TOWN OF BROOKLINE
MASSACHUSETTS

REPORTS OF SELECTMEN AND ADVISORY COMMITTEE

on the

Articles in the Warrant

for the

ANNUAL TOWN MEETING

I hereby certify that the actions as indicated on the within pages were taken at the Annual Town Meeting called for Tuesday, May 27, 2014, at 7:00 P.M., adjourned to Thursday, May 29, 2014 and dissolved on Monday, June 2, 2014 at 11:10 P.M.

ATTEST:

Patrick Joseph Ward
Town Clerk

Town of Brookline

BOARD OF SELECTMEN

Betsy DeWitt, Chairman

Nancy A. Daly
Neil A. Wishinsky

Kenneth M. Goldstein
Benjamin J. Franco

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
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
John Doggett, 8 Penniman Place 566-5474
Bernard Green 25 Alton Court, #1 857-225-0402
Kelly Hardebeck, 18 Littell Road 277-2685
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
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 27, 2014
ANNUAL TOWN MEETING
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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.	FY14 Budget Amendments. (Selectmen)
8.	Annual (FY15) Appropriations Article. (Advisory Committee)
9.	Changes to the Senior Property Tax Deferral Program (MGL Ch. 59, Sec. 5, Cl. 41A) -- increase in the income limit and reduction in the interest rate. (Petition of Arthur Wellington Conquest III and Brooks Ames)
10.	Amendment to Article 3.14 of the Town's By-Laws -- revocation of the current "Division of Human Relations – Youth Resources" and creation of a new "Diversity, Inclusion and Community Relations Commission and Department". (Selectmen's Diversity, Inclusion, and Affirmative Action Committee)
11.	Amendment to Article 5.10 of the Town's By-Laws – Neighborhood Conservation Districts -- establishment of the Greater Toxteth Neighborhood Conservation District. (Neighborhood Conservation District Commission)
12.	Amendment to Article 8.15 of the Town's By-Laws – Noise Control -- clarification of definitions. (Petition of Fred Lebow)
13.	Amendment to Article 8.23 of the Town's By-Laws – Tobacco Control -- creation of a 400 ft. no-smoking zone around Brookline High School. (Petition of Nathan Bermel)
14.	Amendment to Article 8.23 of the Town's By-Laws – Tobacco Control -- increase the legal age to purchase tobacco products from 19 to 21. (Petition of Nathan Bermel)

15. Amendment to the Zoning By-Law – Sections 2.07 & 5.06 ("G" Definitions and Special District Regulations) -- changes related to the GMR-2.0 District (Selectmen's Brookline Place Advisory Committee)

16. Amendment to the Zoning By-Law – Sections 2.07 & 5.06 ("G" Definitions and Special District Regulations) -- changes related to the GMR-2.0 District (Petition of Andrew Fischer)

17. Acceptance of a grant of easement from Children's Brookline Place, LLC and Children's One Brookline Place, LLC. (Board of Selectmen)

18. Acceptance of a Restrictive Covenant from Children's One Brookline Place, LLC and Children's Brookline Place, LLC. (Board of Selectmen)

19. Authorize the Board of Selectmen to release the 2007 documents executed in connection with the acquisition of development rights in 2-4 Brookline Place and enter into new agreements with respect to the current proposed development at Brookline Place. (Board of Selectmen)

20. Amendment to the Zoning Map – amend the zoning map to change the zoning for 273, 277, and 281 Mason Terrace from S-7 to T-6. (Petition of Daniel Simkovitz and Elena Budrene-Kac)

21. Amendment to the Zoning By-Law – Section 3.01.1 (Classification of Districts), Modification of Zoning Map, and Modification of Table 5.01 (Table of Dimensional Requirements) -- create a new S-4 zoning district and change several lots in the Meadowbrook area from T-5 to S-4. (Petition of Diane Gold)

22. Amendment to the Zoning By-Law – Section 4.07, Table of Use Regulations (Use 25A) and Section 6.08, Regulations Applying to Gasoline Service Stations – allow by special permit self-service gas stations, as well as gas stations with associated convenience stores. (Planning and Community Development Department)

23. Amendment to the Zoning By-Law – Section 4.07, Table of Use Regulations (Use 53) – prohibit separate accessory dwellings for domestic employees and their families in single family districts. (Planning and Community Development Department)

24. Acceptance of a grant of easement for land and air rights for the reconstruction of the Carlton Street Footbridge. (Department of Public Works)

25. Acceptance of Section 20(6) of Massachusetts General Laws, Chapter 32 -- pay Retirement Board members a stipend of up to $4,500. (Retirement Board)

26. Legislation to Repeal the Board of Selectmen's Authority to Sell Taxi Medallions. (Petition of John Harris)

27. Resolution Regarding the Honoring of the Memory of Brookline Veterans. (Petition of Neil Gordon)

28. Resolution Regarding the Enforcement of the Town's By-Law on the Maintenance of Sidewalks in Business Districts in a Non-Slippery Condition (Section 7.7.1). (Petition of Frank Caro)

29. Resolution Regarding the Support of Brookline's Local Economy Community. (Petition of Brookline Local First)

30. Resolution Regarding Obstetric Fistula. (Petition of Sarah Gladstone)

31. Resolution Relative to Non-Discrimination on the Basis of Gender Identity and Expression. (Petition of Alex Coleman)

32. Resolution In Support of Senate Bill 1225 – An Act Relative to Public Investment in Fossil Fuels. (Petition of Frank Farlow and Byron Hinebaugh)

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

2014 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 2014 Annual Town Meeting to be held on Tuesday, May, 27, 2014 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 5-0 taken on March 18, 2014, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

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

In 2000, Town Meeting directed that the first warrant article of the Annual (Spring) Town Meeting shall be the annual proposal to appoint one or more Measurers of Wood and Bark. The ordering supposedly honors Brookline's colonial beginnings.

