a unified set of guidelines for managers concerning all employment issues and disputes, but would have two sets and two masters telling managers how to handle problems, ranging from recruitment, hiring, transfers, benefit administration and promotions and separation from employment. The responsibility for overseeing the many requirements, including minority participation, for public contracts, rests with the Town's Procurement Office. These areas are complex and we must take a thoughtful approach to how they are handled.

There is little disagreement about the need to review the By-law and to revise it to give clarity and direction to the Human Relations/Youth Resources Commission. The original By-laws for the Human Relations/Youth Resources Commission and for the Human Resources Board were drafted after a lengthy and thoughtful process. The Board of Selectmen strongly believe that the same amount of time and thought should be given to reviewing any changes as was given to drafting the original By-laws. **For these reasons the Board of Selectmen recommends referral of this warrant article to its recently appointed Committee on Diversity, Equal Employment Opportunities, and Affirmative Action. The charge of that Committee and the list members follows the vote below.**

A revised motion submitted by the Petitioners came in hours before the compilation of the Combined Reports and, as a result, the Selectmen have not had a chance to review, much less, take up the amendments to the Article 10 and will do so in the near future. A supplemental report will follow.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 7, 2013, on the following motion to refer:

VOTED: to refer the subject matter of Article 10 to the Selectmen's Committee on Diversity, Equal Employment Opportunity and Affirmative Action.

Charge to the Selectmen's Committee on Diversity, Equal Employment Opportunities, and Affirmative Action

Charge: The Town of Brookline has had a longstanding commitment to diversity and inclusion. In order to re-affirm the Town's commitment to non-discrimination and to review what policies and actions will best ensure equal opportunity and protection of civil rights, the Board of Selectmen is establishing a Committee on Diversity, Equal Employment Opportunities and Affirmative Action.

This Committee is charged with reviewing any related by-laws, including Article 3.14 ("Division of Human Relations-Youth Resources"), Article 3.15, "Human Resources Program, Board and Office") , Article 4.4 ("Fair Employment Practices with Regard to Contracts") and Article 5.5 ("Fair Housing"), and suggesting possible changes that will clarify municipal operations to further the Town's long-standing and continuing commitment to diversity and inclusion in our community.

Further, it is charged with reviewing the roles and responsibilities of the Board of Selectmen, the Human Relations/Youth Resources Commission ("HRYR Commission,"), the Human Resources Director ("HR Director"), and the Human Resources Board ("HR Board"), and the interaction among these entities with regard to workplace issues, and in particular, human resources-related policy-making, equal opportunity and affirmative action guidelines and other measures as they relate to diversity in Town employment.

In addition, we ask this Committee to suggest how responsibilities in this area should be allocated in conformity with existing local, state, federal and constitutional law and based on best practices in handling employment-related civil rights issues, including, but not limited to, compliance with federal and state anti-discrimination and equal employment opportunity laws (e.g., Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Genetic Information Nondiscrimination Act of 2003 protecting persons regardless of their sexual orientation, disability, gender identity, genetic information, military service, race, national origin, religion, and sex, and providing certain leave-related rights), promotion of non-discrimination and inclusion values in the workplace, protection of individuals' rights to privacy and to have employment decisions made on the basis of merit, and protection of employee rights under civil service laws and collective bargaining agreements.

BACKGROUND

The HRYR Commission was established in 1970 by what is now Art. 3.14 of the Town Bylaws ("Division of Human Relations – Youth Resources") after a lengthy and thorough study by the Committee on Urban Responsibility in response to a nationwide effort to remediate the disenfranchisement felt by African-Americans with respect to police relations, housing, employment, contracting, and banking that had precipitated urban rioting. At the time, the federal civil rights laws were new and developing rapidly, and the Town needed guidelines in this area and a mechanism to handle complaints (the then Personnel Board and Personnel Office were primarily concerned with collective bargaining, classifications, and civil service). The Commission's mission was envisioned as broad, and included (but was not limited to) the handling of complaints by citizens as well as Town employees, and the development of broad initiatives to prevent discrimination and promote equal opportunity in all facets of community life (not just employment, and with regard to employment, not just Town employment).

Art. 3.14 gave the HRYR Commission responsibility for "the development of opportunities within Brookline and the Metropolitan area, for those who are discriminated against and restricted by their race, color, national origin or ancestry, religion, sex or age, sexual orientation, and the elimination of all and any barriers to their choice of jobs, education, and housing.... [to] increase communication across racial lines to destroy stereotypes....[and to] increase the capacity of public and private institutions to respond to the problems of the disadvantaged...." Art. 3.14 tasked the HRYR Commission with developing affirmative action guidelines on Town employment and Town contracting with the approval of the Selectmen to ensure treatment "without regard to ... race, color, national origin or ancestry, or religion, sex or age, or sexual orientation," and administering with the appropriate departments and agencies of the Town the contracting-related affirmative action guidelines. It also assigned the handling of complaints to the Commission. Art. 4.4, enacted the same year, also gave the Commission a role with regard to ensuring fairness in Town contracts.

Affirmative Action guidelines were developed and adopted by the Town. However, the affirmative action guidelines, last amended in 1994, are out of date. In addition, there have been developments in the case law since they were adopted that create tension between constitutional provisions guaranteeing the right to equal protection of the laws and certain aspects of affirmative action generally.

In 1988, Town Meeting adopted Art. 5.5, the Town's Fair Housing By-Law. Art. 5.5 creates a local prohibition against housing discrimination on the basis of race, color creed, religion and other protected classes. It tasked the Commission with studying housing discrimination concerns and developing trainings in this area, and receiving and investigating housing discrimination complaints. It also tasked the Commission with reporting the investigation results to the Board of Selectmen, or, if the complainant desired, assisting complainants with filing a housing discrimination complaint with the Massachusetts Commission Against Discrimination ("MCAD").

In 2000, Town Meeting enacted Art. 3.15 of the Town By-Laws ("Human Resources Program, Board and Office") to supersede the former Personnel By-Law. Its stated purpose is to "ensure the establishment of fair and equitable Human Resources policies for the Town of Brookline and its employees; and to provide a system of Human Resources administration that is uniform, fair, and efficient and which represents the mutual interests of the citizens of the Town and the employees of the Town." Art. 3.15.7 established the Human Resources Department as a unit under the jurisdiction of the Town Administrator and the Selectmen. Art. 3.15.9 states that "[w]ritten policies to implement the Town's Human Resources program, as approved by the Board of Selectmen, shall be developed and adopted under the authority of this bylaw." Art. 3.15.7 assigned the HR Director responsibility for administration of the "human resources program." In 3.15.2, the By-Law defined the "Human Resources program" to include "the recruiting, hiring, and retention of employees on the basis of their relative ability, knowledge and skills" and "assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to" protected classifications such as "race, color, age, national origin, gender, sexual orientation, marital status, handicap or religion" and "with proper regard for privacy" and "constitutional rights." Art. 3.15.2(g) also defines the "Human Resources program" to include "[i]n cooperation with the Department of Human Relations-Youth Resources, striving for diversity in the Town workforce by, among other things, adhering to the Town's affirmative action guidelines, and generally assuring an environment throughout Town government that fosters community relations, mutual respect, understanding and tolerance."

Since the 2000 vote by Town Meeting, the Board of Selectmen has adopted various personnel policies relating to employment civil rights issues. For example, in 2011, it adopted a Policy Against Discrimination, Sexual Harassment, and Retaliation that had been developed by the Human Resources Director and vetted through the Department of Human Relations-Youth Resources and the HR Board. That policy was a successor to the 1993 Policy Against Sexual Harassment. Like the 1993 policy, the 2011 anti-discrimination policy gave the Human Resources Department the task of investigating and redressing employment discrimination complaints. The Board of Selectmen has also adopted a Family and Medical Leave Policy (2009) and CORI Policy (2012) implementing those laws that afford employees certain rights to privacy and leave.

The Human Resources Director has drafted an Equal Employment Opportunity policy touching on some of the topics addressed formerly in the affirmative action guidelines (recruitment, hiring, etc.). That draft has been shared with the HRYR Commission for comment. To date, the policy is still under discussion and the Board of Selectmen has not yet acted on the proposal.

The Board of Selectmen would like to resolve and clarify the roles and responsibilities for Town anti-discrimination policies and oversight. To accomplish that goal, the Board expects a thoughtful review of existing policies and practices with recommendations for any changes that will strengthen the promotion of diversity, inclusion, fairness, and equal opportunity in Brookline, particularly in the context of the workplace environment.

Membership of the Selectmen's Committee on Diversity, Equal Employment Opportunities, and Affirmative Action

Nancy Daly
Board of Selectmen

Rita McNally
Acting Chair, Brookline Human Relations & Youth Resources Commission
Long serving member of the Human Relations & Youth Resources Commisssion
Member of the MLK Celebration Committee

Ken Kurnos
Chair, Human Resources Board

Bernard Greene
Advisory Committee Representative, Town Meeting Member
Legal Counsel – Massachusetts Water Pollution Abatement Trust

Marty Rosenthal
Lawyer and former Selectman
Co-chair of Brookline PAX
Member, Citizen Complaint Review Committee 2008-2009
Co-author, 1987 Police & Community Relations Report

Judy Levenson
Lawyer with Brody, Hardoon, Perkins & Kesten, LLP
Formerly with the Civil Rights Division of the Attorney General's Office and MA Ethics Commission

Grace Lee
Lawyer with Eckert Seamans Cherin & Mellott, LLC
Formerly First Deputy Treasurer and General counsel for Massachusetts State Treasury
Has worked on anti-discrimination issues in AG's office
Dealt with employment practices on Massachusetts Inspector General's transition team
Chair of Commonwealth of Massachusetts Asian American Commission
Serves on Board of Directors of Community Resources for Justice

Malcolm Cawthorne
History and African American Studies Teacher at Brookline High School
Participant in MLK Celebration in Brookline
Hidden Brookline Committee member

Elena Olson
Born and raised in Argentina
Executive Director, Multicultural Affairs Office, Massachusetts General Hospital (MGH)
Member MGH Diversity Committee and Health Disparities Committee

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ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Town of Brookline has had a formal affirmative action policy since 1973 aimed at reducing discrimination and encouraging diversity in the Town's workforce. The Town also has had a formal policy of combatting discrimination in the community at large since 1970. These two streams of activity – encouraging diversity in Town employment and promoting it in the community – are distinct from one another but related.

Responsibility for promoting diversity in the community at large is the responsibility of the Commission on Human Relations/Youth Resources (HR/HY), supported by the Director of Human Relations, both of which are described in Article 3.14 of the bylaws.[1]

Responsibility to promote diversity in Town employment is divided. In practice, the task rests with the Director of Human Resources, assisted by the Human Resources Board, which is made up of people who have professional qualifications in the field of employment law and human resources. However, the Director of Human Relations, not the Director Human Resources, has been the Affirmative Action Officer for the Town. Thus Human Relations has prepared the annual Equal Economic Opportunity (EEO) reports that the Town files with the Commonwealth. And under the current bylaw, the Human Relations/Youth Resources Commission is responsible for drafting the Town's Affirmative Action policy.

Meanwhile, in the 40-plus years since Brookline adopted its AA/EEO policies, society has changed and vastly broadened the definition of disadvantaged groups. And while racial prejudice certainly remains, it is not the sole focus of diversity efforts within the government or in the community at large.

Summary of Article 9

The longstanding Director of Human Relations is retiring. For the last several years, he has been a one-person department, operating largely without support staff. In view of his retirement, Article 9 seeks to change the structural support for human relations by eliminating the one-person Department of Human Relations and shifting its responsibilities to the Health Department. The rationale for the change is that the Health Department has both support staff and a Director who has a strong social justice agenda. Article 9 would retain the Human Resources/Youth Resources Commission in its current form and with the same set of responsibilities it has had since 1970.

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[1] From the Human Resources page on the Town web site: The Human Relations-Youth Resources Commission is Brookline's official town agency working in the areas of intergroup relations, civil rights and youth advocacy. The Commission seeks to develop opportunities within Brookline for those who are discriminated against, eliminating barriers to their choice of jobs, education and housing; to increase communication to destroy stereotypes, halt polarization, end distrust and hostility, and create common ground for efforts toward public order and social justice; to increase the capacity of public and private institutions to respond to the problems of the disadvantaged so as to augment their power to deal with problems that affect their lives.

Support for the HR/YR Commission and reporting on AA/EEO matters would be handled by elevating Dr. Lloyd Gellineau to a newly created position, Human Relations and Human Services Administrator, reporting to Dr. Balsam, and an additional professional who would support related citizen committees including the Women's Commission and the Commission for the Disabled.

In reporting to the Advisory Committee, Sandra Debow, the Director of Human Resources, outlined her department's efforts and initiatives since 2009/2010 to increase diversity in town employment. As well, she noted the importance of initiatives in recruitment, hiring, training and development being coordinated cohesively through the Human Resources Department. Town Administrator Mel Kleckner said that the preservation of a separate one or two person Human Rights Department as contemplated by Article 10 was not good or effective management practice. He explained that Dr. Gellineau will be afforded direct access to the executive level of the Town with regard to diversity policies.

Finally, Article 9 contains a "sunset" clause, though not insistent, expects this to come back to Town Meeting after the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action has issued its report and recommendation.

Summary of Article 10

Article 10 is much more ambitious and runs counter to the intentions of Article 9.

- Article 10 retains the departmental status of Human Relations, renamed Human **Rights**, as a separate department headed by a director on the basis that affirmative action and diversity efforts deserve the status of a being the responsibility of a separate department.
- It removes the power for the adoption and oversight of expanded affirmative action and equal opportunity policies relative to employment practices from the Human Resources Board and Director and vests it instead in the renamed Human Rights Commission.
- It assigns responsibility for the Human Rights Commission to "...remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote and retain employees who are members of under-represented groups."[2]

Article 10 proponents gave the Rooney Rule as an example of their approach to increasing minority representation at the manager/director level in particular.[3]

The proponents say that that their article seeks to "adopt an affirmative action policy consistent with ...Executive Order 526." The 2011 order by Governor Patrick directs each agency of state government to adopt affirmative action plans and submit them to the

[2] It is unclear what the term 'remedy the effects of' means. Given the pattern of Federal court rulings on affirmative action programs, proactive remedies are somewhat limited, but if the Town follows the pattern established by the Commonwealth it seems unlikely that we would cross the boundaries set by the courts.
[3] The rule, named after the former owner of the Pittsburgh Steelers, requires teams recruiting head coaches and senior operations personnel to look at minority candidates.

Office of Diversity and Equal Opportunity, a unit of the state's Department of Human Resources.

The petitioners for Article 9 point out that leaving responsibility under the purview of Human Resources conforms more closely to the pattern established by Executive Order 526. Further, while Executive Order 526 calls for the establishment of a Non-discrimination, Diversity and Equal Opportunity Council, this council is *advisory only* and has none of the broad authorities sought for the proffered Human Rights Commission by the proponents of Article 10.

And, Article 10 does not recommend specific professional qualifications or backgrounds for Commission members despite being assigned new and greater responsibilities.

Committee comments:

The Advisory Committee noted that Article 9 does not address the split responsibility for adopting, overseeing and implementing AA/EEO policies. Responsibility would continue to be divided between the Human Resources/Youth Resources Commission, the Human Resources Department and the Human Resources Board. However, Article 9 probably improves things by moving support for human relations to the Health Department and provides adequate staff to a department that already has a strong social justice agenda.

Article 10 reduces the AA/EEO role of the Human Resources Board, whose members are required to have professional experience in employment matters, and assigns it to a commission whose members do not necessarily have those qualifications. Proponents of Article 10 point out that Human Resources Board members may not have experience with AA/EEO matters. On the other hand, the HR/YR's draft AA policy requires quarterly reporting by all 25 department heads, a volume of reporting that is likely too excessive and, if the reports are substantive, will be beyond the commission's ability to review. That may indicate a level of inexperience on the Commission's part with the practical matters of administration and management.

Bylaw Article 3.14 bylaw covers five activities.

(1) Development of affirmative action guidelines
(2) Human relations in the broader community
(3) Contractor compliance with Town AA/EEO policy
(4) Youth services
(5) Fair housing

The current administrative structure does not seem to be adequate, or perhaps even appropriate to address these related but distinct tasks. Articles 9 and 10 both try to modify the existing structure somewhat when the question that should be answered is "what would we do if we were starting from scratch."

ARTICLE 9 RECOMMENDATION

Generally, Article 9 moves in the proper direction and builds on reasonable management practices. Also, the "sunset" provision anticipates this will come back to Town Meeting with the benefit of analysis and recommendations from the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action.

Therefore, by a vote of 12-3-1, the Advisory Committee strongly recommends FAVORABLE ACTION on Article 9 as voted by the Selectmen.

ARTICLE 10 RECOMMENDATION

Article 10 is an edited form of the existing HR-YR Commission definition (not comprehensively revisited or revised since its inception several decades ago).

The reach of the Commission and new Human Rights Director envisioned under Article 10 is not an ideal model for the implementation of good and effective management. And, is an approach that seems to look backward as much as forward.

While the Advisory Committee recommends against this proposed article, issues that its consideration have highlighted deserve thoughtful deliberation.

Therefore, by a vote of 17-7-1, the Advisory Committee agrees with the Selectmen's vote for REFERRAL of the subject matter of Article 10 to the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action, with the expectation that an article will be submitted to a future Town Meeting to align responsibilities for the tasks included within Bylaw Article 3.14 in more optimal way.

CAVEAT

As this report was being sent to print, it was brought to our committee's attention that the petitioners of Article 10 intend to file a new motion or amendment. We do not have the language of that proposal or know if the final language has yet been vetted by the Moderator and, therefore, have not considered it as of this writing.

However, we expect to have something between now and Town Meeting for consideration or reconsideration. What it is, and whether it changes the direction and dynamic of the conversation, is still unknown. But, the Advisory Committee will consider it when it is made available and provide a report to Town Meeting in the Supplemental Mailing.

XXX

ARTICLE 11

ELEVENTH ARTICLE
Submitted by: Patricia A. Connors

To see if the Town will amend the General By-Laws in the following manner:

By adding SECTION 3.4.6 immediately following SECTION 3.4.5 of ARTICLE 3.4, as follows:

SECTION 3.4.6 TOWN MEETING RESOLUTION NOTICES

If a resolution adopted at a Town Meeting calls for notice to be sent to any person or entity whether public or private, then unless otherwise specified in the resolution, the Town Clerk shall prepare and send such notice by U.S. mail, with a copy to the principal petitioner(s) by electronic mail, within 30 days after the dissolution of such Town Meeting.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The objective of this article is to clarify procedures relative to Town Meeting resolution notices.

MOTION OFFERED BY THE PETITIONER

VOTED: That the Town amend the General By-Laws in the following manner:

By adding SECTION 3.4.6 immediately following SECTION 3.4.5 of ARTICLE 3.4, as follows:

SECTION 3.4.6 TOWN MEETING RESOLUTION NOTICES

If a resolution adopted at a Town Meeting calls for notice to be sent to any person or entity whether public or private, then, unless otherwise specified in the resolution, the Town Clerk shall prepare and send such notice by U.S. mail, with a copy to the principal petitioner(s) by electronic mail, within 30 days after the dissolution of such Town Meeting.

SELECTMEN'S RECOMMENDATION

Article 11 is a petitioned article that would require the Town Clerk to send notice of any resolution adopted by Town Meeting to the person or entity called for in the resolution within 30 days after the dissolution of such Town Meeting, with a copy to the principal petitioner. The Selectmen agree with the Petitioner that this amendment to the by-law would clarify the procedures associated with resolutions adopted by Town Meeting. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 16, 2013, on the following, which is identical to the motion offered by the Petitioner:

VOTED: That the Town amend the General By-Laws in the following manner:

By adding SECTION 3.4.6 immediately following SECTION 3.4.5 of ARTICLE 3.4, as follows:

SECTION 3.4.6 TOWN MEETING RESOLUTION NOTICES

If a resolution adopted at a Town Meeting calls for notice to be sent to any person or entity whether public or private, then, unless otherwise specified in the resolution, the Town Clerk shall prepare and send such notice by U.S. mail, with a copy to the principal petitioner(s) by electronic mail, within 30 days after the dissolution of such Town Meeting.

Passed by a Unanimous Vote

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 11 seeks to amend the Town's General By-Laws by adding a new section 3.4.6 TOWN MEETING NOTICES.

DISCUSSION:
Town Meeting is no stranger to resolutions. They are a time-honored way for Town Meeting to express the feelings, frustrations and ambitions of our community in ways not statutory. In a traditional New England and American manner, Brookline's Town Meeting has made statements on issues local, national and international.

Conveyance of these public sentiments are accomplished in a variety of ways and often, as specified, through the Board of Selectmen. However, resolutions do not always specify the means, manner and conveyer of the message – even with the recipients identified. This article seeks to, in the words of our Town Clerk, "clear up procedural ambiguity" on those occasions. This proposed new Town By-Law section will clearly specify that, unless otherwise directed in a resolution, the Town Clerk shall send out notices within 30 days.

The Town Clerk and the Advisory Committee feel this proposed amendment is a reasoned addition to our By-Laws.

RECOMMENDATION:
By a vote of 20-0-0, the Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Selectmen, which is identical to the motion offered by the Petitioner.

XXX

ARTICLE 12

TWELFTH ARTICLE
Submitted by: Patricia A. Connors

To see if the Town will amend the General By-Laws Article 4.8, Living Wage By-Law, in the following manner (new language is underlined and strike-outs are in brackets):

By amending SECTION 4.84 of Article 4.8 as follows:

SECTION 4.8.4 NOTICE

The town shall provide each employee with a fact sheet about this By-Law and shall post current notices about the By-Law in conspicuous locations in town buildings[.]and conspicuously on the home web pages of the town's Human Resources and Purchasing Departments as well as those of the Human Resources and Administration and Finance Offices of the Public Schools of Brookline (PSB). These fact sheets and post[ers]ings shall include:

(a) notice of the living wage amount;

(b) notice of the town minimum wage amount under Section 4.8.3;

(c) a summary of the By-Law provisions;

(d) notice that a person claiming to be aggrieved by a violation of this By-Law may file a grievance under the town's Human Resources By-Law (Section 3.15.11) or, if a [School Department] PSB employee, a complaint with the Assistant Superintendent [of Schools for Personnel] for Human Resources or, if a covered employee under Section 4.8.6(a), a complaint with the town's Chief Procurement Officer or the Board of Selectmen as provided under Section 4.8.6(c); notice that upon exhaustion of this administrative remedy, such person may seek appropriate legal relief.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The objective of this article is to insure that the town disseminate conspicuous notice of the provisions of its Living Wage By-Law on its website.

MOTION OFFERED BY THE PETITIONER

(**Bolded** language reflects the changes made to the original article.)

VOTED: That the Town amend the General By-Laws Article 4.8, Living Wage By-Law, in the following manner (new language is underlined and strike-outs are in brackets):

By amending SECTION 4.84 of Article 4.8 as follows:

SECTION 4.8.4 NOTICE

The town shall provide each employee with a fact sheet about this By-Law and shall post current notices about the By-Law in conspicuous locations in town buildings[.]and **link such notices** conspicuously on the home web pages of the town's Human Resources and Purchasing Departments as well as those of the Human Resources and Administration and Finance Offices of the Public Schools of Brookline (PSB). These fact sheets and post[ers]ings shall include:

(a) notice of the living wage amount;

(b) notice of the town minimum wage amount under Section 4.8.3;

(c) a summary of the By-Law provisions;

(d) notice that a person claiming to be aggrieved by a violation of this By-Law may file a grievance under the town's Human Resources By-Law (Section 3.15.11) or, if a [School Department] PSB employee, a complaint with the Assistant Superintendent [of Schools for Personnel] for Human Resources **or such other person with similar authority and duties** or, if a covered employee under Section 4.8.6(a), a complaint with the town's Chief Procurement Officer or the Board of Selectmen as provided under Section 4.8.6(c); notice that upon exhaustion of this administrative remedy, such person may seek appropriate legal relief.

Passed by a Unanimous Vote

SELECTMEN'S RECOMMENDATION

Article 12 is a petitioned article that would amend the Town's Living Wage By-Law in two ways:

1. require the posting of the Living Wage Fact Sheet on the webpages of the Town's Human Resources Office and the Purchasing Division along with School Department's Human Resources and Administration and Finance offices.

2. amend the grievance clause by noting the proper School Department official for any School Department employee to file a complaint with and by adding the Chief Procurement Officer as the town official for any contractor of the Town to file a complaint with.

Posting the Fact Sheet on-line is a "no brainer" and will help improve awareness of the by-law. Amending the grievance clause by correcting the title of the School official and by adding the Chief Procurement Officer as the individual for Town contractors to file complaints with are also common sense changes that correctly update the by-law. The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 16, 2013, on the motion offered by the Advisory Committee, which is identical to the motion offered by the Petitioner.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 12 seeks to amend Town By-Laws by adding new language to a current By-Law in order to assure notices of the Town's Living Wage By-Law provisions are easily identifiable on the Town's website.

DISCUSSION:
The Town has had a Living Wage By-Law for more than a decade and, under General By-Law Article 4.8, we specify the manner and means by which employees will be made aware of the By-Law. This proposed By-Law change would further specify how that information is conveyed – specifically via our Town website.

Currently the Town, through Human Resources, provides every employee with a fact sheet regarding the Living Wage By-Law as well as posting its provisions in every Town building employees may enter. In addition, the Department posts this information on its homepage under Policies and Procedures. There are other links on the Town's website that connect to that same page. Even so, it is not necessarily that apparent that one should navigate to the Policies and Procedures. In discussions with the Human Resources Department and Purchasing, each acknowledged a willingness to seek improvements in presentation. Even though the School Department may be technically independent from this proposed By-Law, it too agrees to seek an improved and common presentation. The plan is to provide a hot-link icon on the front page of Human Resources and a common icon on the Purchasing and School pages as well. Additionally, Human Resources will look to adapt its current fact sheet to an easier to locate online electronic version. The solutions this article seeks already exist but may not be that clear

and obvious. All agree that improved presentation can only benefit our employees and contractors.

RECOMMENDATION:
By a vote of of 20-0-0, the Advisory Committee unanimously recommends FAVORABLE ACTION on the following, which is identical to the motion offered by the Petitioner:

(**Bolded** language reflects the changes made to the original article.)

VOTED: That the Town amend the General By-Laws Article 4.8, Living Wage By-Law, in the following manner (new language is underlined and strike-outs are in brackets):

By amending SECTION 4.84 of Article 4.8 as follows:

SECTION 4.8.4 NOTICE

The town shall provide each employee with a fact sheet about this By-Law and shall post current notices about the By-Law in conspicuous locations in town buildings[.]and **link such notices** conspicuously on the home web pages of the town's Human Resources and Purchasing Departments as well as those of the Human Resources and Administration and Finance Offices of the Public Schools of Brookline (PSB). These fact sheets and post[ers]ings shall include:

(a) notice of the living wage amount;

(b) notice of the town minimum wage amount under Section 4.8.3;

(c) a summary of the By-Law provisions;

(d) notice that a person claiming to be aggrieved by a violation of this By-Law may file a grievance under the town's Human Resources By-Law (Section 3.15.11) or, if a [School Department] PSB employee, a complaint with the Assistant Superintendent [of Schools for Personnel] for Human Resources **or such other person with similar authority and duties** or, if a covered employee under Section 4.8.6(a), a complaint with the town's Chief Procurement Officer or the Board of Selectmen as provided under Section 4.8.6(c); notice that upon exhaustion of this administrative remedy, such person may seek appropriate legal relief.

XXX

ARTICLE 13

THIRTEENTH ARTICLE
Submitted by: Dick Benka and Jean Stringham

To see if the Town will amend Article 7.6, Newsrack Regulation, in the Town's General By-Laws as follows: [~~Deletions noted~~. **Changes/additions bolded.**]

To amend Sections 7.6.2(b), (c)(2), (e), (g) and (l) as follows:

(b) ~~Any~~ **No** person ~~who~~, on or after the effective date of this By-law, **shall place** ~~places~~ a newsrack or **cause** ~~causes~~ a newsrack to be placed on a sidewalk or public way in the town~~, shall, within fourteen (14) days after locating said newsrack on a sidewalk or public way, apply for~~ **without** a **valid** permit **received** from the Commissioner in accordance with the provisions of this By-law. **A newsrack on a sidewalk or public way without such permit affixed to it may be removed immediately by the Commissioner.**

(c)(2) the name, address, **email address** and telephone number of the owner of each newsrack and the name, address, **email address** and telephone number of a person responsible for the maintenance and operation of the newsrack who may be contacted in an emergency; and

(e) Permits shall be valid **only during the calendar year for which they are issued** ~~for a period of one year from the date of issue~~ and, upon application, may be renewed by the Commissioner on an annual basis. **Renewal applications must be received by the Commissioner with all required fees and payment of any outstanding fees and fines prior to December 1st to ensure timely renewal for the following calendar year. The owner shall ensure that newsracks are in compliance with this By-law at the time of permit issuance and any renewal.**

(g) The Board of Selectmen is authorized to establish reasonable fees for original permit applications, annual renewal applications and amendment applications provided that such fees do not exceed the actual cost of administering this By-law. Newsracks owned by the Town of Brookline shall be exempt from fees. **No permit shall be issued, renewed or amended without payment of the required fees and any outstanding fees and fines. No permit shall be affixed to any newsrack that is not in compliance with this By-law.**

~~(l) During the pendency of an appeal, the newsrack(s) may remain in place subject to the removal provisions in section 7.6.4(b), Parts (3) and (4).~~

To amend Sections 7.6.3(a)(15) and (17) and to add a new Section 7.6.3(a)(18) as follows:

(15) ~~of~~ **so** that it is attached to a town-owned tree, traffic control signal device, police or fire call box;

(17) in a manner that violates any provision of **local,** state or federal law;

(18) in a manner such that the town permit is not visible from the public way.

To amend Sections 7.6.3(b) and (d) as follows:

(b) Newsracks may be secured to one another provided that they are no more than six inches apart and provided that the newsracks are aligned in a row that is parallel to the nearest curb line. Individual newsracks shall be installed parallel to the nearest curb line. Newsracks may be clustered back-to-back to form two rows provided that the rows are parallel to the nearest curb line, **that the town permit is visible from the public way** and ~~further provided~~ that the newsracks otherwise comply with the provisions of this By-law.

(d) Newsracks shall not exceed the following dimensional requirements: Height: 4 1/2 feet from the ground; Width: 2 feet; Length: 2 feet. Newsracks shall be contracted and maintained so that they do not constitute a hazard or safety problem for travelers and others using the sidewalks and public ways. They **shall be removed if their use is discontinued and** shall be maintained in good repair and clean and safe condition **such that each newsrack:** ~~and shall be removed if their use is discontinued.~~

1. **is regularly serviced;**
2. **is kept free of accumulations of outdated printed materials, trash, rubbish or debris;**
3. **is kept free of stickers (other than the town permit) and graffiti, with graffiti being entirely removed or, in the case of graffiti on an opaque surface, covered with paint matching the color of the surface on which the graffiti has been placed;**
4. **is kept reasonably free of chipped, faded, peeling, or cracked paint and of rust or corrosion;**
5. **is maintained so that its clear glass or plastic parts, if any, through which the printed material being dispensed is visible are not broken and are kept free of stickers, graffiti, tears, peeling and/or fading;**
6. **is maintained so that its structural parts are not broken or misshapen.**

To amend Sections 7.6.4(a) and (b)(1) to (4) as follows:

(a) No person shall place, cause to be placed or maintain a newsrack upon any sidewalk or public way in the town in violation of the provisions of this By-law. In the event that a newsrack is determined to be in violation of any of the provisions of this By-law,

1. the Commissioner shall provide written, **email** and/or telephone notice to the owner or the owner's agent that the newsrack is in violation of this By-law. Such notice shall state the substance of the violation and, **except as provided in Sections 7.6.4(b), Parts (3) and (4), which provide for immediate or expedited removal,** shall set a date for compliance which shall not be less than ~~10 business~~**14** days after the date notice is given; and

2. if the Commissioner determines that the violation has not been corrected on or after the date for compliance, the Commissioner may ~~initiate removal proceedings~~ **remove the newsrack** in accordance with the provisions of section (b), below, and may assess a fine in accordance with provisions of section 7.6.5.

(b) 1. Except as provided in Sections 7.6.4(b), Parts (3) and (4), the commissioner may remove and store at the owner's expense any newsrack that remains in violation ~~for more than 30 days~~ after the date for compliance specified in Section 7.6.4(a)**(1)** provided that the Commissioner shall give **email or** written notice of removal to the owner stating the date the newsrack was removed; the reasons for removal; the storage location; and the procedure for claiming the **newsrack** ~~machine~~.

2. Except as provided in Section 7.6.4(b), Parts (3) and (4), the owner of any newsrack may avoid removal of the newsrack by:

(i) correcting the violation and so informing the Commissioner; or

(ii) by making a written request for a hearing on the violation before the Commissioner prior to the date set for compliance in which case the newsrack may remain in place pending the Commissioner's decision on the matter. Said hearing shall be held no later than 10 days after receipt of a written request for a hearing and a decision shall be rendered within 10 days thereafter. **A request for hearing shall not preclude the assessment of a fine in accordance with the provisions of Section 7.6.5, unless the Commissioner finds that the newsrack was in fact not in violation of this By-Law on the date set for compliance.**

3. Notwithstanding any other provisions of this By-law, if the Commissioner or a public safety official determines **(a) that a newsrack has been placed or maintained on a sidewalk or public way without a valid permit affixed to it, or that a newsrack is not in compliance with this By-law at the time that an initial or renewal permit would be affixed to such newsrack, or (b)** that a newsrack constitutes an imminent danger of harm to persons or property, the Commissioner or a public safety official may remove the newsrack provided that the owner of the newsrack shall be notified of such removal and provided that the newsrack shall be stored for a reasonable period of time so that the owner can retrieve it.

4. If maintenance, repair, or construction of a public way, sidewalk or public or private property in or adjacent to the public way cannot be accomplished without the removal of a newsrack, the Commissioner shall give written, **email** and/or telephone notice to the newsrack's owner ordering removal of the newsrack provided that said notice shall specify the reason for the removal and the date for compliance which shall not be less than 10 days after the date of notice. If the Commissioner determines that delay would cause an unreasonable risk of harm to persons or property or would cause a delay in the maintenance, repair or construction work, the Commissioner may remove the newsrack, provided that the owner of the newsrack shall be notified of the removal; that the newsrack shall be stored for a reasonable period of time so that the owner can retrieve it and further provided that the owner may replace the newsrack when said maintenance, repair or construction is completed.

And to amend Section 7.6.5 as follows:

In the event that a newsrack is not in compliance with any of the provisions of this By-law as of the date set for compliance under section 7.6.4(a)**(1)** of this By-law, then the owner of such newsrack shall be subject to a fine of $25.00 per day for each day of non-compliance until the date the violations are corrected **and proof of such correction is submitted to the Commissioner** or the newsrack is removed.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article intended to rationalize and clarify the Town's regulations regarding "newsracks," the display and distribution boxes for newspapers and other printed material. Such newsracks, if not properly maintained and located in compliance with Town regulations, can degrade our neighborhoods and compromise pedestrian safety. This article updates and simplifies the newsrack enforcement mechanism. It incorporates procedures that are in conformity with those in other Massachusetts municipalities while also making the newsrack regulations more consistent with our own graffiti by-law.

Section 7.6.2 deals with the issuance of permits for newsracks. Under the current by-law, a newsrack owner can place a newsrack on a public sidewalk or public way without a permit, as long as he or she applies for a permit within 14 days. That 14-day "grace period" and other provisions of the current by-law make the permit requirement virtually unenforceable. The Town has only a single person with the responsibility of enforcing newsrack regulations, in addition to other duties. When a newsrack is discovered without a Town permit, the Town inspector has no way of knowing how long that newsrack has been in place and must return 14 days later and/or monitor applications to determine whether the newsrack has still not been permitted. If the newsrack owner has not applied for a permit, Section 7.6.4(a)(1) of the current by-law requires the Town to issue a notice of violation providing another 10 business days to comply. And then, under Section 7.6.4(b)(1) of the current by-law, the Town must wait yet another 30 days before removing the newsrack. The current procedure creates an almost ludicrous enforcement

burden and a two-month delay. The proposed by-law, in conformity with by-laws in various other municipalities, including Medford, Somerville, Salem, Boston and Revere, no longer allows a newsrack to be placed on a street without a permit. It provides that unpermitted, illegally placed newsracks may be removed without the current two-month delay.

In addition, although permits must be renewed every year and the Town provides written reminders to all permit holders, a number of newsrack owners have not renewed their permits in timely fashion. The proposed by-law makes clear that newsracks without valid permits may be removed by the Town, that renewal applications must be filed in timely fashion, that applications must include email addresses (to allow notice by email), that all required fees and fines must be paid before renewal, and that each newsrack must be brought into compliance with the by-law at the time of initial permitting or renewal, or the permit will not be affixed and the newsrack will be removed. Because the Town inspector visits each newsrack to affix the renewal permit, the revised by-law will help to ensure that newsracks at least begin each calendar year in satisfactory condition.

Section 7.6.3(a) and (b) deal with standards for the placement of newsracks. The Town has already, in 2013, begun using a larger permit that can be readily identified from a distance. In order to facilitate enforcement, the warrant article adds provisions requiring each newsrack to be maintained so that that permit remains visible from a public way. Minor wording changes are also made.

Section 7.6.3(d) has required in general terms that newsracks be maintained "in good repair and clean and safe condition." The proposed amendment better clarifies this requirement, following the practice of other communities such as Medford, Somerville, and Boston is articulating standards of repair and condition. In addition, the article requires in Section 7.6.4(a) that newsracks be brought into compliance with those standards within 14 days after notice or be subject to removal. This would eliminate the convoluted two-step (10 business days plus 30 days) removal process of the current by-law.

The proposed 14-day notice period prior to removal is slightly more lenient than the removal period of a number of other communities (e.g., Medford, 10 days; Somerville, 10 days; Salem, 10 days; Boston, 10 days; Revere, 3 days). The period has, however, been chosen to ensure conformity with the Town's graffiti by-law. Under the Town's graffiti by-law, as set out in Section 8.5.9.4 of the General By-Laws, graffiti on private property must be removed within 14 days after notice from the Town. The proposed change applies the same 14-day period to newsracks, not only to graffiti but also, for the sake of consistency in enforcement, to other violations.

Section 7.6.3(d) also brings the newsrack regulations into conformity with the graffiti by-law in another way. The graffiti by-law requires that graffiti be removed within 14 days. Newsrack owners have, unfortunately, taken to dealing with graffiti by spraying over it with large splotches of black paint, regardless of the color of the newsrack. In many cases, the "cure is worse than the disease." Conforming to the provisions of the graffiti by-law, the proposed amendment explicitly requires that graffiti be removed. In the case of opaque portions of newsracks, the amendment does allow the alternative of covering

graffiti with paint matching the color of the box, but any graffiti on a glass or plastic newsrack window must be removed or the window or newsrack replaced.

Sections 7.6.4 and 7.6.5, as noted above, eliminate convoluted enforcement procedures. They permit newsracks to be removed immediately if they have not been properly permitted. In conformity with a number of other communities, they eliminate the cumbersome "two-step" removal procedure, permitting the Commissioner of Public Works to remove newsracks where the owners have not corrected violations within 14 days. They retain the right of an owner to avoid removal by requesting a hearing within such 14-day period, but make clear that if the violation is upheld, fines will be calculated beginning at the expiration of the 14-day period. The by-law retains provisions that permit immediate removal in the case of potential harm to persons or property or delay in maintenance, repair or construction work.

The warrant article attempts to address problems that have arisen with newsracks in the Town, including owners who have not bothered to renew permits in timely fashion, who have not regularly serviced their newsracks, or who have taken shortcuts in dealing with problems such as graffiti. It makes clear that certain standards of repair must be met. It also eliminates provisions that unnecessarily hamper enforcement, such as the provision that allows newsracks to be placed on the streets without permits and the cumbersome two-step 10-business-plus-30-calendar-days removal process.

SELECTMEN'S RECOMMENDATION

Article 13 is a petitioned article that amends the Town's Newsrack Regulation By-Law. The newsracks, more commonly referred to as newspaper boxes, are located across town and, if left unregulated, can become eyesores and compromise pedestrian safety. This article updates and simplifies the enforcement mechanisms in the current by-law, incorporates procedures that have proven to be successful in other Massachusetts municipalities, and makes the regulations more consistent with our graffiti by-law.

Under the current by-law, the permit requirement is nearly unenforceable. It also results in a two-month delay because of the following requirements:

- a newsrack owner can place a newsrack without a permit as long as they apply for a permit within 14 days.
- once the Town's permit inspector finds a newsrack without a permit, he does not know how many days it has been out without a permit. As a result, he has to go back 14 days later to see if it has been permitted.
- if he determines that the owner has not applied for a permit, the by-law requires him to issue a notice of violation that gives the owner another 10 business days to comply.
- then he must wait another 30 days before he can remove the newsrack if not ultimately permitted.

The proposed amendments clarify the following:

- newsracks without valid permits may be removed
- renewal applications must be filed in a timely manner
- all fees and fines must be paid prior to renewal
- each newsrack must be brought into compliance or the permit will not be affixed and the newsrack will be removed.

The proposed amendments also require that each newsrack be maintained to that the permit remains visible from a public way, better clarifies the requirement that they must be maintained "in good repair and clean and safe condition", and require that newsracks be brought into compliance with those standards within 14 days or be subject to removal.

Another important feature of the proposed amendments is that it brings the regulations into conformity with the graffiti by-law. Newsrack owners would have to remove any graffiti or cover it with paint matching the color of the newsrack rather than simply spraying over it with black paint, as has become the practice.

The Selectmen fully support these proposed amendments and believe that they will result in a reduction in unsightly and unkempt newsracks. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 9, 2013, on the following:

VOTED: That the Town amend Article 7.6, Newsrack Regulation, in the Town's General By-Laws as follows: [~~Deletions noted~~. **Changes/additions bolded.**]

To amend Sections 7.6.2(b), (c)(2), (e), (g) and (l) as follows:

(b) ~~Any~~ **No** person ~~who~~, on or after the effective date of this By-law, **shall place** ~~places~~ a newsrack or **cause** ~~causes~~ a newsrack to be placed on a sidewalk or public way in the town~~, shall, within fourteen (14) days after locating said newsrack on a sidewalk or public way, apply for~~ **without** a **valid** permit **received** from the Commissioner in accordance with the provisions of this By-law. **A newsrack on a sidewalk or public way without such permit affixed to it may be removed immediately by the Commissioner.**

(c)(2) the name, address, **email address** and telephone number of the owner of each newsrack and the name, address, **email address** and telephone number of a person responsible for the maintenance and operation of the newsrack who may be contacted in an emergency; and

(e) Permits shall be valid **only during the calendar year for which they are issued** ~~for a period of one year from the date of issue~~ and, upon application, may be renewed by the Commissioner on an annual basis. **Renewal applications must be received by the Commissioner with all required fees and payment of any outstanding fees and fines prior to December 1st to ensure timely renewal for the following calendar year. The owner shall ensure that newsracks are in compliance with this By-law at the time of permit issuance and any renewal.**

(g) The Board of Selectmen is authorized to establish reasonable fees for original permit applications, annual renewal applications and amendment applications provided that such fees do not exceed the actual cost of administering this By-law. Newsracks owned by the Town of Brookline shall be exempt from fees. **No permit shall be issued, renewed or amended without payment of the required fees and any outstanding fees and fines. No permit shall be affixed to any newsrack that is not in compliance with this By-law.**

~~(l) During the pendency of an appeal, the newsrack(s) may remain in place subject to the removal provisions in section 7.6.4(b), Parts (3) and (4).~~

To amend Sections 7.6.3(a)(15) and (17) and to add a new Section 7.6.3(a)(18) as follows:

(15) ~~of~~ **so** that it is attached to a town-owned tree, traffic control signal device, police or fire call box;

(17) in a manner that violates any provision of **local,** state or federal law;

(18) in a manner such that the town permit is not visible from the public way.