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

DISCUSSION:
Advocates for this (fairly recent) tradition cite that the appointments reflect Brookline's colonial traditions. Some, though, opine that this Article is an anachronism and has no place on a modern-day warrant as it serves to distract Town Meeting's time and attention away from other (and presumably more pressing) concerns. This is an old saw we hear each year.

The Measurers of Wood and Bark draw no salary or stipend and receive no health-care or other benefits from the Town; moreover, the Town would incur no other current financial cost or other future post-employment benefit (OPEB) liability in carrying-out this Article.

Town Meeting has been reminded of at least one instance in which a Measurer of Wood and Bark has been called upon to resolve a dispute. And some have noted there may be added value in that a Measurer may be in a position to spot Asian Longhorn Beetle infestation while examining fire-wood.

The Advisory Committee is convinced this position(s) costs the Town nothing and may provide a valued, even if rare, service to its residents.

RECOMMENDATION:
Advisory Committee recommends FAVORABLE ACTION on the following:

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

Passed by a Unanimous Vote

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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.

SELECTMEN'S RECOMMENDATION

There are no Collective Bargaining agreements for Town Meeting authorization at this time. As a result, the Board recommends NO ACTION, by a vote of 3-0 taken on April 29, 2014.

ROLL CALL VOTE:
No Action:
DeWitt
Benka
Goldstein

A Vote of No Action was passed by a Unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

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

RECOMMENDATION:
As there are no collective bargaining agreements to consider at this time, the Advisory Committee unanimously recommend NO ACTION on Article 2

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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 FY2015 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 FY2015 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 5-0 taken March 18, 2014, 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 FY2015 in accordance with General Laws Chapter 44, Section 53F.

Passed by a unanimous vote

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 FY15.

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.

DISCUSSION:
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.

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 when advantageous to the Town, the Advisory Committee felt comfortable recommending favorable action on this article.

RECOMMENDATION:
The Advisory Committee unanimously recommends FAVORABLE ACTION on the motion offered by the Selectmen.

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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 5-0 taken on April 8, 2014.

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 May 28, 2013 Annual Town Meeting Town's By-Laws requires that this Article appear on the Annual Town Meeting Warrant regardless of whether a motion is being offered.

DISCUSSION:
This annual article was originally conceived as a way for Town Meeting to close out open accounts that had been languishing for some time. In practice, that has been

unnecessary given the diligence of the Comptroller and, in particular, our Deputy Town Administrator Sean Cronin.

Furthermore, the article, as written, authorizes the Comptroller to close out accounts. In fact, the Comptroller has the statutory authority to do that regardless of this article. Of course, the article's originally conceived intent was not for that purpose anyway – it was to provide a structural mechanism for Town Meeting to act when appropriate.

Re-wording the article to better reflect that original intent is not possible on this warrant, but will be considered for revisions on future warrants.

RECOMMENDATION:
As there are no close-outs or rescissions to consider, no action is needed under this article. The Advisory Committee unanimously recommends NO ACTION on Warrant Article 4.

No action was taken under this Article

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Available Budget Report - Capital Funds (Bond funded) for Fiscal Year 2014 as of 5/6/14

		Revised Budget	YTD Expended	YTD Encumbered	Available	Status
C142	PUTTERHAM MEADOWS GOLF	888,510	82,952	111,969	693,589	On-going work including drainage, bunkers, cart paths, and utilities in Maint. Shed.
C164	TOWN HALL/MAIN LIBRARY GARAGE	186,612	183,696	2,916	0	Phase 3 complete.
C165	RUNKLE SCHOOL RENOVATION/ADDITION	1,323,902	342,739	120,899	860,264	Final work and billing to be completed by July.
C167	FY11 TOWN HALL/LIBRARY GARAGE	950,000	358,259	33,084	558,657	Phase 4 is out to bid now; work in Summer. Phase 5 next Summer.
C168	HEATH SCHOOL ADDITION	717,465	127,014	106,665	483,786	Final work complete by 9/1/14.
C171	UNIFIED ARTS BUILDING REPAIRS	1,300,000	1,138,050	28,303	133,647	Phase 2 to be put out to bid, work for Summer and Fall.
C173	MUNICIPAL SERVICE CENTER	2,500,000	19,425	239,575	2,241,000	In Design phase. Construction estimated to be completed by Fall, 2015.
C175	ROOF REPAIRS/REPLACEMENT	1,350,000	74,177	823,107	452,716	On-going work.
C176	OLD LINCOLN SCHOOL	3,000,000	0	150,000	2,850,000	In design phase now; going out to bid this Fall.
	BUILDING CAPITAL	**12,216,489**	**2,326,312**	**1,616,518**	**8,273,659**	
C144	WASTEWATER SYSTEM IMPROVEMENTS	127,463	110,043	17,420	0	Complete.
C150	MUDDY RIVER RESTORATION	745,000	0	0	745,000	Phase I under construction. Phase II in design development.
C157	NEWTON ST LANDFILL	41,839	0	0	41,839	To be used for improvements to material storage area.
C158	WASTEWATER SYSTEM IMPROVEMENTS	4,526,788	658,048	379,514	3,489,226	Infiltration/Inflow removal from Corey Hill and adjacent neighborhood.
C160	RESERVOIR AT FISHER HILL	786,702	473,916	312,786	0	Under construction.
C166	CARLTON ST FOOTBRIDGE RESTORATION	1,378,481	20,870	111,962	1,245,649	Responded to 25% comments. Project on TIP for FFY2016 funding.
C169	STORM DRAIN IMPROVEMENTS	394,541	78,865	88,460	227,216	On-going drain improvements. Preparing NPDES Ph. 2 permit application.
C170	WATER MAIN IMPROVEMENTS	311,455	192,164	119,291	0	Complete.
C172	WALDSTEIN / WARREN PLAYGROUND/FIELD	2,150,000	25,189	1,917,864	206,947	Construction planned for Spring/Summer 2014.
C174	FISHER HILL PARK	1,200,000	0	1,200,000	0	Under construction.
	DPW CAPITAL	**11,662,269**	**1,559,095**	**4,147,297**	**5,955,877**	
	TOTAL	**23,878,758**	**3,885,407**	**5,763,815**	**14,229,536**	

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2014 as of 5/6/14

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K018	SCHOOL FURNITURE UPGRADES	50,000	22,987	27,013	0	Encumbered funds for relocated classrooms, offices, BEEP programs.
Sub-Total Finance Dept		**50,000**	**22,987**	**27,013**	**0**	
K084	GATEWAY EAST PROJECT	12,531	0	12,531	0	Project advancing; funds needed for continued engineering/architectural services.
K100	COMMERCIAL AREA IMPROVEMENTS	116,530	23,182	5,525	87,823	$32K for CC lights (Spring install); remainder to be spent by Fall '14.
K122	RIVERWAY BIKE/PED PATH	40,000	0	0	40,000	Project advancing; funds needed for continued engineering/architectural services.
Sub-Total Dept of Planning & Community Development		**169,061**	**23,182**	**18,056**	**127,823**	
K016	IT HARDWARE-SOFTWARE	289,842	246,351	26,328	17,163	On-going projects.
K111	INTERCOM SYSTEM REPLACEMENT	91,763	88,534	0	3,229	Any unspent funds to be closed out 6/30/14.
K126	SCHOOL TECHNOLOGY PROJECTS	175,000	122,070	19,745	33,185	Remaining funds to complete this phase of School IT projects.
Sub-Total Information Technology Dept		**556,606**	**456,955**	**46,073**	**53,577**	
K008	BULLET PROOF VESTS	4,563	4,561	0	2	Any unexpended to be closed out 6/30/14.
Sub-Total Police Dept		**4,563**	**4,561**	**0**	**2**	
K095	FIRE ENGINE #3	510,000	0	510,000	0	Expected to be delivered June/July, 2014.
Sub-Total Fire Dept		**510,000**	**0**	**510,000**	**0**	
K002	ENERGY CONSERVATION	151,621	129,611	17,900	4,110	On-going projects.
K010	ENERGY MANAGEMENT SYSTEMS	172,598	137,916	11,619	23,063	On-going projects.
K022	TOWN-SCHOOL SECURITY-LIFE SAFETY	377,184	368,937	8,247	0	On-going projects.
K029	MAINT. CRAFTSMAN GARAGE/PARKS FACILITY FEAS STUDY	4,500	2,500	0	2,000	Complete. Any unexpended balance to be closed out 6/30/14.
K036	OLD LINCOLN SCHOOL	574,048	0.	150,000	424,048	In design phase; out to bid Fall, 2014.
K038	PIERCE SCHOOL RENOVATIONS	1,153,274	993,398	92,423	67,453	Punch list to be completed July, 2014.
K038	PIERCE SCHOOL ELECTRICAL SYSTEM	375,000	0	35,695	339,305	In design phase; work to be completed in Fall, 2014.
K042	CLASSROOM CAPACITY EXPANSION	2,712,545	784,937	1,398,697	528,911	To be used along with FY15 CIP funding for Lawrence School addition, pre-K leases, and creating classrooms.
K047	TOWN/SCHOOL FACILITY ROOF REPAIR	66,225	66,154	71	0	Complete.
K050	ADA RENOVATIONS	67,092	33,140	5,087	28,865	Complete.
K098	FIRE STATION RENOVATIONS	1,144,910	62,018	365,932	716,960	Work to commence in June.
K099	SENIOR CENTER CARPETING	34,714	12,911	680	21,123	Part of a fit-out project; to be completed July.
K108	TOWN/SCHOOL HAZARDOUS MAT REMOVAL	7,314	3,035	4,279	0	On-going projects.
K109	TOWN/SCHOOL BUILDINGS ELEVATOR	517,957	12,548	29,595	475,814	In design phase; work completed in Spring, 2015.
K110	TOWN/SCHOOL BUILDINGS ENVELOPE REPAIRS	227,031	93,586	5,000	128,445	Study complete; design work to start in July.
K112	UNIFIED ARTS BUILDING REPAIR/RENOVATION - DESIGN	63,149	34,238	8,722	20,189	2nd phase of project to begin in July.
K116	GOLF COURSE MAINTENANCE BLDG	472,911	439,769	27,985	5,157	Building constructed, utilities to be installed.
K117	EMERGENCY GENERATORS/LIGHTS	248,413	76,754	0	171,659	In design phase; work to be completed in Fall, 2014.
K118	BHS SPACE NEEDS STUDY	2,500	2,500	0	0	Complete.
K119	DEVOTION SCHOOL RENOVATION	1,745,480	144,564	1,177,947	422,969	Project in Feasibility/Schematic Design phase with the MSBA.
K121	GARAGE FLOOR SEALANTS	25,000	0	0	25,000	Work to commence in July.
K123	DEVOTION HOUSE / PUTTERHAM SCHOOL	85,000	0	0	85,000	Establishing final cost estimates and scope. Work to commence in Fall, 2014.
Sub-Total Building Dept		**10,228,467**	**3,398,516**	**3,339,879**	**3,490,072**	
K048	TRANSFER STATION FLOOR	70,000	0	58,465	11,535	Construction to commence in May, 2014.
K051	TREE MANAGEMENT	195,743	96,662	79,195	19,886	To be spent on Spring Tree Planting.
K052	BICYCLE ACCESS IMPROVEMENTS	188,040	148,040	0	40,000	Pavement markings will be installed this Summer.
K054	STREET LIGHTING REPLACEMENT	168,496	11,287	39,066	118,143	Replacement lights to be installed by July, 2014.
K054	LED STREETLIGHT REPLACEMENT	540,000	0	363,000	177,000	Contract awarded. FY14 balance to be added to FY15 appropriation for fixture purchase.
K055	CARLTON STREET FOOTBRIDGE	85,186	0	0	85,186	Responded to 25% design comments. CSF formally included in FFY 2016 TIP.
K056	SIDEWALK IMPROVEMENTS	915,878	431,313	269,462	215,103	On-going projects.
K057	CHESTNUT ST DRAIN/WILLOW POND	42,765	9,400	0	33,365	Filed Immediate Response Action Completion Report with DEP.
K058	STREET REHABILITATION	3,686,957	1,835,932	735,830	1,115,195	On-going projects.
K060	NEWTON ST LANDFILL SITE IMPROVEMENTS	109,899	94,655	15,244	0	Waiting for final invoice from Consultant to close out contract.
K062	DANE PARK	29,051	0	0	29,051	To be spent on design and installation of wayfinding signage.
K065	RIVERWAY PARK IMPROVEMENT	86,369	0	0	86,369	Design on hold until Phase II of Muddy River Restoration Project commences.