To amend Sections 7.6.3(b) and (d) as follows:

(b) Newsracks may be secured to one another provided that they are no more than six inches apart and provided that the newsracks are aligned in a row that is parallel to the nearest curb line. Individual newsracks shall be installed parallel to the nearest curb line. Newsracks may be clustered back-to-back to form two rows provided that the rows are parallel to the nearest curb line**, that the town permit is visible from the public way** and ~~further provided~~ that the newsracks otherwise comply with the provisions of this By-law.

(d) Newsracks shall not exceed the following dimensional requirements: Height: 4 1/2 feet from the ground; Width: 2 feet; Length: 2 feet. Newsracks shall be contracted and maintained so that they do not constitute a hazard or safety problem for travelers and others using the sidewalks and public ways. They **shall be removed if their use is discontinued and** shall be maintained in good repair and clean and safe condition **such that each newsrack:** ~~and shall be removed if their use is discontinued.~~

1. **is regularly serviced;**
2. **is kept free of accumulations of outdated printed materials, trash, rubbish or debris;**
3. **is kept free of stickers (other than the town permit) and graffiti, with graffiti being entirely removed or, in the case of graffiti on an opaque surface,**

covered with paint matching the color of the surface on which the graffiti has been placed;

4. **is kept reasonably free of chipped, faded, peeling, or cracked paint and of rust or corrosion;**

5. **is maintained so that its clear glass or plastic parts, if any, through which the printed material being dispensed is visible are not broken and are kept free of stickers, graffiti, tears, peeling and/or fading;**

6. **is maintained so that its structural parts are not broken or misshapen.**

To amend Sections 7.6.4(a) and (b)(1) to (4) as follows:

(a) No person shall place, cause to be placed or maintain a newsrack upon any sidewalk or public way in the town in violation of the provisions of this By-law. In the event that a newsrack is determined to be in violation of any of the provisions of this By-law,

1. the Commissioner shall provide written, **email** and/or telephone notice to the owner or the owner's agent that the newsrack is in violation of this By-law. Such notice shall state the substance of the violation and, **except as provided in Sections 7.6.4(b), Parts (3) and (4), which provide for immediate or expedited removal,** shall set a date for compliance which shall not be less than ~~10 business~~**14** days after the date notice is given; and

2. if the Commissioner determines that the violation has not been corrected on or after the date for compliance, the Commissioner may ~~initiate removal proceedings~~ **remove the newsrack** in accordance with the provisions of section (b), below, and may assess a fine in accordance with provisions of section 7.6.5.

(b) 1. Except as provided in Sections 7.6.4(b), Parts (3) and (4), the commissioner may remove and store at the owner's expense any newsrack that remains in violation ~~for more than 30 days~~ after the date for compliance specified in Section 7.6.4(a)**(1)** provided that the Commissioner shall give **email or** written notice of removal to the owner stating the date the newsrack was removed; the reasons for removal; the storage location; and the procedure for claiming the **newsrack** ~~machine~~.

2. Except as provided in Section 7.6.4(b), Parts (3) and (4), the owner of any newsrack may avoid removal of the newsrack by:

(i) correcting the violation and so informing the Commissioner; or

(ii) by making a written request for a hearing on the violation before the Commissioner prior to the date set for compliance in which case the newsrack may remain in place pending the Commissioner's decision on the matter. Said hearing shall be held no later than 10 days after receipt of a written request for a hearing and a decision shall be

rendered within 10 days thereafter. **A request for hearing shall not preclude the assessment of a fine in accordance with the provisions of Section 7.6.5, unless the Commissioner finds that the newsrack was in fact not in violation of this By-Law on the date set for compliance.**

3. Notwithstanding any other provisions of this By-law, if the Commissioner or a public safety official determines **(a) that a newsrack has been placed or maintained on a sidewalk or public way without a valid permit affixed to it, or that a newsrack is not in compliance with this By-law at the time that an initial or renewal permit would be affixed to such newsrack, or (b)** that a newsrack constitutes an imminent danger of harm to persons or property, the Commissioner or a public safety official may remove the newsrack provided that the owner of the newsrack shall be notified of such removal and provided that the newsrack shall be stored for a reasonable period of time so that the owner can retrieve it.

4. If maintenance, repair, or construction of a public way, sidewalk or public or private property in or adjacent to the public way cannot be accomplished without the removal of a newsrack, the Commissioner shall give written, **email** and/or telephone notice to the newsrack's owner ordering removal of the newsrack provided that said notice shall specify the reason for the removal and the date for compliance which shall not be less than 10 days after the date of notice. If the Commissioner determines that delay would cause an unreasonable risk of harm to persons or property or would cause a delay in the maintenance, repair or construction work, the Commissioner may remove the newsrack, provided that the owner of the newsrack shall be notified of the removal; that the newsrack shall be stored for a reasonable period of time so that the owner can retrieve it and further provided that the owner may replace the newsrack when said maintenance, repair or construction is completed.

And to amend Section 7.6.5 as follows:

In the event that a newsrack is not in compliance with any of the provisions of this By-law as of the date set for compliance under section 7.6.4(a)**(1)** of this By-law, then the owner of such newsrack shall be subject to a fine of $25.00 per day for each day of non-compliance until the date the violations are corrected **and proof of such correction is submitted to the Commissioner** or the newsrack is removed.

Passed by a unanimous Vote

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 13 is a citizen's petition to amend Article 7.6. of the Town's General By-Laws, Newsrack Regulation, to address problems with the maintenance and repair of newsracks (the display and distribution boxes for newspapers and other printed material), which are located on streets throughout the Town's commercial areas. The article provides more specific standards for proper maintenance and both strengthens and streamlines enforcement tools.

The disrepair of newsracks in Town has been an ongoing concern. The issue was highlighted to one of the petitioners when the Coolidge Corner-Southside Neighborhood Association met with the Economic Development Advisory Board (EDAB) to discuss merits and problems of having newsracks placed in Coolidge Corner. At the meeting neighbors expressed concern about the poor upkeep of the newsracks, including graffiti either left untended or poorly covered with black spray paint, trash stored in the boxes, and broken parts left unrepaired. Following the meeting, the petitioner surveyed the newsracks in Coolidge Corner and found only one quarter in good repair, with the remaining three quarters of newsracks poorly maintained.

Petitioners have noted that since January of this year, newsrack upkeep has improved somewhat, partly due to residents' reporting of poorly maintained newsracks on BrookOnline, and partly due to the Department of Public Works instituting the administrative change of using larger permit stickers, so that they are now more visible to inspectors. Nonetheless, problems remain, and the current by-law has both poorly defined standards of appropriate upkeep and unwieldy enforcement procedures. The changes proposed by this article address these deficiencies and brings Brookline's regulation more in line with those of other of the State's municipalities studied by the petitioners, including Boston, Medford. Somerville, Salem, Revere, and Newton.

Specifically, with regard to enforcement, Brookline's regulation allows a publisher to install a newsrack for fourteen days without first obtaining a permit. If an inspector has determined that fourteen days have been exceeded, the owner of the newsrack has another ten business days to comply, and then the Town must wait another 30 days before removing the newsrack. Not only is it difficult for an inspector to determine the number of days that any particular newsrack has been installed without a permit, but even if the inspector has done so, the owner is able to keep an unpermitted newsrack on the street for two months. The proposed changes require that a permit must be obtained prior to installing a newsrack and any newsrack without an up-to-date permit can be removed immediately by the Town. The article also specifies that all permits must be renewed at the beginning of each calendar year, which further facilitates enforcement since all newsracks will have the same renewal times. In order to obtain a renewal, moreover, all fines and fees must be paid by the owner of the newsrack. All applications, whether initial or renewal, also must provide current email addresses to allow the Town to provide notices via email.

With regard to the requirement that newsracks be maintained "in good repair and clean and safe condition," the article provides more specific guidelines that are identical to those of other municipalities (e.g., graffiti must either be removed or covered with the same color paint as that of the newsrack). If a newsrack owner is given notice that the newsrack is out of compliance, this article replaces the cumbersome 10 business days plus 30 days for compliance with a straightforward 14 days. A fourteen day compliance period is more lenient than the ten day period of other communities, but is being proposed to conform with the fourteen day compliance period for the removal of graffiti under the Town's graffiti by-law.

DISCUSSION:

The Advisory Committee was supportive of this warrant article, acknowledging the problems of upkeep of the Town's newsracks. The committee's support was buttressed by the endorsement of the article by both the Brookline Chamber of Commerce and EDAB, and the fact that the Town's Five-Year Economic Development Plan recommends even more stringent regulation. The owners of newsracks, moreover, were all notified of the proposed changes to the by-law and none of these entities expressed any concerns.

One Advisory Committee member expressed concern that the more stringent requirements for upkeep could place undue burdens on small newspapers that express unpopular views: If the newsracks of such newspapers were to be sprayed repeatedly with graffiti and the owners were required to make repairs within 14 days, the cost could be sufficiently high to force the newspaper out of business (this has not been reported as an issue in other municipalities). In response, another Advisory Committee member pointed out that there is a type of paint that does not absorb spray paint so that it would take minimal effort to wipe off. It was observed that the regulation itself is content-neutral and does not differentiate among publishers, requiring only basic maintenance, which is a cost of business that owners of newsracks should be expected to absorb.

The by-law applies to advertising publications as well as newspapers, but it may not apply to newsracks located on private property.

A minor concern of the Public Safety subcommittee was that the amended Section 7.6.4(b)(3) does not make clear the intent of the by-law that the owner is responsible for the payment of storage fees under that section, but the Petitioners were informed by the Moderator that a wording change to better clarify such intent would not be allowed within the context of this specific Town Meeting article.

RECOMMENDATION:

By a vote of 18-1-2, the Advisory Committee recommends FAVORABLE ACTION on Article 13 as voted by the Selectmen.

ARTICLE 14

FOURTEENTH ARTICLE
Submitted by: Stanley Spiegel and Nancy Heller

To see if the Town will amend the General By-laws, Article 8.5, Disorderly Behavior, and the Table of Specific Penalties under Article 10.3 as follows (new language is underlined and deletions appear in brackets):

1.

ARTICLE 8.5
DISORDERLY BEHAVIOR

SECTION 8.5.1 DEFINITION

A person is disorderly, as used in Article 8.5, if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, that person: A. engages in fighting or threatening, or in violent or tumultuous behavior; or B. makes unreasonable noise, disturbs the peace and quiet enjoyment of any residential premises, or makes offensively coarse [course] utterance, gesture or display, or addresses abusive language to any person present; or C. creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

SECTION 8.5.2 DISORDERLY ACTION

No person shall behave in a disorderly manner in any street, public place or place which the public has a right of access.

SECTION 8.5.3 LANGUAGE

No person shall use offensive or disorderly language to threaten or annoy persons of the opposite sex or make any threats, or use of other language to create a breach of the peace in any street, public place or place to which the public has a right of access.

SECTION 8.5.4 PRESENT TO DISTURB

No person shall be, or remain, upon any street, sidewalk, or upon any doorstep, portico, or other projection of any house or building not owned by such person, to annoy or disturb any person.

8.5.5 Specific Penalty for Violation of Sections 8.5.1 through 8.5.4

A violation of the provisions of 8.5.1 through 8.5.4 may be dealt with as a non-criminal disposition under Article 10.3 of these by-laws and each violation shall be subject to a specific penalty of $100.00.

2. Renumber the remaining sections of Article 8.5 so they are in proper sequential order; and

3. Amend Article 10.3, Non-Criminal Disposition by adding a section to the Table of Specific Penalties as follows:

Article 8.5 Disorderly Behavior		
	Section 8.5.5 Specific Penalty	$100.00

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This proposed amendment to the by-laws is a response to an ongoing problem of disorderly behavior that has been disturbing the peace and quiet of residents in affected Town neighborhoods. The intent is to focus attention on the need to deal effectively with this problem. The amended language makes it explicit that disturbing the peace and quiet enjoyment of any residential premises is included within the definition of disorderly behavior, and that such behavior can be dealt with by the police as a non-criminal violation with a proposed specific penalty of $100.00, increased from the present penalty of $50.00, rather than as a misdemeanor infraction that would leave the offender with a criminal record.

The amendment also corrects a scrivener's error in Section 8.5.1.

SELECTMEN'S RECOMMENDATION

Article 14 is a petitioned article that proposes to amend the Town's Disorderly Behavior By-Law. The primary change being proposed is making it explicit that disturbing the peace and quiet of any residential premises is included within the definition of disorderly behavior. In addition, the amendment would allow the police to treat such behavior as a non-criminal violation with a penalty of $100. (Currently, it is a $50 fine and a misdemeanor infraction that leaves the offender with a criminal record.)

The Board continues to support measures that protect neighborhoods, primarily around the areas with a heavy concentration of college students, from disruptive activities. The Nuisance Control By-Law approved in May, 2010 is the best example of recent efforts to protect residents from infringement on their ability to enjoy the peace and quiet they desire and deserve. Article 14 is another step in these efforts and the Selectmen fully support it. There is, however, a chance that the Attorney General may find that the changing of the word "course" to "coarse" results in an unconstitutional by-law. Even

though it is being done to simply fix a scrivener's error, the question of infringement of First Amendment rights may be answered by the AG.

The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 16, 2013, on the motion offered by the Advisory Committee.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

OVERVIEW:
This warrant article was submitted by the petitioners to amend Article 8.5 of the Town's General By-Laws, which deals with disorderly behavior, with two goals in mind: (1) to clarify and make explicit what disturbs the peace and quiet of a neighborhood, and (2) to specify a non-criminal penalty for violators, with a $100 fine.

BACKGROUND:
WA14 was filed in response to an ongoing problem in North Brookline with people walking down the streets in the wee hours of the morning disturbing the peace and quiet of residents in their homes. The petitioners emphasized that this article is not directed at BU students; it's directed towards anyone making excessive noise. The intent of WA14 is to focus attention on this issue in the town and in the enforcement agency and to address this as a town wide problem.

The current article includes the notion of disturbing the peace as part of "disorderly behavior", but it does not explicitly state it in those terms. The proposed amendment will make clear that residents have a right to peace and quiet in their home, by adding specific language under definitions (Sec. 8.5.1) of the by-law. The language being added is: "disturbs the peace and quiet enjoyment of any residential premises." The article also proposes a non-criminal disposition and specific financial penalty of $100 for those who violate Sections 8.5.1 through 8.5.4 of the by-law, by adding a new section 8.5.5, and renumbering the remaining sections of the by-law so they are in sequential order.

DISCUSSION:
The petitioners note that this is a companion article to the nuisance article that was passed by town meeting in May of 2011, which was filed to deal with noise from house parties. That article was concerned with noise emanating from a residence and causing a public disturbance. It included remedies such as dealing directly with the owner or landlord of the property, but did not deal with disturbances in the public way.

Currently, any disorderly behavior in the public way would be complaint-driven and the offender(s), if witnessed by a police officer, could be subject to arrest, although it could also be handled non-criminally. Under State law any person creating a public disturbance can be taken into custody and/or fined. The petitioners have no wish to saddle young people, primary offenders of the neighborhood disturbances in North Brookline, with a criminal record, and no young person has been arrested for such a violation, for that reason. This WA would allow the police to treat such infractions with a fine, more akin to a parking ticket, rather than a criminal offense.

Residents who live near Dexter Park, where approximately 500-600 students rent apartments, described "party buses" – buses hired by groups of students who go out and return late at night inebriated and loud ("rolling night clubs"); it's the volume of the noise that is at issue. Police are aware of the problem and have talked about pulling the party buses to the front of Dexter Park rather than in the parking lot, so that fewer residents will be disturbed, but handicap accessibility is only in the back. Some remediation of this situation is still being sought. Additionally, we heard about noise resembling "a moving party" that can continue from 9:30 pm to 3:00 in the morning, and that this is often a 2-3 time a week problem. A resident on Winchester Street in Coolidge Corner and who is in favor of this article, noted that the area is between two green lines and that noise amplifies as it goes up the hill.

Meredith L. Mooney, a representative from BU's Office of Government & Community Affairs, informed us that BU supports the article, which is in line with the University's expectation of its students. Chief Daniel O'Leary noted that students come from many colleges and that BU is responsive when police contact them. The police department has seen a decline in loud parties in recent months in North Brookline, but less of a decline in on-street noise. Chief O'Leary is in favor of this warrant article.

The amended article 8.5, while not directed at students, would give the police another tool to use when students are involved. The increased fine from $50 to $100 will hopefully get people's attention and lead to fewer incidents of excessive on-street noise, particularly during the night. The Brookline police department notifies schools when students are fined. There was some discussion of how communication between parents and the university and the town can be increased. For instance, parents can opt in to emails generated by the town that focus on issues of safety in the neighborhoods in which students reside.

The petitioners of the article noted a scrivener's error in the existing town by-law and decided to correct that error at the same time as amending the article, by changing the word "course" in section 8.5.1 to the word "coarse", as in the phrase "offensively coarse utterance". That correction led to a closer examination of the language of the existing Article 8.5, and the potential problem of unconstitutional language. It should be noted that M.G.L. Chapter 272, Section 53, which deals with disorderly behavior, contains similar terminology to our current by-law, e.g., "offensive and disorderly acts or language," although case law affirms that such offensive language must fall outside the scope of First Amendment protections. The petitioners, however, are not concerned about the content of the language ("offensive"), just the volume of the utterances; not what

people say, just the volume at which they say it. Once WA14 was filed the Moderator would not allow phrase deletions in the current by-law, which is beyond the scope of the warrant article before this town meeting.

RECOMMENDATION:
By a vote of 22 in favor, 0 against and 1 abstention, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town amend the General By-laws, Article 8.5, Disorderly Behavior, and the Table of Specific Penalties under Article 10.3 as follows (new language is underlined and deletions appear in brackets):

1.

ARTICLE 8.5
DISORDERLY BEHAVIOR

SECTION 8.5.1 DEFINITION

A person is disorderly, as used in Article 8.5, if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, that person: A. engages in fighting or threatening, or in violent or tumultuous behavior; or B. makes unreasonable noise, disturbs the peace and quiet enjoyment of any residential premises, or makes offensively coarse [course] utterance, gesture or display, or addresses abusive language to any person present; or C. creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

SECTION 8.5.2 DISORDERLY ACTION

No person shall behave in a disorderly manner in any street, public place or place which the public has a right of access.

SECTION 8.5.3 LANGUAGE

No person shall use offensive or disorderly language to threaten or annoy persons of the opposite sex or make any threats, or use of other language to create a breach of the peace in any street, public place or place to which the public has a right of access.

SECTION 8.5.4 PRESENT TO DISTURB

No person shall be, or remain, upon any street, sidewalk, or upon any doorstep, portico, or other projection of any house or building not owned by such person, to annoy or disturb any person.

8.5.5 Specific Penalty for Violation of Sections 8.5.1 through 8.5.4

A violation of the provisions of 8.5.1 through 8.5.4 may be dealt with as a non-criminal disposition under Article 10.3 of these by-laws and each violation shall be subject to a specific penalty of $100.00.

2. Renumber the remaining sections of Article 8.5 so they are in proper sequential order; and

3. Amend Article 10.3, Non-Criminal Disposition by adding a section to the Table of Specific Penalties as follows:

Article 8.5 Disorderly Behavior

Section 8.5.5 Specific Penalty	$100.00

XXX

ARTICLE 15

FIFTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend Sec. 2.07, "G" Definitions, Gross Floor Area, by modifying it as follows. **(Addition bolded.)**

§2.07 – "G" DEFINITIONS

1. GROSS FLOOR AREA—The sum of the areas of all floors of all principal and accessory buildings whether or not habitable except as excluded. Gross floor area shall include enclosed porches and the horizontal area at each floor level devoted to stairwells and elevator shafts. Gross floor area shall exclude (a) portions of cellars, basements, attics, penthouses and historically and architecturally significant accessory buildings that are not habitable, provided however that space that has been decommissioned shall not be excluded from gross floor area; (b) except as required in §5.06, paragraph 4, subparagraph b(3) relating to the parking in Coolidge Corner, any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this By-law, provided, however, that for single and two-family dwellings the floor space thereby exempted from the calculation of gross floor area shall not exceed 360 square feet per required parking space; (c) elevator penthouses and mechanical equipment enclosures located above the roof, if not habitable; (d) necessary mechanical equipment space in the basement; and (e) up to 150 square feet of area in an accessory structure such as a garden or equipment shed. Measurements shall be from the exterior faces of the walls or from the centerlines of the walls for adjoining buildings. **For one- and two-family buildings** where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings), gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet. Space that has been decommissioned shall be included in the gross floor area of a building.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article with the support of the Selectmen's Zoning By-Law Committee.

The existing definition in Section 2.07(1), Gross Floor Area, in the Zoning By-Law requires that if the height between a finished floor and the ceiling is greater than 12 feet, the area above 12 feet must be accounted for, proportionally, in calculating the total gross floor area for the structure. This provision was included in the By-Law in recognition

that, without this, the exterior bulk of several residential buildings had become "bloated" because of the use of multi-story atriums, cathedral ceilings and so on, while still nominally complying with allowable floor area limitations.

Although this was intended to prevent "McMansions" in single-family and two-family residential neighborhoods, it applied to all buildings - commercial, industrial, educational and religious. This warrant article changes that by having it apply only to single- and two-family dwellings and not to non-residential or multi-unit residential buildings.

There are many instances where having a taller floor to ceiling height would be appropriate or even necessary for a building use. For example, in an apartment or commercial building, a lobby could appropriately have a height in excess of 12 feet, and this would enhance the design and character of the building without adversely impacting abutters. Additionally, in a school gymnasium, the ceiling will necessarily be higher than 12 feet to facilitate the use. In a church or synagogue space, a taller and monumental worship space is typical. Where existing buildings abutting a proposed commercial or multi-family building already had first floor heights in excess of 12 feet, imposing a floor-area penalty on a new building could actually encourage a design with anomalous floor and cornice heights. In all these instances, there should not be a penalty by having to count the space above 12 feet in the FAR maximum. It needs to be emphasized that the massing of any new building would still be controlled by the requirement that it comply with overall building height, yard setback and open space requirements.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is related to modifying the definition of gross floor area and is being submitted by the Department of Planning and Community Development at the recommendation of the Selectmen's Zoning By-Law Committee.

Several years ago the definition of gross floor area in the Zoning By-Law was modified to address smaller homes being replaced with very large residences not in scale with the surrounding neighborhood. However, the change was not limited to residential districts, and the current definition of "Gross Floor Area" under Section 2.07 of the Town's Zoning By-law applies as well to apartment houses, commercial buildings, and institutional uses. The By-Law requires that where ceiling heights are greater than 12 feet, the space above 12 feet must be counted proportionally towards the building's total gross floor area. The proposed zoning amendment would retain this provision in the "Gross Floor Area" definition but limit its application to single- and two-family dwellings.

There are many situations where it is appropriate for non-residential or multi-family buildings to have ceiling heights greater than 12 feet. For example, the lobby of a commercial or apartment building may be more attractive with a higher ceiling; a school gymnasium needs additional height for recreational purposes; and parts of religious buildings are often designed with higher ceilings to create striking worship areas. All of

these buildings would still be subject to open space, height and setback requirements, but they would not be restricted to keeping their ceilings at artificially low levels.

This amendment would allow for flexibility in the design of new multi-family and non-residential buildings, enabling them to be designed appropriately for their intended uses without being penalized for utilizing higher ceilings. The town benefits as a whole when it encourages creative and attractive building design, and this amendment furthers that effort.

Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 15, as submitted.

SELECTMEN'S RECOMMENDATION

Article 15 was submitted by the Planning and Community Development Department at the suggestion of the Zoning By-Law Review Committee in order to modify the definition of "Gross Floor Area" in the (Section 2.07). Currently, the regulation applies to single-family, two-family, multi-family, commercial and institutional buildings and requires that where ceiling heights of finished space are greater than 12 feet, the space above 12 feet must be included proportionally in the total gross floor area. This amendment would limit the application of this requirement to single- and two-family dwellings.

When the "Gross Floor Area" definition was modified several years ago to include the 12-foot ceiling height provision, the intention was to address the practice of replacing small residential homes with very large homes out of scale with the neighborhood. Often these new homes had cathedral ceilings or lofted areas that contributed to their overall bulk. But multi-family, commercial or institutional buildings frequently have specific needs for ceilings higher than 12 feet; for example, a gymnasium needs the additional height to allow for full recreation, religious buildings have higher ceilings in their worship areas, and apartment buildings may have lobby or common areas that are more attractive with high ceilings. Removing the 12-foot ceiling provision would allow these buildings to be built without a floor area "penalty;" all buildings would still be subject to setback, height and open space requirements.

This article provides for greater flexibility in the design of non-residential and multi-family buildings, while still accounting for high ceilings in single- and two-family homes where the greater bulk has more of an impact on neighborhoods. The modification ensures that commercial and institutional buildings can be designed appropriately for their intended purposes, and that multi-family buildings have more options for creative and attractive design.

Therefore, the Board of Selectmen unanimously recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 23, 2013, on the following:

15-4

VOTED: That the Town amend Sec. 2.07, "G" Definitions, Gross Floor Area, by modifying it as follows. **(Addition bolded.)**

§2.07 – "G" DEFINITIONS

1. GROSS FLOOR AREA—The sum of the areas of all floors of all principal and accessory buildings whether or not habitable except as excluded. Gross floor area shall include enclosed porches and the horizontal area at each floor level devoted to stairwells and elevator shafts. Gross floor area shall exclude (a) portions of cellars, basements, attics, penthouses and historically and architecturally significant accessory buildings that are not habitable, provided however that space that has been decommissioned shall not be excluded from gross floor area; (b) except as required in §5.06, paragraph 4, subparagraph b(3) relating to the parking in Coolidge Corner, any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this By-law, provided, however, that for single and two-family dwellings the floor space thereby exempted from the calculation of gross floor area shall not exceed 360 square feet per required parking space; (c) elevator penthouses and mechanical equipment enclosures located above the roof, if not habitable; (d) necessary mechanical equipment space in the basement; and (e) up to 150 square feet of area in an accessory structure such as a garden or equipment shed. Measurements shall be from the exterior faces of the walls or from the centerlines of the walls for adjoining buildings. **For one- and two-family buildings** where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings), gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet. Space that has been decommissioned shall be included in the gross floor area of a building.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

Carried by a Counted Vote of 178 In Favor and 1 Opposed

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
In 2007, Town Meeting adopted an amendment to the Brookline Zoning By-Law pertaining to the definition of "Gross Floor Area" as used in the calculation of the "Floor Area Ratio" ("F.A.R.") for purposes of determining compliance with certain building size limitations applicable to residential and commercial zoning districts.

F.A.R. is the ratio of Gross Floor Area of a building to the area of the lot of land upon which the building is (or is to be) situated. For single and two-family houses, the maximum F.A.R. is between 0.15 and 0.75, but typically falls in the 0.2 to 0.35 range. For example, in S-10 districts (i.e., 10,000 square foot minimum lot size), the maximum allowable F.A.R. is 0.35, such that the maximum gross floor area of the house for a lot size of 10,000 square feet would be 3,500 square feet. The purpose of F.A.R. is to limit the overall bulk of a building, so that its overall size and scale is consistent with other buildings in the immediate area. Limitations on overall size/bulk are also accomplished by several other parameters, minimum setback requirements, and overall height limitations. For single- and two-family buildings, F.A.R. tends to be the most limiting of the three factors.

"Gross Floor Area" for purposes of F.A.R. excludes the area required for up to two (2) parking spaces in an enclosed garage. It also excludes unfinished (and non-habitable) basements and attics. At various times, developers have sought to "push the envelope" with respect to such excluded areas by, for example, declaring them as not habitable for purposes of satisfying the F.A.R. for purposes of obtaining the initial building permit, only to finish such spaces following issuance of a Certificate of Occupancy with respect to the originally-approved design. Town Meeting has amended the Zoning By-Law from time to time to limit or prevent such practices.

In 2007, Town Meeting amended the definition of "gross floor area" to account for situations "where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings)." In such situations, "gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet." The purpose of this amendment was "in recognition that, without this, the exterior bulk of several residential buildings had become 'bloated' because of the use of multi-story atriums, cathedral ceilings and so on, while still nominally complying with allowable floor area limitations" – i.e., "to prevent 'McMansions' in single-family and two-family residential neighborhoods." The 2007 amendment, however, was not specifically limited solely to "single-family and two-family residential districts" and, as adopted by Town Meeting, currently applies generally to *all* zoning districts, including multi-family residential, institutional and all commercial buildings.

DISCUSSION:

Article 15, which has been submitted by the Department of Planning and Community Development at the recommendation of the Zoning By-law Committee, would confine the applicability of the 12-foot ceiling height limit to single- and two-family buildings, to reflect the original intention of the 2007 amendment. As noted above, single- and two-family residential F.A.R. is less than 1.0, from 0.15 to 0.75, but typically in the 0.2 to 0.35 range. FAR in the L, G and M districts ranges from 1.0 to 4.0 and more typically from 1.0 to 3.0 – i.e., five to ten times that applicable in the S and T districts. Further, single- and two-family residential height is generally limited to 35 feet, and also requires significant setbacks on all four sides. In such circumstances, where the clear Zoning intent was to maintain far more open space on residential lots, the "character" of a

residential street can be easily changed by a tear-down which chooses to maximize the allowable F.A.R. and also include multiple story spaces.

F.A.R. is not the primary means for controlling bulk in multi-unit residential and commercial districts – setbacks and height restrictions serve that purpose. Imposing the 12-foot ceiling height limit and requiring that gross floor area be adjusted for ceiling heights in excess of 12 feet may force a developer to accept a ceiling height in a lobby or other public space that remains under the 12-foot limit even where good design standards would call for a higher ceiling. Imposing such ceiling height restrictions on multi-unit residential and commercial buildings was not the intent of the 2007 amendment, and Article 15 is viewed as a technical correction to conform the 2007 definition of Gross Floor Area to what had been intended.

RECOMMENDATION:
By a vote of 21–1–1, the Advisory Committee recommends FAVORABLE ACTION on Article 15 as moved by the Selectmen.

XXX

ARTICLE 16

SIXTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend Sec. 2.12, L Definitions, #3 for "Lodger" and #4 for "Lodging House", as follows. (~~Deletions shown~~. **Additions bolded)**

3. LODGER—A person who rents space for living or sleeping purposes ~~without separate cooking facilities~~ and who is not within the second degree of kinship to the lessor.

4. LODGING HOUSE—A dwelling structure in which sleeping accommodations without individual cooking facilities are designed to be let for compensation to four or more persons not within the second degree of kinship to the owner or operator, but not including dormitories, fraternities, or sororities.

   Notwithstanding the foregoing, a Lodging House, as defined above, may have individual cooking facilities if 100 percent of the rooms are affordable, such that they are deed-restricted to serve, at affordable rents and under one year leases, lodgers with an income which is less than or equal to 80% of area median income for the Boston Metropolitan Statistical Area (as determined by the United States Department of Housing and Urban Development or any successor federal or state program) or any other definition of affordability consistent with the provisions of Chapter 40B of the General Laws and the regulations promulgated thereunder or any amendment thereto. Individual cooking facilities shall meet all requirements of any applicable codes, laws and local regulations with respect to Lodging Houses.

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
7. Lodging House, licensed* ~~and unlicensed~~. ***License is from Selectmen and conformance to Brookline Lodging House Regulations required.**	No	No	No	SP	SP	SP	SP	No	No

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Department of Planning and Community Development is submitting this article with the support of the Selectmen's Zoning By-Law Committee (ZBLC) and the Selectmen's

Licensing Review Committee, in order to allow the possibility of in-room cooking facilities for lodging house residents in situations where public health and safety standards and affordability restrictions are met.

The article was initiated following comments received by the Selectmen's Licensing Review Committee, as it considered amendments to the Town's Lodging House Regulations, encouraging the Town to permit lodging house rooms to be equipped with cooking facilities. With the exception of microwaves, Brookline's current regulations prohibit any equipment for heating or cooking food in individual rooms.

Affordable Housing Policy. The Town's supply of traditional lodging houses has diminished significantly over the years, and during the past 15 to 20 years the Town has taken the initiative to preserve this form of affordable housing. It has supported the acquisition and rehabilitation of six lodging houses by nonprofit affordable housing operators. Because of zoning and licensing constraints, these affordable lodging houses have shared kitchens with shared food storage.

A newer model of "enhanced" lodging houses has emerged, allowing limited equipment for heating or cooking food in individual rooms. Such "enhanced" lodging houses are allowed under the State Sanitary Code, and certain lodging houses in Boston provide individual cooking facilities. For lower-income individuals who make lodging houses their long-term homes, the ability to control the purchase, storage and preparation of one's food is more than an amenity, but critical to good health and to budget control. The ZBLC heard from a nonprofit affordable housing operator, who reported how much residents appreciated the facilities for in-room cooking in a lodging house it recently redeveloped in Boston.

As a matter of affordable housing policy, the town's Housing Advisory Board has encouraged the change. Moreover, the town's principal partner in subsidizing affordable housing -- the Commonwealth's Department of Housing and Community Development – has made this model of "enhanced" single room occupancy housing a priority when it funds the preservation/ development of affordable lodging houses. The proposed zoning change would thus enhance the ability of nonprofit housing operators to secure funding, thereby furthering the town's goal of expanding affordable housing options. Indeed, the ZBLC heard that the proposed zoning change may be of immediate benefit to one such project.

Why Not Include Market-Rate Units? The ZBLC considered another option -- permitting cooking facilities in all buildings that might be characterized as lodging houses under our Zoning By-Law. It rejected that option, recommending instead that the change – initially at least -- be limited to affordable units as defined in the proposed by-law. This decision was informed by the potential unintended adverse consequences of a broader change.

Under the town's Zoning By-Law and the town's licensing regulations, bed and breakfast establishments are identified as "lodging houses." There was concern about the implications of allowing cooking facilities in individual rooms occupied by high-turnover transient residents who would neither value the B&Bs as their homes nor necessarily be attuned to safety issues.

Moreover, if individual cooking facilities were permitted without the proposed income limitation, the "lodging house" definition in both the Zoning By-Law and the town's licensing regulations (which can, of course, be modified at any time without any Town Meeting review) could be stretched to encompass market-rate apartment units. This could have a significant impact on the town given parking requirements under the Zoning By-Law.

Under the Zoning By-Law, multi-family apartments require 2 spaces per unit, whereas "lodging houses" require only 2 parking spaces for every ten units. The ZBLC is confident that the reduced "lodging house" parking requirement is adequate for affordable units. On the other hand, the ZBLC was not confident that 2 spaces for every 10 units would provide adequate off-street parking for the cars associated with market-rate lodging houses, even if they were small units occupied by one person. This absence of adequate parking could create significant problems in the town.

The current parking requirement for multi-family apartments is likely too high for small units. For example, the May, 2011 Town Meeting reduced the parking requirement at the "Red Cab" site on Route 9 to one space for market-rate units of less than 500 square feet. The "Red Cab" requirements, however, are not necessarily appropriate for all locations within the town, given disparities in access to public transportation. The appropriate town-wide zoning treatment of small market-rate units is a matter for another day. The change proposed in this warrant article will improve the town's capacity to add quality, long-term affordable housing opportunities now, without foreclosing further examination of the appropriate treatment of small, market-rate units in the future.

Safety Issues. With input by members of the Fire, Building, and Health Departments which regularly inspect lodging houses, the Licensing Committee agreed that cooking in rooms could be allowed where buildings/rooms conformed to regulations addressing maximum occupancy, minimum square footage, proper equipment and electrical service (e.g., no gas appliances), venting, and appropriate fire safety equipment and egress. Existing, older lodging houses are not likely to meet the new anticipated standards without significant capital improvements.

Any approval for in-room cooking would be part of the case-by-case review by the Board of Selectmen. As the local licensing authority, the Board of Selectmen approves both applications for new lodging house licenses and the annual renewal of existing licenses. The Board's review and consideration of these applications are informed by the reports of the Building, Health, Fire and Police departments. The Zoning By-Law Committee would not have proceeded with this proposal without the approval of those departments, and is pleased to recommend a zoning change that will advance the Town's commitment to long-term affordable housing.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is related to lodging houses and individual cooking facilities and is being submitted by the Department of Planning and Community Development at the recommendation of the Selectmen's Zoning By-Law Committee.

Currently, Brookline's Zoning By-law does not allow for lodging houses to have in-room cooking facilities. However, there is a significant interest by town committees, state entities, and managers of lodging houses to allow individual cooking facilities, modernizing the units and making them more livable. In-room cooking facilities allow tenants to better control the storage and preparation of their own food, an important factor for one's health and budget. Additionally, funding for preserving or developing affordable lodging houses is prioritized for those buildings with in-room cooking facilities.

The proposed amendment would modify the Zoning By-law's definition of "Lodger" to remove mention of individual cooking facilities, and add language under the definition of "Lodging House" to allow in-room cooking facilities for lodging houses if all of the rooms are deed restricted and considered affordable. Additionally, Use #7 in the By-law's Table of Uses (Section 4.07) would be modified to remove "unlicensed" lodging houses, emphasizing that all lodging houses be licensed by the Selectmen and conform with the town's Lodging House Regulations.

Brookline Lodging House Regulations would allow lodging houses to have in-room cooking facilities only if they conform to specific regulations to ensure safety, including those regarding maximum occupancy, minimum square footage, proper equipment and electrical service, venting, and appropriate fire safety and egress. Lodging houses are inspected annually by the Fire, Building and Health Departments.

Allowing in-room cooking facilities would encourage the renovation and preservation of affordable lodging houses, and improve the quality of living available in the buildings. The town's Lodging House Regulations are being updated and are specific as to health and safety concerns that accompany allowing in-room cooking facilities. These regulations, along with the annual inspection and licensing process, provide sufficient safeguards to protect lodging house tenants and their neighbors.

The Planning Board recommends one small revision to correct an omission in the preamble language of Warrant Article 16, which relates to lodging houses. Although the zoning amendment language in the original submission included the change to Sec. 4.07, Table of Uses, Use #7, Lodging House, the introductory paragraph doesn't reference this section, and it should be added.

Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 16, as revised:

To see if the Town will amend Sec. 2.12, L Definitions, #3 for "Lodger" and #4 for "Lodging House" *and Sec. 4.07, Table of Use Regulations, Use #7* , as follows. (~~Deletions shown~~. **Additions bolded**)

3. LODGER—A person who rents space for living or sleeping purposes ~~without separate cooking facilities~~ and who is not within the second degree of kinship to the lessor.

4. LODGING HOUSE—A dwelling structure in which sleeping accommodations without individual cooking facilities are designed to be let for compensation to four or

more persons not within the second degree of kinship to the owner or operator, but not including dormitories, fraternities, or sororities.

Notwithstanding the foregoing, a Lodging House, as defined above, may have individual cooking facilities if 100 percent of the rooms are affordable, such that they are deed-restricted to serve, at affordable rents and under one year leases, lodgers with an income which is less than or equal to 80% of area median income for the Boston Metropolitan Statistical Area (as determined by the United States Department of Housing and Urban Development or any successor federal or state program) or any other definition of affordability consistent with the provisions of Chapter 40B of the General Laws and the regulations promulgated thereunder or any amendment thereto. Individual cooking facilities shall meet all requirements of any applicable codes, laws and local regulations with respect to Lodging Houses.

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
7. Lodging House, licensed* ~~and unlicensed~~. ***License is from Selectmen and conformance to Brookline Lodging House Regulations required.**	No	No	No	SP	SP	SP	SP	No	No

Or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 16 was submitted by the Planning and Community Development Department with the support of the Zoning By-Law Review Committee and proposes to allow for in-room cooking facilities in lodging houses where all of the units are affordable and deed restricted. Lodging houses with in-room cooking facilities are generally more modern and livable, allowing a tenant to have more control over the preparation and storage of one's own food, and thereby have more control over one's health and budget. Additionally, state funding for preserving and developing affordable lodging houses is prioritized for those that have in-room cooking facilities.

Currently, Brookline's Zoning By-Law does not allow for lodging houses to have in-room cooking facilities in any instance. The proposed changes under this article include modifying the Zoning By-Law's definition of "Lodger" to remove mention of separate cooking facilities; adding language under the definition of "Lodging House" to allow individual cooking facilities for lodging houses if all of the rooms are deed restricted and affordable; and modifying the Table of Uses, Section 4.07, Use #7, to remove a reference to "unlicensed" lodging houses.

Lodging houses are required to obtain a license from the Board of Selectmen, and the Town's Lodging House Licensing Regulations, which are being updated, will have specific language to ensure safety concerns are met in all lodging houses, including those with in-room cooking facilities. These regulations will include details on maximum occupancy, minimum square footage, proper equipment and electrical service, venting, and appropriate fire safety and egress. These licensing regulations, along with the required annual inspection and licensing process, should be sufficient protections for both lodging house tenants and their neighbors. Lodging houses are inspected annually by the Fire, Building and Health Departments.

This article will enable the modernization or development of lodging houses that better reflect today's living standards, and the updated licensing regulations will establish significant protections for tenants and neighbors. Restricting the in-room cooking facilities to lodging houses that are deed restricted and affordable recognizes that there is a need in the community for this housing type, while also ensuring that no loopholes are created to skirt more stringent parking restrictions for multi-family housing.

Therefore, the Board of Selectmen unanimously recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 23, 2103, on the vote offered by the Advisory Committee, which reflects the recommended amendment by the Planning Board.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 16 has been submitted by the Department of Planning and Community Development at the recommendation of the Zoning By-law Committee. The Planning Board recommended Favorable Action after making a minor amendment.

Brookline's Zoning By-law currently prohibits in-room cooking facilities in lodging houses.

Article 16 would amend the Zoning By-law as follows:

- Lodging houses would be allowed to have in-room cooking facilities provided that 100% of the units in that lodging house were affordable, with a deed restriction;

- "Lodger" would be redefined so that it was not limited to persons living in rooms without cooking facilities;
- The current reference to "unlicensed" lodging houses would be removed, so that all lodging houses would be required to have a license and to conform to Brookline's regulations.

DISCUSSION:

There are many lodging houses in Brookline. The Town has a long-term policy of recognizing lodging houses as a source of affordable housing. It has worked with the Pine Street Inn and other organizations to preserve lodging houses. There is a general trend toward including in-room cooking facilities in lodging houses. The Pine Street Inn has a right of first refusal on a lodging house property on Beals Street and it is considering adding in-room cooking facilities at the location. Article 16, however, would apply town-wide and is not intended to facilitate any particular development or conversion.