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2014 as of 5/6/14

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K066	PLAYGROUND,FENCE,FIELD, EQUIPMENT	391,865	95,011	280,758	16,096	On-going.
K067	PATHWAY RECONSTRUCTION	113,690	112,740	0	950	Project completed. Any unspent balance to close out on 6/30/14.
K068	OLMSTED PARK IMPROVEMENTS	6,332	0	0	6,332	Spring improvements planned for turf and shrub replacement.
K069	TENNIS/BASKETBALL COURT REHAB	100,000	0	100,000	0	To be spent on new courts at Waldstein Park.
K070	LARZ ANDERSON PARK	710,000	89	5	709,906	Design Review to occur this year. Looking for grant opportunities to match Town Funds.
K071	LOST POND CONSERVATION AREA	48,612	0	0	48,612	To be spent on design and installation of wayfinding signage and pathway improvements.
K073	TOWN-SCHOOL GROUNDS REHAB	214,520	48,874	40,793	124,853	On-going projects.
K077	HEMLOCK TREE ASSESS/REMOVAL	702	0	702	0	Any unspent balance to close out on 6/30/14.
K078	MUDDY RIVER REMEDIATION	1,322,395	3,900	0	1,318,495	Phase I underway. This is for the Town's share through Phase II.
K080	PARK LIGHTING UPGRADE	80,841	0	80,841	0	To be spent on park lighting upgrades at Waldstein Park.
K083	TRAFFIC CALMING	30,081	952	72	29,058	On-going. No project for FY14
K088	MOUNTFORT ST TRAFFIC SIGNAL	106,438	0	938	105,500	Coordinating with the reconst. of the St. Mary's Street bridge project with MADOT.
K089	NEWTON ST/W. ROXBURY PKWY TRAFFIC	147,900	0	0	147,900	Preparing 25% plans for submittal to DCR.
K090	PEDESTRIAN ACCESS IMPROVEMENTS	45,000	0	45,000	0	Part of the Gateway East Project.
K093	WATER METER REPLACEMENT	3,210	3,210	0	0	Project complete.
K096	PARKING METERS	33,578	26,985	6,593	0	New single head meters being installed.
K097	LANDFILL SETTLEMENTS	309,653	15,000	0	294,653	On-going.
K101	MUNICIPAL SERVICE CENTER REPAIRS	325,000	21	0	324,979	Design contract awarded. Construction documents/bids in FY15.
K102	BILLY WARD PLAYGROUND	354,150	177,951	171,291	4,908	Project in final stage of construction.
K103	CLARK PLAYGROUND	8,035	1,623	1,300	5,112	Final punchlist being completed on water play feature.
K104	WALDSTEIN PLAYGROUND	5,661	5,661	0	0	Design completed. Contract bids received and awaiting award.
K105	WARREN FIELD/PLAYGROUND	48,720	48,720	0	0	Design completed. Contract bids received and awaiting award.
K113	HARVARD ST/GREEN ST PEDESTRIAN STUDY	25,000	0	0	25,000	Consultant working on study.
K114	FISHER HILL RESERVOIR	3,250,000	0	2,556,952	693,048	Construction underway.
K115	OLD BURIAL GROUNDS	275,052	7,544	7,508	260,000	Construction bid documents completed and work to start this Summer.
K120	PARK COMFORT STATIONS	50,000	10,000	0	40,000	To be used to make ADA improvements to Waldstein Comfort Station.
K124	WOODLAND RD / HAMMOND ST CROSSING STUDY	45,000	0	0	45,000	Consutant working on study.
K125	BROOKLINE AVE PLAYGROUND	87,000	0	6,900	80,100	Design Review Process to commence this year.
Sub-Total DPW		**14,256,816**	**3,185,570**	**4,859,912**	**6,211,334**	
K015	RFID RADIO FREQ IDENT SYSTEM	62,912	13,582	0	49,330	Researching the purchase of an automated materials handling unit for the CC Branch.
Sub-Total Library		**62,912**	**13,582**	**0**	**49,330**	
	TOTAL	**25,838,426**	**7,105,353**	**8,800,934**	**9,932,139**	

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 5-0 taken on March 18, 2014, on Article 5.

No Action Was Taken under this Article

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 5 provides authorization, in accordance with General Laws, Chapter 44, Section 64, for the Town to make payments on bills from previous years.

RECOMMENDATION:
Given that there appear to be no outstanding bills at this time, the Advisory Committee unanimously recommends NO ACTION on Article 5.