Advantages of In-Room Cooking Facilities: In-room cooking facilities enable residents of lodging houses to store and prepare their own food instead of sharing refrigerators and kitchens with other residents. Such sharing can lead to theft or inadvertent removal of food items, conflicts over when kitchens are used, and disputes between residents. Residents with their own cooking facilities can control their diet and food budget. Overall, in-room cooking facilities increase the quality of life for lodging-house residents. Operators of lodging houses and affordable housing, such as the Pine Street Inn, report that residents prefer to have their own in-room kitchen facilities.

Lodging houses with in-room cooking facilities may be in a better position to secure funding. The Commonwealth of Massachusetts Department of Housing and Community Development, which assists the Town's efforts to subsidize affordable housing, has given priority to supporting affordable lodging houses with in-room cooking facilities. Article 16 would thus contribute to the Town's goal of preserving and improving lodging houses in Brookline.

The Affordability Restriction: Article 16 allows in-room cooking facilities only in lodging houses that consist entirely of deed-restricted affordable units. This restriction was inserted by the Zoning By-law Committee for three reasons. First, that committee recognized that lodging house units with cooking facilities would, in effect, be micro-apartments. Unlike apartments, however, they would require only two parking spaces for every 10 rooms (under the Zoning By-law, 10 rooms in a lodging house "shall equal one dwelling unit"), as opposed to the two spaces per unit required for apartments. A developer of market-rate housing might exploit this provision to build micro-apartments with minimal parking. Second, committee members noted that allowing in-room cooking facilities in market-rate units might give developers an incentive to subdivide multiple-bedroom apartments into smaller units and to increase the overall occupancy. Third, the committee did not want bed and breakfast establishments to have the option of installing cooking facilities in bedrooms. Under the Town's Zoning By-law and regulations, bed and breakfasts are licensed as lodging houses. The purpose of Article 16 is to make in-room cooking facilities available to long-term residents, not short-term guests.

Although Article 16 does not specify the duration of the deed restriction, in practice the restriction would remain in effect indefinitely—or at least as long as some or all of the units in a lodging house had cooking facilities. Any property owner who wanted to terminate the deed restriction would be required to remove all in-room cooking facilities.

The requirement that units be affordable also could enable the Town to achieve its goal of increasing the supply of affordable housing and to come closer to the 10% level specified in Chapter 40B of the Massachusetts General Laws.

Because affordable units would generally require a subsidy, any proposals for lodging houses with in-room cooking facilities would be considered by the Housing Advisory Board.

Safety Considerations: Some Brookline residents have asked if in-room cooking facilities will increase the risk of fire in lodging houses. Proponents of Article 16 have pointed out that the cooking facilities will not be illicit electric burners or small gas stoves, but professionally installed and inspected kitchenettes that will generally include a cooktop with two burners and a microwave oven—and no gas stoves. As part of the construction and annual licensing processes, the Building, Health, and Fire Departments would inspect lodging houses with in-room cooking facilities to ensure compliance with the building code and safety standards. The new regulations under review by the Selectmen's Licensing Review Committee will further specify the health and safety standards for lodging houses, including maximum occupancy, minimum square footage, proper equipment and electrical service, venting, and appropriate fire safety and egress.

Licensing and Regulation: Brookline's lodging houses are licensed by the Board of Selectmen. The Selectmen's Licensing Review Committee has been revising the regulations. Although Article 16 would only change zoning and would have no effect on any regulations, which could be changed without a vote of Town Meeting, the Article does amend the Zoning By-law to make clear that all lodging houses must be licensed.

Planning Board Amendment: The Planning Board recommended one small revision to correct an omission in the preamble of Article 16. The introductory paragraph does not reference Sec. 4.07, Table of Uses, Use #7, Lodging House. That table is amended by the Article and it should be mentioned in the introductory paragraph. The Advisory Committee concurs.

RECOMMENDATION:

By a vote of 20–0–3, the Advisory Committee recommends FAVORABLE ACTION on the following motion, which includes the change (in italics) that the Planning Board is recommending to Article 16:

VOTED: That the Town amend Sec. 2.12, L Definitions, #3 for "Lodger" and #4 for "Lodging House" *and Sec. 4.07, Table of Use Regulations, Use #7*, as follows. (~~Deletions shown~~. **Additions bolded**)

3. LODGER—A person who rents space for living or sleeping purposes ~~without separate cooking facilities~~ and who is not within the second degree of kinship to the lessor.

4. LODGING HOUSE—A dwelling structure in which sleeping accommodations without individual cooking facilities are designed to be let for compensation to four or more persons not within the second degree of kinship to the owner or operator, but not including dormitories, fraternities, or sororities.

   Notwithstanding the foregoing, a Lodging House, as defined above, may have individual cooking facilities if 100 percent of the rooms are affordable, such that they are deed-restricted to serve, at affordable rents and under one year leases, lodgers with an income which is less than or equal to 80% of area median income for the Boston Metropolitan Statistical Area (as determined by the United States Department of Housing and Urban Development or any successor federal or state program) or any other definition of affordability consistent with the provisions of Chapter 40B of the General Laws and the regulations promulgated thereunder or any amendment thereto. Individual cooking facilities shall meet all requirements of any applicable codes, laws and local regulations with respect to Lodging Houses.

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
7. Lodging House, licensed* ~~and unlicensed~~. ***License is from Selectmen and conformance to Brookline Lodging House Regulations required.**	No	No	No	SP	SP	SP	SP	No	No

Passed by a Counted Vote
178 In Favor and 1
Opposed

ARTICLE 17

SEVENTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will add to the Zoning By-Law in Section 2.13, "M" Definitions, a #1 for "Medical Marijuana Treatment Center" as follows:

1. **MEDICAL MARIJUANA TREATMENT CENTER—Any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.**

To further see if the Town will amend Sec. 4.07, Table of Use Regulations, by adding a new use, Use #20B, and by adding a reference to such use in Use #21 (new language in **bold**) :

Principal Uses	Residence					Business			Ind
	S	SC	T	F	M	L	G	O	I
20B. Medical marijuana treatment center *** It is the intent of the Department of Planning and Community Development to submit to Town Meeting an amendment to this use category at or before the 2014 annual Town Meeting in order to regulate or restrict this use in accordance with the State regulations. The restrictions on use contained herein are effective only until such amendments to this use become effective or, if Town Meeting fails to pass such amendments, until June 30, 2014. Temporarily restricting this use will allow the**	No	No	No	No	No	No	No	No	No

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
Town to review the regulations governing these facilities that will be promulgated by the Massachusetts Department of Public Health on or about May 1, 2013, and allow the Town to enact zoning provisions, consistent with the State regulations, setting forth the allowed locations, dimensional, parking and other requirements applicable to medical marijuana treatment centers.									
21. Business, professional, or governmental office other than Use 20, ~~and~~ 20A **and 20B.** *Provided no commodities are kept for sale on the premises.	No	No	No	No	No	Yes	Yes	Yes*	Yes

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article with the support of the Selectmen's Zoning By-Law Committee. It provides a moratorium on the sale of medical marijuana or related uses until the state has adopted its regulations regarding such uses and the town has had the opportunity to formulate its own zoning requirements consistent with the state regulations.

An initiative petition titled "Law for the Humanitarian Medical Use of Marijuana" (Petition #11-11) was approved by the Massachusetts voters in the November 6, 2012 general election. More than 70 percent of Brookline voters approved the law. The law took effect on January 1, 2013.

The new law defines a "medical marijuana treatment center" as a Massachusetts not-for-profit entity, registered under the new law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses or administers marijuana,

products containing marijuana, related supplies or educational materials to qualifying patients or their personal caregivers. The new law enables the Massachusetts Department of Public Health (DPH) to register up to 35 such centers within the first year of enactment, with a minimum of one and a maximum of five located within each county. DPH is required to promulgate regulations for registration and administration of such centers within 120 days of enactment, *i.e.*, by May 1, 2013.

Thus far, the production and distribution of marijuana for medical use has been legalized in 18 states and the District of Columbia. Laws and regulations vary state by state, and at present there is no way for municipalities in Massachusetts to predict the nature of local regulation that the DPH might permit, prohibit or even encourage. Such local regulation could involve not only zoning but also other matters such as licensing and Health Department inspection.

Given that the system for regulating medical marijuana treatment centers at the state level is not yet clear, and that the town has not had the opportunity to study and discuss the public health, safety, general welfare and land use implications of the new law in light of state regulations, it would be beneficial to establish an interim restriction on the establishment of such centers. This would provide the town with the opportunity to review the state DPH regulations once they are enacted, and to develop a consistent and complementary framework for regulating such treatment centers under the Brookline Zoning By-Law and through any other local regulations as may be appropriate.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is related to the establishment of a temporary moratorium on marijuana facilities and is being submitted by the Department of Planning and Community Development at the recommendation of the Selectmen's Zoning By-Law Committee.

In November 2012, Massachusetts voters approved a ballot question allowing qualified patients with certain medical conditions to obtain and use medical marijuana. The Massachusetts Department of Public Health is currently formulating regulations to manage medical marijuana use and marijuana dispensaries; the DPH released draft regulations in March 2013, will hold a public hearing in April, and expects to vote on final regulations in May.

This proposed zoning amendment seeks to ensure the town has adequate time to develop local regulations to manage medical marijuana dispensaries, particularly during the time period after which the DPH finalizes its own regulations, which will effectively make medical marijuana dispensaries legal in the state, and Brookline's next fall or spring Town Meeting. The proposed amendment creates a definition for "Medical Marijuana Treatment Center," establishes a new Use #20B Medical Marijuana Treatment Center, and puts in place a moratorium on that use, not allowing it in any zoning district. However, if Town Meeting fails to approve regulations governing the use before or at the 2014 annual Town Meeting, the moratorium would be lifted on June 30, 2014.

The state attorney general's office has ruled that municipalities may not ban medical marijuana dispensaries, but they may adopt a temporary moratorium on such facilities in order to allow time to craft local regulations.

Allowing medical marijuana dispensaries, an issue broadly supported by Brookline's voters in the November 2012 election, does entail a unique set of concerns that needs careful consideration and research before crafting new zoning regulations. Additionally, all such regulations need to be in conformance with those adopted by the DPH. This moratorium provides time for the Town's staff and committees to develop local regulations that are appropriate to Brookline.

Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 17, as submitted.

SELECTMEN'S RECOMMENDATION

Article 17 was submitted by the Planning and Community Development Department with the support of the Zoning By-Law Review Committee and proposes to create a temporary moratorium on the establishment of medical marijuana treatment centers while the Town works to create appropriate zoning requirements to regulate their location and use.

In November 2012, Massachusetts voted by ballot measure to allow the use of marijuana for the treatment of patients with certain medical conditions. Since then, the State's Department of Public Health has been developing regulations for allowing medical marijuana and for managing marijuana dispensaries. The DPH expects these regulations to be finalized in May, after which marijuana dispensaries that conform to the regulations would be effectively legal in the state. Since the Town can only pass new by-laws by Town Meeting, and any medical marijuana by-law should be in conformance with the DPH's rules, there is not sufficient time for the Town to research, develop and pass its own zoning regulations before the State's rules go into effect.

The proposed article would create a definition for a "Medical Marijuana Treatment Center" under Section 2.13, as well as a new use, #20B, Medical Marijuana Treatment Center, in the Zoning By-Law's Table of Uses, Section 4.07. This use would not be allowed in any zoning district in Brookline, with the caveat that if the Town fails to pass an amendment regulating medical marijuana treatment facilities before June 30, 2014, the moratorium would be lifted.

The State Attorney General's office has recently ruled that municipalities may not ban medical marijuana dispensaries. They may, however, adopt temporary moratoriums on such facilities in order to develop local regulations to properly manage them. This article is a reasonable temporary limitation on the sale of medical marijuana, and it provides the time needed for the Department of Planning and Community Development to work with the Brookline Public Health Department, Building Department, and Zoning By-Law Review Committee to develop zoning regulations for medical marijuana facilities that are appropriate for Brookline. Without such a moratorium, the Town would be at risk of

allowing such facilities without protections for its neighborhoods and commercial centers.

Therefore, the Board of Selectmen unanimously recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 23, 2013, on the following:

VOTED: That the Town add to the Zoning By-Law in Section 2.13, "M" Definitions, a #1 for "Medical Marijuana Treatment Center" as follows:

1. **MEDICAL MARIJUANA TREATMENT CENTER—Any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.**

To further see if the Town will amend Sec. 4.07, Table of Use Regulations, by adding a new use, Use #20B, and by adding a reference to such use in Use #21 (new language in **bold**) :

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
20B. Medical marijuana treatment center *** It is the intent of the Department of Planning and Community Development to submit to Town Meeting an amendment to this use category at or before the 2014 annual Town Meeting in order to regulate or restrict this use in accordance with the State regulations. The restrictions on use contained herein are effective only until such amendments to this use become effective or, if Town Meeting fails to pass such amendments, until June 30, 2014. Temporarily restricting**	No	No	No	No	No	No	No	No	No

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
this use will allow the Town to review the regulations governing these facilities that will be promulgated by the Massachusetts Department of Public Health on or about May 1, 2013, and allow the Town to enact zoning provisions, consistent with the State regulations, setting forth the allowed locations, dimensional, parking and other requirements applicable to medical marijuana treatment centers.									
21. Business, professional, or governmental office other than Use 20, ~~and~~ 20A **and 20B.** *Provided no commodities are kept for sale on the premises.	No	No	No	No	No	Yes	Yes	Yes*	Yes

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

Passed by a Counted Vote of 140 In Favor and 3 opposed

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
In November 2012, 63% of Massachusetts voters—and over 70% of Brookline voters—approved Question 3, "Law for the Humanitarian Use of Marijuana," which allows patients with certain medical conditions to possess up to a 60-day supply of medical marijuana. Question 3 requires the Massachusetts Department of Public Health to register up to 35 medical marijuana treatment centers — non-profit entities legally authorized to cultivate, process, transport, and distribute medical marijuana — by January 1, 2014. If a patient does not have adequate access to a treatment center, he or she may register with

the Department of Public Health to cultivate his or her own limited supply of medical marijuana.

The medical marijuana law went into effect on January 1, 2013. Under its terms, the Massachusetts Department of Public Health is tasked with formulating regulations to manage medical marijuana use and marijuana dispensaries. That department released draft regulations in March 2013 and on May 8, 2013 its Public Health Council voted to approve final regulations.

Article 17 has been submitted by the Department of Planning and Community Development at the recommendation of the Zoning By-law Committee.

DISCUSSION:

The legalization of medical marijuana in Massachusetts has raised many questions. Where would such marijuana be sold? Would it be sold in independent dispensaries or only in medical office buildings? How, if at all, would it be made available to minors? How would medical marijuana be tested for contaminants? Would growers be allowed to use pesticides? Would dispensaries be allowed to locate near schools? These and many other questions were raised and debated as the Massachusetts Department of Public Health formulated its regulations for medical marijuana. At least some of these questions—and others—will arise as Brookline prepares its own regulations.

Article 17 does not take a position on any of these questions. The Article's primary purpose is to enable the Town to study the state regulations and to develop its own regulations and zoning provisions that would be consistent with the state regulations while also being appropriate to Brookline. The state regulations explicitly allow "lawful local oversight and regulations, including fee requirements," that do not conflict with the state regulations.

The Zoning By-law amendment in Article 17 defines "Medical Marijuana Treatment Center," adds it to the table of uses in the Zoning By-law, and imposes a moratorium on that use in any zoning district in Brookline. The moratorium would be lifted on June 30, 2014 if Brookline has not approved regulations on medical marijuana by then. It is expected that Brookline will approve regulations no later than the 2014 Annual Town Meeting. Brookline's regulations will, at a minimum, include an amendment to the Zoning By-law. The Health Department and Police Department already have begun the process of considering how Brookline might address issues raised by the legalization of medical marijuana.

The moratorium will allow the Town of Brookline to study the state regulations and to develop its own regulations. Given the complexity of the issue, this process will require time, additional study, public input, and a careful weighing of the interests of various groups. The state regulations, which are 52 pages long, offer detailed standards for the registration and operation of medical marijuana treatment centers (also known as dispensaries), and also cover registration of caregivers and patients. Of particular interest to Brookline is a provision that a marijuana dispensary "shall not be sited within a radius

of five hundred feet of a school, daycare center, or any facility in which children commonly congregate."

Because the moratorium on medical marijuana treatment centers is temporary, Article 17 is likely to survive any legal challenge. The Massachusetts attorney general has approved similar zoning by-laws in other municipalities (e.g. Falmouth), on the grounds that "a temporary moratorium is clearly within the Town's zoning power when the stated intent is to manage a new use, such as a medical marijuana treatment center, and there is a stated need for 'study, reflection and decision on a subject matter of [some] complexity…'"

RECOMMENDATION:
By a vote of 17–0–0, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

ARTICLE 18

EIGHTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend Sec. 4.07, Table of Use Regulations, Use # 15, Day Care Center, and Secs. 6.02.4 a & c, in the Zoning By-Law as follows. [~~Deletions~~ shown. **Changes/additions bolded.**]

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
15. Day care center defined as any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage, under seven years of age, or under sixteen years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include any religious or educational use exempt from use regulation by The Zoning Act, M.G.L. ch. 40A, §3, ~~or~~ a family day care home**, or other facility or program excluded from the definitions of "child care center" and "school-aged child care program" in M.G.L. ch. 15D, §1A.** *A day care center shall be licensed in accordance with M.G.L. chapter 28A, §10. If such a facility has an outdoor play area, that area shall be screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance. **If such a facility requires the use of a public play area, the Director of Parks and Open Space and the Director of Public Health, or designees, shall be required to approve the availability and use of the public space.** **See also §6.02.4 and §9.12.**	~~No~~ **Yes***	~~SP*~~ **Yes***	~~SP*~~ **Yes***	~~SP*~~ **Yes***	~~SP*~~ **Yes***	Yes*	Yes*	Yes*	Yes*

Sec. 6.02.4. a. Institutional uses intended primarily for children under 15 need not provide more than one-third the requirement specified, **and parking spaces for safe drop-off and pick-up shall be provided to the satisfaction of the Director of Engineering/Transportation, who may take into consideration safety factors that include, but are not limited to, the number of children being dropped off, the time of the drop-off , speed limit for vehicles on the roadway abutting the drop-off, access to and from such spaces, pedestrian and vehicle flow, proximity to crosswalks, bus stops and/or intersections and signage.**

Sec. 6.02.4. c. Under a special permit the Board of Appeals may permit modification in the requirements specified in this article as applied to Use 10 **and Use 15** to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Planning and Community Development Department is submitting this article with the support of the Selectmen's Zoning By-Law Committee. In summer 2012, it became apparent that Use Category #15, Day Care Center, conflicted in part with MGL Chapter 40A, Section 3, which states that day care centers must be allowed in all zoning districts and that requiring a special permit for the use is not allowed. To provide time to amend this use category and adopt safeguard requirements that should be attached to the day care use, the Planning and Community Development Department submitted a warrant article to the fall 2012 Town Meeting. That article, which was approved, added Sec. 9.12, Administrative Review for Day Care Centers, to the Zoning By-Law. That section requires all day cares, whether a facility or a home day care, to submit information to the Departments of Planning and Community Development, Building, Transportation, Public Health, and Parks and Open Space, about operating characteristics, number of children and employees, outdoor play space, parking and drop-off/pick-up parking spaces. Although the submission materials are mandatory, the recommendations from these departments are non-binding. However, applicants often voluntarily incorporate recommendations for improvements to operations and safety which they might not have otherwise considered.

This day care zoning amendment proposes to change the use columns and definition of Use 15 to conform to the state statute by allowing day care facilities in all zoning districts and adds a reference, for completeness, to Sec.6.02.4.a. and c., parking regulations relevant to child care use, and to Sec. 9.12, Administrative Review For Day Care Centers, as discussed above.

Although day care use cannot be prohibited, the state statute does allow "reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements." Under the case law interpreting similar "reasonable regulation" provisions for educational and religious institutions, such existing restrictions for zoning districts (e.g., parking requirements or FAR regulation of bulk) may be applied, but with limitations defined by the case law.

Thus, for example, an accommodation and balance must be sought between, on the one hand, advancing legitimate Town zoning concerns, such as protecting the character or well-being of the adjacent neighborhood, providing adequate parking, and addressing traffic congestion and safety, and, on the other hand, ensuring that those regulations do not in effect "nullify" or prohibit the use, substantially diminish the usefulness of a proposed structure, or impose excessive costs of compliance and thus become unreasonable.

Beyond the generally applicable zoning regulations of bulk, height, lot area, setbacks, open space and parking, this article focuses on two issues of particular relevance to day care centers: parking and open space. The Zoning By-Law already accommodates day care and other institutional uses for children 15 and under by allowing them to provide only 1/3 of the usual institutional parking requirements. This proposed amendment adds a requirement that parking spaces for safe drop-off and pick-up be provided to the satisfaction of the Director of Engineering/ Transportation. The location of such spaces is critical not only to traffic congestion and safety, but also to the safety of the children, their parents and guardians, day care staff and other children in the area. Also added is a provision, such as that already applicable to educational uses, allowing the parking requirement for day care use to be reduced by special permit if found warranted.

Another important issue for day care centers is having adequate outdoor play space for the children. The Zoning By-Law already provides for noise control when such open space is on-site. If the day care facility does not have adequate open space on-site, the children are usually taken to a nearby public park or playground. The Parks and Recreation Department currently has a program where child care facilities are given time slots for the use of busier public parks in order to prevent overcrowding. Therefore, also added at the end of the use definition is a proviso that if there is no adequate on-site outdoor play space and a public playground is to be used, its use must be approved by the Director of Parks and Open Space and the Director of Public Health, or designees.

The Planning and Community Development Department is not recommending the deletion of the newly approved Sec. 9.12, Administrative Review for Day Care Centers, because there could be instances where a child care facility does not need zoning relief and this would provide an avenue for review. Also, Sec. 9.12 applies to Accessory Uses 60A and B, Small and Large Family Day Cares, in homes. The state statute allows cities and towns to regulate family day care if it so chooses. Additional regulations for these uses were recently adopted by Town Meeting and can be found in Sec. 4.05, Restrictions on Accessory Uses in Residence Districts.

In summary, this proposed zoning amendment will bring the town's Zoning By-Law into conformance with the state regulations, provide appropriate safeguards for child care facilities, and prevent over-crowding of the public parks.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is related to child care facilities and is being submitted by the Department of Planning and Community Development at the recommendation of the Selectmen's Zoning

By-Law Committee. Last year, the Building Commissioner raised the issue that Brookline's Zoning By-Law conflicts with MGL 40A, Sec. 3, which states that a child care facility use can neither be prohibited outright nor require a special permit, although reasonable dimensional and parking regulations are allowed. In the Zoning By-Law, Use #15, Day Care Center, is currently prohibited in single-family districts, allowed by special permit in all other residential districts, and allowed by-right in business and industrial districts. The proposed amendment seeks to rectify this conflict.

Last fall, Town Meeting adopted a new section to the Zoning By-law, §9.12, Administrative Review for Day Care Centers, which requires the proponents of a new day care center to submit to the town basic information, such as operating characteristics, number of children and employees, outdoor play areas, parking, and a drop-off/pick-up plan, so the town may craft advisory recommendations on possible changes the day care proponent may want to consider prior to establishing the center. These recommendations will be advisory only so they will not conflict with state law.

This proposed zoning amendment would retain the newly created §9.12 from last fall, and proceeds with bringing the Town's Zoning By-law into compliance with MGL c. 40A, Sec. 3 by allowing for day care centers by right in all zoning districts. As the primary concerns with establishing a new day care center revolve around the availability of outdoor play areas and the safety of vehicle drop off and pick up areas, the amendment requires the approval of certain departments regarding these factors. If a new day care center proposes to use a public open space (i.e. a local playground) to meet state requirements, the directors of Parks and Open Space and Public Health must approve the availability and use of the public space. Additionally, the daycare center must provide for or indicate the availability of safe drop off / pick up parking spaces to the satisfaction of the Director of Engineering/Transportation. The amendment also allows for the Board of Appeals to issue a special permit to modify the parking requirements for daycare centers, similar to what already exists in the By-law for protected non-profit educational uses.

This amendment would successfully bring Brookline's Zoning By-law into conformance with MGL ch. 40A, Section 3, while providing appropriate safeguards for some of the most frequently raised concerns, playground use and parking safety, when a new day care center is established. Since these issues are highly dependent on the location of the day care center, requiring review and approval by town departments provides the needed flexibility and expertise to consider these matters while still being in conformance with state law.

Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 18, as submitted.

SELECTMEN'S RECOMMENDATION

Article 18 was submitted by the Planning and Community Development Department with the support of the Zoning By-Law Review Committee and proposes to bring the Town's

Zoning By-Law into conformance with M.G.L. Ch. 40A, Section 3, which requires that daycare centers be allowed by right in all zoning districts.

Currently, the Zoning By-Law does not allow daycare centers in single-family residential districts, and requires a special permit in all other residential districts. This conflict with State law became apparent to staff in 2012. In order to address the concern that daycare centers would need to be allowed in all districts, the Department of Planning and Community Development proposed a warrant article that was adopted by Town Meeting in November, 2012 creating a new administrative review process for daycare centers (Section 9.12). This process requires any new daycare center to submit information about proposed parking, number of children and employees, and recreational and open space to the Town prior to receiving a building permit. The Department of Planning and Community Development, in cooperation with other Town departments, may then provide feedback on these aspects to the daycare proprietor. The daycare would not need to comply with the recommendations, but in most cases applicants are interested in hearing possible solutions to problems of which they may not have been aware.

This article builds on Section 9.12 by allowing Daycare Centers, Use #15 in Section 4.07, Table of Uses, in all zoning districts, but requiring the Director of Parks and Open Space and the Public Health Director to sign off on the availability and use of public space for the daycare's recreational needs. Additionally, an amendment to Section 6.02.4.a would require the daycare applicant to provide safe drop-off and pick-up parking spaces to the satisfaction of the Director of Transportation and Engineering, while an amendment to Section 6.02.4.c would allow a daycare to seek a special permit from the Zoning Board of Appeals (ZBA) to modify the parking requirements if needed. In addition to these specific regulations, other reasonable zoning regulations regarding bulk, height, setbacks and so on would also continue to apply consistent with Chapter 40A, Section 3.

This article brings Brookline's Zoning By-Law into compliance with M.G.L. Ch. 40A, Section 3, while addressing the most likely concerns from allowing daycare centers in all zoning districts, namely the availability of drop-off and pick-up parking spaces and public open space. Therefore, the Board of Selectmen unanimously recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 23, 2103, on the vote offered by the Advisory Committee.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 18 has been submitted by the Department of Planning and Community Development at the recommendation of the Zoning By-Law Committee. The Planning Board voted unanimously to recommend Favorable Action.

Under Brookline's current Zoning By-Law, Day Care Centers (Use #15) are prohibited in single family districts, allowed by special permit in all other residential districts, and allowed by-right in business and industrial districts. Last year, the Building Commissioner raised the issue that this is in conflict with MGL 40A, Sec. 3, which states that a child care facility use can neither be prohibited outright nor require a special permit, although reasonable dimensional and parking regulations are allowed. Last Fall, Town Meeting adopted a new section, Section 9.12, Administrative Review for Day Care Centers, to bring the Zoning By-Law for child care facilities into compliance with the State statute. This new section was intended as an interim measure until other changes to the By-Law were considered.

The information collected under a mandatory Administrative Review is similar to that of educational uses in residential districts and consists of operational data, number of children and employees, outdoor play space and/or the use of public playgrounds, as well as plans for parking and drop-off/pick-up. Recommendations resulting from the Administrative Review process do not conflict with state law because they are advisory in nature. The goal of the Review is to mitigate the impact of these projects without restrictions on Use by working with the applicant to incorporate suggestions of the Town Departments.

Article 18 proposes to retain this newly created Section 9.12 from last Fall, and proceeds with bringing the Town's Zoning By-Law into full compliance with MGL c.40A, Sec. 3 by allowing day care center use by right in all zoning districts. It further requires that:

- The applicant's plan for parking and safe drop-off/pick-up has been approved by of the Director of Engineering/Transportation, and

- The Board of Appeals is allowed to issue a Special Permit to modify the parking requirements for day care centers, similar to what already exists in the By-Law for protected non-profit educational uses.

DISCUSSION:
The Planning Board has found that most applicants respond positively to suggestions from the administrative review process and usually adopt those that are feasible. The multi-disciplinary aspect of the administrative review is a valuable tool to mitigate potential issues arising from these uses, particularly in residential neighborhoods where they had been previously prohibited or allowed only by special permit. The Department of Planning and Community Development noted that the primary concerns with establishing new day care centers resolve around the availability of outdoor play areas and the safety of vehicle drop-off and pick-up areas, and the proposed amendment requires the approval of town departments regarding these factors. If a new daycare center proposes to use a public open

space (i.e. a local playground) to meet state requirements, for example, the directors of Parks and Open Space and Public Health must approve the availability and use of the public space; the schedule system that has been implemented has been running smoothly and no issues have arisen recently. Additionally, the day care center must provide information concerning safe drop-off and pick-up to the satisfaction of the Director of Engineering/Transportation, who takes into consideration factors such as number of children, hours of operation, speed limit for vehicles on abutting streets, pedestrian access and proximity to crosswalks, and signage. Since vehicular patterns have perhaps the most significant effect on surrounding properties, it was important to require Transportation approval in the proposed By-Law amendment.

Article 18 would successfully bring the town's Zoning By-Law into conformance with state law while providing appropriate safeguards for some of the most frequently raised concerns when new dare care centers are established – playground use and parking safety. Administrative review and approval by town departments provides both the flexibility and expertise to consider these matters while conforming to state law.

RECOMMENDATION:
By a unanimous vote of 19–0, the Advisory Committee recommends FAVORABLE ACTION on Article 18 as submitted:

VOTED: That the Town amend Sec. 4.07, Table of Use Regulations, Use # 15, Day Care Center, and Secs. 6.02.4 a & c, in the Zoning By-Law as follows. [~~Deletions~~ shown. **Changes/additions bolded.**]

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
15. Day care center defined as any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage, under seven years of age, or under sixteen years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include any religious or educational use exempt from use regulation by The Zoning Act, M.G.L. ch. 40A, §3, ~~or~~ a family day care home**, or other facility or program excluded from the definitions of "child care center" and "school-aged child care program" in M.G.L. ch. 15D, §1A.** *A day care center shall be licensed in accordance with M.G.L. chapter 28A, §10. If such a facility has an outdoor play area, that area shall be screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance. **If such a facility requires the use of a public play area, the Director of Parks and Open Space and the Director of Public Health, or designees, shall be required to approve the availability and use of the public space.** **See also §6.02.4 and §9.12.**	~~No~~ **Yes***	~~Sp*~~ **Yes***	~~Sp*~~ **Yes***	~~Sp*~~ **Yes***	~~Sp*~~ **Yes***	Yes*	Yes*	Yes*	Yes*

Sec. 6.02.4. a. Institutional uses intended primarily for children under 15 need not provide more than one-third the requirement specified, **and parking spaces for safe drop-off and pick-up shall be provided to the satisfaction of the Director of Engineering/Transportation, who may take into consideration safety factors that include, but are not limited to, the number of children being dropped off, the time of the drop-off , speed limit for vehicles on the roadway abutting the drop-off, access to and from such spaces, pedestrian and vehicle flow, proximity to crosswalks, bus stops and/or intersections and signage.**

Sec. 6.02.4. c. Under a special permit the Board of Appeals may permit modification in the requirements specified in this article as applied to Use 10 **and Use 15** to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

XXX

Passed by a Counted Vote
of 178 In Favor and
0 opposed

ARTICLE 19

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Articles 19-21 are petitioned articles related to the proposed expansion of the Coolidge Corner Theatre:

- **Article 19** asks that the Town extinguish a portion of an easement, granted to the Town in 1964, over the rear of the Theatre property.

- **Article 20** asks that the Town accept the grant of an easement over the southeast corner of the Theatre property from the Hamilton Charitable Corporation (the current owner) to provide uninterrupted access from Harvard Street to the parking area located in back of the theatre.

- **Article 21** is a Home Rule petition that would allow the Theatre to lease, for not more than 99 years, air rights of approximately 950 square feet over a portion of Town-owned land at the rear of the theatre so that a portion of the Theatre addition can be built over Town-owned property.

The Coolidge Corner Theatre is a prized cultural institution of Brookline, offering residents the opportunity to enjoy a wide-range of events. Originally built as a church in 1906, it was redesigned as an Art Deco movie palace in 1933 and has remained open to the public thereafter. The Coolidge Corner Theatre Foundation is planning an expansion project that it believes is vital to the Theatre's future viability. The project consists of a new theatre with approximately 125 to180 seats on a second level; a new lobby, concessions area and bathrooms on the first level; and an exterior patron waiting areas under cover of a building cantilever and new awning. There would also be reconfigured parking and loading areas.

The primary reason for the expansion is the need for a third screening room that is large enough to offer first-run films. Without it, the Foundation believes it will continue to be at a competitive disadvantage. Currently, the Theatre's competitors can host more first-run movies, meaning that by the time a movie gets to the Coolidge, many Brookline residents have already seen it. The addition of another first-run screen would benefit not only the Theatre's finances but also Brookline residents. The ultimate goals of the project include the following:

- Increase the opportunity to open more high-quality first-run feature films
- Provide the space for expanded and more diversified programming

- Meet the growing need for expanded lobby and concession areas/services
- Provide better patron waiting areas inside the facility, improving audience circulation
- Provide better protection from inclement weather for patron waiting areas outside
- Enhance future financial viability in a very competitive industry

There are a number of potential community benefits as well, including an increase in foot traffic in Coolidge Corner, something the businesses in the area greatly cherish. The Brookline Chamber of Commerce recognizes that the Theatre represents one of the cornerstones of Coolidge Corner and draws people to the area and that its continued viability is important in keeping this commercial district active and vibrant. The project also offers the opportunity to improve the appearance of the Centre Street parking lot facade of the Theatre and could serve as the impetus for other improvements that transform that portion of Coolidge Corner.

While the Selectmen are strong supporters of the Theatre and see the virtues of the proposed expansion, the project does raise some concerns. For example, the loading zone / traffic circulation issue must be resolved. The additional Theatre seats will impose parking demands, and the impact on other merchants in the area must be understood. The Selectmen have approved a Memorandum of Agreement (MOA), negotiated with the assistance of Town Counsel, that addresses these and other issues. That MOA is included for the review of Town Meeting Members. The MOA provides the various documents needed by the Theatre for its expansion will be put into escrow and not released until certain conditions are met. The MOA, for example, requires that parking and loading zone issues be addressed by the appropriate Town Boards, that the project be subject to design review with a Design Advisory Team (DAT) established, that interior Art Deco details be preserved, and that the expansion not reduce the pedestrian traffic from the Theatre on Harvard Street.

Another issue addressed in the MOA is the Foundation's desire to maintain potential Dover amendment rights. The Dover amendment, among other things, exempts educational institutions from certain zoning restrictions. At this point, it is not at all certain that the Coolidge Corner Theatre Foundation would be eligible for Dover protection. The Foundation, however, did not want to waive any such rights it might, in fact, have. The Board had concerns about this, because the Foundation wanted the Town to give up its real estate rights after which the Foundation might exercise its potential Dover rights. The MOA addresses this issue by making clear that the real estate documents will be released from escrow to the Theatre only when the Selectmen have determined that the Theatre expansion project, even if it involves the exercise of Dover rights, does not substantially exceed the scope of the currently proposed project and also meets the conditions set out in the MOA..

The Board is very supportive of the Coolidge Corner Theatre's proposed expansion project. A key component of the Board's support is the MOA, which has been designed

to protect the interests of the Town. The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on May 21, 2013, on the following:

VOTED: That the Town vote to extinguish, abandon or otherwise release a portion of an easement granted by the First Parish In Waltham, Universalist-Unitarian, Inc., to the Town of Brookline over a portion of land adjacent to 280-292 Harvard Street for the purpose of allowing the Coolidge Corner Movie Theatre to proceed with its proposed theatre expansion. That portion of the easement to be terminated is known as Easement A which is one of three easements granted to the Town by way of a Grant of Rights and Easements dated July 31, 1964 recorded with the Norfolk County Registry District of the Land Court as Document No. 256202 and further shown as Easement A on a "Plan of Land in Brookline, Mass." dated July 10, 1964 prepared by Walter A. Bushway Registered Land Surveyor which is recorded with said Grant of Rights and Easements. Said easement is situated in Brookline, Norfolk County. In all other respects, the terms of the above-referenced Grant of Rights and Easements are hereby ratified and reaffirmed. The portion of said easement to be released contains approximately 2,530 square feet as shown on said plan, said Easement A being bounded and described as follows:

NORTHEASTERLY:	by other land of the Grantor, being the Southwesterly end of said PASSAGEWAY H, 10.05 feet;
SOUTHEASTERLY:	by land formerly of S.S. Pierce Co. and now or late of Cohen and others, Trustees, being Parcel C on said plan, 32.12 feet;
SOUTHWESTERLY:	in part by the same land and in part by land formerly of Cogswell and now or late of Bob Ware's Food Shops, Inc., 127.10 feet;
NORTHWESTERLY:	by other land of the Grantor, being part of PASSAGEWAY A as shown on said plan, 19.46 feet;
NORTHEASTERLY:	by other land of the Grantor, 103.37 feet; and
NORTHERLY:	by the same land, 19.70 feet.

Article 19 is approved, subject to terms and conditions as set forth in a Memorandum of Agreement by and among the Coolidge Corner Theatre Foundation, the Hamilton Charitable Corporation, and the Town of Brookline, which memorandum shall accompany and be made a part of this vote.

MEMORANDUM OF AGREEMENT BY AND BETWEEN
THE TOWN OF BROOKLINE, THE HAMILTON CHARITABLE CORPORATION AND THE COOLIDGE CORNER THEATRE FOUNDATION

This Memorandum of Agreement (the "Agreement") by and between the Hamilton Charitable Corporation, its successors and assigns ("Hamilton") with a principal place of business at 39 Brighton Avenue, Allston, Massachusetts and the Coolidge Corner Theatre Foundation, its successors and assigns (the "Theatre") with a principal place of business at 284 Harvard Street, Brookline, Massachusetts and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Board of Selectmen (the "Board"), is made and entered into this 21st day of May, 2013, 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, Hamilton is the owner of a parcel of land with a building thereon known and numbered as 280-290 Harvard Street in Brookline, Massachusetts (the "Property"); and

WHEREAS, Hamilton leases a portion of the Property to the Theatre under a long-term lease or other agreement; and

WHEREAS, the Property abuts a municipal parking lot (the "Parking Lot") owned and controlled by the Town; and

WHEREAS, since 1933 the Theatre has operated a community movie house providing many benefits to the Town; and

WHEREAS, the Theatre is recognized as an historic cultural anchor cherished by residents and businesses in the Town; and

WHEREAS, the Theatre is a major economic engine for the Town its merchants and restaurants, especially in the Coolidge Corner area; and

WHEREAS, the Theatre is seeking to expand its facilities at the Property to add additional lobby space, concessions, bathrooms, waiting areas and a third full size screening room which will be partially cantilevered over a small portion of the Parking Lot and side alleyway (the "Expansion Plan"); and

WHEREAS, the Theatre believes its Expansion Plan is necessary to compete in the ever changing movie Theatre industry and will ensure long-term viability of its community movie house; and

WHEREAS, the Expansion Plan contemplates a partial build-out in the rear of the Property which abuts the Town's Parking Lot and adjacent alleyway; and

WHEREAS, in order to proceed with the Expansion Plan and create detailed plans the Theatre will require a portion of the easement that was granted to the Town in 1964 to be released with a smaller portion of that easement granted back to the Town as well as a lease to use a portion of the air rights over the Parking Lot and adjacent alleyway; and

WHEREAS, the Theatre has filed several Warrant Articles, numbered 19, 20 and 21 (the "Articles") for consideration at the Annual Town Meeting scheduled for May 28, 2013 ("Town Meeting") which set forth the initial land disposition approvals required to proceed with the Expansion Plan; and

WHEREAS, the Theatre intends to apply for a Building Permit and seek a Special Permit(s) and any other necessary relief under the Town's Zoning By-Laws in order to proceed with the Expansion Plan; and

WHEREAS, the Board supports the Expansion Plan in theory, but seeks certain assurances from the Theatre and Hamilton relative to the Expansion Plan prior to consideration of the Articles at Town Meeting.

NOW THEREFORE, the Parties agree as follows:

1. If the Articles are approved by Town Meeting, and in the case of the air rights lease approval by the State Legislature, the documents to effectuate any land dispositions, including but not limited to the easement, release of easement and/or air rights lease shall be held in escrow in the Office of Town Counsel. The final terms and conditions of the Escrow Agreement shall be negotiated by the Parties before the application for a building permit is filed and shall be consistent with the terms of this Agreement. The Escrow Agreement shall include, but not be limited to, terms that the documents shall not be released from escrow until:

    a. A building permit is issued to the Theatre as applicant that specifically includes an expansion that:
        i. will provide a third Theatre space suitably sized for first-run screenings with a minimum number of seats of 125;
        ii. generally preserves the interior Art Deco details as restored by the Theatre in past years; and
        iii. is the result of a Design Advisory Team and Planning Board process which finds that the proposed expansion will enhance the vitality of Coolidge Corner, provides exterior design and detailing compatible with the existing exterior, and is not likely to materially reduce the amount of pedestrian traffic along Harvard Street generated by the Theatre.

    b. A parking lot redesign plan providing at least eleven (11) spaces on the adjacent Town owned property, approved by the Transportation Board and Planning Board, and approvals by any bodies required to release applicable funding (i.e., Town Meeting for any Capital Improvements Plan funding, Theatre or Hamilton funding for necessary capital improvements, private sources, grant sources, etc.). The design and funding plans shall take into account loading, parking, handicapped parking, pedestrian and traffic circulation, and landscaped spaces behind the Theatre buildings, all as may be impacted by the Expansion Plan. Additionally, the plans shall take into account temporary impacts on retail, parking, and Theatre operations during construction.

    c. The Transportation Board, Planning Board and Zoning Board of Appeals have determined that the Expansion Plan will not significantly impact parking or loading areas for any other uses.

    d. Any appeals from or actions challenging any permit or other approvals have either been

finally resolved, or the time to file such appeal or challenge has passed.

e. The Theatre and Hamilton have satisfied all other terms and conditions contained in this Memorandum of Agreement.

2. The air rights lease shall be approved by the Board and contain terms of lease payments applicable to the current and any future successor or assign of Hamilton or the Theatre that addresses two tiers of potential operation and occupancy: one tier for as long as the Theatre (or other non-profit, public Theatre entity) occupies the air rights volume as a third theatre space suitably sized for first-run screenings, and a second tier in the unlikely event that the air rights portion of the expansion contains a tenant or primary user that is a for-profit entity and/or a use different from a Theatre generally open to the public.