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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 2015 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 FY2015 is approximately $60,000 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 FY2015 is approximately $60,000 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 5-0 taken on March 25, 2014, on the following vote:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2015 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

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

The Board of Assessors, which is the Petitioner of Article 6, has voted unanimously to recommend property tax exemptions for FY 2015. The Board wishes to continue Brookline's 25 year participation in a state mandated property tax exemption program.

The Commonwealth of Massachusetts has provided the framework for this program in Section 4 of Chapter 73 of the acts of 1986, as amended by Chapter 126 of the Acts of 1988. The state statute provides a base exemption and allows a doubling of that base exemption under the program. 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 detailed in the chart provided by the Board of Assessors in the explanation of Article 6, and those who can receive such exemptions are disabled veterans, surviving spouses, and elderly residents. Town Meeting has approved such property tax exemptions at the increased level for the previous 25 years.

DISCUSSION:

For FY 2015, the Board of Assessors estimates that the proposed doubling of the statutory exemptions, which requires annual re-authorization by Town Meeting, will cost approximately $60,000 and would be funded from the tax abatement overlay account. The full program actually costs about $80,000 but the state absorbs some of the costs.

In the past year, 128 taxpayers received exemptions under this program. That number is down from the 139 taxpayers who participated two years ago, and continues the downward trend in number of participants since 2010, probably due to mortalities and other demographic trends.

RECOMMENDATION:
By a vote of 18 in favor, none opposed, and 2 abstentions, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

XXX

ARTICLE 7

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

On May 20, 2014, the Advisory Committee reconsidered its prior recommendation for Favorable Action and adopted a significant change to Article 8 (FY2015 Budget) regarding funding for the Driscoll School Feasibility Study / Schematic Design. Their proposed change is constructed so that is also impacts Article 7. Please see Article 8 for a full explanation of the Advisory Committee's revised budget vote and the Board of Selectmen's disagreement with their proposal. In summary, the Advisory Committee recommends against allocating the $1 million for the Driscoll School project and uses that $1 million, which comes from an Overlay Surplus declared by the Board of Assessors, to fund the Lawrence School project that is funded under this Article 7. By doing so, the bond authorization is reduced by $1 million, from $1.5 million to $500,000.

In effect, the Advisory Committee is recommending that the $1 million of funds from Overlay Reserve be used as a substitute for $1 million of bonding, leaving that $1 million in bonding capacity available to fund the Driscoll School project at a future Town Meeting, should the Massachusetts School Building Authority (MSBA) invite the Town into the Eligibility Period and should the Town still consider moving forward with a Driscoll project. The second part of the previous sentence is of extreme importance, as both the Advisory Committee and the Override Study Committee have discussed how an expansion project at Driscoll could be avoided by the School Committee making changes to their policies regarding class size and limiting acceptance of non-resident students (i.e., Metco and Materials Fee) into the Brookline Public Schools.

As explained in detail under the Selectmen's Supplemental Recommendation under Article 8, the Board unanimously opposes the elimination of the $1 million for the Driscoll School project. Since that vote is now directly related to the vote under this Article 7 for the reason explained above, the Board must express its support for its original vote under Article 7, which is repeated below:

VOTED: Appropriate $1,500,000, 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 and for additions to the Lawrence School, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $1,500,000 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.

Approved by unanimous vote

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Article 7 as originally submitted is a bond authorization of $1.5 million in additional funds for the construction of four additional classrooms to the Lawrence School, currently estimated total cost of $3.5 million, in order to bring the school up to one classroom short of a full four-section school.

Per the Advisory Committee's recommended vote outlined under Article 8, the Advisory Committee is recommending that of the $1.5M appropriation, $1M come from Overlay Surplus Account money (originally allocated for the Driscoll School Feasibility and Schematic Design) and $0.5M bonded. This is reflected in the following vote:

VOTED: Appropriate $1,500,000, 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 and for additions to the Lawrence School, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow ~~$1,500,000~~$500,000 under General Laws, Chapter 44, Section7(3A), or pursuant to any other enabling authority~~;~~ and transfer $1,000,000 from the overlay surplus account; 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.

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 2014 budget or transfer funds between said accounts;

(B) Appropriate a sum of money, 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 and for additions to the Lawrence School.

(C) 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 (FY14) budget. In addition, an appropriation for additions to the Lawrence School is included.

SELECTMEN'S RECOMMENDATION

Article 7 was submitted in order to address any current year (FY14) budget amendments. While there are no operating budget amendments being offered, there is a capital item being recommended: a $1.5 million bond authorization for the creation of additional classroom space at the Lawrence School. This project is necessary to help address the

enrollment growth in the Town's K-8 schools and was originally planned as part of annual ongoing capital budgeting to increase classroom capacity.

The plan to add four additional classrooms to the Lawrence School was first proposed in 2012 and an FRP for design services for modular classrooms was issued in December 2012. In April 2013 a Lawrence School Project Oversight Committee, with school, parent and neighborhood representatives was appointed to review siting, traffic, landscaping and other design issues. The current design, to be located on the parking lot accessible from Newell Road, was approved after neighbors strongly objected to building on abutting Longwood Park. After approval from the ZBA, the project was put out to bid in October 2013, with anticipated construction and funding in FY14. However, it was put on hold when only one bid was received on December 11, 2013 at $4.2 million, which was significantly in excess of the planned budget of approximately $2.1 million. The original plan was predicated on the utilization of pre-fabricated units, to be assembled, and finished on-site. The bid specs were only sent to vendors who specialize in this construction. The bid was rejected as non-responsive in January 2014.

In their post-analysis of the bid process the project architect, Flansburgh Associates, opined that the significant specialized work called for in the project design (hip roof, brick cladding, main two-story building connector, etc.) may have discouraged the companies that primarily perform this work, resulting in the lack of bidders. In any event the $4.2 million bid was judged to be noncompetitive and not in the best interest of the Town.