3. The lease shall contain an assignment fee in an amount to be negotiated by the Parties.

4. The Theatre and Hamilton agree that, under no circumstances, shall either party avail itself of the Town's Zoning By-Laws, by proceeding with the construction of the Project, unless and until the foregoing provisions are satisfied and the instruments are satisfactory to Town Counsel and the Board.

5. The Town's current opinion of the assessed value or the release of easement (Article 19) and grant of air rights (Article 21), are set forth in a Memorandum dated April 10, 2013 with calculations, a copy of which is attached hereto and incorporated herein by reference as Exhibit A. The minimum amount contained in Exhibit A shall be used as the minimum price to be paid by the Theatre and Hamilton and will be incorporated into the vote under the Articles at Town Meeting. Notwithstanding, the minimum price, any consideration to be paid by the Theatre and Hamilton may be reduced by the conditions or restrictions within the Special Permit and may be satisfied in a combination of ways, at the discretion of the Board of Selectmen. The Selectmen may take into consideration such factors affecting value such as the Payment In Lieu of Taxes (PILOT) Agreement and public benefits and/or other services provided by the Theatre to the Town, including, but not necessarily limited to, public benefits provided in order to attain zoning relief.

6. The terms of this Agreement shall be a part of and incorporated into the votes under the several Warrant Articles, Nos. 19, 20 and 21 at the 2013 Annual Town Meeting.

7. Each of the Parties signing below represents and warrants that it is authorized to sign on behalf of and to bind their respective Party to this Agreement. If either party brings a legal action to enforce the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees as determined by the court which decides the matter in dispute.

8. This Agreement shall be binding upon the Town, Hamilton and the Theatre and all successors and assigns of Hamilton and the Theatre. The documents to effectuate any land dispositions shall be held by the Office of Town Counsel pursuant to the terms of the Escrow Agreement, and upon release from Escrow, shall be recorded along with this Agreement and run with the land and shall survive any transfer of the Property.

9. The Theatre and Hamilton agree on behalf of themselves, their successors and assigns, and the Escrow Agreement shall contain a provision, that if any of the zoning relief required for the

General Laws Chapter 40A, s.3, the so-called Dover Amendment then the Selectmen shall only release the Escrow if it determines that the provisions of this Agreement have been satisfied and the Expansion Plan as approved by the ZBA does not substantially exceed the scope of the project presented at the May 28, 2013 Annual Town Meeting,

10. It is intended by the Parties that this Agreement shall be effective only upon the passage of all of the Articles (Nos. 19, 20 and 21) at Town Meeting, including any necessary approval by the State legislature in the case of Article 21. If, however, after securing the necessary approvals, aforesaid, 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.

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument as of the day and year first above written.

TOWN:

Town of Brookline
By its Board of Selectmen

Betsey DeWitt

Nancy Daly

Richard W. Benka

Neil Wishy

Hamilton Charitable Corporation
By:

Title:

Coolidge Corner Theatre Foundation
By: J. MICHAEL MAYNARD

J. Michael Maynard

Title: CHAIRMAN - BOARD of TRUSTEES

Formally a Two-Thirds Vote

2013 Annual Town Meeting Valuation of Easements Associated with Article's 19,20&21

Article 19 Worksheet: Extinguish Easement

Land Area (SF)	Use	Interest	Unit Rent*	Annual Rent	FMV Factor	Indicated Value	Value/ SF
2,530	Parking	Easement	$ 5.88	$ 14,880	10	$ 148,800	$ 58.81

* Rent Analysis:	Easement Area:	2,530 sf
Parking Access: 132 ft.x 12 ft. (one-way):		1,584 sf
Available for Parking		946 sf
Estimate of Usable Spaces at 118 sf./space		8 spaces
Estimated Monthly Income/ space		$ 155
Estimated Annual Gross Income		$ 14,880
Estimated Annual Rent per SF		$ 5.88

Article 20 Worksheet: Accept Easement

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
649	Parking	Easement	$ 5.88	$ 3,817	10	$ 38,170	$ 58.81

Article 21 Worksheet: Lease of Air-rights

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
950	Parking	Easement	$ 5.88	$ 5,587	10	$ 55,874	$ 58.81

Value Loss Associated with Grant of Air-rights

One-Story Building							
950	1-Sty.Bldg	Fee	$ 35.00	$ 33,250	12	$ 399,000	$ 420.00
950	Less Cost of Construction					$ (285,000)	$ (300.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 2,325	25	$ 58,126	$ 61.19
Two-Story Building							
1,900	2-Sty.Bldg	Fee	$ 32.00	$ 60,800	12	$ 729,600	$ 384.00
1,900	Less Cost of Construction					$ (541,500)	$ (285.00)
950	Less Retained Parking Use					$ (55,874)	$ 58.81
Loss in Value		Air-Rights		$ 5,225	25	$ 132,226	$ 69.59
Three Story Building							
2,850	3-Sty.Bldg	Fee	$ 30.00	$ 85,500	12	$ 1,026,000	$ 360.00
2,850	Less Cost of Construction					$ (755,250)	$ (265.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 8,595	25	$ 214,876	$ 75.40

BROOKLINE BOARD OF ASSESSORS

333 Washington Street, Brookline, MA 02445 (617) 730-2060

TO: Jennifer Dopazo Gilbert, Town Counsel
FROM: Gary J. McCabe, Chief Assessor
DATE: April 10, 2013
RE: Valuation Analysis for Properties Associated with Article's 19, 20 & 21 of the 2013 Annual Town Meeting Warrant

Per your request, I have prepared the summary valuation analysis below for the properties associated with several articles proposed to be brought before the 2013 Annual Town Meeting collectively known as the "Coolidge Corner Theater Articles". The proposed articles and related property descriptions are attached as a separate document. Also attached is an easement valuation worksheet which includes more detail on the calculations used to arrive at the value estimates. The effective date of the value estimates are April 10, 2013. Should the articles or other conditions change, the value estimates should be reviewed and revised as necessary.

The valuation estimates are based on the best available information at the time of this report and my understanding of the property interests to be conveyed or acquired by the town. I have considered current real estate market trends, rates and factors in calculating the various value estimates. I have also considered both the current and proposed uses of the properties in question and the various property rights and interests to be conveyed or acquired. Due to the nature of the current and proposed uses and the land interests involved, I have selected an income capitalization approach to value, relying in part on market rental rates, typical investment yield rates and construction cost estimates as required to prepare this analysis. The construction cost estimates are based on current year replacement cost manuals used by the town assessors and the development of the property described in Article 21 given the several scenarios presented.

ARTICLE 19: CURRENT USE & VALUE ESTIMATE:

The town currently uses the 2,530 square-foot affirmative easement described in Article 19 as part of the Centre Street East public (metered) parking lot. To estimate the value of the easement to the town based on the current and future use as a part of the parking lot an estimate was made of the number of parking spaces the easement could support considering access and space size requirements per current zoning. It was estimated that

the easement area could support eight (8) single-car parallel spaces. Although the Centre Street lot is primarily used for hourly metered parking, for the purposes of this analysis the potential income assigned to the spaces was based on a monthly rental rate of $155 per month using available market data. The total annual estimated income of $14,880 ($155/month x 12 months x 8 spaces) was divided by the area of the easement (2,530 sq.ft.) to estimate a square-foot rental rate of $5.88/ year. A market capitalization factor of 10 (10% rate) was used to estimate a market value of the easement of $148,800 (annual income $14,880 x 10), or $58.80 per square foot. The selected market capitalization factor reflects the non-possessory, long-term interest in the easement. The estimated value of $58.80 per square-foot of land for the existing easement was used to value the adjoining land areas described in Article's 20 and 21 based on the same valuation premise. See attached worksheet for detailed value calculations.

Value estimate of the 2,530 square-foot easement described in Article 19 is; $148,800.

ARTICLE 20: CURRENT USE & VALUE ESTIMATE:

Article 20 contemplates the town accepting an affirmative easement of 649 square-feet of land abutting the 2,530 easement described in Article 20 to provide continued and uninterrupted access from Harvard Street to the town owned Centre Street East public parking lot. The value of the 649 square-foot easement described in Article 20 is $38,160 based on the value per square-foot of $58.80 determined for the adjoining 2,530 square-feet easement and the same value premise.

Value estimate of the 649 square-foot easement described in Article 20 is; $38,160.

ARTICLE 21: CURRENT USE & VALUE ESTIMATE:

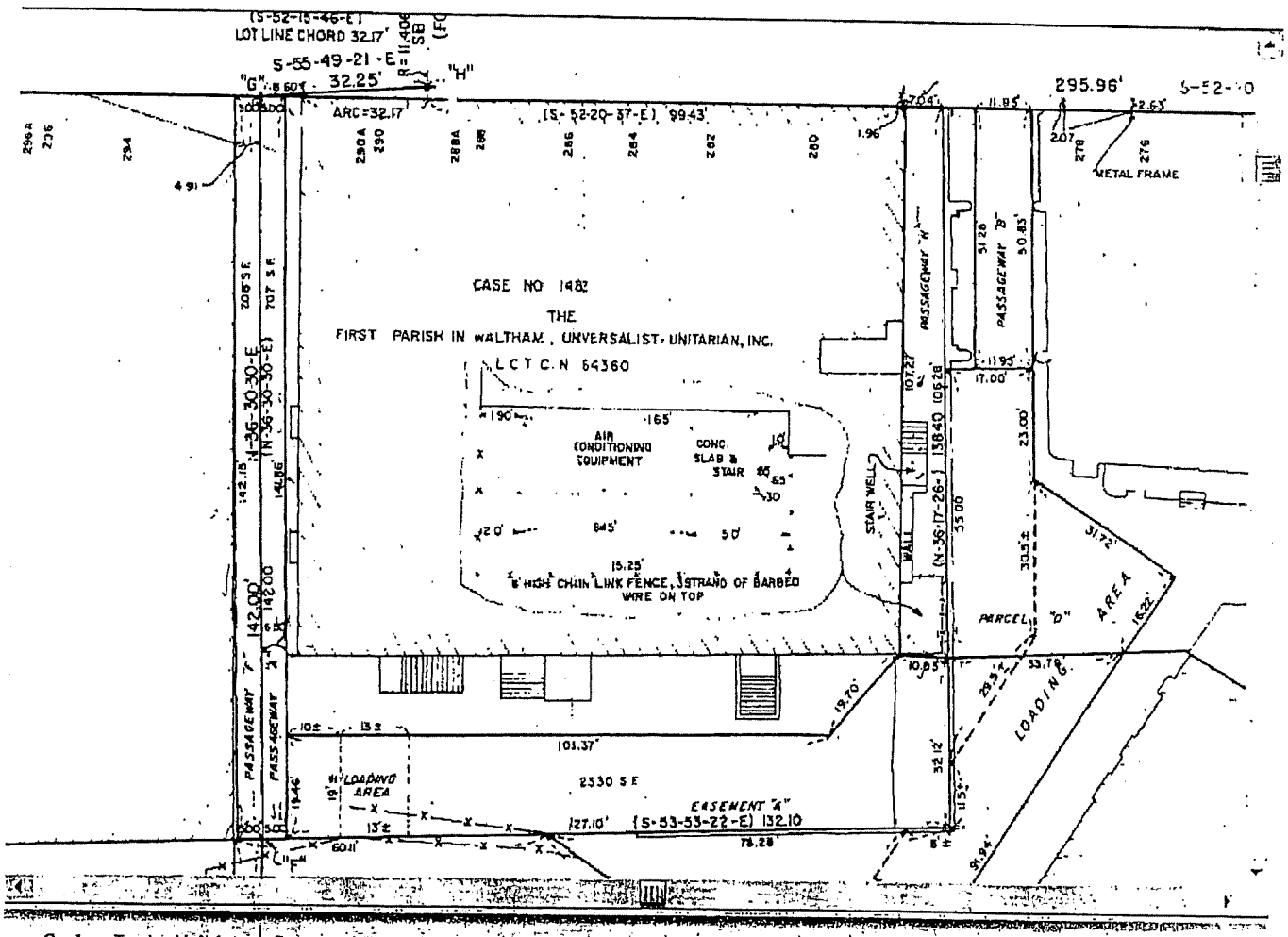
Article 21 involves the lease of air-rights over town-owned property to an abutter who would construct a building within the air-rights granted by the town through a lease without displacing the use of the underlying land as public parking spaces. The town owned property is part of the Centre Street East public parking lot. The land area described in the proposed article contains 950 square-feet, which abuts the 2,530 easement area described in Article 19. The leased air-rights valued would be within the column lot or air lot above the 950 square-foot area described in the language of the article's and within the design parameters legally permitted by the land use regulations for story and building height.

To estimate a long-term lease-value and first-year annual rental amount for the proposed air-rights lease, an estimate was made of market value of a completed building using three possibilities; one-story of construction, two-stories of construction and three-stories

of construction. The value of each scenario was estimated using an income capitalization method. An annual rental income was estimated for the completed building based on the proposed use and market rates within the Coolidge Corner area. A market capitalization factor of 12 (8.3% rate) was used to estimate a total market value of the property. From the value estimate using the income approach, the cost of constructing the building in each scenario was subtracted from the total value. Then the value of the retained surface parking lot was subtracted using the land value per square-foot determined for the easement in Article 19. The result of subtracting the cost of construction and the retained land-use rights from the estimated value of the developed site is the value of the air-rights to be granted. The estimate of the year-one annual rent based on the value of the air-rights was determined using a market capitalization factor of 25, equivalent to a 4% capitalization rate or a 3.6% discount rate over an estimated 25-year investment period.

The details of the calculations are provided in the attached worksheet. The result of the valuation analysis algorithm for the Article 21 leased area is as follows:

1. One-story air-rights: Value; $58,100 Year-one Rental Rate; $2,325
2. Two-story air-rights: Value; $132,200 Year-one Rental Rate; $5,225
3. Three-story air-rights: Value; $214,900 Year-one Rental Rate; $8,595



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ARTICLE 19

NINETEENTH ARTICLE
Submitted by: Michael Maynard, Coolidge Corner Theater Foundation Board of Trustees

To see if the Town will vote to extinguish, abandon or otherwise release a portion of an easement granted by the First Parish In Waltham, Universalist-Unitarian, Inc., to the Town of Brookline over a portion of land adjacent to 280-292 Harvard Street for the purpose of allowing the Coolidge Corner Movie Theatre to proceed with its proposed theatre expansion. That portion of the easement to be terminated is known as Easement A which is one of three easements granted to the Town by way of a Grant of Rights and Easements dated July 31, 1964 recorded with the Norfolk County Registry District of the Land Court as Document No. 256202 and further shown as Easement A on a "Plan of Land in Brookline, Mass." dated July 10, 1964 prepared by Walter A. Bushway Registered Land Surveyor which is recorded with said Grant of Rights and Easements. Said easement is situated in Brookline, Norfolk County. In all other respects, the terms of the above-referenced Grant of Rights and Easements are hereby ratified and reaffirmed. The portion of said easement to be released contains approximately 2,530 square feet as shown on said plan, said Easement A being bounded and described as follows:

NORTHEASTERLY:	by other land of the Grantor, being the Southwesterly end of said PASSAGEWAY H, 10.05 feet;
SOUTHEASTERLY:	by land formerly of S.S. Pierce Co. and now or late of Cohen and others, Trustees, being Parcel C on said plan, 32.12 feet;
SOUTHWESTERLY:	in part by the same land and in part by land formerly of Cogswell and now or late of Bob Ware's Food Shops, Inc., 127.10 feet;
NORTHWESTERLY:	by other land of the Grantor, being part of PASSAGEWAY A as shown on said plan, 19.46 feet;
NORTHEASTERLY:	by other land of the Grantor, 103.37 feet; and
NORTHERLY:	by the same land, 19.70 feet.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Coolidge Corner Theatre Foundation ("CCTF") is seeking to expand its historic facilities at 290 Harvard Street. The existing facility is in need of additional lobby space, concessions, bathrooms, and holding areas for patrons waiting to enter the auditoriums. Equally important, CCTF believes that a third full size screening auditorium, which allows for three feature films to be exhibited simultaneously, will enable more first-run content to be available for our patrons, allowing us to better compete in this ever changing industry and ensuring the long term viability of our community movie house.

In order to explore any expansion at the back of the building, a portion of an easement granted by the theater to the Town in 1964 would need to be relinquished, with a critical portion being re-granted to the Town. Additionally, CCTF requests that the Town enter into a lease for the use of air rights over Town owned property. These air rights are necessary to fully realize the project vision of a second floor auditorium whose cantilever would also protect the patrons on the sidewalk below from inclement weather. Town Meeting approval of these requests is necessary prior to CCTF engaging in any design development process, zoning and community approval process, and fundraising efforts. Any approval from Town Meeting would be escrowed with the Town until any necessary approvals are granted.

SELECTMEN'S RECOMMENDATION

The Selectmen will be voting on Articles 19-21 at their May 14th meeting. A Recommendation will be provided in the Supplemental mailing planned for the weekend prior to the commencement of Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

Warrant Articles 19, 20, and 21 are citizen petitions that seek Town Meeting's approval of actions necessary to allow the proposed expansion of the Coolidge Corner Theatre located at 290 Harvard Street.

Article 19 asks that the Town, in order to facilitate the expansion of the theatre, extinguish a portion of an easement over the rear of the Theatre property, granted to the Town in 1964.

Article 20 asks that the Town accept the grant of an easement over the southeast corner of the Theatre property from the Hamilton Charitable Corporation (the current owner) to provide uninterrupted access from Harvard Street to the parking area located in back of the theatre.

Article 21 asks that the Town seek State legislative approval to lease for not more than 99 years air rights of approximately 950 square feet over a portion of Town-owned land at the rear of the theatre to the Hamilton Charitable Corporation so that the Theatre addition can be built over Town-owned property.

BACKGROUND:

Historical Background (from www. coolidge.org)
Built by the Beacon Universalist Parish and used as a church beginning in 1906, 290 Harvard Street was converted into an Art Deco movie theatre, opening its doors in 1933. In 1977 the theatre's management shifted its programming from first-run films to art house and foreign films. In an effort to increase profits, the balcony was closed off and converted into a second screen. Despite these efforts, financial difficulties led the then-owner to enter into a purchase and sale agreement with a developer who planned significant demolition of the structure. During the permitting process, the Historical (now Preservation) Commission found the building to be of historical, architectural, and cultural significance and imposed a 12-month stay of demolition. Shortly thereafter, the Coolidge Corner Theatre Foundation (CCTF) was formed and launched a $2.6 million fund drive to purchase the building. Although the Foundation did not reach its goal, local resident Harold Brown bought the property and offered to lease it back to the CCTF. About ten years later, the CCTF found itself $350,000 in debt at which time, Mr. Brown forgave the approximate $300,000 debt owed his company (Hamilton Charitable Corporation) and negotiated the current lease agreements. The CCTF has been debt-free for 15 years, and since 2007, has spent upwards of $250,000 for capital improvements to the theatre.

Proposed Expansion
The property is located in the G-1.75 CC zoning district in which the permissible FAR is 1.75 or 2.25 with public benefit incentives, and the maximum permissible height is 45 feet or 70 feet with public benefit incentives. It is currently owned by the Hamilton Charitable Corporation. CCTF leases space via three separate agreements with the owner: movie houses 1&2, with 440 and 220 seating capacity, 1st and 2nd floor lobbies, basement level including bathrooms, and "gold room" which accommodates 13 viewers (all of which are under a 50-year lease); video screening room with 45 seat capacity (which is under a separate short-term, market rate lease); and office space and hallway (above the Upper Crust and shoe store and under a 5-year, market rate lease).

If the facility were expanded as proposed, it is anticipated that the two leases for the individual theatres, smaller viewing rooms, and lobbies would be consolidated with a new ground lease for the land under the new addition into a new single 50-year lease agreement, but the new addition would be owned by CCTF.

While the CCTF is fiscally sound, the theatre's current seating capacity does not allow more than two first run movies to be shown at one time due to requirements of distributors. In order to stay competitive, to respond to the constantly changing movie industry, and to try to ensure the future financial sustainability of the theatre, CCTF has

decided to move forward with expansion plans that have been almost two years in the making and include a new 180-seat theatre on the second floor. It should be noted that the only other art house theatres in the area – one in Kendall Square and one in West Newton – have nine and six screens, respectively.

The proposed expansion would meet the growing need for additional lobby space and expanded concession areas. It would also provide an elevator, bathrooms, better waiting areas inside, an area with protection from inclement weather for patrons waiting outside, and a third full-size screening room, accomplished via a build-out in the rear of the property that abuts a Town-owned parking lot and public alleyway. It is anticipated that 3000 square feet would be added at the ground floor level, with approximately 4600 square feet added to the second floor. A third floor of an additional +/- 2000 square feet is also being contemplated to house the Foundation's offices, currently located on the second floor of 290 Harvard Street, and meeting room(s). If constructed, the third floor addition, as proposed, would bring the building's total square footage beyond the permissible FAR.

The height of the theatre addition would be 47 feet; the height of the addition with third floor office space would be 60 feet. By way of comparison, the top of the tower of the SS Pierce Building is 85 feet. Only the theatre portion would be built in a cantilevered manner over the leased air rights; the office portion, if constructed, would be built on top of the existing building, but far enough back from Harvard Street so as to be minimally visible.

The cantilevered portion of the new construction is described as being 12 feet off the ground and extending 10 feet over the theatre's existing rear entrance/exit. The extension over the "Theatre Walk" would vary from five feet to seven and one half feet. It has not yet been decided whether the box office will remain in its approximate location or be moved towards the back of the building (closer to the parking lot). There may be two box offices.

If efforts to obtain the necessary permits and private funds ($3-$4million assuming a third floor) are successful, it is hoped that the work would be completed by the end of 2014 or beginning of 2015.

No floor plans, elevations, or design details have been developed because CCTF does not want to invest substantial funds in architectural plans and drawings until after the warrant articles are approved.

DISCUSSION:

The Advisory Committee recognizes the value of the Coolidge Corner Theatre, not just as an economic engine for the Coolidge Corner area but also as a local and regional cultural resource and source of pride. For many Brookline residents, the Theatre offers a personal bond, from its governing board composed of members of the Brookline community to its programming, offering a range of home-grown presentations and events.

Articles 19, 20, and 21 present some challenges. First, there are no substantive visual documents, including plans and elevations, to help guide Town Meeting members in their deliberations. Second, there is no specific information as to what kind of zoning relief CCTF will need to proceed with its plans. Third, there are some outstanding issues, including but not limited to:

- The redesign of the new parking and loading areas and how their reconfigurations will interface with the scheduled rehabilitation and function of the Centre Street lot.
- Identification of financial arrangements and/or public benefits in exchange for the Town's leasing air rights and extinguishing the existing easement.
- Future location of the theatre's entrance(s) and exit(s).
- Possible change in ownership and/or purpose of the property in the future.

Advisory Committee members also acknowledge that adding a 180-seat theatre will create additional demand for the already limited number of parking spaces in the Coolidge Corner commercial area. Although the Coolidge Corner business community has not expressed concern with this situation, taking steps to avoid excessive parking on neighboring residential streets should be considered.

The CCTF's financial limitations impose constraints on the Foundation's ability to provide Town Meeting with detailed responses to these and other questions now. The Committee believes that having these matters and others addressed through a negotiated Memorandum of Agreement (MOA) is a satisfactory alternative to a costly and exhaustive presentation at this time. The Advisory Committee has reviewed a draft of an MOA that deals with these issues and the Committee expects that a final version will be presented to Town Meeting. Committee members also believe that the escrow arrangement whereby any documents executed by the Town (e.g. the acceptance of a new easement, release of the old easement, or a lease regarding air rights) would be held in escrow in Town Counsel's office until specific conditions relating to the permitting process are met offers satisfactory protection to both the Town and CCTF.

RECOMMENDATION:
By a vote of 17-0-1, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town vote to extinguish, abandon or otherwise release a portion of an easement granted by the First Parish In Waltham, Universalist-Unitarian, Inc., to the Town of Brookline over a portion of land adjacent to 280-292 Harvard Street for the purpose of allowing the Coolidge Corner Movie Theatre to proceed with its proposed theatre expansion. That portion of the easement to be terminated is known as Easement A which is one of three easements granted to the Town by way of a Grant of Rights and Easements dated July 31, 1964 recorded with the Norfolk County Registry District of the Land Court as Document No. 256202 and further shown as Easement A on a "Plan of Land in Brookline, Mass." dated July 10, 1964 prepared by Walter A. Bushway Registered Land Surveyor which is recorded with said Grant of Rights and Easements. Said easement is situated in Brookline, Norfolk County. In all other respects, the terms of the above-referenced Grant of Rights and Easements are hereby ratified and

reaffirmed. The portion of said easement to be released contains approximately 2,530 square feet as shown on said plan, said Easement A being bounded and described as follows:

NORTHEASTERLY:	by other land of the Grantor, being the Southwesterly end of said PASSAGEWAY H, 10.05 feet;
SOUTHEASTERLY:	by land formerly of S.S. Pierce Co. and now or late of Cohen and others, Trustees, being Parcel C on said plan, 32.12 feet;
SOUTHWESTERLY:	in part by the same land and in part by land formerly of Cogswell and now or late of Bob Ware's Food Shops, Inc., 127.10 feet;
NORTHWESTERLY:	by other land of the Grantor, being part of PASSAGEWAY A as shown on said plan, 19.46 feet;
NORTHEASTERLY:	by other land of the Grantor, 103.37 feet; and
NORTHERLY:	by the same land, 19.70 feet.

Article 19 is approved, subject to terms and conditions substantially as set forth in a draft Memorandum of Agreement by and among the Coolidge Corner Theatre Foundation, the Hamilton Charitable Corporation, and the Town of Brookline, which memorandum shall accompany and be made a part of this vote.

XXX

Draft 4-30-13

MEMORANDUM OF AGREEMENT BY AND BETWEEN
THE TOWN OF BROOKLINE, THE HAMILTON CHARITABLE CORPORATION AND THE COOLIDGE CORNER THEATER FOUNDATION

This Memorandum of Agreement (the "Agreement") by and between the Hamilton Charitable Corporation, its successors and assigns ("Hamilton") with a principal place of business at 39 Brighton Avenue, Allston, Massachusetts and the Coolidge Corner Theater Foundation, its successors and assigns (the "Theater") with a principal place of business at_____, Massachusetts and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Board of Selectmen (the "Board"), is made and entered into this ____ day of _____, 2013, 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, Hamilton is the owner of a parcel of land with a building thereon known and numbered as 280-290 Harvard Street in Brookline, Massachusetts (the "Property"); and

WHEREAS, Hamilton leases a portionof the Property to the Theater under a long-term lease or other agreement; and

WHEREAS, the Property abuts a municipal parking lot (the "Parking Lot") owned and controlled by the Town; and

WHEREAS, since _____ the Theater has operated a community movie house providing many benefits to the Town; and

WHEREAS, the Theater is recognized as an historic cultural anchor cherished by residents and businesses in the Town; and

WHEREAS, the Theateris a major economic engine for the Town its merchants and restaurants, especially in the Coolidge Corner area; and

WHEREAS, the Theater is seeking to expand its facilities at the Property to add additional lobby space, concessions, bathrooms, waiting areas and a third full size screening room which will be partially cantilevered over a small portion of the Parking Lot and side alleyway (the "Expansion Plan"); and

WHEREAS, the Theater believes its Expansion Planis necessary to compete in the ever changing movie theater industry and will ensure long-term viability of its community movie house; and

WHEREAS, the Expansion Plancontemplates a partial build-out in the rear of the Property which abuts the Town's Parking Lot and adjacent alleyway; and

WHEREAS, in order to proceed with the Expansion Plan and create detailed plans the Theater will require a portion ofthe easement that was granted to the Town in 1964 to be released with a smaller

19-8

portion of that easement granted back to the Town as well as a lease to use a portion of the air rights over the Parking Lot and adjacent alleyway; and

WHEREAS, the Theater has filed several Warrant Articles, numbered 19, 20 and 21 (the "Articles") for consideration at the Annual Town Meeting scheduled for May 28, 2013 ("Town Meeting") which set forth the initial land disposition approvals required to proceed with the Expansion Plan; and

WHEREAS, the Theater intends to apply for a Building Permit and seek a Special Permit(s) and any other necessary relief under the Town's Zoning By-Laws in order to proceed with the Expansion Plan; and

WHEREAS, the Board supports the Expansion Planin theory, but seeks certain assurances from the Theater and Hamilton relative to the Expansion Planprior to consideration of the Articles at Town Meeting.

NOW THEREFORE, the Parties agree as follows:

1. If the Articles are approved by Town Meeting, and in the case of the air rights lease approval by the State Legislature, the documents to effectuate any land dispositions, including but not limited to the easement, release of easement and/or air rights lease shall be held in escrow in the Office of Town Counsel. The final terms and condition of the Escrow Agreement shall be negotiated by the Parties before the application for a building permit is filed , and shall include but not be limited to terms that the documents shall not be released from escrow until:

    a. A building permit is issued to the Theater as applicant thatspecifically includes an expansion that:
        i. will provide a third theater space suitably sized for first-run screenings;
        ii. generally preserves the interior Art Deco details as restored by the Theatre in past years; and
        iii. follows and reflects the result of a Design Advisory Team and Planning Board process which finds that the proposed expansion will enhance the vitality of Coolidge Corner, provides exterior design and detailing compatible with the existing exterior, and is not likely to materially reduce the amount of pedestrian traffic along Harvard Street generated by the Theater.

    b. A parking lot redesign plan is approved by the Transportation Board and Planning Board, and approvals by any bodies required to release applicable funding (i.e., Town Meeting for any Capital Improvements Plan funding, Theatre or Hamilton funding for necessary capital improvements, private sources, grant sources, etc.). The design and funding plans shall take into account loading, parking, handicapped parking, pedestrian and traffic circulation, and landscaped spaces behind the CVS and Theater buildings. Additionally, the plans shall take into account temporary impacts on retail, parking, and Theatre operations during construction.

    c. The Transportation Board, Planning Board and Zoning Board of Appeals have determined that the Expansion Plan will not adversely impact parking for other commercial establishments in the Coolidge Corner Commercial District.

    d. Any appeals from or actions challenging any permit or other approvals have either been finally resolved, or the time to file such appeal or challenge haspassed.

e. The Theatre and Hamilton have satisfied all other terms and conditions contained in this Memorandum of Agreement.

2. The air rights lease shall be approved by the Board and contain terms of lease payments applicable to the current and any future successor or assign of Hamilton or the Theater that addresses two tiers of potential operation and occupancy: one tier for as long as the Theater (or other non-profit, public theater entity) occupies the air rights volume as a third theatre space suitably sized for first-run screenings, and a second tier in the unlikely event that the air rights portion of the expansion contains a tenant or primary user that is a for-profit entity and/or a use different from a Theater generally open to the public.

3. The lease shall contain an assignment fee in an amount to be negotiated by the Parties.

4. The Theater and Hamilton agree that, under no circumstances, shall either party avail itself of the Town's Zoning By-Laws, by proceeding with the construction of the Project, unless and until the foregoing provisions are satisfied and the instruments are satisfactory to Town Counsel and the Board.

5. The minimum price to be paid for the release of easement (Article 19) and grant of air rights (Article 21) are set forth in a Memorandum dated April 10, 2013 with calculations, acopy of which is attached hereto and incorporated herein by reference as Exhibit A. The minimum values and amounts specified may be satisfied in acombination of ways, in the discretion of the Board of Selectmen, including but not limited to factors such as the Payment In Lieu of Taxes (PILOT) Agreement and the value of public benefits and/or other services provided by the Theater to the Town. Any such public benefits or other value shall be in addition to and different from any public benefits provided in order to attain the necessary zoning relief.

6. The terms of this Agreement shall be a part of and incorporated into the votes under the several Warrant Articles, Nos. 19, 20 and 21 at the 2013 Annual Town Meeting.

7. Each of the Parties signing below represents and warrants that it is authorized to sign on behalf of and to bind their respective Party to this Agreement.If either party brings a legal action to enforce the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees as determined by the court which decides the matter in dispute.

8. This Agreement shall be binding upon the Town and Hamilton and the Theater and all successors and assigns of Hamilton and the Theater, shall be recorded and run with the land and shall survive any transfer of the Property.

9. The Theatre and Hamilton agree on behalf of themselves, their successors and assigns that they shall not rely on the provisions of General Laws Chapter 40A, s.3, the so-called Dover Amendment when seeking zoning relief. A provision to this effect shall be included in the release of easement and grant of air rights.

10. It is intended by the Parties that this Agreement shall be effective only upon the passage of all of the Articles (Nos. 19, 20 and 21) at Town Meeting, including any necessary approval by the State legislature in the case of Article 21. If, however, after securing the necessary approvals, aforesaid, any provision of this Agreement or the application of such provision to any person or circumstances shall be determined to be invalid or

19-10

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.

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument as of the day and year first above written.

TOWN:

Town of Brookline
By its Board of Selectmen

_____

_____

_____

_____

_____

Hamilton Charitable Corporation
By:

_____
Title:

Coolidge Corner Theater Foundation
By:

_____
Title:

DRAFT

19-11

BROOKLINE BOARD OF ASSESSORS

333 Washington Street, Brookline, MA 02445 (617) 730-2060

TO: Jennifer Dopazo Gilbert, Town Counsel

FROM: Gary J. McCabe, Chief Assessor

DATE: April 10, 2013

RE: Valuation Analysis for Properties Associated with Article's 19, 20 & 21 of the 2013 Annual Town Meeting Warrant

Per your request, I have prepared the summary valuation analysis below for the properties associated with several articles proposed to be brought before the 2013 Annual Town Meeting collectively known as the "Coolidge Corner Theater Articles". The proposed articles and related property descriptions are attached as a separate document. Also attached is an easement valuation worksheet which includes more detail on the calculations used to arrive at the value estimates. The effective date of the value estimates are April 10, 2013. Should the articles or other conditions change, the value estimates should be reviewed and revised as necessary.

The valuation estimates are based on the best available information at the time of this report and my understanding of the property interests to be conveyed or acquired by the town. I have considered current real estate market trends, rates and factors in calculating the various value estimates. I have also considered both the current and proposed uses of the properties in question and the various property rights and interests to be conveyed or acquired. Due to the nature of the current and proposed uses and the land interests involved, I have selected an income capitalization approach to value, relying in part on market rental rates, typical investment yield rates and construction cost estimates as required to prepare this analysis. The construction cost estimates are based on current year replacement cost manuals used by the town assessors and the development of the property described in Article 21 given the several scenarios presented.

ARTICLE 19: CURRENT USE & VALUE ESTIMATE:

The town currently uses the 2,530 square-foot affirmative easement described in Article 19 as part of the Centre Street East public (metered) parking lot. To estimate the value of the easement to the town based on the current and future use as a part of the parking lot an estimate was made of the number of parking spaces the easement could support considering access and space size requirements per current zoning. It was estimated that

19-12

the easement area could support eight (8) single-car parallel spaces. Although the Centre Street lot is primarily used for hourly metered parking, for the purposes of this analysis the potential income assigned to the spaces was based on a monthly rental rate of $155 per month using available market data. The total annual estimated income of $14,880 ($155/month x 12 months x 8 spaces) was divided by the area of the easement (2,530 sq.ft.) to estimate a square-foot rental rate of $5.88/ year. A market capitalization factor of 10 (10% rate) was used to estimate a market value of the easement of $148,800 (annual income $14,880 x 10), or $58.80 per square foot. The selected market capitalization factor reflects the non-possessory, long-term interest in the easement. The estimated value of $58.80 per square-foot of land for the existing easement was used to value the adjoining land areas described in Article's 20 and 21 based on the same valuation premise. See attached worksheet for detailed value calculations.

Value estimate of the 2,530 square-foot easement described in Article 19 is; $148,800.

ARTICLE 20: CURRENT USE & VALUE ESTIMATE:

Article 20 contemplates the town accepting an affirmative easement of 649 square-feet of land abutting the 2,530 easement described in Article 20 to provide continued and uninterrupted access from Harvard Street to the town owned Centre Street East public parking lot. The value of the 649 square-foot easement described in Article 20 is $38,160 based on the value per square-foot of $58.80 determined for the adjoining 2,530 square-feet easement and the same value premise.

Value estimate of the 649 square-foot easement described in Article 20 is; $38,160.

ARTICLE 21: CURRENT USE & VALUE ESTIMATE:

Article 21 involves the lease of air-rights over town-owned property to an abutter who would construct a building within the air-rights granted by the town through a lease without displacing the use of the underlying land as public parking spaces. The town owned property is part of the Centre Street East public parking lot. The land area described in the proposed article contains 950 square-feet, which abuts the 2,530 easement area described in Article 19. The leased air-rights valued would be within the column lot or air lot above the 950 square-foot area described in the language of the article's and within the design parameters legally permitted by the land use regulations for story and building height.

To estimate a long-term lease-value and first-year annual rental amount for the proposed air-rights lease, an estimate was made of market value of a completed building using three possibilities; one-story of construction, two-stories of construction and three-stories

of construction. The value of each scenario was estimated using an income capitalization method. An annual rental income was estimated for the completed building based on the proposed use and market rates within the Coolidge Corner area. A market capitalization factor of 12 (8.3% rate) was used to estimate a total market value of the property. From the value estimate using the income approach, the cost of constructing the building in each scenario was subtracted from the total value. Then the value of the retained surface parking lot was subtracted using the land value per square-foot determined for the easement in Article 19. The result of subtracting the cost of construction and the retained land-use rights from the estimated value of the developed site is the value of the air-rights to be granted. The estimate of the year-one annual rent based on the value of the air-rights was determined using a market capitalization factor of 25, equivalent to a 4% capitalization rate or a 3.6% discount rate over an estimated 25-year investment period.

The details of the calculations are provided in the attached worksheet. The result of the valuation analysis algorithm for the Article 21 leased area is as follows:

1. One-story air-rights: Value; $58,100 Year-one Rental Rate; $2,325
2. Two-story air-rights: Value; $132,200 Year-one Rental Rate; $5,225
3. Three-story air-rights: Value; $214,900 Year-one Rental Rate; $8,595

19-14

2013 Annual Town Meeting Valuation of Easements Associated with Article's 19,20&21

Article 19 Worksheet: Extinguish Easement

Land Area (SF)	Use	Interest	Unit Rent*	Annual Rent	FMV Factor	Indicated Value	Value/ SF
2,530	Parking	Easement	$ 5.88	$ 14,880	10	$ 148,800	$ 58.81

* Rent Analysis: Easement Area:	2,530	sf
Parking Access: 132 ft.x 12 ft. (one-way):	1,584	sf
Available for Parking	946	sf
Estimate of Usable Spaces at 118 sf./space	8	spaces
Estimated Monthly Income/ space	$ 155	
Estimated Annual Gross Income	$ 14,880	
Estimated Annual Rent per SF	$ 5.88	

Article 20 Worksheet: Accept Easement

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
649	Parking	Easement	$ 5.88	$ 3,817	10	$ 38,170	$ 58.81

Article 21 Worksheet: Lease of Air-rights

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
950	Parking	Easement	$ 5.88	$ 5,587	10	$ 55,874	$ 58.81

Value Loss Associated with Grant of Air-rights

One-Story Building							
950	1-Sty.Bldg	Fee	$ 35.00	$ 33,250	12	$ 399,000	$ 420.00
950	Less Cost of Construction					$ (285,000)	$ (300.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 2,325	25	$ 58,126	$ 61.19
Two-Story Building							
1,900	2-Sty.Bldg	Fee	$ 32.00	$ 60,800	12	$ 729,600	$ 384.00
1,900	Less Cost of Construction					$ (541,500)	$ (285.00)
950	Less Retained Parking Use					$ (55,874)	$ 58.81
Loss in Value		Air-Rights		$ 5,225	25	$ 132,226	$ 69.59
Three Story Building							
2,850	3-Sty.Bldg	Fee	$ 30.00	$ 85,500	12	$ 1,026,000	$ 360.00
2,850	Less Cost of Construction					$ (755,250)	$ (265.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 8,595	25	$ 214,876	$ 75.40

ARTICLE 20

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Articles 19-21 are petitioned articles that relate to the proposed expansion of the Coolidge Corner Theatre:

- **Article 19** asks that the Town to extinguish a portion of an easement over the rear of the Theatre property, granted to the Town in 1964.

- **Article 20** asks that the Town accept the grant of an easement over the southeast corner of the Theatre property from the Hamilton Charitable Corporation (the current owner) to provide uninterrupted access from Harvard Street to the parking area located in back of the theatre.

- **Article 21** is a Home Rule petition that would allow the Theatre to lease, for not more than 99 years, air rights of approximately 950 square feet over a portion of Town-owned land at the rear of the theatre to the Hamilton Charitable Corporation so that the Theatre addition can be built over Town-owned property.

Please see Article 19 for background information.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on May 21, 2013, on the following:

VOTED: That the Town vote to accept a grant of easement from the Hamilton Charitable Corporation, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts over a portion of land adjacent to adjacent to 280-292 Harvard Street and shown as Easement Area A-1 on a plan entitled "Site Plan of Coolidge Corner Theatre in Brookline, Mass.," dated February 20, 2013, prepared by Neponset Valley Survey Associates., Inc., Quincy, Massachusetts in order to provide uninterrupted access from Harvard Street. to a Town managed off-street municipal parking lot located to the rear of the Coolidge Corner Theatre. Said easement is situated in Norfolk County and contains approximately 649 square feet as shown on said Plan. Said Plan and Grant of Easement to be recorded at the Norfolk Registry District of the Land Court upon acceptance by the Town.

Said Easement Area A-1 being bounded and described as follows:

Beginning at a point at the southerly property corner of the Coolidge Corner Theatre, thence running northwesterly a distance of 24.00' to a point; thence running northeasterly 17.17' to a point; thence turning and running easterly 19.70' to a point; thence running

northeasterly 1.58' to a point; thence running southeasterly 9.45' to a point; thence running southwesterly 32.12' to the point of beginning.

Said Easement Area A-1 contains 649 square feet more or less.

Said Easement Area A-1 is as shown on a plan entitled Easement Plan at Coolidge Corner Theatre as prepared by Neponset Valley Survey associates, Inc. and dated February 20, 2013.

Article 20 is approved, subject to terms and conditions as set forth in a Memorandum of Agreement by and among the Coolidge Corner Theatre Foundation, the Hamilton Charitable Corporation, and the Town of Brookline, which memorandum shall accompany and be made a part of this vote.