It remains a priority of the School Department to secure additional classroom space in the Lawrence School District. As a result, the School Department asked Flansburgh Associates to prepare a cost estimate and timeline for a conventional construction plan, to produce the same result in the same design and location, in order to meet the criteria for construction which has already been reviewed and approved by the ZBA and received neighborhood sign-off.

Based on Flansburgh Associates' work, the current estimate is $3.6 million - $4 million. Therefore, the project would require an additional appropriation of $1.5 million to be added to the $2.5 million currently planned for from the FY14 and FY15 "Classroom Capacity" CIP appropriations. ($1 million of the FY14 Classroom Capacity appropriation and $1.5 million of the $1.75 million requested in the FY15 CIP Classroom Capacity item would go toward this project.) If approved by Town Meeting, this appropriation will allow for this project to move forward in time for these classrooms to come on-line for school year 2015-2016 when they are urgently needed.

The Selectmen continue to be supportive of the School Committee and Administration during this enrollment crisis and will continue to partner with them to address this issue. Therefore, by a vote of 4-0-1 taken on April 17, 2014, the Selectmen recommend FAVORABLE ACTION on the vote offered by the Advisory Committee.

ROLL CALL VOTE:

Favorable Action	Abstain
DeWitt	Benka
Daly	
Goldstein	
Wishinsky	

ADVISORY COMMITTEE'S RECOMMENDATION

Article 7 has been submitted by the Board of Selectmen and requests the appropriation of $1.5 million in FY 14 funds. This sum is to be borrowed, and when combined with $2.5 million in FY 14 and 15 CIP "classroom capacity" dollars, will fund the construction of four additional classrooms on the east side of the Lawrence School at a currently estimated cost of $3.5 million. When construction is completed, according to the School Department, Lawrence will be one classroom short of a four-section school.

BACKGROUND:
According to the School Department, the Lawrence School has capacity for 620 students but currently educates 660 students. The proposed classrooms will accommodate approximately 66 additional students. Lawrence was fully renovated in 2003-04 and enlarged with additional space for classrooms, a library, and a cafeteria.

In October 2013, the Zoning Board of Appeals granted the necessary special permits to construct an additional 5800 square feet, consisting of four modular classrooms with a glass connector, to the school. Bids to manufacture and install the classrooms were solicited. Only one contractor responded, submitting a bid of $4.2 million, exceeding budgeted funds by $1.7 million. After considering the options, the Building Commission, in consultation with the School Department and School Committee, voted to change course and pursue the more traditional approach of building on site. Assuming the approval of required funding, work is anticipated to start in August 2014 and be completed in July 2015. The addition will be approximately 5500 square feet in size.

DISCUSSION:
It was noted that four classrooms are being added to the school at a time when the increased number of school-age children in the Lawrence neighborhood and its buffer zones would lead to the logical conclusion that more classrooms should be built now. The four new classrooms represent a net gain of two, given that two existing "suboptimal" classrooms will be decommissioned and replaced by two of the new four.

The HMFH study commissioned by the B-SPACE Committee showed capacity for 15 classrooms on the playground side of the school. That same HMFH study showed the potential for using the northeast corner not only for six classrooms (three on each of two floors) – two more than the current plan calls for – but also for additional common space to support the expansion on the playground side.

The HMFH study raises the question of whether the addition of only four classrooms now is under-building for future need and foreclosing on the options to add more classrooms in this location as well as on the playground side by eliminating the possibility of expanding the cafeteria and library.

In answer to these concerns, School Committee members responded that a larger project would have been more costly, and that when the discussion to enlarge the school began, fewer than ten years had elapsed since the last construction project and expansion, thus precluding partnering with the Massachusetts School Building Authority. Contemplating a larger project now would mean renegotiating an agreement with the Newell Road and other neighbors and re-entering the process seeking zoning relief from the ZBA. Such steps could delay the project for a years.

Additionally, representatives of the School Committee observed that there was no space into which Lawrence students could be moved during a major expansion because the Old Lincoln School would be occupied by students from Devotion and possibly Pierce and Driscoll. (This scenario assumes that Devotion would be renovated and expanded, as opposed to being replaced with an entirely new facility.) They also stated that the school needed one additional classroom per year for the next four years and that with a larger expansion, there would be insufficient classroom space for a longer period of time. (This need assumes no changes in current class size or in the practice of registering non-resident students.)

In response to the question of why, with a projected budget of $3.5 million, $4 million was being sought for the project, Building Commission staff stated that the budget was a "concept" budget and that some line items, such as the estimate for new furnishings, were low. The Deputy Town Administrator pointed out that if final bids were lower than $4 million, the Town would borrow a smaller sum of money.

RECOMMENDATION:
By a vote of 15-0-1, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: Appropriate $1,500,000, 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 and for additions to the Lawrence School, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $1,500,000 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.

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ARTICLE 8, ITEM 41

AMENDMENT OFFERED BY

TBHOMAS JOHN VITOLO – TMM #6

VOTED: To delete the three conditions under Item 41 in Article 8.

Passed by a Counted Vote of 242 for Favor against 2 Opposed

ARTICLE 8, ITEM 58

AMENDMENT OFFERED BY

KENNETH GOLDSTEIN – TMM #AL

VOTED: To delete the last phrase, beginning with the words "and further provided..." in the Advisory Committee's recommended vote under Article 8-Item #58 found in Supplement #2.

Passed by an FRV of 181 in favor, 43 opposed and 5 abstentions

ARTICLE 8

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

On May 20th, the Advisory Committee voted 10-8-1 to support the following motion:

> To delete $1M for Item 58 in Article 8 and appropriate $1M for the addition to the Lawrence School, under Article 7, reducing the bond authorization to $.5m, (thereby retaining capacity to bond $1m for the Driscoll Feasibility Study at the November 2014 Town Meeting).