MEMORANDUM OF AGREEMENT BY AND BETWEEN
THE TOWN OF BROOKLINE, THE HAMILTON CHARITABLE CORPORATION AND THE COOLIDGE CORNER THEATRE FOUNDATION

This Memorandum of Agreement (the "Agreement") by and between the Hamilton Charitable Corporation, its successors and assigns ("Hamilton") with a principal place of business at 39 Brighton Avenue, Allston, Massachusetts and the Coolidge Corner Theatre Foundation, its successors and assigns (the "Theatre") with a principal place of business at 284 Harvard Street, Brookline, Massachusetts and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Board of Selectmen (the "Board"), is made and entered into this 21st day of May, 2013, 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, Hamilton is the owner of a parcel of land with a building thereon known and numbered as 280-290 Harvard Street in Brookline, Massachusetts (the "Property"); and

WHEREAS, Hamilton leases a portion of the Property to the Theatre under a long-term lease or other agreement; and

WHEREAS, the Property abuts a municipal parking lot (the "Parking Lot") owned and controlled by the Town; and

WHEREAS, since 1933 the Theatre has operated a community movie house providing many benefits to the Town; and

WHEREAS, the Theatre is recognized as an historic cultural anchor cherished by residents and businesses in the Town; and

WHEREAS, the Theatre is a major economic engine for the Town its merchants and restaurants, especially in the Coolidge Corner area; and

WHEREAS, the Theatre is seeking to expand its facilities at the Property to add additional lobby space, concessions, bathrooms, waiting areas and a third full size screening room which will be partially cantilevered over a small portion of the Parking Lot and side alleyway (the "Expansion Plan"); and

WHEREAS, the Theatre believes its Expansion Plan is necessary to compete in the ever changing movie Theatre industry and will ensure long-term viability of its community movie house; and

WHEREAS, the Expansion Plan contemplates a partial build-out in the rear of the Property which abuts the Town's Parking Lot and adjacent alleyway; and

WHEREAS, in order to proceed with the Expansion Plan and create detailed plans the Theatre will require a portion of the easement that was granted to the Town in 1964 to be released with a smaller portion of that easement granted back to the Town as well as a lease to use a portion of the air rights over the Parking Lot and adjacent alleyway; and

WHEREAS, the Theatre has filed several Warrant Articles, numbered 19, 20 and 21 (the "Articles") for consideration at the Annual Town Meeting scheduled for May 28, 2013 ("Town Meeting") which set forth the initial land disposition approvals required to proceed with the Expansion Plan; and

WHEREAS, the Theatre intends to apply for a Building Permit and seek a Special Permit(s) and any other necessary relief under the Town's Zoning By-Laws in order to proceed with the Expansion Plan; and

WHEREAS, the Board supports the Expansion Plan in theory, but seeks certain assurances from the Theatre and Hamilton relative to the Expansion Plan prior to consideration of the Articles at Town Meeting.

NOW THEREFORE, the Parties agree as follows:

1. If the Articles are approved by Town Meeting, and in the case of the air rights lease approval by the State Legislature, the documents to effectuate any land dispositions, including but not limited to the easement, release of easement and/or air rights lease shall be held in escrow in the Office of Town Counsel. The final terms and conditions of the Escrow Agreement shall be negotiated by the Parties before the application for a building permit is filed and shall be consistent with the terms of this Agreement. The Escrow Agreement shall include, but not be limited to, terms that the documents shall not be released from escrow until:

    a. A building permit is issued to the Theatre as applicant that specifically includes an expansion that:
        i. will provide a third Theatre space suitably sized for first-run screenings with a minimum number of seats of 125;
        ii. generally preserves the interior Art Deco details as restored by the Theatre in past years; and
        iii. is the result of a Design Advisory Team and Planning Board process which finds that the proposed expansion will enhance the vitality of Coolidge Corner, provides exterior design and detailing compatible with the existing exterior, and is not likely to materially reduce the amount of pedestrian traffic along Harvard Street generated by the Theatre.

    b. A parking lot redesign plan providing at least eleven (11) spaces on the adjacent Town owned property, approved by the Transportation Board and Planning Board, and approvals by any bodies required to release applicable funding (i.e., Town Meeting for any Capital Improvements Plan funding, Theatre or Hamilton funding for necessary capital improvements, private sources, grant sources, etc.). The design and funding plans shall take into account loading, parking, handicapped parking, pedestrian and traffic circulation, and landscaped spaces behind the Theatre buildings, all as may be impacted by the Expansion Plan. Additionally, the plans shall take into account temporary impacts on retail, parking, and Theatre operations during construction.

    c. The Transportation Board, Planning Board and Zoning Board of Appeals have determined that the Expansion Plan will not significantly impact parking or loading areas for any other uses.

    d. Any appeals from or actions challenging any permit or other approvals have either been

finally resolved, or the time to file such appeal or challenge has passed.

e. The Theatre and Hamilton have satisfied all other terms and conditions contained in this Memorandum of Agreement.

2. The air rights lease shall be approved by the Board and contain terms of lease payments applicable to the current and any future successor or assign of Hamilton or the Theatre that addresses two tiers of potential operation and occupancy: one tier for as long as the Theatre (or other non-profit, public Theatre entity) occupies the air rights volume as a third theatre space suitably sized for first-run screenings, and a second tier in the unlikely event that the air rights portion of the expansion contains a tenant or primary user that is a for-profit entity and/or a use different from a Theatre generally open to the public.

3. The lease shall contain an assignment fee in an amount to be negotiated by the Parties.

4. The Theatre and Hamilton agree that, under no circumstances, shall either party avail itself of the Town's Zoning By-Laws, by proceeding with the construction of the Project, unless and until the foregoing provisions are satisfied and the instruments are satisfactory to Town Counsel and the Board.

5. The Town's current opinion of the assessed value or the release of easement (Article 19) and grant of air rights (Article 21), are set forth in a Memorandum dated April 10, 2013 with calculations, a copy of which is attached hereto and incorporated herein by reference as Exhibit A. The minimum amount contained in Exhibit A shall be used as the minimum price to be paid by the Theatre and Hamilton and will be incorporated into the vote under the Articles at Town Meeting. Notwithstanding, the minimum price, any consideration to be paid by the Theatre and Hamilton may be reduced by the conditions or restrictions within the Special Permit and may be satisfied in a combination of ways, at the discretion of the Board of Selectmen. The Selectmen may take into consideration such factors affecting value such as the Payment In Lieu of Taxes (PILOT) Agreement and public benefits and/or other services provided by the Theatre to the Town, including, but not necessarily limited to, public benefits provided in order to attain zoning relief.

6. The terms of this Agreement shall be a part of and incorporated into the votes under the several Warrant Articles, Nos. 19, 20 and 21 at the 2013 Annual Town Meeting.

7. Each of the Parties signing below represents and warrants that it is authorized to sign on behalf of and to bind their respective Party to this Agreement. If either party brings a legal action to enforce the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees as determined by the court which decides the matter in dispute.

8. This Agreement shall be binding upon the Town, Hamilton and the Theatre and all successors and assigns of Hamilton and the Theatre. The documents to effectuate any land dispositions shall be held by the Office of Town Counsel pursuant to the terms of the Escrow Agreement, and upon release from Escrow, shall be recorded along with this Agreement and run with the land and shall survive any transfer of the Property.

9. The Theatre and Hamilton agree on behalf of themselves, their successors and assigns, and the Escrow Agreement shall contain a provision, that if any of the zoning relief required for the

General Laws Chapter 40A, s.3, the so-called Dover Amendment then the Selectmen shall only release the Escrow if it determines that the provisions of this Agreement have been satisfied and the Expansion Plan as approved by the ZBA does not substantially exceed the scope of the project presented at the May 28, 2013 Annual Town Meeting,

10. It is intended by the Parties that this Agreement shall be effective only upon the passage of all of the Articles (Nos. 19, 20 and 21) at Town Meeting, including any necessary approval by the State legislature in the case of Article 21. If, however, after securing the necessary approvals, aforesaid, 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.

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument as of the day and year first above written.

TOWN:

Town of Brookline
By its Board of Selectmen

Betsy DeWitt

Nancy Daly

Richard M. Benka

Neil Wishy

Hamilton Charitable Corporation
By:

Title:

Coolidge Corner Theatre Foundation
By: J. MICHAEL MAYNARD

J. Michael Maynard

Title: CHAIRMAN - BOARD of TRUSTEES

Formally a Two-Thirds Vote

2013 Annual Town Meeting Valuation of Easements Associated with Article's 19,20&21

Article 19 Worksheet: Extinguish Easement

Land Area (SF)	Use	Interest	Unit Rent*	Annual Rent	FMV Factor	Indicated Value	Value/ SF
2,530	Parking	Easement	$ 5.88	$ 14,880	10	$ 148,800	$ 58.81

* Rent Analysis:	Easement Area:	2,530 sf
Parking Access: 132 ft.x 12 ft. (one-way):		1,584 sf
Available for Parking		946 sf
Estimate of Usable Spaces at 118 sf./space		8 spaces
Estimated Monthly Income/ space		$ 155
Estimated Annual Gross Income		$ 14,880
Estimated Annual Rent per SF		$ 5.88

Article 20 Worksheet: Accept Easement

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
649	Parking	Easement	$ 5.88	$ 3,817	10	$ 38,170	$ 58.81

Article 21 Worksheet: Lease of Air-rights

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
950	Parking	Easement	$ 5.88	$ 5,587	10	$ 55,874	$ 58.81

Value Loss Associated with Grant of Air-rights

One-Story Building							
950	1-Sty.Bldg	Fee	$ 35.00	$ 33,250	12	$ 399,000	$ 420.00
950	Less Cost of Construction					$ (285,000)	$ (300.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 2,325	25	$ 58,126	$ 61.19
Two-Story Building							
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950	Less Retained Parking Use					$ (55,874)	$ 58.81
Loss in Value		Air-Rights		$ 5,225	25	$ 132,226	$ 69.59
Three Story Building							
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2,850	Less Cost of Construction					$ (755,250)	$ (265.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 8,595	25	$ 214,876	$ 75.40

BROOKLINE BOARD OF ASSESSORS

333 Washington Street, Brookline, MA 02445 (617) 730-2060

TO: Jennifer Dopazo Gilbert, Town Counsel

FROM: Gary J. McCabe, Chief Assessor

DATE: April 10, 2013

RE: Valuation Analysis for Properties Associated with Article's 19, 20 & 21 of the 2013 Annual Town Meeting Warrant

Per your request, I have prepared the summary valuation analysis below for the properties associated with several articles proposed to be brought before the 2013 Annual Town Meeting collectively known as the "Coolidge Corner Theater Articles". The proposed articles and related property descriptions are attached as a separate document. Also attached is an easement valuation worksheet which includes more detail on the calculations used to arrive at the value estimates. The effective date of the value estimates are April 10, 2013. Should the articles or other conditions change, the value estimates should be reviewed and revised as necessary.

The valuation estimates are based on the best available information at the time of this report and my understanding of the property interests to be conveyed or acquired by the town. I have considered current real estate market trends, rates and factors in calculating the various value estimates. I have also considered both the current and proposed uses of the properties in question and the various property rights and interests to be conveyed or acquired. Due to the nature of the current and proposed uses and the land interests involved, I have selected an income capitalization approach to value, relying in part on market rental rates, typical investment yield rates and construction cost estimates as required to prepare this analysis. The construction cost estimates are based on current year replacement cost manuals used by the town assessors and the development of the property described in Article 21 given the several scenarios presented.

ARTICLE 19: CURRENT USE & VALUE ESTIMATE:

The town currently uses the 2,530 square-foot affirmative easement described in Article 19 as part of the Centre Street East public (metered) parking lot. To estimate the value of the easement to the town based on the current and future use as a part of the parking lot an estimate was made of the number of parking spaces the easement could support considering access and space size requirements per current zoning. It was estimated that

the easement area could support eight (8) single-car parallel spaces. Although the Centre Street lot is primarily used for hourly metered parking, for the purposes of this analysis the potential income assigned to the spaces was based on a monthly rental rate of $155 per month using available market data. The total annual estimated income of $14,880 ($155/month x 12 months x 8 spaces) was divided by the area of the easement (2,530 sq.ft.) to estimate a square-foot rental rate of $5.88/ year. A market capitalization factor of 10 (10% rate) was used to estimate a market value of the easement of $148,800 (annual income $14,880 x 10), or $58.80 per square foot. The selected market capitalization factor reflects the non-possessory, long-term interest in the easement. The estimated value of $58.80 per square-foot of land for the existing easement was used to value the adjoining land areas described in Article's 20 and 21 based on the same valuation premise. See attached worksheet for detailed value calculations.

Value estimate of the 2,530 square-foot easement described in Article 19 is; $148,800.

ARTICLE 20: CURRENT USE & VALUE ESTIMATE:

Article 20 contemplates the town accepting an affirmative easement of 649 square-feet of land abutting the 2,530 easement described in Article 20 to provide continued and uninterrupted access from Harvard Street to the town owned Centre Street East public parking lot. The value of the 649 square-foot easement described in Article 20 is $38,160 based on the value per square-foot of $58.80 determined for the adjoining 2,530 square-feet easement and the same value premise.

Value estimate of the 649 square-foot easement described in Article 20 is; $38,160.

ARTICLE 21: CURRENT USE & VALUE ESTIMATE:

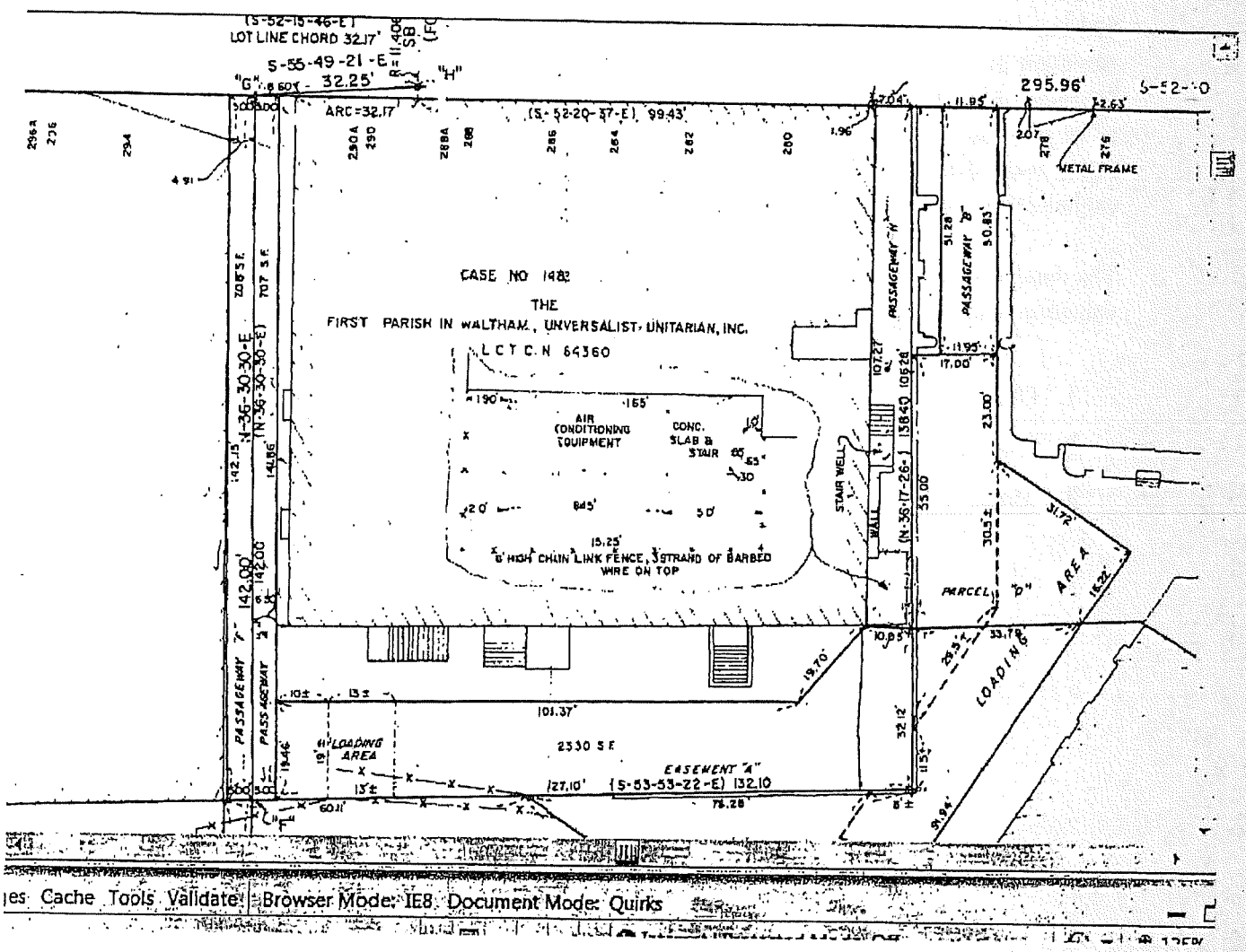
Article 21 involves the lease of air-rights over town-owned property to an abutter who would construct a building within the air-rights granted by the town through a lease without displacing the use of the underlying land as public parking spaces. The town owned property is part of the Centre Street East public parking lot. The land area described in the proposed article contains 950 square-feet, which abuts the 2,530 easement area described in Article 19. The leased air-rights valued would be within the column lot or air lot above the 950 square-foot area described in the language of the article's and within the design parameters legally permitted by the land use regulations for story and building height.

To estimate a long-term lease-value and first-year annual rental amount for the proposed air-rights lease, an estimate was made of market value of a completed building using three possibilities; one-story of construction, two-stories of construction and three-stories

of construction. The value of each scenario was estimated using an income capitalization method. An annual rental income was estimated for the completed building based on the proposed use and market rates within the Coolidge Corner area. A market capitalization factor of 12 (8.3% rate) was used to estimate a total market value of the property. From the value estimate using the income approach, the cost of constructing the building in each scenario was subtracted from the total value. Then the value of the retained surface parking lot was subtracted using the land value per square-foot determined for the easement in Article 19. The result of subtracting the cost of construction and the retained land-use rights from the estimated value of the developed site is the value of the air-rights to be granted. The estimate of the year-one annual rent based on the value of the air-rights was determined using a market capitalization factor of 25, equivalent to a 4% capitalization rate or a 3.6% discount rate over an estimated 25-year investment period.

The details of the calculations are provided in the attached worksheet. The result of the valuation analysis algorithm for the Article 21 leased area is as follows:

1. One-story air-rights: Value; $58,100 Year-one Rental Rate; $2,325
2. Two-story air-rights: Value; $132,200 Year-one Rental Rate; $5,225
3. Three-story air-rights: Value; $214,900 Year-one Rental Rate; $8,595



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ARTICLE 20

TWENTIETH ARTICLE

Submitted by: Michael Maynard, Coolidge Corner Theater Foundation Board of Trustees

To see if the Town will vote to accept a grant of easement from the Hamilton Charitable Corporation, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts over a portion of land adjacent to adjacent to 280-292 Harvard Street and shown as Easement Area A-1 on a plan entitled "Site Plan of Coolidge Corner Theatre in Brookline, Mass.," dated February 20, 2013, prepared by Neponset Valley Survey Associates., Inc., Quincy, Massachusetts in order to provide uninterrupted access from Harvard Street. to a Town managed off-street municipal parking lot located to the rear of the Coolidge Corner Theatre. Said easement is situated in Norfolk County and contains approximately 649 square feet as shown on said Plan. Said Plan and Grant of Easement to be recorded at the Norfolk Registry District of the Land Court upon acceptance by the Town.

Said Easement Area A-1 being bounded and described as follows:

Beginning at a point at the southerly property corner of the Coolidge Corner Theatre, thence running northwesterly a distance of 24.00' to a point; thence running northeasterly 17.17' to a point; thence turning and running easterly 19.70' to a point; thence running northeasterly 1.58' to a point; thence running southeasterly 9.45' to a point; thence running southwesterly 32.12' to the point of beginning.

Said Easement Area A-1 contains 649 square feet more or less.

Said Easement Area A-1 is as shown on a plan entitled Easement Plan at Coolidge Corner Theatre as prepared by Neponset Valley Survey associates, Inc. and dated February 20, 2013.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Coolidge Corner Theatre Foundation ("CCTF") is seeking to expand its historic facilities at 290 Harvard Street. The existing facility is in need of additional lobby space, concessions, bathrooms, and holding areas for patrons waiting to enter the auditoriums. Equally important, CCTF believes that a third full size screening auditorium, which allows for three feature films to be exhibited simultaneously, will enable more first-run content to be available for our patrons, allowing us to better compete in this ever changing industry and ensuring the long term viability of our community movie house.

In order to explore any expansion at the back of the building, a portion of an easement granted by the theater to the Town in 1964 would need to be relinquished, with a critical portion being re-granted to the Town. Additionally, CCTF requests that the Town enter into a lease for the use of air rights over Town owned property. These air rights are necessary to fully realize the project vision of a second floor auditorium whose cantilever would also protect the patrons on the sidewalk below from inclement weather. Town Meeting approval of these requests is necessary prior to CCTF engaging in any design development process, zoning and community approval process, and fundraising efforts. Any approval from Town Meeting would be escrowed with the Town until any necessary approvals are granted.

SELECTMEN'S RECOMMENDATION

The Selectmen will be voting on Articles 19-21 at their May 14th meeting. A Recommendation will be provided in the Supplemental mailing planned for the weekend prior to the commencement of Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

Warrant Articles 19, 20, and 21 are citizen petitions that seek Town Meeting's approval of actions necessary to allow the proposed expansion of the Coolidge Corner Theatre located at 290 Harvard Street.

Article 19 asks that the Town, in order to facilitate the expansion of the theatre, extinguish a portion of an easement over the rear of the Theatre property, granted to the Town in 1964.

Article 20 asks that the Town accept the grant of an easement over the southeast corner of the Theatre property from the Hamilton Charitable Corporation (the current owner) to provide uninterrupted access from Harvard Street to the parking area located in back of the theatre.

Article 21 asks that the Town seek State legislative approval to lease for not more than 99 years air rights of approximately 950 square feet over a portion of Town-owned land at the rear of the theatre to the Hamilton Charitable Corporation so that the Theatre addition can be built over Town-owned property.

Please see Article 19 for background information.

RECOMMENDATION:
By a vote of 17-0-1, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town vote to accept a grant of easement from the Hamilton Charitable Corporation, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts over a portion of land adjacent to adjacent to 280-292 Harvard Street and shown as Easement Area A-1 on a plan entitled "Site Plan of Coolidge Corner Theatre in Brookline, Mass.," dated February 20, 2013, prepared by Neponset Valley Survey Associates., Inc., Quincy, Massachusetts in order to provide uninterrupted access from Harvard Street. to a Town managed off-street municipal parking lot located to the rear of the Coolidge Corner Theatre. Said easement is situated in Norfolk County and contains approximately 649 square feet as shown on said Plan. Said Plan and Grant of Easement to be recorded at the Norfolk Registry District of the Land Court upon acceptance by the Town.

Said Easement Area A-1 being bounded and described as follows:

Beginning at a point at the southerly property corner of the Coolidge Corner Theatre, thence running northwesterly a distance of 24.00' to a point; thence running northeasterly 17.17' to a point; thence turning and running easterly 19.70' to a point; thence running northeasterly 1.58' to a point; thence running southeasterly 9.45' to a point; thence running southwesterly 32.12' to the point of beginning.

Said Easement Area A-1 contains 649 square feet more or less.

Said Easement Area A-1 is as shown on a plan entitled Easement Plan at Coolidge Corner Theatre as prepared by Neponset Valley Survey associates, Inc. and dated February 20, 2013.

Article 20 is approved, subject to terms and conditions substantially as set forth in a draft Memorandum of Agreement by and among the Coolidge Corner Theatre Foundation, the Hamilton Charitable Corporation, and the Town of Brookline. The Memorandum of Agreement referred to in the above motion is set forth on pages 19-7 – 19-14 of these Reports.

XXX

ARTICLE 21

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Articles 19-21 are petitioned articles that relate to the proposed expansion of the Coolidge Corner Theatre:

- **Article 19** asks that the Town to extinguish a portion of an easement over the rear of the Theatre property, granted to the Town in 1964.

- **Article 20** asks that the Town accept the grant of an easement over the southeast corner of the Theatre property from the Hamilton Charitable Corporation (the current owner) to provide uninterrupted access from Harvard Street to the parking area located in back of the theatre.

- **Article 21** is a Home Rule petition that would allow the Theatre to lease, for not more than 99 years, air rights of approximately 950 square feet over a portion of Town-owned land at the rear of the theatre to the Hamilton Charitable Corporation so that the Theatre addition can be built over Town-owned property.

Please see Article 19 for background information.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on May 21, 2013, on the following:

VOTED: That the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN OWNED AIR RIGHTS OVER A PORTION OF A MUNICIPAL OFF-STREET PARKING AREA

Be It Enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline is hereby authorized to lease any part or portion of the air rights over its municipal off-street parking area located on the Northeasterly side of Centre Street and to the rear of the property located at 280-290 Harvard Street in Brookline, the property generally known and referred to and shown as Parcel 09 in Block 082 on Sheet 16 of the Town's 2013 Assessors Atlas and more particularly depicted and described on a "Site Plan of Coolidge Corner Theater in Brookline, Massachusetts",

dated February 20, 2013 by Neponset Valley Survey Assoc., Inc., now or hereafter owned by it, for a period not to exceed 99 years, to Hamilton Charitable Corporation, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts and having a usual place of business of 39 Brighton Avenue, Allston, Massachusetts 02134 or its designee, upon such terms and conditions as the board of selectmen shall determine to be in the best interests of the town. The air rights to be leased over said property contains approximately 950 square feet as shown on said plan and is bounded and described as follows:

Beginning at a point on the southerly property line of the Coolidge Corner Theatre, said point being 37.10' feet northwesterly from the southerly property corner of said theatre, thence running:

Southwesterly by land now or formerly of the Town of Brookline, 10.00'; thence running northwesterly by land now or formerly of the Town of Brookline 95.00'; thence running northeasterly by land now of the Town of Brookline; 10.00'; thence running along the southerly property line 95.00 to the point of beginning.

Said air rights easement contains an area of 950 square feet more or less.

Said air rights easement is as shown on a plan entitled "Easement Plan at Coolidge Corner Theatre" as prepared by Neponset Valley Survey associates, Inc. and dated February 20, 2013.

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

Article 21 is approved, subject to terms and conditions as set forth in a Memorandum of Agreement by and among the Coolidge Corner Theatre Foundation, the Hamilton Charitable Corporation, and the Town of Brookline, which memorandum shall accompany and be made a part of this vote.

MEMORANDUM OF AGREEMENT BY AND BETWEEN
THE TOWN OF BROOKLINE, THE HAMILTON CHARITABLE CORPORATION AND THE COOLIDGE CORNER THEATRE FOUNDATION

This Memorandum of Agreement (the "Agreement") by and between the Hamilton Charitable Corporation, its successors and assigns ("Hamilton") with a principal place of business at 39 Brighton Avenue, Allston, Massachusetts and the Coolidge Corner Theatre Foundation, its successors and assigns (the "Theatre") with a principal place of business at 284 Harvard Street, Brookline, Massachusetts and the Town of Brookline, a municipal corporation ("Town"), located in Norfolk County, Massachusetts and acting by and through its Board of Selectmen (the "Board"), is made and entered into this 21st day of May, 2013, 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, Hamilton is the owner of a parcel of land with a building thereon known and numbered as 280-290 Harvard Street in Brookline, Massachusetts (the "Property"); and

WHEREAS, Hamilton leases a portion of the Property to the Theatre under a long-term lease or other agreement; and

WHEREAS, the Property abuts a municipal parking lot (the "Parking Lot") owned and controlled by the Town; and

WHEREAS, since 1933 the Theatre has operated a community movie house providing many benefits to the Town; and

WHEREAS, the Theatre is recognized as an historic cultural anchor cherished by residents and businesses in the Town; and

WHEREAS, the Theatre is a major economic engine for the Town its merchants and restaurants, especially in the Coolidge Corner area; and

WHEREAS, the Theatre is seeking to expand its facilities at the Property to add additional lobby space, concessions, bathrooms, waiting areas and a third full size screening room which will be partially cantilevered over a small portion of the Parking Lot and side alleyway (the "Expansion Plan"); and

WHEREAS, the Theatre believes its Expansion Plan is necessary to compete in the ever changing movie Theatre industry and will ensure long-term viability of its community movie house; and

WHEREAS, the Expansion Plan contemplates a partial build-out in the rear of the Property which abuts the Town's Parking Lot and adjacent alleyway; and

WHEREAS, in order to proceed with the Expansion Plan and create detailed plans the Theatre will require a portion of the easement that was granted to the Town in 1964 to be released with a smaller portion of that easement granted back to the Town as well as a lease to use a portion of the air rights over the Parking Lot and adjacent alleyway; and

WHEREAS, the Theatre has filed several Warrant Articles, numbered 19, 20 and 21 (the "Articles") for consideration at the Annual Town Meeting scheduled for May 28, 2013 ("Town Meeting") which set forth the initial land disposition approvals required to proceed with the Expansion Plan; and

WHEREAS, the Theatre intends to apply for a Building Permit and seek a Special Permit(s) and any other necessary relief under the Town's Zoning By-Laws in order to proceed with the Expansion Plan; and

WHEREAS, the Board supports the Expansion Plan in theory, but seeks certain assurances from the Theatre and Hamilton relative to the Expansion Plan prior to consideration of the Articles at Town Meeting.

NOW THEREFORE, the Parties agree as follows:

1. If the Articles are approved by Town Meeting, and in the case of the air rights lease approval by the State Legislature, the documents to effectuate any land dispositions, including but not limited to the easement, release of easement and/or air rights lease shall be held in escrow in the Office of Town Counsel. The final terms and conditions of the Escrow Agreement shall be negotiated by the Parties before the application for a building permit is filed and shall be consistent with the terms of this Agreement. The Escrow Agreement shall include, but not be limited to, terms that the documents shall not be released from escrow until:

    a. A building permit is issued to the Theatre as applicant that specifically includes an expansion that:
        i. will provide a third Theatre space suitably sized for first-run screenings with a minimum number of seats of 125;
        ii. generally preserves the interior Art Deco details as restored by the Theatre in past years; and
        iii. is the result of a Design Advisory Team and Planning Board process which finds that the proposed expansion will enhance the vitality of Coolidge Corner, provides exterior design and detailing compatible with the existing exterior, and is not likely to materially reduce the amount of pedestrian traffic along Harvard Street generated by the Theatre.

    b. A parking lot redesign plan providing at least eleven (11) spaces on the adjacent Town owned property, approved by the Transportation Board and Planning Board, and approvals by any bodies required to release applicable funding (i.e., Town Meeting for any Capital Improvements Plan funding, Theatre or Hamilton funding for necessary capital improvements, private sources, grant sources, etc.). The design and funding plans shall take into account loading, parking, handicapped parking, pedestrian and traffic circulation, and landscaped spaces behind the Theatre buildings, all as may be impacted by the Expansion Plan. Additionally, the plans shall take into account temporary impacts on retail, parking, and Theatre operations during construction.

    c. The Transportation Board, Planning Board and Zoning Board of Appeals have determined that the Expansion Plan will not significantly impact parking or loading areas for any other uses.

    d. Any appeals from or actions challenging any permit or other approvals have either been

finally resolved, or the time to file such appeal or challenge has passed.

e. The Theatre and Hamilton have satisfied all other terms and conditions contained in this Memorandum of Agreement.

2. The air rights lease shall be approved by the Board and contain terms of lease payments applicable to the current and any future successor or assign of Hamilton or the Theatre that addresses two tiers of potential operation and occupancy: one tier for as long as the Theatre (or other non-profit, public Theatre entity) occupies the air rights volume as a third theatre space suitably sized for first-run screenings, and a second tier in the unlikely event that the air rights portion of the expansion contains a tenant or primary user that is a for-profit entity and/or a use different from a Theatre generally open to the public.

3. The lease shall contain an assignment fee in an amount to be negotiated by the Parties.

4. The Theatre and Hamilton agree that, under no circumstances, shall either party avail itself of the Town's Zoning By-Laws, by proceeding with the construction of the Project, unless and until the foregoing provisions are satisfied and the instruments are satisfactory to Town Counsel and the Board.

5. The Town's current opinion of the assessed value or the release of easement (Article 19) and grant of air rights (Article 21), are set forth in a Memorandum dated April 10, 2013 with calculations, a copy of which is attached hereto and incorporated herein by reference as Exhibit A. The minimum amount contained in Exhibit A shall be used as the minimum price to be paid by the Theatre and Hamilton and will be incorporated into the vote under the Articles at Town Meeting. Notwithstanding, the minimum price, any consideration to be paid by the Theatre and Hamilton may be reduced by the conditions or restrictions within the Special Permit and may be satisfied in a combination of ways, at the discretion of the Board of Selectmen. The Selectmen may take into consideration such factors affecting value such as the Payment In Lieu of Taxes (PILOT) Agreement and public benefits and/or other services provided by the Theatre to the Town, including, but not necessarily limited to, public benefits provided in order to attain zoning relief.

6. The terms of this Agreement shall be a part of and incorporated into the votes under the several Warrant Articles, Nos. 19, 20 and 21 at the 2013 Annual Town Meeting.

7. Each of the Parties signing below represents and warrants that it is authorized to sign on behalf of and to bind their respective Party to this Agreement. If either party brings a legal action to enforce the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees as determined by the court which decides the matter in dispute.

8. This Agreement shall be binding upon the Town, Hamilton and the Theatre and all successors and assigns of Hamilton and the Theatre. The documents to effectuate any land dispositions shall be held by the Office of Town Counsel pursuant to the terms of the Escrow Agreement, and upon release from Escrow, shall be recorded along with this Agreement and run with the land and shall survive any transfer of the Property.

9. The Theatre and Hamilton agree on behalf of themselves, their successors and assigns, and the Escrow Agreement shall contain a provision, that if any of the zoning relief required for the

General Laws Chapter 40A, s.3, the so-called Dover Amendment then the Selectmen shall only release the Escrow if it determines that the provisions of this Agreement have been satisfied and the Expansion Plan as approved by the ZBA does not substantially exceed the scope of the project presented at the May 28, 2013 Annual Town Meeting,

10. It is intended by the Parties that this Agreement shall be effective only upon the passage of all of the Articles (Nos. 19, 20 and 21) at Town Meeting, including any necessary approval by the State legislature in the case of Article 21. If, however, after securing the necessary approvals, aforesaid, 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.

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument as of the day and year first above written.

TOWN:

Town of Brookline
By its Board of Selectmen

Betsey DeWitt

Nancy Daly

Richard W. Benka

Neil Wishy

Hamilton Charitable Corporation
By:

Title:

Coolidge Corner Theatre Foundation
By: J. MICHAEL MAYNARD

J. Michael Maynard

Title: CHAIRMAN - BOARD OF TRUSTEES

Passed by a Majority Vote

2013 Annual Town Meeting Valuation of Easements Associated with Article's 19,20&21

Article 19 Worksheet: Extinguish Easement

Land Area (SF)	Use	Interest	Unit Rent*	Annual Rent	FMV Factor	Indicated Value	Value/ SF
2,530	Parking	Easement	$ 5.88	$ 14,880	10	$ 148,800	$ 58.81

* Rent Analysis:	Easement Area:	2,530 sf
Parking Access: 132 ft.x 12 ft. (one-way):		1,584 sf
Available for Parking		946 sf
Estimate of Usable Spaces at 118 sf./space		8 spaces
Estimated Monthly Income/ space		$ 155
Estimated Annual Gross Income		$ 14,880
Estimated Annual Rent per SF		$ 5.88

Article 20 Worksheet: Accept Easement

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
649	Parking	Easement	$ 5.88	$ 3,817	10	$ 38,170	$ 58.81

Article 21 Worksheet: Lease of Air-rights

Land Area (SF)	Use	Interest	Unit Rent	Annual Rent	FMV Factor	Indicated Value	Value/ SF
950	Parking	Easement	$ 5.88	$ 5,587	10	$ 55,874	$ 58.81

Value Loss Associated with Grant of Air-rights

One-Story Building							
950	1-Sty.Bldg	Fee	$ 35.00	$ 33,250	12	$ 399,000	$ 420.00
950	Less Cost of Construction					$ (285,000)	$ (300.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 2,325	25	$ 58,126	$ 61.19
Two-Story Building							
1,900	2-Sty.Bldg	Fee	$ 32.00	$ 60,800	12	$ 729,600	$ 384.00
1,900	Less Cost of Construction					$ (541,500)	$ (285.00)
950	Less Retained Parking Use					$ (55,874)	$ 58.81
Loss in Value		Air-Rights		$ 5,225	25	$ 132,226	$ 69.59
Three Story Building							
2,850	3-Sty.Bldg	Fee	$ 30.00	$ 85,500	12	$ 1,026,000	$ 360.00
2,850	Less Cost of Construction					$ (755,250)	$ (265.00)
950	Less Retained Parking Use					$ (55,874)	$ (58.81)
Loss in Value		Air-Rights		$ 8,595	25	$ 214,876	$ 75.40

BROOKLINE BOARD OF ASSESSORS

333 Washington Street, Brookline, MA 02445 (617) 730-2060

TO: Jennifer Dopazo Gilbert, Town Counsel

FROM: Gary J. McCabe, Chief Assessor

DATE: April 10, 2013

RE: Valuation Analysis for Properties Associated with Article's 19, 20 & 21 of the 2013 Annual Town Meeting Warrant

Per your request, I have prepared the summary valuation analysis below for the properties associated with several articles proposed to be brought before the 2013 Annual Town Meeting collectively known as the "Coolidge Corner Theater Articles". The proposed articles and related property descriptions are attached as a separate document. Also attached is an easement valuation worksheet which includes more detail on the calculations used to arrive at the value estimates. The effective date of the value estimates are April 10, 2013. Should the articles or other conditions change, the value estimates should be reviewed and revised as necessary.

The valuation estimates are based on the best available information at the time of this report and my understanding of the property interests to be conveyed or acquired by the town. I have considered current real estate market trends, rates and factors in calculating the various value estimates. I have also considered both the current and proposed uses of the properties in question and the various property rights and interests to be conveyed or acquired. Due to the nature of the current and proposed uses and the land interests involved, I have selected an income capitalization approach to value, relying in part on market rental rates, typical investment yield rates and construction cost estimates as required to prepare this analysis. The construction cost estimates are based on current year replacement cost manuals used by the town assessors and the development of the property described in Article 21 given the several scenarios presented.

ARTICLE 19: CURRENT USE & VALUE ESTIMATE:

The town currently uses the 2,530 square-foot affirmative easement described in Article 19 as part of the Centre Street East public (metered) parking lot. To estimate the value of the easement to the town based on the current and future use as a part of the parking lot an estimate was made of the number of parking spaces the easement could support considering access and space size requirements per current zoning. It was estimated that

the easement area could support eight (8) single-car parallel spaces. Although the Centre Street lot is primarily used for hourly metered parking, for the purposes of this analysis the potential income assigned to the spaces was based on a monthly rental rate of $155 per month using available market data. The total annual estimated income of $14,880 ($155/month x 12 months x 8 spaces) was divided by the area of the easement (2,530 sq.ft.) to estimate a square-foot rental rate of $5.88/ year. A market capitalization factor of 10 (10% rate) was used to estimate a market value of the easement of $148,800 (annual income $14,880 x 10), or $58.80 per square foot. The selected market capitalization factor reflects the non-possessory, long-term interest in the easement. The estimated value of $58.80 per square-foot of land for the existing easement was used to value the adjoining land areas described in Article's 20 and 21 based on the same valuation premise. See attached worksheet for detailed value calculations.

Value estimate of the 2,530 square-foot easement described in Article 19 is; $148,800.

ARTICLE 20: CURRENT USE & VALUE ESTIMATE:

Article 20 contemplates the town accepting an affirmative easement of 649 square-feet of land abutting the 2,530 easement described in Article 20 to provide continued and uninterrupted access from Harvard Street to the town owned Centre Street East public parking lot. The value of the 649 square-foot easement described in Article 20 is $38,160 based on the value per square-foot of $58.80 determined for the adjoining 2,530 square-feet easement and the same value premise.

Value estimate of the 649 square-foot easement described in Article 20 is; $38,160.

ARTICLE 21: CURRENT USE & VALUE ESTIMATE:

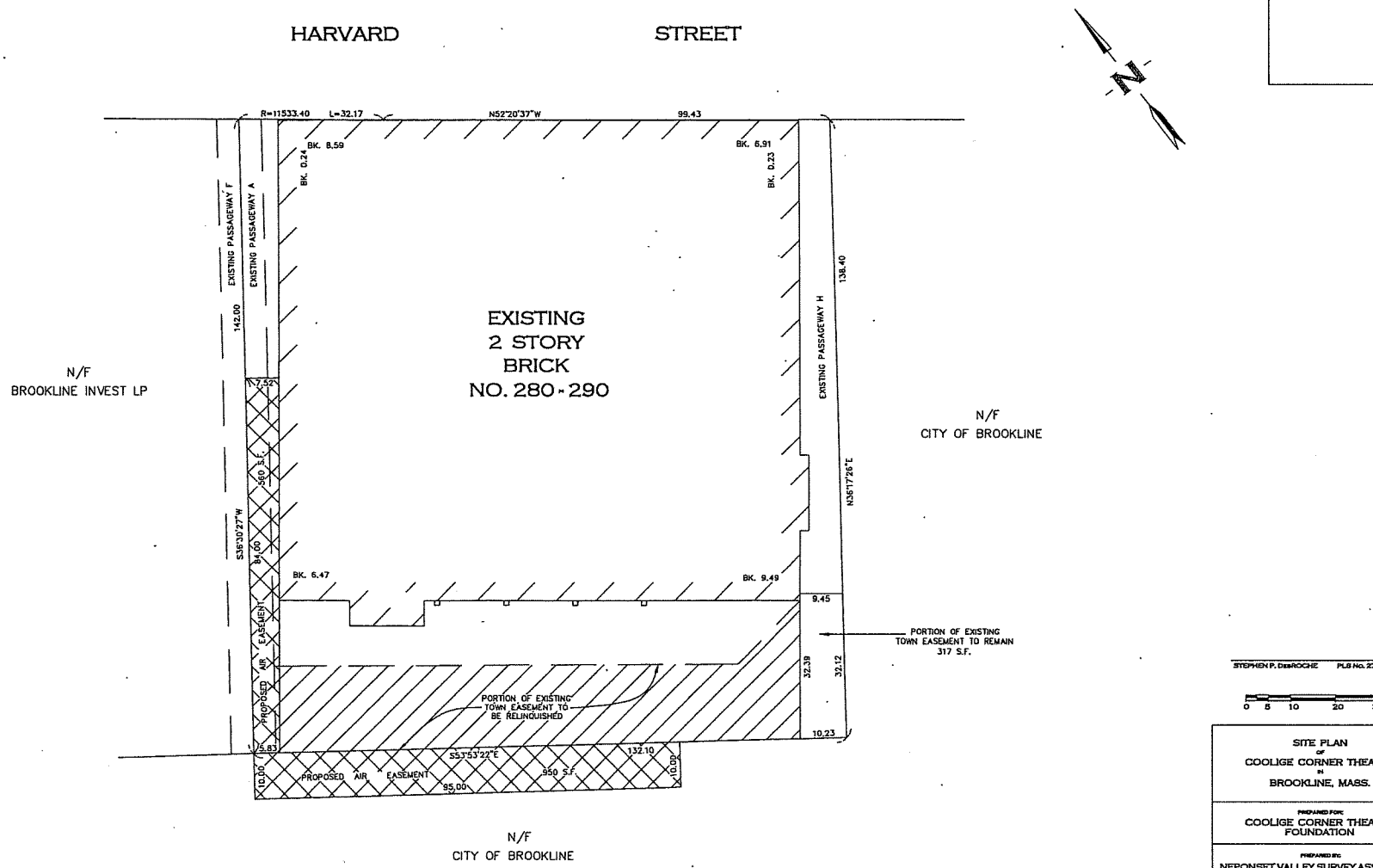
Article 21 involves the lease of air-rights over town-owned property to an abutter who would construct a building within the air-rights granted by the town through a lease without displacing the use of the underlying land as public parking spaces. The town owned property is part of the Centre Street East public parking lot. The land area described in the proposed article contains 950 square-feet, which abuts the 2,530 easement area described in Article 19. The leased air-rights valued would be within the column lot or air lot above the 950 square-foot area described in the language of the article's and within the design parameters legally permitted by the land use regulations for story and building height.