As noted in the supplement to the Combined Reports, the majority of Advisory Committee members believes there is no urgency to fund the $1 million request at this Town Meeting, especially since the Town has yet to hear from the MSBA, and according to a presentation by the School Committee to the Driscoll community, the MSBA's answer is not likely to come before the fall.

Advisory Committee members believe waiting until November allows Town Meeting and others to consider

1. Information from the report of the Override Study Committee;

2. Information from the consultant hired by the Board of Selectmen to survey and report on stakeholders' viewpoints for a proposed expansion and renovation of the Driscoll School; and

3. Information from a long-term community needs study that could be commissioned in response to a recommendation of the OSC's Capital Subcommittee.

Waiting until November also allows the Driscoll community and School Committee the time and space they need to work through and understand the requirements and circumstances of a project at this school before beginning the feasibility study. In addition, waiting to vote the funds until after an MSBA invitation to enter into the Eligibility Period is received would be in keeping with the published guidelines of the MSBA.

Finally, the PSB's capacity needs may be lessened should the School Committee institute different School Department policies relative to the placement of new or existing students or increased class size.

Subsequent to the Advisory Committee's May 20th meeting, there was - and continues to be - much discussion regarding its vote, particularly via the TMMA listserv and the May 21st BNA/TMMA/LWV forum to review specific warrant articles (including Article 8).

Some who oppose the Committee's vote have noted that bonding the funds for the feasibility study would require a 2/3 vote of Town Meeting and therefore would set a higher bar than the simple majority needed to approve the funds from the overlay account.

In an effort to address that concern, the Advisory Committee offers an amendment to the Board of Selectmen's motion, i.e. adding the words "**and further provided that no money may be committed or expended prior to the close of the 2014 Fall Town Meeting** after the word "MSBA" at the end of the last phrase of the motion so that the amended motion would read:

Voted:

Appropriate the sum of $1,000,000 for a feasibility study, schematic design, and costs associated with the feasibility study and schematic design to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, said sum to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee; and to meet said appropriation, transfer $1,000,000 from the overlay surplus account; and further that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non- entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; all provided that the MSBA's Board votes to invite the Town into the Eligibility Period; and further provided that no money be committed or expended until after such invitation, if any, has been received from the MSBA ~~**and further provided that no money may be committed or expended prior to the close of the 2014 Fall Town Meeting.**~~

Passed by Majority Vote

As currently proposed, the Selectmen's motion asks Town Meeting to vote $1 million dollars with essentially only one condition governing its expenditure: an invitation from the MSBA to enter into the Eligibility Period. If such an invitation, contrary to all expectations, were to arrive before the fall and before a thorough vetting of the OSC Report, among other relevant material, the money could be committed and expended with the approval of only the Selectmen, School Committee, and Building Commission.

The Advisory Committee's amendment to the Selectmen's motion would preserve Town Meeting's option to vote the funds again, should there be concerns based on new information or changed circumstances. However, Town Meeting's approval is *not required.* In other words, if Town Meeting did not raise any objections to the commitment or expenditure of the funds at the 2014 Fall Town Meeting, the feasibility study could proceed at that Town Meeting's conclusion.

To summarize, the Advisory Committee's proposed language would (a) remove the objection that a 2/3 vote would be required to proceed with a study, while (b) still preserving a potential "second look" by Town Meeting with regard to a process that has required the intervention of a Selectman-appointed consultant, thus (c) ensuring that the Driscoll project was not effectively pre-judged by the commitment of $1 million and that funds were not wasted. In light of the fact that MSBA guidelines recommend that funds not be voted until after an invitation from the MSBA, the Advisory Committee's language also conforms to those MSBA guidelines.

Similar to the intentions behind the Advisory Committee's initial motion, the amendment reflects an effort to pursue a balanced and financially sound approach as all of us seek to address the growing school enrollment in the Brookline.

ARTICLE 8

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

On May 20, 2014, the Advisory Committee reconsidered its prior vote to recommend Favorable Action and adopted a significant change to Article 8 (FY2015 Budget) regarding funding for the Driscoll School Feasibility Study / Schematic Design. Their new vote, which passed by a slim margin, recommended against the $1 million appropriation for the Driscoll School project. A number of concerns were raised by the Driscoll School community and echoed by members of the Advisory Committee; please read the Advisory Committee's Supplemental Recommendation below for their reasons for now recommending against the appropriation for the Driscoll School.

In summary, the Advisory Committee recommends against allocating the $1 million for the Driscoll School project and uses that $1 million, which comes from an Overlay Surplus declared by the Board of Assessors, to help fund the Lawrence School project that is funded under Article 7. By doing so, that bond authorization is reduced by $1 million, from $1.5 million to $500,000. That then leaves a $1 million of debt capacity to fund the Driscoll School project at a future Town Meeting, should the Massachusetts School Building Authority (MSBA) invite the Town into the Eligibility Period <u>and</u> should the Town still consider moving forward with a Driscoll project. The second part of the previous sentence is of extreme importance, as both the Advisory Committee and the Override Study Committee have discussed how an expansion project at Driscoll could be avoided by the School Committee making changes to their policies regarding class size and limiting acceptance of non-resident students (i.e., Metco and Materials Fee) into the Brookline Public Schools.

The primary justification for the Advisory Committee's change of heart regarding funding this item (again, as detailed in the Advisory Committee's Supplemental Recommendation below) is that they believe it is premature for the Town to seek funding now since it has not been invited into the MSBA's Eligibility Period. This Board believes that time is of the essence and, having the funds in place should the MSBA invitation come, will save the Town up to six months of valuable time based on when the MSBA invites the Town. If the MSBA does not approve the Town's application or if the Town decided not to proceed with this project, the funds cannot be used for other purposes without further Town Meeting action.