To estimate a long-term lease-value and first-year annual rental amount for the proposed air-rights lease, an estimate was made of market value of a completed building using three possibilities; one-story of construction, two-stories of construction and three-stories

of construction. The value of each scenario was estimated using an income capitalization method. An annual rental income was estimated for the completed building based on the proposed use and market rates within the Coolidge Corner area. A market capitalization factor of 12 (8.3% rate) was used to estimate a total market value of the property. From the value estimate using the income approach, the cost of constructing the building in each scenario was subtracted from the total value. Then the value of the retained surface parking lot was subtracted using the land value per square-foot determined for the easement in Article 19. The result of subtracting the cost of construction and the retained land-use rights from the estimated value of the developed site is the value of the air-rights to be granted. The estimate of the year-one annual rent based on the value of the air-rights was determined using a market capitalization factor of 25, equivalent to a 4% capitalization rate or a 3.6% discount rate over an estimated 25-year investment period.

The details of the calculations are provided in the attached worksheet. The result of the valuation analysis algorithm for the Article 21 leased area is as follows:

1. One-story air-rights: Value; $58,100 Year-one Rental Rate; $2,325
2. Two-story air-rights: Value; $132,200 Year-one Rental Rate; $5,225
3. Three-story air-rights: Value; $214,900 Year-one Rental Rate; $8,595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BK. 9.49
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PORTION OF EXISTING TOWN EASEMENT TO REMAIN 317 S.F.
N/F CITY OF BROOKLINE
AIR EASEMENT
PROPOSED
PORTION OF EXISTING TOWN EASEMENT TO BE RELINQUISHED
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PROPOSED AIR EASEMENT
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950 S.F.
10.00
N/F CITY OF BROOKLINE
STEPHEN P. DesROCHE PLS No. 27629
0 5 10 20 30
SITE PLAN OF COOLIGE CORNER THEATRE IN BROOKLINE, MASS.
PREPARED FOR: COOLIGE CORNER THEATRE FOUNDATION
PREPARED BY: NEPONSET VALLEY SURVEY ASSOC., INC.
95 WHITE STREET QUINCY, MA 02269
SCALE: 1"=10'
DATE: FEBRUARY 20, 2013

ARTICLE 21

TWENTY-FIRST ARTICLE
Submitted by: Michael Maynard, Coolidge Corner Theater Foundation Board of Trustees

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

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN OWNED AIR RIGHTS OVER A PORTION OF A MUNICIPAL OFF-STREET PARKING AREA

Be It Enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline is hereby authorized to lease any part or portion of the air rights over its municipal off-street parking area located on the Northeasterly side of Centre Street and to the rear of the property located at 280-290 Harvard Street in Brookline, the property generally known and referred to and shown as Parcel 09 in Block 082 on Sheet 16 of the Town's 2013 Assessors Atlas and more particularly depicted and described on a "Site Plan of Coolidge Corner Theater in Brookline, Massachusetts", dated February 20, 2013 by Neponset Valley Survey Assoc., Inc., now or hereafter owned by it, for a period not to exceed 99 years, to Hamilton Charitable Corporation, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts and having a usual place of business of 39 Brighton Avenue, Allston, Massachusetts 02134 or its designee, upon such terms and conditions as the board of selectmen shall determine to be in the best interests of the town. The air rights to be leased over said property contains approximately 950 square feet as shown on said plan and is bounded and described as follows:

Beginning at a point on the southerly property line of the Coolidge Corner Theatre, said point being 37.10' feet northwesterly from the southerly property corner of said theatre, thence running:

Southwesterly by land now or formerly of the Town of Brookline, 10.00'; thence running northwesterly by land now or formerly of the Town of Brookline 95.00'; thence running northeasterly by land now of the Town of Brookline; 10.00'; thence running along the southerly property line 95.00 to the point of beginning.

Said air rights easement contains an area of 950 square feet more or less.

Said air rights easement is as shown on a plan entitled "Easement Plan at Coolidge Corner Theatre" as prepared by Neponset Valley Survey associates, Inc. and dated February 20, 2013.

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

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Coolidge Corner Theatre Foundation ("CCTF") is seeking to expand its historic facilities at 290 Harvard Street. The existing facility is in need of additional lobby space, concessions, bathrooms, and holding areas for patrons waiting to enter the auditoriums. Equally important, CCTF believes that a third full size screening auditorium, which allows for three feature films to be exhibited simultaneously, will enable more first-run content to be available for our patrons, allowing us to better compete in this ever changing industry and ensuring the long term viability of our community movie house.

In order to explore any expansion at the back of the building, a portion of an easement granted by the theater to the Town in 1964 would need to be relinquished, with a critical portion being re-granted to the Town. Additionally, CCTF requests that the Town enter into a lease for the use of air rights over Town owned property. These air rights are necessary to fully realize the project vision of a second floor auditorium whose cantilever would also protect the patrons on the sidewalk below from inclement weather. Town Meeting approval of these requests is necessary prior to CCTF engaging in any design development process, zoning and community approval process, and fundraising efforts. Any approval from Town Meeting would be escrowed with the Town until any necessary approvals are granted.

SELECTMEN'S RECOMMENDATION

The Selectmen will be voting on Articles 19-21 at their May 14th meeting. A Recommendation will be provided in the Supplemental mailing planned for the weekend prior to the commencement of Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

Warrant Articles 19, 20, and 21 are citizen petitions that seek Town Meeting's approval of actions necessary to allow the proposed expansion of the Coolidge Corner Theatre located at 290 Harvard Street.

Article 19 asks that the Town, in order to facilitate the expansion of the theatre, extinguish a portion of an easement over the rear of the Theatre property, granted to the Town in 1964.

Article 20 asks that the Town accept the grant of an easement over the southeast corner of the Theatre property from the Hamilton Charitable Corporation (the current owner) to provide uninterrupted access from Harvard Street to the parking area located in back of the theatre.

Article 21 asks that the Town seek State legislative approval to lease for not more than 99 years air rights of approximately 950 square feet over a portion of Town-owned land at the rear of the theatre to the Hamilton Charitable Corporation so that the Theatre addition can be built over Town-owned property.

Please see Article 19 for background information.

RECOMMENDATION:
By a vote of 17-0-1, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN OWNED AIR RIGHTS OVER A PORTION OF A MUNICIPAL OFF-STREET PARKING AREA

Be It Enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline is hereby authorized to lease any part or portion of the air rights over its municipal off-street parking area located on the Northeasterly side of Centre Street and to the rear of the property located at 280-290 Harvard Street in Brookline, the property generally known and referred to and shown as Parcel 09 in Block 082 on Sheet 16 of the Town's 2013 Assessors Atlas and more particularly depicted and described on a "Site Plan of Coolidge Corner Theater in Brookline, Massachusetts", dated February 20, 2013 by Neponset Valley Survey Assoc., Inc., now or hereafter owned by it, for a period not to exceed 99 years, to Hamilton Charitable Corporation, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts and having a usual place of business of 39 Brighton Avenue, Allston, Massachusetts 02134 or its designee, upon such terms and conditions as the board of selectmen shall determine to be in the best interests of the town. The air rights to be leased over said property contains approximately 950 square feet as shown on said plan and is bounded and described as follows:

Beginning at a point on the southerly property line of the Coolidge Corner Theatre, said point being 37.10' feet northwesterly from the southerly property corner of said theatre, thence running:

Southwesterly by land now or formerly of the Town of Brookline, 10.00'; thence running northwesterly by land now or formerly of the Town of Brookline 95.00'; thence running northeasterly by land now of the Town of Brookline; 10.00'; thence running along the southerly property line 95.00 to the point of beginning.

Said air rights easement contains an area of 950 square feet more or less.

Said air rights easement is as shown on a plan entitled "Easement Plan at Coolidge Corner Theatre" as prepared by Neponset Valley Survey associates, Inc. and dated February 20, 2013.

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

Article 21 is approved, subject to terms and conditions substantially as set forth in a draft Memorandum of Agreement by and among the Coolidge Corner Theatre Foundation, the Hamilton Charitable Corporation, and the Town of Brookline. The Memorandum of Agreement referred to in the above motion is set forth on pages 19-7 – 19-14 of these Reports.

XXX

ARTICLE 22

TWENTY-SECOND ARTICLE
Submitted by: Michael Sanders and Christopher Dempsey

To see if the Town will adopt the following resolution:

WHEREAS, trolley service along Beacon Street is an integral part of the Town's transportation system,

WHEREAS, improved trolley service will reduce congestion, thereby decreasing local air pollution and carbon emissions,

WHEREAS, more efficient trolley service will benefit transit users, motorists, and Brookline businesses,

WHEREAS, transit signal prioritization will improve trolley service by decreasing average trip time, improving on-time performance, and reducing trolley bunching,

THEREFORE BE IT RESOLVED
That an appropriation of sufficient funds in the Fiscal Year 2015 budget be proposed to Town Meeting to commission a professional engineering study of the costs and benefits of upgrading Town-owned traffic signals, controllers, and associated equipment along Beacon Street to allow for the prioritization of MBTA trolleys.

or act on anything relative thereto.

Passed by a Majority Vote

PETITIONER'S ARTICLE DESCRIPTION

Transit Signal Priority is the application of subtle changes to traffic light timing in order to assist the passage of transit vehicles. It gives transit vehicles a little extra green time or a little less red time at intersections, to reduce the time they are slowed down by traffic signals.

Transit Signal Prioritization is a tool that improves the ability of transit vehicles and automobiles to safely and effectively share limited road space. Transit Signal Prioritization facilitates the movement of transit vehicles through signal-controlled intersections by means of an integrated communication system.

Transportation engineering studies have shown that Transit Signal Prioritization can reduce transit delays by up to 40% and improve travel times by up to 20%.

Transit Signal Prioritization is a safe and cost-effective way to make transit service faster and more reliable, with limited impact on automobiles. This technology has been proven effective over many decades, and is in place in cities including: New York; Chicago,

Portland, OR; Baltimore; Los Angeles; Palo Alto, CA, and many more cities in other countries.

Transit Signal Prioritization minimizes impact to single-occupancy vehicles by extending or pre-empting signals without disrupting normal traffic cycles. By enabling faster trip times and improving reliability for trolleys, Transit Signal Prioritization will encourage discretionary drivers to use transit, reducing demand for limited space on our streets and improving local air quality.

How Does Transit Signal Prioritization Work?

Equipment mounted on the approaching trolley or on the trolley tracks monitors the location of trolleys and broadcasts a secure, encoded request to detection equipment at the intersection.

Intersection-based detection equipment communicates with a priority request generator in the traffic signal network.

The priority request generator validates the request and alerts the traffic control system.

The traffic control system software processes the request and provides a priority green light through normal traffic operations for the approaching vehicle.

Will this work on Beacon Street?

The MBTA's C Line serves more than 14,000 riders per day. More than 35% of commuters living in the Beacon Street corridor use transit. Improving the efficiency of the C Line could save up to 5 minutes per trip for the thousands of Brookline residents and visitors who rely on the C Line on a daily basis.

Transit Signal Prioritization would require the cooperation of the Town of Brookline, the MBTA, and the Massachusetts Department of Transportation. The MBTA is familiar with Transit Signal Prioritization – it is moving ahead with plans to bring signal prioritization to the Green Line's B and E branches. While these efforts are in the early stages, it is important for Brookline to show its support for investigating whether Transit Signal Prioritization is appropriate for Beacon Street.

The implementation of Transit Signal Prioritization would not disrupt users of Beacon Street or residents living on or near the corridor. While Transit Signal Prioritization may require the installation of hardware on MBTA vehicles or inside existing traffic signal control boxes, it does not require the type of long-term heavy construction that has disrupted Beacon Street residents and users over the course of the last decade.

What does this resolution do?

As submitted, this resolution requires the Town to further study Transit Signal Prioritization on the Beacon Street corridor. The resolution requires that the Town

include appropriate funds in the 2015 budget it submits to Town Meeting, not the one submitted for the approval of the May 2013 Town Meeting. This resolution neither appropriates funds nor does it require that Transit Signal Prioritization be implemented.

By supporting this measure, you are supporting the idea that Transit Signal Prioritization could be a benefit to the Town, and is worthy of further study to ensure that the technology is safe, economically feasible, and fair to all users of the Beacon Street corridor.

SELECTMEN'S CLIMATE ACTION COMMITTEE RECOMMENDATION

The Climate Action Committee unanimously recommends favorable action on Article 22. This article, submitted by Michael Sanders and Christopher Dempsey, is a resolution to appropriate funds in the Fiscal Year 2015 budget to study the costs and benefits of prioritizing MBTA trolleys along Beacon Street.

Prioritizing MBTA trolleys involves modifying traffic signals to reduce the waiting time of trolleys at intersections. The existing traffic signals along Beacon Street are equipped to speed car, bicycle and pedestrian traffic, but not MBTA trolleys. Prioritization would improve the travel time of trolley service, providing an incentive for people to use public transit instead of personal vehicles. In addition to improving service for transit riders, all transportation modes would benefit from a study of Beacon Street traffic signal timing.

The Climate Action Committee would strongly encourage any such study to include consideration of the greenhouse gas impacts of trolley prioritization, or at least include a review of the information needed to make such an analysis so that the Climate Action Committee may do so. MBTA trolley prioritization along Beacon Street would very likely result in a reduction of greenhouse gas emissions as more residents choose public transit and idling times at intersections are reduced; data supporting these conclusions would provide evidence that such changes not only improve the MBTA service but also positively impact the environment and help mitigate climate change.

Therefore, the Selectmen's Climate Action Committee unanimously recommends favorable action on Article 22.

SELECTMEN'S RECOMMENDATION

Article 22 is a petitioned article that asks Town Meeting to adopt a resolution urging the Town to include funding in the FY2015 budget to commission a professional engineering study to analyze the feasibility of upgrading Town-owned traffic signals, controllers, and associated equipment along Beacon Street to allow for the prioritization of MBTA trolleys. While the Board understands the importance of improving the congestion on Beacon Street, we would like to see some follow-up with the City of Boston and the

MBTA before any funds would be committed to this study. We are concerned about duplicating at least some of the work that is already underway by the MBTA.

There may be some data available from the current studies on the other Green line branches that could be obtained without the cost of our own consultant. Signal prioritization on our end may not be enough to solve the problem considering the timing of loading and unloading passengers. As noted by one Selectman, to be effective at all crossings signal prioritization may require a change to the MBTA equipment allowing the operator to signal that the train is ready to go, and for the benefits to be fully realized, the MBTA would have to ensure that trains are quickly turned around rather than being held at the end of the line. The Board also wants to have a better understanding of the scope and cost of such a study before approving this kind of resolution, which is why we believe it makes sense to have our Transportation Board investigate the issue further.

Therefore, the Board recommends Favorable Action on the following motion to refer by a vote of 4-0 taken on April 23, 2013:

VOTED: To refer Article 22 to the Transportation Board.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 22 is a resolution asking that funds be included in the FY 15 budget that would support a professional engineering study of the costs and benefits of upgrading Town-owned traffic signals, controllers, and associated equipment along Beacon St. (the C line) to allow for the prioritization of MBTA trolleys.

It should be noted that no Town Meeting can require an action of a subsequent Town Meeting. Therefore, this is a resolution requesting a proposal.

DISCUSSION:
By the year 2017, The T will have all Green Line trains equipped with GPS devices (TSP). These devices will allow T passengers to follow Green Line trolleys on smart phone apps. It is also possible that these devices could alert traffic signals of approaching

trains (signal preemption). It wouldn't necessarily change the light but would allow for some prioritization.

The petitioners stated that the article requests a line item in the 2015 budget for a feasibility study – not the installation – of the prioritization of traffic signals. The study would determine if the GPS devices could work with the traffic control boxes at approximately ten intersections on Beacon St. Intersections where the trolley stops before a traffic light, such as Harvard St, Washington St, or St. Paul St. would not be included because of time spent for loading and unloading. The petitioners believe that in addition to improving service on the C line, signal prioritization would also encourage "discretionary drivers" to use public transit.

Todd Kirrane of the Transportation Department estimated the cost of such a study would be between $45,000-$50,000. The City of Boston will be conducting a similar study on the B Line along Commonwealth Ave. but these results would differ from ours because of a different traffic light system.

It was estimated that if the implementation were feasible, its cost would be between $100,000-$250,000 but the petitioners felt confident that these costs could be funded by other sources such as the state or federal government.

Members of the Advisory Committee support improving service on the Beacon Street line by making trips faster and more dependable, but some felt that it was hard to commit to such a study without knowing the final cost. Others questioned whether we should expend funds on this when there are other sections of town lacking any real public transportation.

It was noted that the Town has requested such a study by the MBTA for many years, but that the T has been unresponsive. It was further noted that the Town currently pays more than $5 million in MBTA assessments, yet rather than have the MBTA pay for this study, the resolution recommends the Town spend its own funds.

Generally, members felt there was value in understanding the feasibility and benefit of signal prioritizing along Beacon Street. But it was recognized that prioritization in one direction can be preemption in another, and backups in the underground stations may have the most impact on trip times and reliability. Still, this would be a focused study and it is in line with a broad transportation view of the area. It also, as the petitioners note, begins the conversation.

The Transportation Board, under whose purview this falls, already has expressed an interest in this project. Given that it is that body that would request funds in the FY15 CIP for such a study, the Advisory Committee saw no utility in asking this Town Meeting to resolve to ask a subsequent Town Meeting to ask itself to consider such funding, particularly when the Transportation Board has indicated its support of investigating signal prioritization.

Therefore, the Committee believes this article should simply be referred to the responsible body – the Transportation Board.

RECOMMENDATION:
By a vote of 14-4-0, the Advisory Committee agrees with the Selectmen's recommendation for referral to the Transportation Board.

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ARTICLE 23

TWENTY-THIRD ARTICLE
Submitted by: Carol Oldham

To see if the Town will adopt the following Resolution:

A RESOLUTION EXPRESSING OPPOSITION TO THE TRANSPORTATION OF CANADIAN TAR SANDS PRODUCTS THROUGH NEW ENGLAND AND TO SUPPORT LOW CARBON FUEL STANDARDS

WHEREAS, global warming pollution from fossil fuel use is having severe economic and environmental impacts on U.S. cities; and

WHEREAS, the well-to-tank phase of high carbon, high environmental impact fuels such as those from refineries using feed stocks from Canada's Tar Sands generates more global warming pollution than the well-to-tank phase of other fossil fuels; and

WHEREAS, the production of tar sands oil from Canada involves environmental and social impacts including damage to Canada's Boreal forest ecosystem and the Athabasca River ecosystem, destruction of scarce freshwater, generation of toxic waste held in open pits that leak, contamination of wildlife habitat, elevated levels of cancer in human communities downstream of tar sands operations and increased health risks to fence-line communities living near refineries using feed stocks from Canada's Tar Sands; and

WHEREAS, in 2010 a pipeline carrying derivatives of Canadian Tar Sands ruptured near Kalamazoo, Michigan spilling more than 800,000 gallons of pollution into the Kalamazoo River; and

WHEREAS, nearly two years after the spill the U.S. Environmental Protection Agency and Enbridge Pipelines Incorporated have not been able to achieve their stated objective of removing Tar Sands pollution from the Kalamazoo river,

NOW, THEREFORE, BE IT RESOLVED, that Brookline encourage the Commonwealth of Massachusetts and cities in the Northeast to develop and adopt policies to shift consumption away from transportation fueled by high impact fuels such as those from refineries using feed stocks from Canadian Tar Sands, including statewide and regional Low Carbon Fuel Standards (LCFS); and

BE IT FURTHER RESOLVED, that Brookline publicly opposes the transportation of Canadian Tar Sands and derivative products through the Commonwealth of Massachusetts; and

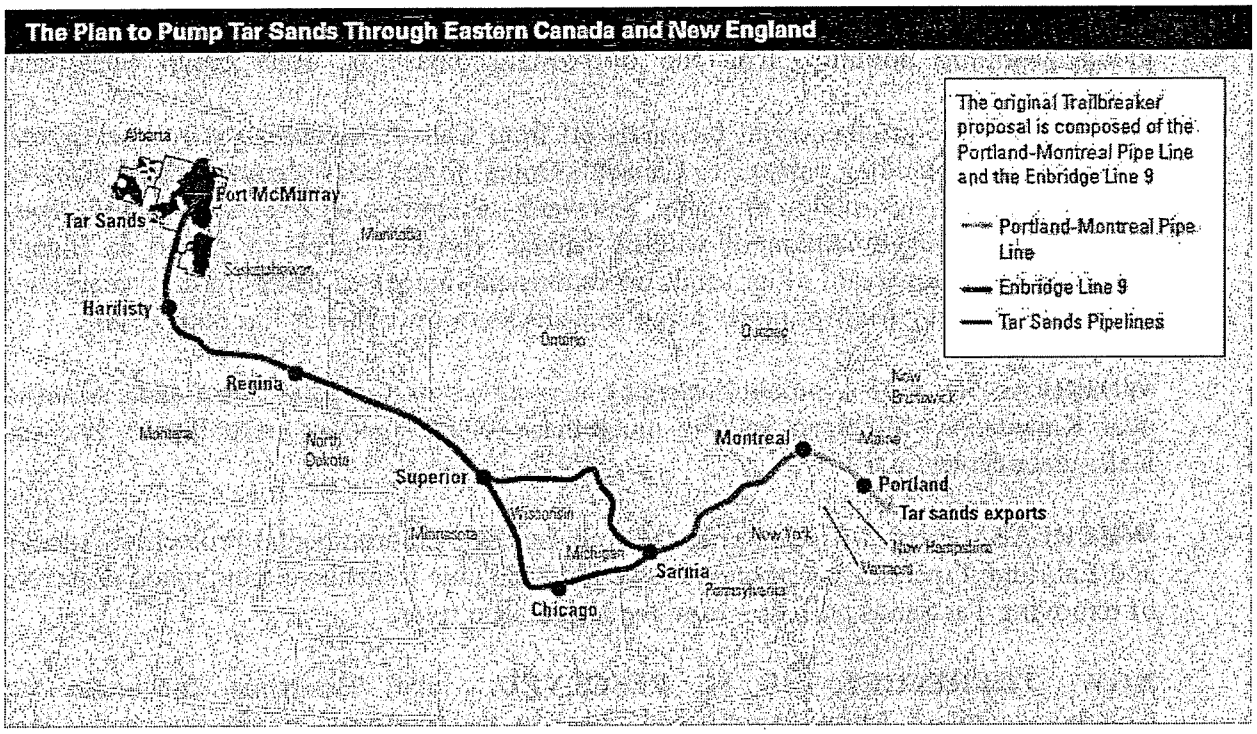
BE IT FURTHER RESOLVED, that Brookline publicly opposes the 'reversal' of the Portland-Montreal Pipeline; and

BE IT FURTHER RESOLVED, that Brookline express its opposition as stated by transmitting a copy of this resolution to the President of the United States, US Secretary of Energy, Massachusetts State Congressional delegation, Governors of Maine, Massachusetts, New Hampshire, and Vermont, CEO of Portland Pipeline Corporation, CEO of Montreal Pipeline Limited, CEO of Enbridge Incorporated, Prime Minister of Canada, and the Provincial Premiers of Canada.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Recently it has become apparent that that pipeline companies Exxon and Enbridge are reviving a pipeline plan that would take tar sands oil through New England[1]. The plan would reverse the direction of oil flowing through an aging pipeline that runs from Montreal Canada to Portland Maine, pumping Canadian tar sands oil, the dirtiest oil on the planet.



The pipeline project would transport tar sands oil through some of the most important natural and cultural places in Ontario, Quebec, Vermont, New Hampshire, and Maine. Areas the pipeline puts at risk include the Saint Lawrence River, the most important river in eastern Canada and a seasonal home for blue whales; the Androscoggin River, a New England waterway popular with anglers and paddlers as well as bald eagles, black bears, and moose; and Sebago Lake, home to native landlocked Atlantic salmon and a major

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[1] Natural Resources Defense Council, *Going in Reverse: The Tar Sands Oil Threat to Central Canada and New England* (2012)

drinking water resource for Portland, Maine's largest city[2]. As Nobel Laureate Jody Williams said in a recent Boston Globe op-ed "Tar sands oil is dirty, and they don't want it their backyard. And I don't want it in mine."[3]

An oil spill in these areas could devastate wildlife, pollute water, and compromise the health of local residents. Pipeline spills can and do occur, and there are indications that tar sands oil spills are far more prevalent than conventional oil spills. A tar sands spill near rivers, lakes, and other water bodies causes much more harm than a conventional oil spill because tar sands oil can sink and seriously complicate cleanup efforts[4].

Tar sands oil causes damage even before it gets in pipelines. The extraction and processing of tar sands oil requires a vast and destructive industrial operation. It razes and fragments large swaths of the Boreal forest, and burns enough energy to make tar sands oil production the fastest growing contributor to Canada's greenhouse gas emissions. It also harms the public health of communities located near oil refineries, including First Nations[5]. Transporting tar sands on this new route would only bring risks to Eastern Canada and New England.

The 60+ year-old pipeline runs over many waterways, including the Connecticut River - which flows in Vermont, New Hampshire, Massachusetts, Connecticut. More than 400 miles long, the Connecticut River is the mightiest river in New England and an American Heritage River. The river drains about one third of New England's landscape and provides 70 percent of all freshwater inflows to Long Island Sound[6].The pipeline crosses the Connecticut River at Guildhall, Vermont, just north of the popular Moore Reservoir. An oil spill could have far-reaching impacts to a variety of wildlife including the American shad and black duck which is increasingly declining and threatened by hybridization with mallards[7].

Tar sands oil is a problem not just for local communities involved in the mining, refining, and transporting. Tar sands are known as "the world's dirtiest oil" because the climate emissions are significantly higher than for conventional crude oil [8]. In a comparison of production emissions only, the per-barrel greenhouse gas emissions associated with oilsands extraction and upgrading are estimated to be 220 to 350 per cent higher than

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[2] Natural Resources Defense Council, *Going in Reverse: The Tar Sands Oil Threat to Central Canada and New England* (2012) 10-11.

[3] The Podium "Keep dirty oil out of New England" By Jody Williams, January 29, 2013

[4] Natural Resources Defense Council, Pipeline Safety Trust, National Wildlife Federation, Sierra Club, *Tar Sands Pipeline Safety Risks* (2011)

[5] Environmental Defense, *Dirty Oil, Dirty Air: Ottawa's Broken Pollution Promise* (2010).

[6] 12 P eter Alden and Brian Cassie, National Audubon Society Field Guide to New England (New York: Alfred A. Knopf, 1998), p. 13. Connecticut River Watershed Council, "The Connecticut and its tributaries," http://www.ctriver.org/our_region_and_rivers/about_our_rivers/index.html (accessed April 12, 2012). Connecticut River Watershed Council, "Watershed Facts," http://www.ctriver.org/our_region_and_rivers/river_facts/index.html (accessed April 12, 2012).

[7] U.S. Fish and Wildlife Service, Silvio O. Conte National Fish and Wildlife Refuge Final Action Plan and Environmental Impact
Statement, October 1995. http://www.fws.gc.//r5soc/library/natural_resources/watershed_species.doc

[8] Pembina's life cycle assessment checklist (Dan Woynillowicz, Jeremy Moorhouse and Danielle Droitsch, Life cycle assessments of oilsands greenhouse gas emissions (Pembina Institute, 2011).

conventional crude oil produced in Canada or the United States[9]. It is estimated that Canada's climate emissions due to fuel will double from 2000 levels by 2020, because of tar sands oil[10]. Once tar sands oil is flowing through this pipe, it would be politically difficult to turn it off. Backing away from a major climate polluter like this would be hard once the investment has been made.

This pipeline matters here for two reasons - Passing this resolution through Brookline Town Meeting will send a powerful signal to the companies that want to bring this "dirtiest oil" to the region. It will also send a signal to the statehouse, the governor's office, and to our representatives in DC that on the local level, people want to stand up against climate change and for cleaner energy.

And even more significantly, Brookline has made a major commitment to tackling climate change already – this is simply another step towards making our voice heard and being a leader on this important issue. As far back as April 25, 2000 (the forefront of climate action), the Brookline Board of Selectmen passed a resolution acknowledging that "greenhouse gases released into the atmosphere will have a profound effect on the Earth's climate." From making a robust climate action plan to the ongoing work of the Climate Action Committee to becoming a green community, Brookline has made a strong commitment.

This resolution states that because of climate change concerns from tar sands as well as spill risks and production issues like boreal forest destruction, Brookline will endeavor to move away from fossil fuels in general and tar sands oil in particular and move towards more sustainable and less polluting fuels like renewable energy. It also states that Brookline encourages the state of Massachusetts and other cities and states in the Northeast to do the same. And lastly, it resolves that Brookline will transmit a copy of this resolution to various elected and appointed representatives, including the President of the United States, the Massachusetts State Congressional delegation, the Governor of Massachusetts, the CEOs of involved pipeline companies, the Prime Minister of Canada, and the Provincial Premiers of Canada. Those parties represent the other states, elected and appointed individuals, and companies who have a stake in this issue.

SELECTMEN'S CLIMATE ACTION COMMITTEE RECOMMENDATION

The Selectmen's Climate Action Committee unanimously recommends favorable action on Article 23. The committee has conducted an abbreviated independent review of the literature, and concludes that petroleum fuels extracted from tar sands in Alberta, Canada create significantly more greenhouse gas (GHG) emissions than fuels typically in use in Brookline and the United States, and for that reason Brookline Town Meeting should oppose the transportation of such products by pipeline through New England.

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[9] Adam Brandt, Upstream greenhouse gas (GHG) emissions from Canadian oilsands as a feedstock for European refineries, Executive summary. (Department of Energy Resources, Stanford University, 2011), 41–42.

[10] Environment Canada National Inventory (1990-2008), Environment Canada GHG Forecast 2011

Alberta tar sand contains a sticky, black, highly viscous liquid or semi-solid form of petroleum called bitumen or asphalt. What distinguishes it from conventional petroleum is its small concentration of simple, low-molecular-weight hydrocarbons and the abundance of high-molecular-weight polycyclic aromatic hydrocarbons. Thus, tar sands crude petroleum is "dirtier" than other crude petroleum and fuels refined from it result in more greenhouse gas emissions. Precise, scientific measurement of how much dirtier these fuels are, however, is difficult. Life cycle assessments of the greenhouse gas emissions of tar sands oil can vary greatly depending on the analysis methodology employed.[11] Different sources, using different methodologies, have estimated the increase in emissions from as little as a few percentage points to over 300%.

We believe that the most credible analysis of Alberta tar sands oil greenhouse gas emissions is a study and summary of the technical literature done in March 2013 by the U.S. Congressional Research Service.[12] It concludes:

> Well-to-Tank (i.e., "production") GHG emissions are, on average, 70%-110% higher for Canadian oil sands crudes than for the weighted average of transportation fuels sold or distributed in the United States (in 2005).
> Well-to-Wheel GHG emissions are, on average, 14%-20% higher for Canadian oil sands crudes than for the weighted average of transportation fuels sold or distributed in the United States (in reference year 2005).[13]

Based upon these facts the CAC unanimously recommends favorable action on Article 23.

BACKGROUND

Tar sand "ore" consists of sand, bitumen, clay, and water. Ore that can be mined economically typically contains between 7% and 18% bitumen. Typically, to produce one barrel—42 gallons—of usable crude oil, two tons of oil sand must be mined.[14] The bitumen (or asphalt) in the ore is composed, on average, of 83% carbon, 10% hydrogen,

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[11]. Woynillowicz, Dan, Jeremy Moorhouse, Danielle Droitsch, "Life Cycle Assessments of Oilsands Greenhouse Gas Emissions," Pembina Institute, p. 5 (Jan. 31, 2011) (http://www.pembina.org/pub/2163).

[12]. The U.S. EPA reached a similar conclusion: "...we estimate that GHG emissions from Canadian oil sands crude would be approximately 82% greater than the average crude refined in the U.S., on a well-to-tank basis." U.S. Environmental Protection Agency review of Draft Environmental Impact Statement for the Keystone XL pipeline project. (Jul. 16, 2010) (http://yosemite.epa.gov/oeca/webeis.nsf/(PDFView)/20100126/$file/20100126.PDF?OpenElement). A study by Adam R. Brandt of Stanford University also provides a very interesting and comprehensive analysis, but is not strictly applicable to the warrant article under consideration since it compares Alberta tar sands oil to oil used in and produced by European refineries. See Brandt, Adam R., "Upstream greenhouse gas (GHG) emissions from Canadian oil sands as a feedstock for European refineries" (Jan. 18, 2011) (https://circabc.europa.eu/d/d/workspace/SpacesStore/db806977-6418-44db-a464-20267139b34d/Brandt_Oil_Sands_GHGs_Final.pdf).

[13]. Lattanzio, Richard K., "Canadian Oil Sands: Life-Cycle Assessments of Greenhouse Gas Emissions," Congressional Research Service, p. 9 (March 15, 2013) (http://www.fas.org/sgp/crs/misc/R42537.pdf).

[14]. Chevron Corp., "Oil Sands: Unlocking Untapped Energy," http://www.chevron.com/deliveringenergy/oilsands/?utm_campaign=US_Energy_Sources_-_Oil&utm_medium=cpc&utm_source=google&utm_term=canada_oil_sands&utm_content=saUU9VeJb|pcrid|17963032489|pkw|canada%20oil%20sands|pmt|b.

1% oxygen, and 5% sulphur.[15] It is a sticky, black, highly viscous liquid or semi-solid form of petroleum. Alberta tar sand bitumen contains hundreds of organic molecules, ranging from the simplest organic molecule, methane,[16] to large polycyclic aromatic hydrocarbons having molecular weights in excess of 15,000. What distinguishes bitumen from conventional petroleum is its small concentration of low molecular weight hydrocarbons and the abundance of high molecular weight polymeric materials.[17]

Mining and refining tar sand ore and burning the resulting fuel products releases carbon dioxide (CO_2) into the atmosphere. Carbon dioxide is the most significant greenhouse gas driving climate change. Today, global concentrations of greenhouse gases in the atmosphere have reached 394 parts per million,[18] the highest levels seen in at least 800,000 years, and up from 280 ppm before the Industrial Revolution.[19] Climate activists generally agree that a concentration of 350 ppm is the safe upper limit for CO_2 in the atmosphere.[20] The UN Framework Convention on Climate Change (UNFCCC) conference in Cancún in 2010 set a more realistic goal of a concentration level of 450 ppm, which is expected to have a 50% chance of stabilizing world climate at 2°C above current temperature levels.[21]

In assessing the rate of climate change, some experts suggest that total carbon in the atmosphere is a more reliable measure than atmospheric concentration. Scientists at Oxford University have estimated that in order to avoid crossing the 450 ppm or 2°C threshold, we must put no more than one trillion metric tons of carbon (3.67 trillion tons

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[15]. Rajagopalan, Sundeep Srinivasa, "Study of Bitumen Liberation from Oil Sands Ores," (University of Alberta) p.1 (2010), *Energy Fuels*, **2012**, *26* (5), pp 2883–2890 (http://pubs.acs.org/doi/abs/10.1021/ef300170m).

[16]. Methane (CH_4) is commonly referred to as "natural gas." Generally, when burned, hydrocarbons release CO_2 in proportion to their molecular weight. That is, when complex, heavy substances containing a great deal of carbon combine with oxygen (O or O_2)—that is, when they are burned—relatively more CO_2 is created, while the burning of lighter, simpler substances such as CH_4 creates relatively less CO_2. (The burning of the lightest element, hydrogen (H or H_2), creates no CO_2 at all; it creates only water (H_2O)).

[17]. Strausz, O.P., "The Chemistry of the Alberta Oil Sand Bitumen," Hydrocarbon Research Center, Department of Chemistry, University of Alberta, Edmonton, Alberta, Canada (1977) (http://web.anl.gov/PCS/acsfuel/preprint%20archive/Files/22_3_MONTREAL_06-77_0171.pdf).

[18]. Biello, David, "How Much Will Tar Sands Oil Add to Global Warming?" *Scientific American* (Jan. 23, 2013) (http://www.scientificamerican.com/article.cfm?id=tar-sands-and-keystone-xl-pipeline-impact-on-global-warming); NOAA Mauna Loa dataset (reported at: http://co2now.org/).

[19]. Etheridge, D. M.; L. P. Steele, R. L. Langenfelds, R. J. Francey, J.-M. Barnola, V. I. Morgan (1996) "Natural and anthropogenic changes in atmospheric CO2 over the last 1000 years from air in Antarctic ice and firn". Journal of Geophysical Research 101 (D2): 4115–4128 (ftp://wxmaps.org/pub/klinger/CLIM690/etheridgeetal96.pdf)

[20]. Hansen, James, et al., "Target Atmospheric CO_2: Where Should Humanity Aim?," Open Atmos. Sci. J. (2008), vol. 2, pp. 217-231 (http://www.columbia.edu/~jeh1/2008/TargetCO2_20080407.pdf)

[21]. Organisation for Economic Co-Operation and Development , "The OECD Environmental Outlook to 2050," p. 1 (Nov. 2012) (http://www.oecd.org/env/cc/Outlook%20to%202050_Climate%20Change%20Chapter_HIGLIGHTS-FINA-8pager-UPDATED%20NOV2012.pdf); Kopp, Matthias, Katharina Serafimova, "Decarbonizing Swiss Real Estate," p. 6, n.4 (Aug. 2012) (https://www.credit-suisse.com/ch/real_estate/doc/Nachhaltigkeit/study_decarbonizing_swiss_real_estate_eng.pdf).

of CO_2e) into the atmosphere by 2050.[22] At present, burning of fossil fuels and other activities have put over 500 billion metric tons of carbon in the atmosphere, and at present rates, it is estimated that the trillionth ton of carbon will be emitted in 2041. Alberta's oil sands represent a significant amount of carbon that could be converted to atmospheric CO_2. Using today's technology there are roughly 170 billion barrels of oil to be recovered in the tar sands.[23] This represents roughly 17 billion metric tons of carbon(62 billion tons of CO_2e).[24]

The Canadian government monitors the Alberta oil sands operations sector, which includes oil sands on-site extraction, oil sands mining and upgrading, and associated cogeneration facilities. It reports that these operations accounted for the largest share of 2010 greenhouse gases in Alberta, emitting 38.2 percent of total reported emissions, more than the electric power generation industry. In 2010, seven oil sands mining and upgrading facilities and nineteen oil sands in-situ facilities accounted for 46.8 million tons of carbon dioxide equivalent (CO_2e) emissions (12.8 million tons of carbon).[25] In response to Canadian regulation, including a $15 per metric ton price imposed on carbon, the tar sands industry has taken some steps to reduce greenhouse gas emissions. Shell Canada Ltd. has employed "alternatives to cracking bitumen and making pet coke… such as adding hydrogen to the cracked bitumen, a process that leaves little carbon behind," as well as adding carbon-capture-and-storage technology.[26]

SELECTMEN'S RECOMMENDATION

Article 23 is a petitioned article that asks Town Meeting to adopt a resolution in opposition to transportation fueled by high impact fuels such as those from refineries using feed stocks from Canadian Tar Sands. This resolution asks the Town to encourage policies to shift consumption away from these kinds of fuels. Through passage of this resolution, the Town will go on record in opposition to the transportation of Canadian Tar Sands and derivative products through the Commonwealth of Massachusetts as well as the reversal of the Portland-Montreal Pipeline.

The Board understands the dangers that high impact fuels such as those from refineries using feed stocks from Canadian Tar Sands cause to the environment. In addition to the incident in Kalamazoo, Michigan the most recent Mayflower, Arkansas spill further

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[22]. Allen, M.R., Frame, D.J., Huntingford, C., Jones, C.D., Lowe, J.A., Meinshausen, M. and Meinshausen, N., "Warming caused by cumulative carbon emissions towards the trillionth tonne." *Nature*, 458: 1163-1166 (2009) (http://www.nature.com/nature/journal/v458/n7242/full/nature08019.html) (likely peak carbon-dioxide-induced warming of 2°C above pre-industrial temperatures, with a 5–95% confidence interval of 1.3–3.9 °C).

[23]. Government of Alberta, Canada, "Facts and Statistics, Economics" http://www.energy.alberta.ca/oilsands/791.asp

[24]. Bliss, Jim, "Carbon Dioxide Emissions per Barrel of Crude, http://numero57.net/2008/03/20/carbon-dioxide-emissions-per-barrel-of-crude/

[25]. Government of Alberta, Canada, "Facts and Statistics, Environment: Greenhouse Gas Emissions," http://www.energy.alberta.ca/oilsands/791.asp

[26]. Biello, David, "How Much Will Tar Sands Oil Add to Global Warming?" *Scientific American* (Jan. 23, 2013) (http://www.scientificamerican.com/article.cfm?id=tar-sands-and-keystone-xl-pipeline-impact-on-global-warming).

demonstrates the threat that this pipeline project poses. The Town's recent rejuvenation of our Climate Action Plan reminds us that we must be constantly vigilant against threats not only within our borders, but to our global community. The Board thanks the Petitioner for bringing this issue to the Town's attention and agrees that multi-facetted approach will put pressure on the State Department to rule against construction of the pipeline.

Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 9, 2013, on the following:

VOTED: That the Town adopt the following Resolution:

A RESOLUTION EXPRESSING OPPOSITION TO THE TRANSPORTATION OF CANADIAN TAR SANDS PRODUCTS THROUGH NEW ENGLAND AND TO SUPPORT LOW CARBON FUEL STANDARDS

WHEREAS, global warming pollution from fossil fuel use is having severe economic and environmental impacts on U.S. cities; and

WHEREAS, the well-to-tank phase of high carbon, high environmental impact fuels such as those from refineries using feed stocks from Canada's Tar Sands generates more global warming pollution than the well-to-tank phase of other fossil fuels; and

WHEREAS, the production of tar sands oil from Canada involves environmental and social impacts including damage to Canada's Boreal forest ecosystem and the Athabasca River ecosystem, destruction of scarce freshwater, generation of toxic waste held in open pits that leak, contamination of wildlife habitat, elevated levels of cancer in human communities downstream of tar sands operations and increased health risks to fence-line communities living near refineries using feed stocks from Canada's Tar Sands; and

WHEREAS, in 2010 a pipeline carrying derivatives of Canadian Tar Sands ruptured near Kalamazoo, Michigan spilling more than 800,000 gallons of pollution into the Kalamazoo River; and

WHEREAS, nearly two years after the spill the U.S. Environmental Protection Agency and Enbridge Pipelines Incorporated have not been able to achieve their stated objective of removing Tar Sands pollution from the Kalamazoo river,

NOW, THEREFORE, BE IT RESOLVED, that Brookline encourage the Commonwealth of Massachusetts and cities in the Northeast to develop and adopt policies to shift consumption away from transportation fueled by high impact fuels such as those from refineries using feed stocks from Canadian Tar Sands, including statewide and regional Low Carbon Fuel Standards (LCFS); and

BE IT FURTHER RESOLVED, that Brookline publicly opposes the transportation of Canadian Tar Sands and derivative products through the Commonwealth of Massachusetts; and

BE IT FURTHER RESOLVED, that Brookline publicly opposes the 'reversal' of the Portland-Montreal Pipeline; and

BE IT FURTHER RESOLVED, that Brookline express its opposition as stated by transmitting a copy of this resolution to the President of the United States, US Secretary of Energy, Massachusetts State Congressional delegation, Governors of Maine, Massachusetts, New Hampshire, and Vermont, CEO of Portland Pipeline Corporation, CEO of Montreal Pipeline Limited, CEO of Enbridge Incorporated, Prime Minister of Canada, and the Provincial Premiers of Canada.

Passed by a Majority Vote

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 23 is a resolution expressing opposition to the transportation of Canadian Tar-sand products through New England and to support low carbon fuel standards.

Alberta, Canada has large deposits of tar-sands that contain oil. Extracting oil from tar-sands requires both a lot of water and a lot of energy (it requires 4 barrels of oil to win 7 barrels of oil from tar-sands). Extraction points to reach oil sands are strip mined; the extracted oil-sands are partially refined and require special refineries. Both extraction and refining have extremely high water use and a very high carbon impact. The thick tar-sands oil is transported through existing, old pipelines and many spills continue to occur. Five spills have been recorded since March 30th, causing devastation of the environment, deaths of animals, sickness of the population and loss of homes. The 60 year old pipeline that transports tar-sands oil through New England (from Portland, MA to Montreal, Canada) runs through Maine, New Hampshire and Vermont. The pipeline is close to drinking water resources for Portland. The pipeline runs through fertile farmlands, crosses the Israel river and is close to water supplies.

DISCUSSION:
Proponents of extracting oil from Alberta's tar-sands feel that this will produce energy independence and give both Canada and the U.S. an economic boost through jobs created to extract, refine and transport tar-sands oil.

However, tar-sands are seen by scientists, concerned about climate change, as the world's dirtiest fuel. This fuel has disastrous consequences on climate, environment; and communities through which the oil is transported using existing pipe lines.

The climate change impact.
The carbon impact of extracting, refining and using tar-sands is much greater than that of any other oil. Burning oil from tar-sands can be compared to the burning of asphalt. The presence of more carbons in this oil creates a larger carbon footprint and puts 200-300% more carbon into the air. The need to use low carbon alternatives is crucial in order to remain below an annual climate change of 2 Celsius; otherwise our planet will be destroyed We explore ways to reduce our carbon footprint through continuing to develop and use energy sources that have no carbon. The use of tar-sands would set us on an opposite path.

The environmental impact
Extraction results in deforestation and fouling of the environment. Strip mining at extraction points cause a long term loss of wildlife and tress. The enormous need of water the extract the oil-sands reduces water availability for others.

The transportation impact
The transportation of thick partially refined oil through pipelines is unsafe and dangerous and many dangerous spills continue to occur. Tar-sands oil is cheap and it is currently a very profitable commodity; the economics make sense at this time. However, anything that changes the economics may change the desire to extract tar-sands. The least expensive way to transport tar-sands is using the existing pipe lines. but these pipe lines have both internal and external problems and fail three times more often. Tar-sands are very thick and need to be pumped through at a higher pressure and heated in colder climates. Changing the mode of transport will be an important economic issue and may make extraction of oil-sands less desirable.

RECOMMENDATION:
The critical issues around the extraction, refining, transportation and use of oil-sands are not adequately addressed in this petition. The petition does address the dangers of transporting oil through old existing pipelines and it addresses the economic impact of stopping this inexpensive form of transportation. However stopping the pipe line will not stop the usage of this oil. Oil can also be transported via rail and boat. The biggest concern of a 200-300% increase of our carbon footprint is not addressed in this petition.

In spite of this the Advisory Committee supports this resolution. Most members feel that it is better to take one small step than none at all, and that with the voices of many communities we can help sound the alarm over the terrible environmental degradation that results from the extraction and burning of tar-sand oils.

By a vote of 20-2-0, the Advisory Committee recommends FAVORABLE ACTION on Article 23 as offered by the Selectmen.

XXX

ARTICLE 24

TWENTY-FOURTH ARTICLE

Reports of Town Officers and Committees

REPORT OF THE TRANSPORTATION BOARD ON ARTICLE 23 OF THE 2012 ANNUAL TOWN MEETING

At the May, 2012 Annual Town Meeting, Article 23 was referred to the Transportation Board. Submitted by Lee Selwyn, Article 23 was a Home Rule petition that would have limited the Transportation Board's authority with respect to contraflow bike lanes to that of developing recommendations to be submitted for Town Meeting approval. Both the Board of Selectmen and the Advisory Committee recommended referral to the Transportation Board, and Town Meeting ultimately agreed.

On May 16, 2013 the Transportation Board has adopted a new Article XII "Bicycle Regulations" as part of the Traffic Rules & Regulations which regulates bicycling along the public right of way. Included in this is:

Sec. 9 CREATION OF CONTRA-FLOW BICYCLE LANES ON ROADWAYS

(a) A contra-flow lane is a designated facility — either an on-street lane or a raised lane — marked to allow bicyclists to travel against the flow of traffic on a designated one-way street for motorists.

(b) The Transportation Board may consider the following conditions when evaluating a potential contra-flow lane location:

1. Safety is improved because of reduced conflicts;
2. Bicyclists can safely and conveniently reenter the traffic stream at either end of the section;
3. The contra-flow bike lane provides direct access to a high-use destination point;
4. There are no or very few intersecting driveways, alleys or streets on the side of the proposed contra-flow lane;
5. There is sufficient street width to accommodate a full-dimension bike lane;
6. The contra-flow bike lane provides a substantial savings in out-of-direction travel and/or safety compared to the route motor vehicles must follow;

(c) If, by a majority vote of the Transportation Board, a Contra-flow bicycle lane is approved for installation the Commissioner of the Department of Public Works, or his designee, shall incorporate all applicable federal, state, and industry standards and best practices into the design including:

1. The contra-flow lane must be placed on the correct side of the street, to the drivers' left, and separated by a double yellow centerline or buffered yellow centerline.
2. Any intersecting alleys, major driveways and streets must have signs indicating to motorists that they should expect two-way bicycle traffic.
3. Existing traffic signals should be modified for bicyclists, with loop detectors or push-buttons. The push-buttons must be placed so they can be easily reached by bicyclists.

Where the roadway width does not allow for the installation of two (2) bicycle lanes for both directions of travel, striping the contra-flow lane should take precedence over a with-flow bicycle lane.

Report of the Audit Committee to Town Meeting
May 2013

The Audit Committee is Chaired by Nancy Daly, Board of Selectmen. Greg Grobstein, CPA, and Jim Littleton, CPA, serve as the Moderator's appointees, Christopher Cox, CPA, was the third Moderator's appointee at the time of the audit but has since resigned since he moved out of Brookline. Ben Chang represents the School Committee, Lee Selwyn represents the Advisory Committee, and the ex officio members are Steve Cirillo, Finance Director, Michael DiPietro, Comptroller, Peter Rowe, Deputy Superintendent of Schools, and Sean Cronin, Deputy Town Administrator.

The Report on the Examination of the Town's Basic Financial Statements for the Fiscal Year 2012 which is also called the annual outside audit, was completed by our Auditors Powers & Sullivan in the late Summer and Fall of 2012. Powers & Sullivan is a firm of licensed certified public accountants based in Wakefield, MA, which does the audit work for many municipalities. Partners Richard Sullivan and Craig Peacock supervised the Audit. It complied with the Government Auditing Standards and included audits of the Town's financial statements concerning governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of Brookline for the fiscal year ended June 30, 2012.

The auditors look for any material misstatements in the basic financial statements prepared by the Town. In order to complete this, they test evidence supporting the amounts and disclosures in the basic financial statements. The auditors made the following statement: "In our opinion, the financial statements... present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of Brookline as of June 30, 2012, and the respective changes in financial position and cash flows, where applicable, thereof for the fiscal year then ended in conformity with accounting principles generally accepted in the United States of America" (emphasis added). The Auditors told the Audit Committee that they had no disagreements with the Town's management on the Audit statements and that no corrections needed to be made to the statements.

The purpose for the audit is to provide a review for us internally to make sure that the Town's financial records and procedures to handle cash and expenditures are being done appropriately and to provide information for federal grants and for the bond rating agencies.

The figures reported in the audit report provide a snapshot of the Town's finances as of a specific date. They do not indicate how much of those funds must be allocated toward upcoming payroll etc., although we can make certain assumptions based upon which category the funds are listed. The Town had assets totaling $310,496,940 for its

governmental and business activities as of June 30, 2012 of which $74,363,944 was in cash and cash equivalents (cash and cash equivalents are used for upcoming payroll and to pay bills on which the spending has already been committed, it may also include some funds that are designated to go into one of the Town's trust funds). At that same point, the Town had liabilities totaling $131,786,052. The Town's net assets from governmental activities increased by $9.87 million over the prior year, due in large part to capital grants and contributions of $6,537,959 (an increase of $5.5million over the previous year), most of which came from the Massachusetts School Building Authority for various school construction projects. The Water and Sewer Enterprise Fund net assets increased by $14.3 million, primarily due to the receipt of a capital grant of $12.6 million from the MWRA for the sewer separation work on lower Beacon Street.

The Town's total unfunded liability for Other Post Employment Benefits ("OPEBs") is $189,967,601. It was $207,886,602 two years ago at the end of fiscal '10. The reduction of $18 million is due to the Town setting up a trust fund for these monies which allowed us to legally increase the estimated rate of return on investments of those funds and the fact that the Town has actually put more money into the fund than we anticipated that we would be able to do. However, the town's Pension and OPEB Committee has revised the estimated rate of return from 8.15% down to 7.75% beginning in Fiscal 13 to reflect the current investment climate. This decision is reflected in the total unfunded liability. The lowering of the estimated rate of return increases the amount the Town needs to place in the fund annually to reach the Annual Required Contribution ("ARC") from $3.8 million to $5.7 million and pushes the estimated time that we can realistically expect to reach the ARC from 2018 to 2023. To the extent that Pension Fund investments improve as the economy recovers and the date at which the Pension Fund is fully funded is moved up, funding may be shifted to the OPEB fund earlier than currently expected and we could possibly reach the ARC on the earlier schedule.

Without rendering an opinion on the effectiveness of the Town's internal controls over financial reporting and noting that their consideration of our internal controls "would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses, the auditor's said that they did not find any material weaknesses or significant deficiencies, and they did not need to qualify the reports in any way. Brookline does the type of audit that is standard for municipalities, and which complies with Massachusetts General Laws and Government Accounting Standards. An audit with no adjustments is considered very good. They complimented the Town Finance Director Steve Cirillo and retiring Comptroller Judy Haupin and their staff on their thoroughness and organization in preparation for the auditors, which allowed the process to proceed efficiently. In particular, Ms. Haupin who was retiring before the completion of the audit made a great effort to have all of her material ready in advance of her departure.

As usual, the auditors paid particular attention to cash balances and our procedures in handling cash and they did not find any problems. However, they did note that the Town

needs to memorialize its Disaster Recovery Procedures in writing. In discussion with the Audit Committee and Town staff, the Auditors agreed that the town has implemented the correct procedures but they ask that those procedures and emergency contact and procedure information be included in a written document. The Town has agreed to implement that suggestion. The Town has also worked out procedures in connection with adding employees to the payroll that would satisfy the Auditors in greatly reducing any possibility that fraud could be committed. The School Department, the Comptroller's office and the Auditors are continuing the discussion as to how to have better controls over student activity fees without without implementing procedures that cost far more than the risk involved. The Auditors continued to advise that the student activity accounts should be audited once every three years.

The Town's financial reports are done in full compliance with the Government Accounting Standards Board's recommendations and while those recommendations have been geared toward making the statements easier for bonding agencies and other financial professionals to read, they have made the statements increasingly difficult for lay people to understand and interpret. The Audit Committee noticed that some progress has been made toward improving the notes and explanations.

The Audit Committee voted unanimously to accept the audit reports on November 28, 2012 and the Board of Selectmen also accepted them in December 2012.

HOUSING ADVISORY BOARD

Roger F. Blood, Chair
Steven A. Heikin
Michael H. Jacobs
Rita K. McNally
Rufus Phillips
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Town of Brookline
Massachusetts

AFFORDABLE HOUSING UPDATE

May 2013
Annual Town Meeting

Pursuant to a Warrant Article adopted by Town Meeting, the Housing Advisory Board has, since 1997, provided Town Meeting with an annual progress report on Brookline's work in support of affordable housing for income-eligible owners and renters.

Through its housing policies and programs, the Town seeks:

- to preserve existing affordable housing;
- to increase the supply of housing affordable to low- and moderate-income households town-wide by encouraging
  - the creation of affordable units in existing rental buildings and
  - appropriately sited and scaled mixed-income new development;
- to apply Town-controlled resources to leverage other public and private resources;
- to assure that housing so created is kept affordable for as long as possible.

Since the 2012 Annual Town Meeting, the Housing Advisory Board (seven citizen appointees) and Housing Division staff have undertaken the following actions to achieve these objectives:

1. **Co-sponsored and staffed a forum on Models for Senior Housing Development** on April 7, attended by over 130 persons, and bringing together some of the best area non- and for-profit developers/operators of senior housing who presented a variety of housing/service models. Themes running through the forum included the anticipated extraordinary increase in need for such housing, the advantages to the health and wellbeing of the aged of living in structured communities, and both the attractiveness of and challenges to developing such housing in Brookline.

2. **Completed the ten-year initiative to redevelop the 4.8 acre Town-owned reservoir site on Fisher Avenue as "Olmsted Hill"** in collaboration with New Atlantic Development Corporation (NADC). This project involved the dismantling and filling of two underground reservoirs, the installation of subdivision infrastructure, the construction of a 24-unit affordable condominium complex and the sale of 10 market-rate, single-family building lots. Excess revenue from the sale of the lots paid the Town's land price of $3.25 million, and contributed $2.3 million to write down the cost of the affordable units. The Town contributed another $2.1 million, including $1.3 million in federal HOME funds and $821,000 from the Town's Housing Trust, to subsidize the affordable units.

3. **Assisted the Brookline Housing Authority's efforts to advance plans for a new 32-unit low income rental project** at 86 Dummer Street on an underutilized portion of the site of the BHA's existing Trustman Apartments. The Town has committed up to $1.7 million in funding from Brookline's affordable housing sources, including more than $542,000 that is being advanced from the Housing Trust for pre-development work, and $600,000 in federal CDBG funds, advanced for a long-term ground lease. Brookline's federal HOME funds are expected to fund most of the remaining commitment, including pay-off of the pre-development loan. The project has received zoning approval; new legal entities have been set up to own and operate the project; architectural and engineering work is almost complete; awards for a portion of the required funding have been received from the Federal Home Loan Bank's Affordable Housing Program and from the Commonwealth of Massachusetts; and the BHA is awaiting a final award of tax credits and gap financing from the Commonwealth, potentially in time to enable a late 2013 or early 2014 construction start.

4. **Continued discussions with the Pine Street Inn regarding the purchase and preservation of two lodging houses** on Beals Street that it has operated under contract with the owner for several years. Acquisition of these properties, which have served as lodging houses over the past 80 years, will allow Pine Street Inn to significantly upgrade the exteriors and to redesign the interiors of this important source of affordable single person housing.

5. **Continued to work with the Planning Office for Urban Affairs (POUA) to close-out the multi-year St. Aidan's project**. St. Aidan's provided 20 affordable rental units and 16 affordable homeownership units; preserved the historic church building through adaptive re-use for nine market-rate condominiums; included an additional 14 market rate condominiums; and conserved the historic courtyard and beech tree. The affordable units have been occupied since 2009, and the last market-rate units closed in June of 2011. The developer is designing a plaque to describe the historic significance of the site and is completing its cost certification in order to identify any development period savings that might reduce the Town's subsidy.

6. **Co-sponsored a proposed zoning amendment to allow in-room cooking in affordable lodging houses** in parallel with emerging affordable housing industry standard that seek a higher level of amenity (and control over budget and diet) for those low income individuals who make lodging houses their long-term homes.

7. Continued to work with developers of **new market-rate projects subject to the inclusionary zoning provisions** (Section 4.08) of the Town's Zoning By-law:

- Established sale prices, reviewed documentation and developed a marketing plan for four affordable condominium units at 321 Hammond Pond Parkway, for submission to the State under its Local Initiatives Program, for count on the Subsidized Housing Inventory.

- Began a similar application for three affordable rental units at 1842 Beacon Street.

8. **Continued to support affordable homeownership** for those seeking or already owning an affordable home in Brookline, including the following:

   - Provided technical support to buyers of 24 affordable condominiums at Olmsted Hill and two units created under inclusionary zoning at 109 Sewall Avenue, as they were working with lenders to close on their units.

   - Worked with several owners of deed-restricted units seeking to reduce ownership costs through refinancing.

   - Worked with the nonprofit Brookline Improvement Coalition (BIC) to complete the sale of a deed-restricted unit, originally created under inclusionary zoning, to a qualified buyer selected by the Town. The Town had financed, through the Housing Trust, BIC's purchase of this unit at a foreclosure auction and its rehabilitation for resale. All proceeds from the resale were returned to the Housing Trust.

9. **Worked with nonprofit property owners to preserve existing affordable housing** through capital improvements funded by the federal Community Development Block Grant (CDBG):

   - Completed work with Specialized Housing, Inc., to make needed improvements to two residences serving the disabled, funded through the Housing Division's Affordable Housing Program.

   - Monitored contracts with the Brookline Housing Authority totaling over $1.4 million (almost $400,000 from the Affordable Housing Program and the balance in direct CDBG grants), resulting in improvements to six developments.

10. Worked to assure **continued affordability through annual monitoring** of almost 160 affordable homeownership units for continued owner occupancy and an estimated 450 affordable rental units at 16 Brookline properties for continued tenant eligibility.

11. Closed out the three year **Homelessness Prevention and Rapid Re-Housing Program,** funded under the American Recovery and Reinvestment Act of 2009 which, during three years, assisted 578 community members in 288 households, placed at risk by changing economic conditions. The Brookline Center, which had main responsibility for operating the program, obtained a limited amount of additional funding to continue these services.

For ongoing information about the Town's affordable housing programs and opportunities, please visit www.brooklinema.gov/housing, or look for the quarterly Update published by the Department of Planning and Community Development.

Town of Brookline

Interim Report of the Clean Construction Task Force (5/28/13)

Introduction

In May of 2012, Brookline Town Meeting voted unanimously to support Warrant Article 28, A Resolution to Support Clean Construction Standards to Protect Public Health and Climate Stability.

The Resolution asked the Town Administrator to create a Town Administrator's Task Force charged with examining the desirability and possibility of the Town enacting clean construction and compliance standards, including a study of cost-benefits; and to determine if adoption should be by means of guidelines and/or regulations, by means of a Town by-law, or by means of a State Statute; and submit a report to the 2013 Annual Town Meeting. The Resolution also asked that the Board of Selectmen be encouraged to ask for the strict enforcement of the no-idling by-law, Article 7.5.8 of the General By-Laws, with respect to on-road and non-road diesel engines in use on construction project sites.

This Warrant Article was advanced by Brookline High School students who were members of Youth of Massachusetts Organizing for a Reformed Economy. The Article was supported by a broad spectrum of Town organizations.

Based on the roles identified in the Resolution, Town Administrator Mel Kleckner appointed the following individuals to the Task Force:

Mel Kleckner, Town Administrator

Andrew Pappastergion, Commissioner, Department of Public Works

Alan Balsam, Director, Public Health and Human Services

Daniel Bennett, Building Commissioner

Patricia Maher, Advisory Council on Public Health

George Cha, Building Commission

Pema Doma, Brookline High School Representative YMORE

Nate Peck, Kaplan Construction Representative of the Construction Trades

Alan Leviton, Climate Action Brookline

Staff Support: Ashley Galloway, Graduate Student at BU School of Public Health

The Task Force met on several occasions throughout the winter and spring of 2013. The group focused on the following areas, which are each addressed separately in this report. They are:

1.) Research on the impacts of diesel exhaust on human health
2.) Research on the impacts of diesel exhaust on climate
3.) Retrofit of the Town's public works equipment
4.) Regulation of the School Department's bus transportation contract
5.) Regulation of the Town's public works projects
6.) Regulation of the Town's building construction projects
7.) Education and enforcement of existing anti-idling laws

Given the extensive costs and other public policy issues that are imbedded within these areas, the Task Force determined that more public dialogue of this Report and issue is necessary before making specific recommendations to Town Meeting. As a result, the Task Force shall initiate a series of meetings with relevant agencies and committees of the Town with an expectation of developing proposals for Town Meeting action in the fall of 2013. The one area the Task Force agreed did not have to wait was its recommendations on educating the public and enforcement of existing state law and Brookline's local by-law prohibiting excessive idling of motor vehicles.

Background

The Impacts of Diesel Exhaust on Human Health

Diesel exhaust is one of the nation's most pervasive sources of toxic air pollution (1). Diesel exhaust is a complex mixture consisting of over 40 toxic air contaminants of which include fine pollutant particles that are smaller than one-fifth of the thickness of a strand of human hair (2). (For more information on the components of diesel exhaust and their health effects refer to Appendix A). One of the main characteristics of diesel exhaust is the release of particles at a rate of about 20 times greater than from comparable gasoline engines. Over 90 percent of the mass of these particles are less than 2.5 microns in diameter. Because of their small size, these particles are easily inhaled into the bronchial and alveolar regions of the lung.

Particulate matter is another term for the small particles found in the air; some are large and dark enough to be seen as smoke/soot (1). Unlike the industrial pollutants released from smokestacks, diesel engine exhaust is emitted at ground level, where Americans breathe it every day—whether we walk, ride bicycles, drive cars, take the subway, or commute via train, ferry, or transit bus (3). Concentrations of these particles in vehicles and near roadways are much higher compared to area-wide monitors nearby. The Environmental Protection agency has shown NO2 concentrations specifically to be 30% to 100% higher near roadways than they are away from roadways. America's 11 million diesels (buses, trucks, trains, ships, and construction equipment) emit pollutants that lead to 21,000 premature deaths each year (4).

Research has shown that the population most at risk to the health effects from exposure to diesel pollution includes: those with heart disease, lung disease, those with asthma, the elderly, children, those of a lower socioeconomic status, pregnant women, newborns, and individuals with other health issues such as diabetes and obesity (4). As mentioned previously, the small size of these particles allows them to be absorbed deep within the

lungs and cause a number of serious health problems including: adverse cardiovascular effects (including heart attacks and strokes), increased hospital admissions for respiratory effects, and premature death.

Short-term acute exposures to diesel fumes can cause asthma and allergy conditions to intensify (5). Acute exposure has also been linked to irritations of the throat, eye, and bronchia (6). Long-term exposure to these fine particles can lead to: reduced-lung development, an increase in the risk of chronic respiratory issues, as well as adverse developmental and reproductive effects (including low birth weight and infant mortality) (5). These fine particles harm the functioning of heart and blood vessels which can lead to heart attacks, stroke, cardiac arrest, and/or congestive heart failure. Exposure to these particles over time can trigger inflammation, which can cause clots and can cause arteries to become clogged. This prevents the heart from getting the amount of oxygen and nutrients it needs, and subsequently leads to heart attacks and/or strokes (4). For these reasons, exposure to diesel exhaust has been linked to being responsible for premature deaths from such complications.

Cancer has been omitted from this report as a health effect due to the conflicting literature regarding the carcinogenicity of diesel exhaust. While there is an abundance of literature for both the occupational setting and the community setting, there is also a great deal of literature with competing evidence against it. In several analyses of the research, one of the largest confounders appears to be the various exposures to particulate matter that people incur (such as second hand smoke, or being a smoker themselves) and when the results are adjusted for these exposures, it is unclear if diesel exposure significantly impacts cancer risk. For these reasons this report focuses only on the definitive health risks to the community and not on the data that is unclear. However, it is pertinent to mention that 15 of the components of diesel exhaust are listed as possible and probable human carcinogens by the international agency for research on cancer. Recently, the World Health Organization's International Agency for Research on Cancer (IARC) reclassified diesel exhaust from a "probably" to a "known" carcinogen.

Asthma related illness is one of the primary concerns of particulate exposure from soot of diesel emissions due to its association with chronic disease and illness children. The CDCs Morbidity and Mortality Weekly Report from May 2012 noted that in a nationwide study on the prevalence of current asthma rates, that Massachusetts had the 4th highest percentage of all states within the United States(7). Compared to the state of Massachusetts as a whole, the prevalence of childhood asthma in the Town of Brookline from 2007-2008 was 10.4% versus 10.8% for the state average. For comparison, the same report noted that the prevalence of childhood asthma for the U.S. was 9% (8).

Climate Impacts of Diesel Exhaust

In addition to the number of health effects impacted by diesel exhaust, climate is also affected by pollution from diesel exhaust. The various components of diesel affect the climate in different ways depending on their specific properties (Appendix A). For instance, some particles have the ability to absorb and scatter light, while others may reflect the sun's rays and prevent the energy from being able to reach the Earth's surface. The length of time that the particles persist in the atmosphere also differs. Due to such varying characteristics of the components each has a different impact on climate (9-10).

Due to their chemical stability, long-lived greenhouse gases (LLGHGs), such as carbon dioxide and nitrous oxide can persist in the atmosphere for centuries or longer, which

results in their long-term influence on climate. Because of their longevity, LLGHGs become well mixed throughout the atmosphere at a faster rate than they are removed, making their global concentrations accurately measureable. Carbon dioxide for example, does not have a specific lifespan because it is continuously cycled between the atmosphere, oceans and land biosphere and its net removal from the atmosphere involves a range of processes with different time scales (11).

On the other hand, short-lived gases (e.g., sulphur dioxide and carbon monoxide) are chemically reactive and generally removed by natural oxidation processes in the atmosphere making their concentrations highly variable. Ozone is a significant greenhouse gas that is formed and destroyed by chemical reactions involving other species in the atmosphere. In the troposphere, the human influence on ozone occurs primarily through changes in precursor gases that lead to its formation, whereas in the stratosphere, the human influence has been primarily through changes in ozone removal rates caused by chlorofluorocarbons (CFCs) and other ozone-depleting substances (11).

Ozone damages vegetation impacting the growth of plants and trees (9). Ozone decreases crop yields, and the damage it presents to plants may alter the ecosystem structure, reduce biodiversity, and decrease plant uptake of CO2. Ozone is also a greenhouse gas (GHG) that contributes to the warming of the atmosphere. Another GHG is carbon monoxide. Greenhouse gases are necessary for life because they keep the surface of the Earth warm. However, as the concentrations of these gases continue to increase in the atmosphere, the Earth's temperature is climbing above past levels. Such changes in temperature, along with changes in precipitation and other weather conditions due to climate change, may lead to even higher air pollution levels.

Pollution in the form of acids and acid-forming compounds (SO2 and NOx) can deposit from the atmosphere to the Earth's surface in dry or wet form. The wet deposition is referred to commonly as acid rain (9). Acid rain precipitation can be up to 100 times more acidic compared to natural rain. Acid rain can occur anywhere however, it can be a serious regional problem for areas that are down-wind from locations that have high emissions (9). Acid rain damages land and water by directly adding stress to trees, altering the chemical composition and physical characteristics of soil, and by killing fish and other aquatic life in lakes (9).

Another component of diesel exhaust, particulate matter, impairs visibility, adversely affects ecosystem processes, and damages structures and property. Particulate matter exhaust also interacts with various cloud processes (9-10). For example, different particles can increase or decrease the reflectivity of clouds leading to cooling and warming effects (10). Black carbon, a component of particle pollution, directly absorbs solar radiation and reduces reflection of sunlight off of snow and ice. In these ways black carbon contributes to increased absorption of energy at the Earth's surface and warming of the atmosphere.

Areas of Mitigation

The Environmental Protection Agency recently set new standards for the maximum level of soot that can be released into the air by diesel trucks, smokestacks and other sources of pollution in January of 2013 (12). These new regulations were created as a revision of the previous standards from 1997 bringing the level down from 15 micrograms-per cubic meter of air, down to 12 micrograms per cubic meter (13). The new standards were

based on a court ruling from 2009 where it was determined that the acceptable amount of soot (15 micrograms) exceeded the amounts proposed by scientific advisors for a safe level (13). The Clean Air Task Forces' diesel cleanup campaign group estimates that a standard ranging from 11 to 13 micrograms would be sufficient enough to have a protective health impact and estimated that 15,000 lives a year will be saved when the new 12 microgram standard takes full effect, the new standards are to be fully implemented by 2020 (3).

The following issues were explored by the Committee to potentially mitigate to impact of Diesel Fuel Emissions:

Department of Public Works Equipment

Current Status: Current equipment replacement policies of the DPW are based on vehicle life-cycle analysis, and are used to determine the optimal time to replace each type of equipment. Most diesel trucks are replaced every seven (7) to fifteen (15) years from small utility and service trucks at the low end to large dump trucks and specialty equipment at the high end. In 2010, the DPW received a grant from the Massachusetts Department of Environmental Protection to retrofit seven (7) refuse packers with diesel oxidation catalysts. In addition, all new diesel vehicles purchased since 2008 have come equipped with diesel particulate filters.

Potential Recommendation: The Committee discussed retrofitting current DPW equipment that is powered by diesel engines in excess of fifty (50) horsepower, with after-treatment pollution control devices that reduce the following emissions *Particulate Matter* (PM), *Nitrogen Oxides* (NOx), *Hydrocarbons* (HC), *Carbon Monoxide* (CO). The devices available are as follows:

Diesel Particulate Filters (DPF) – Diesel particulate filters are exhaust after-treatment devices that significantly reduce emissions from diesel fueled vehicles by using a porous ceramic or metallic filter to physically trap particulate matter and remove it from the exhaust stream. DPF's must be used in conjunction with ultra-low sulfur diesel fuel (sulfur content of less than 15 ppm) and rely on either passive or active regeneration systems to oxidize the PM accumulated in the filter. Typical reductions of 85-95% in PM, 85-95% in HC and 50-90% in CO are achieved.

Selective Catalytic Reduction (SCR) – Selective catalytic systems inject a reductant, also known as diesel exhaust fluid (DEF) or urea, into the exhaust stream where it reacts with a catalyst to convert NOx emissions to nitrogen gas and oxygen. SCR's are commonly used in conjunction with DPF's and can achieve up to a 75% reduction in nitrous oxide.

Diesel Oxidation Catalyst (DOC) – Diesel oxidation catalysts are exhaust after-treatment devices that provide for reductions of 20-40% in PM, 40-70% in HC and 40-60% in CO. These systems consist of a flow-through honeycomb structure that is coated with a precious metal catalyst and surrounded by a stainless steel structure. As hot diesel exhaust flows through the honeycomb a catalytic reaction occurs that breaks down the pollutants.

- ***Potential Retrofit Program – FY2015 to FY2020***

  The Department of Public Works (DPW) has forty-nine (49) vehicles that currently meet the 50 horsepower threshold and would be included in a potential retrofit program. These vehicles include 1-ton service trucks, 15 and 20 ton dump trucks, backhoes, loaders, cranes, vacuum jet trucks and refuse packers.

  A proposed retrofit program of five (5) years to bring all DPW diesel vehicles into compliance with the stated emissions reductions could be achieved by:

  1. Ordering all diesel equipment scheduled to be replaced over the five year period beginning in FY2015 with DPF's and SCR's;
  2. Retrofit all remaining vehicles (not scheduled for replacement until 2020 or later) with the appropriate emission controls over the same five year period.

  Based on the attached Diesel Inventory, fourteen (14) vehicles would have to be retrofitted over five years beginning in FY2015 at an estimated total cost of $275,000.

Considering the budget impact such a program would have the Committee believes further discussion is needed with stakeholders involved in the Town's CIP process.

Department of Public Works

Inventory of Diesel Equipment > 50 HP

	Unit #	Year	Make	Model	Vehicle Type	Replacement Year	Current Controls	Proposed Controls	Cost
1	201	2012	INTERNATIONAL	Terrastar	2 Ton	2019	DPF		
2	203	2008	CHEVROLET	C4500	1 Ton	2014	NONE		
3	205	2005	CHEVROLET	C4500	1 Ton	2013	NONE		
4	206	2009	CHEVROLET	C4500	1 Ton	2017	NONE		
5	207	2008	CHEVROLET	C4500	1 Ton	2016	NONE		
6	208	2006	CHEVROLET	C4500	1 Ton	2015	NONE		
7	209	2008	CHEVROLET	C4500	1 Ton	2017	NONE		
8	214	2003	CHEVROLET	C70	20 Ton	2014	NONE		
9	220	1998	FORD	VACTOR	20 Ton	2021	NONE	DPF/SCR	25,000
10	221	2001	CHEVROLET	VACTOR	20 Ton	2014	NONE		
11	222	1999	MACK	MR688P	20 Ton	2016	NONE		
12	225	2001	STERLING	L8000	15 Ton	2016	DOC		
13	227	2006	CHEVROLET	C8500	15 Ton	2021	NONE	DPF/SCR	25,000
14	255	2008	JCB	4CX	Backhoe	2023	NONE	DPF	10,000
15	256	2007	JCB	4CX	Backhoe	2022	NONE	DPF	10,000
16	303	2008	FORD	F550	1 Ton	2019	NONE	DPF	10,000
17	320	1995	WHITE/GMC	W642	20 Ton	2020	NONE	DPF/SCR	25,000
18	321	2005	Volvo	VHD	20 Ton	2015	NONE		
19	322	1995	WHITE/GMC	W642	20 Ton	2020	NONE	DPF/SCR	25,000
20	323	1995	WHITE/GMC	W642	20 Ton	2015	NONE		
21	324	2005	Volvo	VHD	20 Ton	2015	NONE		
22	325	1995	WHITE/GMC	W642	20 Ton	2019	NONE		
23	326	2006	Volvo	VHD	20 Ton	2016	NONE		
24	327	2007	Volvo	VHD	20 Ton	2018	NONE		
25	328	2007	Volvo	VHD	20 Ton	2018	NONE		
26	329	1997	FORD	L8511	20 Ton	2020	NONE	DPF/SCR	25,000
27	331	1988	INTERNATIONAL	F2674	32 Ton	2020	NONE	DPF/SCR	25,000
28	332	2004	VOLVO	VHD	32 Ton	2020	NONE	DPF/SCR	25,000
29	333	2011	VOLVO	VHD	32 Ton	2026	SCR	DPF	10,000
30	334	2006	VOLVO	VHD	32 Ton	2016	NONE		
31	335	1981	AUTOCAR	DC7344	20 Ton	2020	NONE	DPF/SCR	25,000
32	336	1997	FORD	L8511	20 Ton	2017	NONE		
33	338	2008	ISUZU	LF8	Packer	2021	NONE	DPF/SCR	25,000
34	339	2008	FORD	LCF55	Packer	2017	NONE		
35	343	2010	MACK	MRU613	32 YD Packer	2025	SCR	DPF	10,000
36	344	2001	MACK	MR688S	31 YD Packer	2017	DOC		
37	345	1999	MACK	MR688S	31 YD Packer	2014	DOC		
38	347	2001	MACK	MR688S	31 YD Packer	2016	DOC		
39	348	2003	MACK	MR688S	31 YD Packer	2018	DOC		
40	349	1999	MACK	MR688S	31 YD Packer	2015	DOC		
41	350	2003	VOLVO	L110	Loader	2018	NONE		
42	351	2011	VOLVO	L120F	Loader	2021	DPF		
43	352	2012	CASE	590SN	Backhoe	2022	DPF		
44	410	2008	FORD	F650	1 Ton	2017	NONE		
45	414	2004	FORD	F450	1 Ton	2016	NONE		
46	415	2004	CHEVROLET	GMT 400	1 Ton	2014	NONE		
47	420	1995	FORD	L8000	15 Ton	2015	DOC		
48	450	2004	KOMATSU	WB150TS	Backhoe	2019	NONE		
49	452	2003	JCB	212S	Backhoe	2018	NONE		
								14	$275,000

		Typical Emission Reductions (%)				
		PM	NOx	HC	CO	Avg Cost
DOC	Diesel Oxidation Catalyst	20-40		40-70	40-60	$2,000
DPF	Diesel Particulate Filter	85-95		85-95	50-90	$10,000
SCR	Selective Catalytic Reduction		up to 75			$15,000
EGR	Exhaust Gas Recirculation		25-40			
LNC	Lean NOx Catalyst		May-40			$8,000

Preferred Option

Assume a 5 year program to bring all vehicles into compliance. Therefore any vehicle scheduled for replacement within the next 5 year period would be ordered with compliant controls (assuming an 85% reduction in particulate matter and a 75% reduction in nitrous oxide). All other vehicles would be retrofitted over the 5 year period beginning in FY 2015.

School Buses and Diesel Emissions

Current Status: The Brookline School Department contracts out transportation service. Currently we have 7 buses, 9 in-town vehicles, and approximately 30 out-of-town vans in use transporting children.

Two issues have been identified as having potential to reduce diesel emissions. The first is ensuring that any bus or van built before 2008 is retrofitted to reduce emissions. Vehicles built after 2008 already comply with EPA standards. The second is to ensure that all buses and vans adhere to State and Brookline regulations limiting idling.

With regard to the retrofit issue, it appears that all vehicles utilized in our school program are newer than 2008, or will be by 2014.

Regarding the idling issue, the School Department has utilized grant funds to reach out to all bus and van drivers regarding the idling regulations, has conducted education, and has distributed small flyers to vehicle drivers outlining the restrictions on idling.

Potential Recommendation: The Committee recommends that the School Department work on any education campaign undertaken by the Town, and will specifically include language referencing the idling requirements in the bid specifications for transportation services when they are promulgated.

Construction Projects Overseen by the Building Department

Current Status:

Building Department Capital Improvement (Town) Construction Projects: Construction equipment engines produce more than 25% of all diesel fine particulate matter (PM) pollution in Massachusetts. The Town of Brookline, through the Public Buildings Division of the Building Department, implements a robust Capital Improvement Program (CIP). The CIP consists of minor projects such as concrete floor sealing to major multi-million dollar construction projects. Early into the process of examining the issues surrounding the adoption of clean construction and compliance standards concerns were raised regarding the financial impact on the Town's CIP. Initially Brookline would be in the forefront with a local ordinance regulating diesel emissions with a broader goal of a statewide effort. If Brookline is one the first communities to adopt this type of ordinance it may have a financial impact on the CIP. In the future if a statewide regulation is enacted this would even the playing and field and the impact would be directed to all communities and not only Brookline. In the short term, smaller entities may not be able to comply and therefore not participate in the bid process; cost to comply may be reflected in bids, less competition in the bidding process etc.

Potential Recommendation: In order to better understand the financial impact a Table (Appendix B) was prepared and an analysis was performed to determine the common factors of some existing diesel emissions ordinances. The review found most ordinances provided an exemption for construction projects based on various factors; including but not limited to contract dollar amount, days equipment is on site, hour of operation and others. In addition a list of major past, current and future CIP projects

was prepared, based on dollar value, to determine how many projects would be affected if such an ordinance is implemented (see below). Lastly, a model contract specification (Appendix C) was reviewed and modified to Brookline specifications. This document would be incorporated in all Town contracts to address Diesel Emissions Control Technology. The specifications include a certification that must be completed and submitted upon execution of the contract and shall apply to all contracts greater than $2,000,000. There is also a section pertaining to Article 7.5.8 Idling of Motor Vehicles and M.G.L. ch.90 §16A. This will provide an avenue of informing the contractor of the State and Local regulations regarding idling of motor vehicles. Going forward the Task Force will review the available options and determine the best exemption criteria that will result in a meaningful and effective ordinance that will reduce emissions and not adversely impact the Town's CIP financially.

Major Capital Improvements Projects through 2018

Past Years:

Town Hall	$17,000,000
Public Safety Building	$10,000,000
Main Library	$12,000,000
High School Roof	$ 4,000,000
Heath School Renovation	$ 8,000,000
Runkle School Addition	$29,000,000

Current/Future Years:

Roof Repairs	$ 5,400,000
Fire Station Renovations	$ 2,350,000
Town Hall Garages	$ 2,000,000
Municipal Service Ctr	$ 2,500,000
Old Lincoln School	$ 3,000,000
Devotion School	$90,000,000
Fire Dept. Main./Training Bldg.	$ 3,000,000

Considering the budget impact such a program would have the Committee believes further discussion is needed with stakeholders involved in the Town's CIP process.

Potential Recommendation: Similar to the Building Department, the impact of including contract specifications for DPW Public Construction projects needs to be examined further. In conjunction with the Massachusetts Department of Transportation (MassDOT) *Standard Specifications for Highways and Bridges Section 3.04*, contractors will certify that all non-road diesel construction equipment greater than 50 horsepower must have emission control devices installed on the exhaust system such as oxidation catalysts and/or particulate filters. The certification must include a list of the type, number and emission controls for all equipment in question. This certification must be completed and submitted upon execution of the contract and shall apply to all contracts greater than $1,000,000.

Considering the budget impact such a program would have the Committee believes further discussion is needed with stakeholders involved in the Town's CIP process.

Compliance with Anti-Idling Bylaw

Section 7.5.8 Idling of Motor Vehicles (Also MGL Chapter 90, Section 16A)

> No person shall cause, suffer, allow or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped, on a private way or on private property, for a foreseeable period of time in excess of five minutes. This prohibition shall not apply to (a) vehicles being serviced, provided, that the operation of the engine is essential to its proper repair, or (b) vehicles engaged in the delivery or acceptance of goods, wares or merchandise for which the engine assisted power is necessary and substitute alternate means cannot be made available, or (c) vehicles engaged in an operation for which the engine power is necessary for an associate power need other than movement and substitute alternate power means cannot be made available, provided, that such operation does not cause or contribute to a condition of air pollution.

Current Status:

Building Department: In order to educate contractors and enforce the provisions of Article 7.5.8 Idling of Motor Vehicles, the Building Department has added language to the back of its Permit Job Card alerting all contactors of the maximum 5 minute idling time period. The Permit Job Card is issued with every construction project requiring a permit and is required to be displayed on the job site. The reverse side of the permit job card contains numerous types of pertinent information for contractors, including Town Department contact information, Inspector's numbers, inspection requirements, noise by-law information and now information on Article 7.5.8 Idling of Motor Vehicles. This is the most effective way to reach the more than 1800 construction projects that are active annually within the Town of Brookline.

Department of Public Works: As part of the Massachusetts Department of Environmental Protection's consumer grant program of FY2009, the DPW received and installed idling reduction signs for posting in various areas of the Town, installed dashboard decals in all town vehicles to deter unnecessary engine idling beyond five minutes and installed engine idling cut-off controls on all refuse packers. In addition, the department has installed GPS tracking equipment on most DPW vehicles which are programmed to notify supervisors when vehicle idling times exceed five minutes. It is further proposed that additional "No Idling" signs be installed at all school drop-off locations throughout the Town.

Recommendation:

Anti-Idling Educational Campaign

As part of the effort to reduce the impact of diesel fume emissions in the Town of Brookline, the Clean Construction Task Force proposes to implement a public health educational campaign to reduce idling in the Town.

One of the main components of the educational campaign is to increase public awareness of the health and climate effects of diesel exhaust and the ways in which idling contributes to these effects. To accomplish this goal, a primary focus of the campaign will be a personal narrative from a spokes person for the campaign; ideally a child with asthma. The premise of the story will be that although Brookline generally has better rankings on a large majority of health issues compared to the rest of the state, this is not true of childhood asthma rates. In fact, the childhood asthma rate in Brookline are not better compared with many other communities in Massachusetts and the rates in Brookline are the same as the state average childhood asthma rate (about 10.8%).

The educational campaign will focus on reducing idling in general, while placing specific emphasis on reducing diesel vehicle idling, as the goal of the Clean Construction Task Force is to reduce the impact of diesel fume emissions in the Town of Brookline. The campaign will consist of several components, many of which will be accomplished by a small team of graduate student interns hired on by the Brookline Department of Public Health (roughly 2-4 students).

The activities of the campaign include:

- A public service announcement (PSA) that will be run through Brookline Access TV. The PSA will need to be scripted and will be run with the personal narrative mentioned previously. A graduate student intern will be in charge of constructing and helping to disseminate the PSA.

- A public relations component that includes a series of articles on the health effects of diesel exhaust, the climate effects, the actions the Town is taking to reduce emissions including the regulations for diesel retrofits and the anti-idling law, and the personal narrative. These pieces will be run separately over the course of several months to increase awareness and accountability. The articles will be sent to Brookline Tab, Hub, Patch, Brookline.com, Brooklinema.gov, the Town Facebook page, Twitter, the Jewish Advocate, and the Boston Globe. The same graduate intern working on the PSA, would also be responsible for drafting these press releases.

- To increase public awareness, educational materials will be made available to distribute to bus and van drivers as well as to parents at schools. These materials will include items such as stickers to give out and put in/on vehicles focusing on anti-idling and bookmarkers with information on health effects, climate effects, and information on anti-idling. These items will be distributed during National Public Health week. Roughly two to three student interns will do a blitz in which they will approach parents and bus drivers one on one, while they are waiting to pick their children up from school and/or sporting events at the school.

- Approaching the transportation department and other Town departments about making signs of anti-idling more visible where idling is likely to take place. The Department of Public Health is willing to offer some examples to these departments of appropriate signs and to help identify the appropriate locations for their placement.
    - Examples of such locations are: school bus waiting lots at all local Brookline schools, parent car pick-up locations at schools, areas near the gyms at schools where parents and buses often wait for games to finish, and locations where construction projects are taking place.
    - To get the community involved, a competition could take place to see who could design the best sign to be used in the campaign.

Collaboration is also a major factor in the success of the campaign and includes the following pieces:

- Implementing enforcement mechanisms in collaboration with the police department to issue warnings for violations of the anti-idling bylaw.
- Collaboration between the Brookline Department of Public Health and the science coordinator in the Brookline Schools, and Brookline Teen Center will be necessary to include educational activities around diesel exhaust health effects, climate effects, and anti-idling during the week that National Car Free School Day takes place in October of each year.
- One of the objectives of Climate Action Brookline is to reduce diesel emissions; because they share this common objective with the Clean Construction Task Force, the groups will work together on Climate Week initiatives to achieve this goal.

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List of Appendices

APPENDIX A:

Additional Elements of Diesel Exhaust and Their Effects

APPENDIX B:

Brookline Clean Construction Survey

APPENDIX C:

Model Clean Contract Specification

APPENDIX D:

Model Clean Certification Statement

APPENDIX E:

Ordinances from Other Jurisdictions

APPENDIX F:

Massachusetts Anti-Idling Law and Regulation

APPENDIX G:

Town of Brookline Anti-Idling Bylaw

To conserve paper in the Combined Reports the Appendices can be found at:

http://tinyurl.com/Cleanconst

INTRODUCTION AND SCOPE

The Moderator established this committee in July 2009 in response to a Town Meeting resolution. Article 26 called for the "...Adoption of a Pay As You Throw (PAYT) Municipal Waste System." By a majority vote, Town Meeting voted "To refer the substance of Article 26 to a Moderator's Committee whose members shall include representation from the prior Pay As You Throw Study Committee to report at the latest to the 2010 Fall Special Town Meeting. Besides studying Pay As You Throw, the Moderator's Committee should also study possible alternative ways of meeting the goals of increasing recycling and reducing solid waste including but not limited to education, single stream recycling, and automated waste collection."

The committee held over 25 meetings, two public hearings, and formed sub-groups to investigate specific topics and considerations. As part of this process, the committee met with Newton's Commissioner of Public Works, representatives from the town's recycling contractor, and an official from the Massachusetts Department of Environmental Protection. All meetings were properly noticed and the public was invited to attend and comment. Interim reports were issued in November 2010 and November 2011.

A list of current committee members is included as Appendix A.

COMMITTEE FINDINGS RELATING TO PAY-AS-YOU-THROW PROGRAMS

- Municipalities implement Pay-As-You-Throw (PAYT) programs in an effort to reduce the amount of Municipal Solid Waste (MSW or trash) generated for collection and disposal. By reducing the amount of MSW collected and sent to landfills or for incineration, costs decrease.
- Pay-As-You-Throw programs are widely believed to reduce MSW through diversion, which happens when materials are recycled, composted, or reused rather than disposed of as solid waste; and by triggering behavior changes and consumer choices that may result in less trash. The US EPA identifies potential decreases in household waste and increases in recycling rates resulting from Pay-As-You-Throw programs. See the US EPA reports at http://www.epa.gov/epawaste/conserve/tools/payt/top15.htm
- Some municipalities with Pay-As-You-Throw programs seek to provide residents with financial incentives to divert and/or reduce trash generation. Such practices seek to contain costs and/or to meet goals to limit use of landfills, reduce greenhouse gases, or become a "zero waste" community.
- Automated and semi-automated collection systems using carts can increase collection efficiency and reduce the risk of worker injury related to heavy lifting, thereby lowering costs.
- Although trash collection is volume-based from the perspective of the typical household, trash disposal costs for the town are weight based. Estimates for converting volume to weight span a wide range.

- Many Pay-As-You-Throw programs operate with a model that uses marked trash bags or stickers placed on regular trash bins. A price is established for disposal of each unit of trash, and only appropriately marked trash is collected.
- Pay-As-You-Throw communities that utilize automated or semi-automated systems and standard containers approach container size options and pricing in different ways. As examples:
    - Newton and Lowell, MA provide each household with a 64 gallon container and the ability to purchase additional bags for overflow waste. Smaller trash containers are available at resident request but there is no cost consideration. These communities and 19 others in the Commonwealth are listed along with their 2011 waste disposal practices in Appendix B.
    - Austin, TX, Seattle, WA, and Berkeley, CA offer multiple cart sizes (Austin 24, 32, 64, and 96 gallon; Berkeley 13, 20, 32, 64, and 96 gallon; and Seattle 12, 20, 32, 64, and 96 gallon) with higher cost for larger containers. In Austin, residents are charged a base fee plus a cost per gallon. Seattle and Berkeley establish prices based on container size, with Seattle's cost per gallon generally decreasing for larger sizes and Berkeley's consistent regardless of container size.
- Of approximately 130 Massachusetts communities where data were available, the costs and details of trash removal fees varied widely.

COMMITTEE FINDINGS RELATING TO WASTE REMOVAL IN BROOKLINE

- Brookline's DPW provides waste removal services for 13,277 of approximately 25,000 households. The DPW does not provide service to certain multi-family buildings.
- Households using private service rather than town collection already effectively operate with a Pay-As-You-Throw model since private companies charge based on amount of both trash and recycling.
- Brookline's current waste disposal contract runs until mid-2014. At this time, it is expected that the DPW will evaluate options for MSW disposal that include automated and semi-automated collection systems using carts.
- The single-stream recycling program began in October 2010. Since that time, the data show that based on weight, Brookline has increased recycling by 20% while decreasing MSW by 8.5%; however there has been essentially no change in the combined amount of trash plus recycling by weight. See Appendix C for additional data.
- The Massachusetts Department of Environmental Protection (MassDEP) Solid Waste Master Plan contains disposal reduction goals of 30% for 2020 and 80% for 2050, with 2008 as the baseline. The plan does not detail whether these are statewide goals or goals for each municipality, and these goals do not have the force of law. Brookline's disposal tonnage in Calendar Year 2011 was 12.0% lower than Calendar Year 2008, and the Calendar Year 2012 disposal tonnage was 13.2% lower than Calendar Year 2008. See Appendix D for additional data.
- The total cost of Brookline's MSW disposal program is comprised of both disposal and collection costs. The cost is comprised of:

  - A variable disposal cost per ton of waste, currently $88 per ton
  - A largely fixed cost to maintain staffing and operate equipment for curbside collection. A change in the amount of waste disposed will have little impact on this cost, currently estimated to be $1,739,000. In FY12 this resulted in a cost of $184 per ton for collection.
  - Combined cost of these two items in FY12 was $2,570,000 or $272 per ton.
- Brookline's Single Stream Recycling Program is a flat fee agreement inclusive of collection, transport, and sorting regardless of the amount recycled. Costs are modified slightly based on fuel cost and value of paper recycled. In FY12, the net SSR cost was $856,000, which equates to $156 per ton.
- The committee was unable to identify a benchmark community with a single stream recycling program fully implemented before undertaking a shift to Pay-As-You-Throw. As a result it is not possible to predict the amount of MSW reduction that might arise from a PAYT implementation.

APPROACH TO RECOMMENDATION

The committee identified three primary approaches to waste disposal in current practice across the US:

- Brookline's current flat fee model, where a resident fee provides for unlimited waste disposal
- Pay-As-You-Throw (PAYT) models using special bags or stickers, where a resident fee is required to subscribe to trash collection and an additional fee is charged for each bag or trash container collected
- Hybrid models where the resident fee provides for a defined amount of trash collection and additional trash may be disposed of for an incremental charge per bag or container

To evaluate alternatives, the committee originally established criteria that in order for the committee to recommend a change, the proposed a solution would have to:

- Offer a reasonable expectation of at least a 10% reduction in municipal solid waste from the current state
- Be cost neutral or favorable for both citizens and the town, meaning that neither the town nor citizens should bear increased costs due solely to a change in waste disposal programs
- Be perceived by citizens as convenient
- Not be likely to cause issues with "illegal dumping"
- Incorporate an approach for collection of large items
- Be perceived as fair by citizens

Twelve alternatives, all either directly related or complementary to the three primary approaches, were evaluated against the above criteria. The evaluation matrix is attached to this report as Appendix E.

Based on this evaluation, the committee determined that only certain hybrid systems and increased education meet most or all of the criteria. In particular, the committee determined that it was not possible to predict specific levels of waste reduction or cost savings given available data.

The committee is divided on whether or not the recommendations will meet all of the identified criteria. Some committee members believe that the experiences of other PAYT communities, opinions voiced by authorities in the recycling and waste disposal fields, and information generally available provide a basis to expect all criteria to be met, including a 10% waste reduction and associated cost savings. Other committee members hope for this outcome but do not believe the available data can support an unequivocal conclusion. All committee members recognize changes in the waste disposal industry with automated and semi-automated collection systems becoming the norm.

RECOMMENDATIONS

The committee's recommendations, supported by a majority of members, are as follows:

1. Move to an MSW system with automated and semi-automated collection in FY2015 when the town's current MSW haul and disposal contract ends. Specific fees should be established by the Board of Selectmen based on the economic terms of the future agreement[1].
    a. The majority of the committee recommends that citizens be provided with a choice of container size with price differentials favoring smaller size containers. In this approach, container sizes and pricing should be set so that the needs of most residents are met by the standard container size, administrative complexity is minimized, and financial incentives do not lead to a revenue shortfall for the town or encourage use of 'add-on' bags.
    b. A majority of the committee favors that the standard be a 64 gallon container[2]. The incremental cost for a smaller container should be calibrated to address a portion of the estimated lower disposal cost.
    c. A minority of the committee recommends that the standard be a 32 gallon container, with surcharges applicable for larger sizes.
    d. One committee member recommends that the town implement a program in which each household is issued up to 64 gallons, whether this be in a single or multiple containers, for the standard fee. His thoughts on this are further presented in a minority report.
2. Provide for infrequent needs for extra waste disposal through pre-paid add-on trash bags, ideally available through local merchants.
3. The town's current services regarding yard waste should be maintained.
4. Services should be provided for bulky items. This may require change in approach or cost structure.

[1] Migration to an automated or semi-automated collection system will require purchase of wheeled carts. This will need to be considered during contract discussions. The cost of supplying carts for the Single Stream Recycling program was approximately $500,000.

[2] This will require a change to language pertaining to standard trash container sizes in existing Town By-laws.

5. Education is a low cost way to help change behavior. A coordinated approach, including the school system is recommended. Continue to expand opportunities for recycling in public spaces.
6. Continue to evaluate the economic feasibility of composting programs, tempered with concerns about sanitation. In time, the difference in cost between composting and MSW rates may become significant and provide a financial incentive for Brookline to implement a composting program.
7. Work to enhance scope of SSR for materials currently not accepted such as Styrofoam.
8. To mitigate the risk that a PAYT system may result in illegal dumping, the committee recommends that the recently adopted Nuisance Control By-law (Town By-Laws, Section 8.29.1) serve as a model for a new by-law providing better control and remedies for illegal dumping. As with the Nuisance Control By-law, a new Anti-dumping by-law would provide that notices of violation for illegal dumping be sent to residents, landlords, and, if applicable, educational institutions attended by violators. Fines for violations would also be increased.

Appendix A: Current Committee Members

Frank Friedman, Vice Chair
71 Crowninshield Road
TMM Precinct 8

Kenneth Goldstein
111 Holland Rd
Selectman

Gerry Koocher
285 Beverly Road
TMM Precinct 16

Andrew Pappastergion
Commissioner, Public Works

Ginnie Smith
12 Linden Street
TMM Precinct 4

Stanley Spiegel
39 Stetson Street
TMM Precinct 2

Ray Wise, Chair
14 Warwick Road

Appendix B: 2011 Waste Disposal Practices in Massachusetts

The following table, excerpted from the *Massachusetts Municipal Solid Waste and Recycling Surveys* spreadsheet incorporating 2011 data (the latest available) on the Mass DEP website, lists all 21 reporting communities that utilize trash carts.

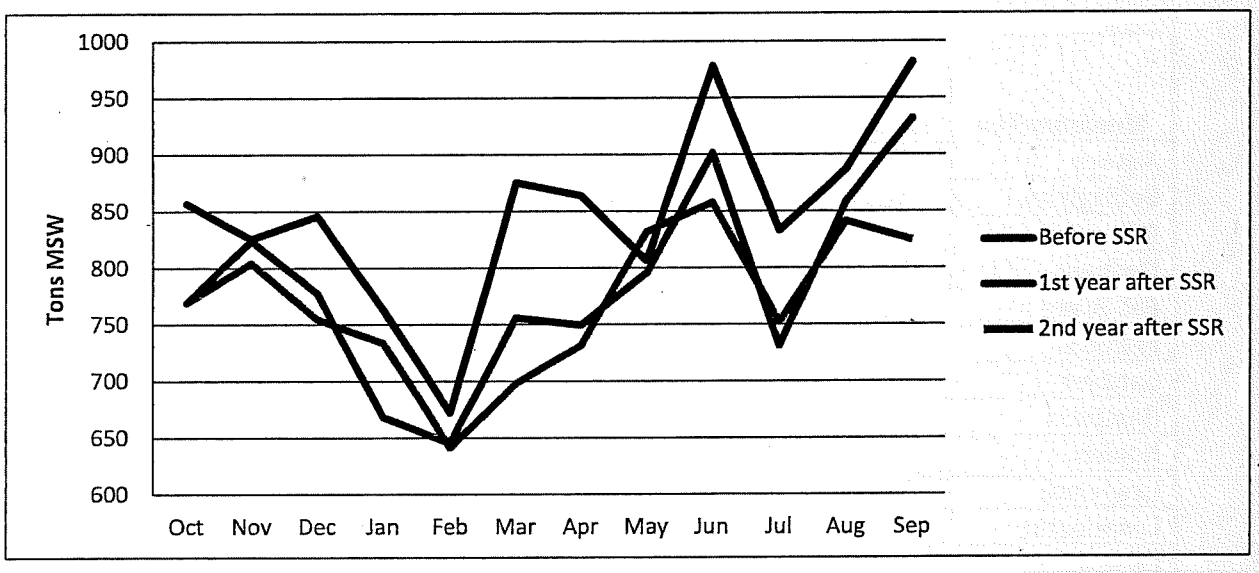
Municipality	Carts for Trash?	Trash Cart Size	Single Stream Recycling?	Carts for Recycling?	Recycling Cart Size	Food Waste Service Type
Auburn	Yes	64	Yes	Yes	96	None
Bellingham	Yes	64	Yes	Yes	95	Curbside
Billerica	Yes	64				None
Dedham	Yes	64	Yes	Yes	96	None
Fall River	Yes	95	Yes	Yes	95	None
Franklin	Yes	65	Yes	Yes	65	None
Gardner	Yes	48	Yes	Yes	96	None
Hamilton	Yes	64	Yes			Curbside
Holden	Yes	65	Yes	Yes	95	None
Lawrence	Yes	64				None
Leominster	Yes	64	Yes	Yes	64	None
Lowell	Yes	68				None
Mansfield	Yes	64	Yes	Yes	64	None
Newton	Yes	64	Yes	Yes	64	None
Norwood	Yes	64	Yes	Yes	96	None
Springfield	Yes	95	Yes	Yes	95	None
Tewksbury	Yes	64				None
Tyngsborough	Yes	64				None
Upton	Yes	96	Yes			None
Wenham	Yes	35	Yes			Curbside
Westfield	Yes	96		Yes	60	None

Notes:
1-Wenham, the only municipality using a 35 gallon trash cart, also has curbside food waste disposal; the next smallest is Gardner's 48 gallon trash cart; all other municipalities use 64 gallon or larger trash carts.
2-Telephone and/or website inquires of several (less than half) of these municipalities found that smaller size carts if available are provided only in special circumstances, primarily for elderly or disabled residents; there were no stated discounts for smaller contrainers; and all use PAYT bags for overflow.
3-Since the above table was created, Watertown and Burlington have implemented waste programs with 64 gallon trash carts.

Appendix C: Impact of Single Stream Recycling on total Waste Generation

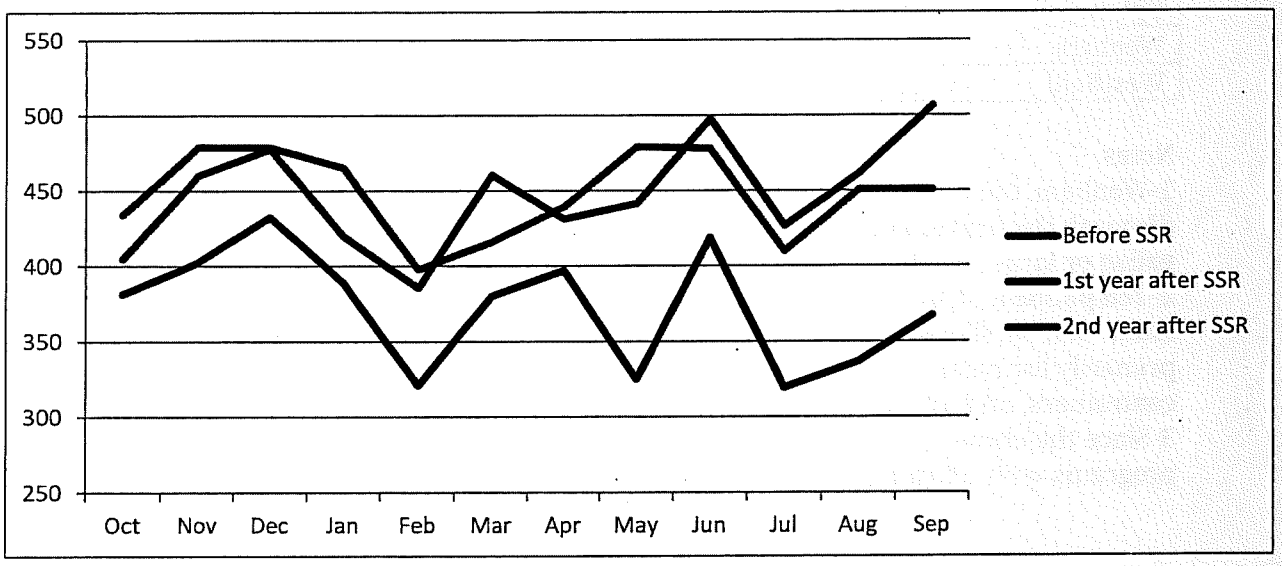
Tons per month of Municipal Solid Waste

Before (Oct 2009 – Sep 2010) & After (Oct 2010 – Sep 2011 & Oct 2011 – Sep 2012) Single Stream Recycling



Tons per month of Recycling

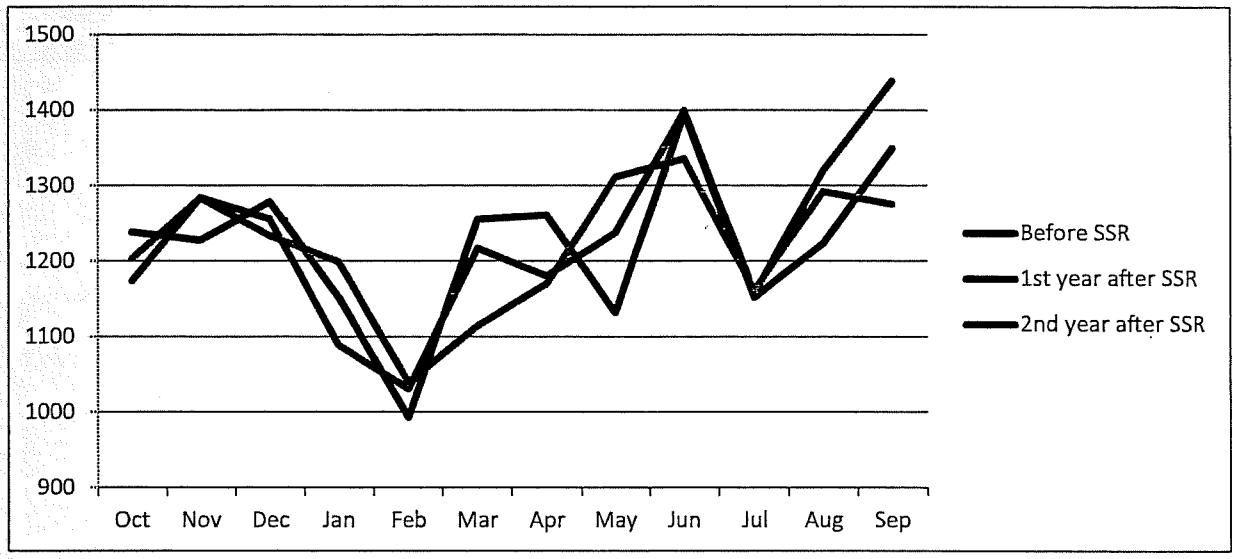
Before (Oct 2009 – Sep 2010) & After (Oct 2010 – Sep 2011 & Oct 2011 – Sep 2012) Single Stream Recycling



Appendix C, Continued: Impact of Single Stream Recycling on total Waste Generation

Tons per month Combined Recycling and MSW

Before (Oct 2009 – Sep 2010) & After (Oct 2010 – Sep 2011 & Oct 2011 – Sep 2012) Single Stream Recycling



Time Period	Description	Tons MSW	Tons Recycling	Total Tons Disposed
Oct 2009 – Sep 2010	12 month period prior to SSR	10,190	4,470	14,660
Oct 2010 – Sep 2011	First 12 month period after SSR	9,410	5,375	14,785
% Change		- 7.6%	+ 20.2%	+ 0.9%
Oct 2011 – Sep 2012	Second 12 month period after SSR	9,242	5,380	14,621
% Change	(from before SSR – Oct 09 – Sep 10)	- 9.3%	+ 20.3%	- 0.3%
Average Post SSR	Average of 2 years following SSR	9,326	5,377	14,703
% Change		- 8.5%	+ 20.3%	+ 0.3%

Conclusions:

- Following the of implementation of Single Stream Recycling in Brookline, recycling by weight increased by 20.3% and MSW decreased by 8.5%
- The total amount of SSR + MSW disposed, by weight, was essentially unchanged

Appendix C Data Source: Brookline DPW

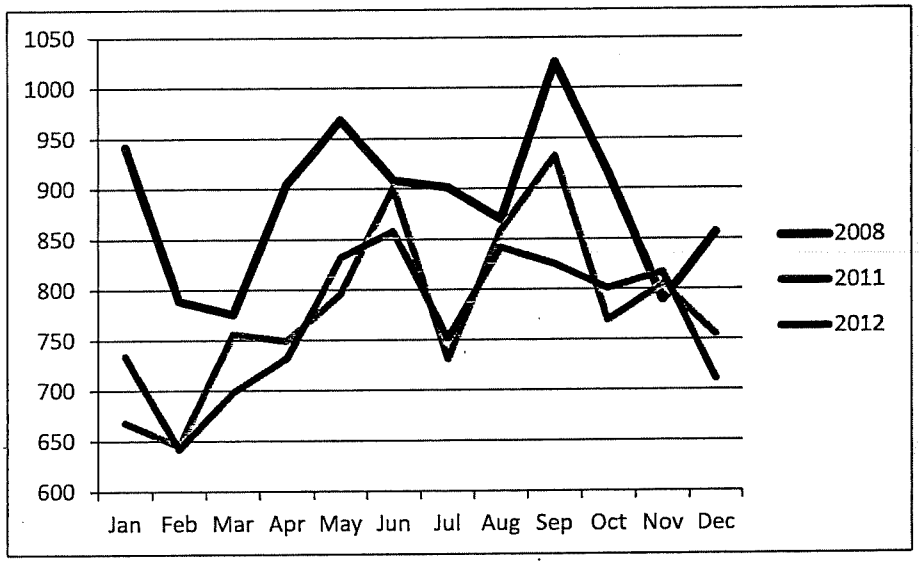
Appendix D: Change in Brookline MSW Generation

2008 (Baseline) to 2001 MSW Generation

Mass DEP goal for 2020 is 30% reduction in MSW with 2008 as the baseline year

Calendar Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Change from 2008 baseline
2008	942	789	776	905	969	909	901	870	1026	916	790	856	10648	
2011	669	645	756	749	796	902	731	859	932	769	805	755	9368	-12.0 %
2012	734	642	698	732	832	858	752	842	825	801	817	711	9244	-13.2 %

Brookline MSW Calendar Years 2008, 2011, and 2012 (in tons per month)



Appendix D Data Source: Brookline DPW

APPENDIX E: Waste Disposal Options Evaluation Grid

Continue Evaluating?	Model	Reasonable expectation of 10% reduction in municipal solid waste?	Cost neutral for citizens and cost/revenue neutral for town (vs. today)?[3]	Convenience (including carts preferred over bags)	No dumping issues (perhaps with anti-dumping bylaw)	Approach for large items	Perceived as fair?
Yes	No change	-Probably not -No reason to expect this -Could w/ education N/A	-Yes -Consider this the baseline	-N/A	-Baseline; not many today	-Baseline -Current approach is well-liked	-Yes and no -Yes because it's the current norm -Unfair to some who may not produce much trash
Yes	Hybrid – 32 gallon cart	-Yes -Maybe (math on current state seems to indicate less than this per HH now)	-No due to one-time cart cost -Alternate perspective that it could be cost neutral w/ amortized cost of carts -Might also be able to get to cost neutral if the "more than 32 gal" HH has a high surcharge	-Yes	-Anticipate fewer issues than bags -May be manageable thru regulation	Separate issue	-Fair to those that don't generate much waste -Unfair to certain populations if they only need ½ a cart

[3] **10% reduction yields approximately $100K/year**

Continue Evaluating?	Model	Reasonable expectation of 10% reduction in municipal solid waste?	Cost neutral for citizens and cost/revenue neutral for town (vs. today)?	Convenience (including carts preferred over bags)	No dumping issues (perhaps with anti-dumping bylaw)	Approach for large items?	Perceived as fair?
Yes	Hybrid – 64 gallon cart	-No -Less likely than 32 gal -Yes	-No due to one-time cart cost -No due to truck retrofit (unless this were part of a move to fully automated) -Could open up option to outsource collection with unknown cost implications	-Yes, possibly less convenient due to size/bulk	-Anticipate fewer issues than bags -May be manageable thru regulation	Separate issue	-Fair to those that don't generate much waste -Unfair to certain populations if they only need ½ a cart
Yes	Education	-Maybe	Likely cost neutral		No change	Separate issue	
No	PAYT – bags/stickers	-Maybe -Yes -At least another 10%	-Would have to decrease qtly fee -Yes to town, yes to "mean" citizen -Maybe depends on design	-Generally recognized as not convenient; issues w/ both approaches	-Possible/Potential Incentive to dump -May be manageable thru regulation -concern in high density areas	Separate issue	-Unfair to large families -Small families, average families, travelers, recyclers, others would find it fair
No	Hybrid – middle size cart (~ 45 gal is available)	-More likely that 64 gallon - Less likely than 32	No due to one-time cart cost -No due to truck retrofit (unless this were part of a move to fully automated) -Could open up option to outsource collection with unknown cost implications	-Yes, possibly less convenient due to size/bulk	-Anticipate fewer issues than bags -May be manageable thru regulation	Separate issue	-Fair to those that don't generate much waste -Unfair to certain populations if they only need ½ a cart

Continue Evaluating?	Model	Reasonable expectation of 10% reduction in municipal solid waste?	Cost neutral for citizens and cost/revenue neutral for town (vs. today)?[3]	Convenience (including carts preferred over bags)	No dumping issues (perhaps with anti-dumping bylaw)	Approach for large items?	Perceived as fair?
No	Hybrid – many sizes (pick what you want to pay for) - Models could include tiny, 32, 64, 96 gallon	- Unsure	-No due to one-time cart cost -No due to truck retrofit (unless this were part of a move to fully automated) -Could open up option to outsource collection with unknown cost implications	- Yes, get whatever you want	- Smaller containers may promote dumping	Separate issue	-Same issue
No	Two 32 gallon carts	-Unsure -Less likely than 32 gal	No due to one-time cart cost (x2). A lot more.	-Yes		Separate issue	
Not at this time/Add-on	Composting	-Unsure	Margins are tight; savings estimate is $10 per ton without considering bin cost				
Not at this time/Add-on	Increase the number of things that the town accepts in recycling	-Not possible					
Add-on	Swap shop type to promote reuse	-No	Maybe, likely some incremental costs	No	N/A	Separate issue	N/A
No	Enforcement (rigorous)	-Maybe	Likely cost neutral		No change	Separate issue	Could be considered invasive

Minority Report of the Moderator's Committee on Waste Disposal – May, 2013

By Stanley Spiegel, TMM Prec. 2 and member of the Committee

The Committee majority endorses a hybrid PAYT trash removal system (trash toters provided for an annual fee; PAYT bags sold for overflow) with a 64-gallon toter as the standard size, but with 32-gallon toters also available at reduced cost. The main reason offered for this discount was to incentivize increased recycling. While the Committee report is in many ways informative, it has two major flaws:
(1) The report offers no evidence to support the assumed connection between offering a discount for smaller toters and increased recycling.
(2) The report fails to seriously examine the several downsides of promoting toters that are likely on occasion to be undersized.

The Committee recommendation for a discount to incentivize smaller toters in order to increase recycling is unsupported by evidence, will cause a greater reliance on PAYT bags that entail risks for the Town, and should be rejected.

People are free to speculate as they please, but Town policy should be based on more than wishful thinking. The Committee report itself agrees that no data has been found from any community that's demographically similar to Brookline, whose high recycling rate has already been boosted by adopting single-stream recycling, to indicate that incentivizing smaller trash toters will cause any meaningful further recycling increase in Brookline.

A HIGHER FEE FOR LARGER TOTERS WOULD BE UNFAIR TO MANY RESIDENTS AND CAUSE PROBLEMS FOR THE TOWN

One reason for recycling skepticism is that there are at least some Brookline households that unavoidably need more than 32-gal toters despite their best recycling efforts. These include large families, families with children in disposable diapers, or families housing multi-generational members such as elderly parents. What civic purpose is served, either by charging these good folks a higher amount for an adequately sized toter, or by saddling them with PAYT fees? Or for charging residents more for preferring ample toter capacity, regardless of whether they discard more trash than those with smaller toters?

It's not at all certain that residents who opt for 64-gallon toters will dispose of more trash during the year than those who select 32-gallon toters. Many residents will choose a 64-gal toter simply for the convenience of almost never needing to purchase PAYT bags even though most weeks they'd have room to spare in a 32-gal toter. Whereas others will cram their 32-gal toters to the point

of overflow each week, thus discarding more total trash in a year. So we cannot automatically assume that there's a valid basis for charging someone opting for the flexibility or periodic convenience of a 64-gal toter a higher toter fee than someone choosing a 32-gal toter.

As we shall see, it's in Brookline's clear financial and sanitary interest to minimize the number of PAYT bags used by residents. And it's inevitable that incentivizing toters that are likely to be inadequate at least occasionally will result in more plastic PAYT bags being deployed to accommodate trash overflow.

As an example, assume that PAYT bags cost $2 each – a reasonable figure – and assume that 32-gal toters will be discounted $25 or more below the cost of the 64-gal size. Then a resident expecting to use only one PAYT bag per month would save money by opting for a 32-gal toter. But for each such resident, there will be a dozen more PAYT bags left at curbside per year than if the resident had selected the 64-gal size. And the Town would surely suffer if this were to occur on any significant scale.

IT'S IMPORTANT FOR BROOKLINE TO MINIMIZE THE USE OF PAYT BAGS

- **More PAYT bags mean more municipal collection expense.** In order to collect PAYT bags, refuse truck drivers have to pick up these bags manually, thus reducing the efficiency attainable with automated toter collection, and hence increasing collection times and associated collection costs. PAYT bag collection is inefficient and therefore expensive. Unfortunately, our Committee hasn't provided a reasonable range of cost estimates that Brookline could anticipate.

- **Garbage left curbside in PAYT bags will attract and provide food for raccoons, coyotes, rats and other vermin.** Torn bags will also attract flies. This will impact public sanitation and public health – a real cost to the Town in terms of quality of life. Garbage confined to closed toters of adequate size presents no such problems. This may be why very few communities in the densely populated greater Boston area have adopted a pure PAYT trash disposal system, and why the vast majority of communities using toters have opted for 64-gal toters or larger as their standard.

- **PAYT fees will predictably cause some residents to try to evade the bag fee by disposing of excess trash illegally.** PAYT enthusiasts dismiss this point, but documents from both the US EPA[1] and the Mass DEP[2], governmental bodies that are committed advocates for PAYT, nonetheless present data showing that 19 percent or about one out of every five communities responding to surveys on illegal dumping have reported such dumping problems. This is hardly an insignificant proportion (and is probably understated, given the

usual reluctance of administrators to report problems to outsiders). Neither is it an ignorable concern; the EPA document speaks of the need for PAYT communities to implement various control measures.

The fact is that PAYT-related illegal dumping exists and can be limited to some degree, but it is important to consider the cost of these necessary efforts. An Arlington, MA PAYT study committee's report[3] recommended "funding for additional staff time to handle enforcement and additional funding for publicity." Our Committee provided no estimate of such administrative costs. Additional information on illegal dumping is provided below, in an Appendix.

WHAT BROOKLINE CAN LEARN FROM OTHER COMMUNITIES

Unfortunately, our Committee never conducted a far-reaching town-wide survey of residents' individual trash disposal needs, or of their attitudes and preferences.[4] Neither has it held public hearings in nearly two years; the two that were held earlier were poorly publicized and poorly attended. Thus no essential data was obtained directly from Town residents to indicate how often the use of 32-gal toters would result in an excessive reliance on problematic PAYT bags for trash overflow.[5] However, demographically similar Newton, which recently adopted a hybrid PAYT system, did undertake research to gather relevant data before choosing their toter size.

Newton rejected 32-gallon toters because they found that these would be inadequate some 15 percent of the time. This would cause too many PAYT bags to be left at curbside. Their research showed that the 64-gal toters they settled on would suffice for from 95 to 98 percent of residents, an acceptable rate.[6] An email from Newton's DPW chief that describes the basis for their toter choice is excerpted in the Appendix. Newton does make 32-gal toters available but only in special circumstances, such as for elderly or handicapped residents, and offers no discount for providing the smaller size.

There are currently 23 Massachusetts communities using hybrid PAYT trash collection systems (Watertown and Burlington have recently joined the 21 listed in the Committee's report). **Importantly, not one of these 23 Massachusetts communities has opted for a mere 32 gallons of trash disposal capacity**. Three communities use 95- or 96-gal toters and eighteen use 64- or 65-gal toters as their standard sizes. Gardner uses a standard 48-gal toter. Wenham does use a 32-gal trash toter but they also provide residents with weekly curbside food waste collection, thus providing more than 32 gallons of trash disposal capacity. The Committee has not identified any Massachusetts communities that discount smaller sized toters, as their report proposes.

RECOMMENDATION

Increasing the Town's recycling rate and reducing the amount of waste to be disposed are worthy goals to be pursued. One suggestion would be to consider a program of curbside collection of compostable materials such food waste, as is being done now in other localities nationwide. There are no processing plants located close enough for this to be feasible presently but it's likely that such nearby facilities will be established fairly soon.

The Town should also search for recycling haulers that will accept a wider variety of disposables in recycling toters than at present. As the successful implementation of single-stream recycling has shown, making it easier to simply toss items into a recycling toter – items such as fabrics and a host of other household items that are currently forbidden – will boost recycling and diminish discarded waste.

Of course, individuals can help by being committed recyclers, and in their purchases seek out products made of recycled materials and avoid items sold with excessive and non-recyclable packaging, thus encouraging source reduction. The Town can and should engage in outreach and education to assist in this effort.

But for every proposed municipal measure purported to increase recycling, the probability and degree of improvement have to be measured against the societal costs, financial and otherwise, that are likely to result. In this regard, the case for urging residents to accept smaller trash toters by offering them a cash discount simply hasn't been made.

Without cost estimates of the risks of incentivizing 32-gallon toters, and without evidence-based estimates of any recycling increases that might result, it is hard to justify the Committee's recommendation to endorse such incentivizing except as an act of faith. This is a poor way to propose public policy.

To reduce reliance on PAYT bags and eliminate the administrative costs of keeping track of toter choices essential for two-tier billing, a wiser course would be for Brookline to routinely provide residents with 64-gallon toters and to offer the 32-gallon size only upon request in cases where the larger size would prove unwieldy or impractical, but without offering any cash discount. In such cases, a second 32-gallon toter should also be made available at no extra cost, in order to provide residents with adequate trash disposal toter capacity.

Appendix

COMMENTS REGARDING PAYT-RELATED ILLEGAL DUMPING

Illegal dumping has been a particular concern of Town Meeting Members, especially in densely populated parts of town with large transient populations such as North Brookline. The previously cited EPA document[1] tries to downplay the illegal dumping issue but employs artful language that's far from convincing. It states that "*most*" PAYT communities have found "illegal diversion [i.e. dumping] . . . to be *less of a concern than anticipated*," but it also mentions the need "*to create a significant deterrent*" and for "*aggressive enforcement*" accompanied by "*public outreach and education*" to help with "*minimizing the potential for illegal diversion*" [my emphasis]. This is a far cry from denying the problem's existence, or from our Committee's view that it won't be a concern for Brookline.

Both Andover[7] (in 2003) and Arlington[3] (in 2004) have issued PAYT study committee reports. Both reports included statements regarding PAYT-related illegal dumping from officials in many other Massachusetts PAYT communities. 'No problem' was the response received from most communities – hardly unexpected from program administrators – but not all officials agreed.

From Holliston: "They do see increased dumping in town and business dumpsters. They had to get rid of a dumpster and Goodwill box because [it] was attracting illegal dumping over weekends;" and from North Reading (which had adopted PAYT and subsequently discontinued it): "They had problems with illegal dumping at school dumpsters and alleys. No longer a problem after the end of PAYT."

Also, a senior Worcester DPW official was quoted regarding PAYT-related illegal dumping in a 2012 Clark University research paper[8]: "Yes, illegal dumping can go through the roof . . . [to minimize this] we had to be that much more diligent about fighting illegal dumping, and trying to close that loop and prosecuting it when we would find it, and be more aggressive with how we dealt with it." A reference to the increase in illegal dumping and littering that accompanied Worcester's adoption of PAYT was contained in an article in the July 19, 2012 online publication GoLocalWorcester.[9]

AN EMAIL FROM NEWTON'S DPW COMMISSIONER TO BROOKLINE'S DPW COMMISSIONER ANDY PAPPASTERGION REGARDING TRASH TOTER SIZE

Andy,
- We chose the 64 gallon toters because our research said that would be sufficient for 95%-98% of the population. We considered 32 gallons, but again our research said that would meet the needs of 85% of the population, and we considered that too low to be acceptable.
- I believe the 64 gallon toters are the right size. We're going to be looking at possibly moving to 32 in the future, but I'm not convinced that works in enough cases (I have 3 kids who, before they moved off to college, generated more than 32 gallons apiece, or so it seemed).
- We see very few overflow bags being set out. The 64 gallon is sufficient for the vast majority. Anecdotaly [sic]*, we do hear of some neighbors who work together and use each others* [sic] *barrels on occasion, as the program intends. But we see little abuse, and little overflow . . .*

Dave Turocy, DPW Commissioner - City of Newton

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[1] http://www.epa.gov/osw/conserve/tools/payt/top8.htm

[2] http://www.mass.gov/dep/recycle/reduce/paytdb.pdf

[3] http://www.town.arlington.ma.us/Public_Documents/F0000EA38/Recycle/PAYTFinalReport.pdf

[4] Although the notion of fairness is often raised in PAYT discussions, including one held at a prior Town Meeting debate, the Committee never undertook a survey or showed much interest in determining to what extent, if any, Brookline residents were troubled by the present system of flat fee billing for the Town's trash removal service.

[5] A small, unscientific survey conducted by SWAC of 32 homes in one unnamed Brookline neighborhood on one particular trash collection day found that even under the current system that allows an unlimited amount of trash disposal, 32 gallons of trash capacity would have sufficed for each residence. Therefore for these particular homes during that one week, providing 32-gal trash toters would not have induced any additional recycling, and providing 64-gal toters would not have resulted in any less.

[6] This range estimate is consistent with Newton's subsequently observed sale of PAYT bags.

[7] http://pioneermunishare.org/download.php?download_file=all_reports/2011_08_17__14_18_32__Andover_pay as you throw.pdf

[8] http://woocycle.files.wordpress.com/2012/05/woocycle-capstone-paper.pdf

[9] http://www.golocalworcester.com/news/council-concerned-about-illegal-dumping/

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