Regarding the issue of seeking funding before the invitation into the Eligibility Period, MSBA's own guidance sends mixed messages:

> "It is premature for a city, town, or regional school district to authorize and appropriate funding for a feasibility study prior to being invited into the Eligibility

> Period by the MSBA. However, certain cities, towns, and regional school districts have indicated that given local meeting schedules, they may decide to vote to authorize and appropriate funding for a feasibility study in advance of a potential invitation into the MSBA's Eligibility Period. The MSBA does not recommend this course of action, and cities, towns, and districts that decide to vote at this early stage should be aware that they are proceeding at their own risk and may not ultimately be invited into the MSBA's Eligibility Period."

The first sentence says it is premature to seek local funding in advance, while the second sentence says you can, while the third sentence says it is not recommended. Nowhere does it say you cannot. Clearly we would not be able to (nor would we want to) spend any of the funding unless we were invited into the Eligibility Period, but seeking the funding in advance helps with the overall timing issue. Therefore, Brookline chose to seek funding in advance so that if the MSBA did invite us into the Eligibility Period, we would be ready to start the MSBA's process to procure the services of an architect. This is important because there is a clear timing issue that has been discussed for some time; the Schools need the additional classroom spaces to be available by a certain school year. Doing everything we can to get the classroom spaces online by that time is of the utmost importance.

In addition to the timing issue, there has been a lot of discussion about how we got to the "Expand in Place" approach, and even some recent observations that we should undertake a new facilities master plan prior to proceeding with a Driscoll Feasibility Study. It is important to know that the process began back in 2005, when the first increases in kindergarten enrollment lead to development of a School Facilities Master Plan by nationally recognized consultants, MGT of America, in 2008, with the assistance of a town-wide committee consisting of representatives of the Board of Selectmen, the School Committee and Department, and the Building Commission. A growth needs assessment for Brookline was developed and recommendations were made for long-range planning. That Plan concluded that, while a ninth K-8 school would be optimal to meet the Schools' needs, there was no site in the Town that met the key criteria of 1) neighborhood-based and 2) situated where students lived. Instead, it recommended an approach of expanding existing schools.

Plans for Runkle and Heath expansions/renovation proceeded from the Facilities Master Plan and the Town began planning for Devotion. In 2011, after the 2010 census, MGT's original enrollment projections were updated with census data. As a result of that update, the School Committee adjusted its expectations of "Expand in Place" and worked with the Selectmen to convene the Brookline School Population & Capacity Exploration (B-SPACE) Committee.

Through a public process that was closely watched throughout town, B-SPACE questioned the original MGT conclusion that a new K-8 could not be sited and spent nine months investigating. The investigation included town-owned sites such as Amory Park, using the Old Lincoln School as a permanent K-8 facility, and the Baldwin School site in

Chestnut Hill. The Committee also approached a number of private land owners in North Brookline to determine interest in a sale or land swap. The Committee eventually came to the same conclusion as the 2008 Facilities Master Plan and they endorsed continuing "Expand in Place". An architectural firm (HMFH) was hired to assist B-SPACE with determining how best to implement "Expand in Place". Since both the Runkle and Heath Schools had already been renovated/expanded and planning for a Devotion rehab/expansion had commenced, HMFH looked at possibilities of growth at the other five schools for B-SPACE.

A detailed redistricting analysis was undertaken by B-SPACE. That analysis eliminated Baker or further expansion at Heath from immediate consideration. That left Driscoll, Lawrence, Pierce and Lincoln. HMFH called Lincoln expansion of any size very difficult, as it involved moving a building, taking the parking lot, etc. So that left Lawrence, Pierce, and Driscoll. Of the three sites, Driscoll had the most straightforward opportunity for expansion. Lawrence could do the four classroom addition, but more than that was considered very problematic given its recent renovation (2005) as well as its position on a park and with access only by a crowded through-street (Francis St.). Pierce would necessarily involve demolition of the 1975 building, a huge project deemed financially infeasible in the shorter term given Devotion and BHS costs. So Driscoll, which had not been substantially renovated since original construction, had an inadequate cafeteria, a "temporary" gym, and a site that could accommodate limited expansion, was the next project to move forward. In addition, plans for Devotion changed to accommodate growing it to five sections across the board (this required negotiations with MSBA last fall) and it was decided that Pierce should also become a five section school in the long-term.

Prior to taking its vote on the B-SPACE recommendations, the School Committee noted the following:

1) this would address severe overcrowding of common spaces at Driscoll and achieve the first full renovation of the school since 1911;
2) a long-term plan necessarily involved replacement of the 1975 building at Pierce to bring Pierce to a five-section school;
3) Devotion would have to grow to a five-section school; and
4) this combination of plans resulted in some rebuffering/redistricting, but that it was the <u>least</u> disruptive of any of the options considered in terms of impact on current students.

Another important factor to consider is that the long-term plan the Town provided to the MSBA as part of the Devotion School process included a renovation/addition of the Driscoll School. Without additional classrooms at Driscoll, the Town's long-term plan is no longer viable and could jeopardize funding for the Devotion School project or future projects. The MSBA could then ask for alternative plans or choose not to partner with us, taking their 30% - 35% of funding with them.

In conclusion, the Driscoll Feasibility is the first step in a long-term plan, one that is consistent with our facilities master plan, good for Driscoll, and best for the system as a whole to preserve neighborhood K-8 schools. As will become quite evident over the next few months as the Override Study Committee completes its work and the Board of Selectmen are provided with options to present to the voters for approval, there is no single solution that leaves everyone feeling satisfied. Tough decisions will have to be made. While a Driscoll School neighborhood discussion needs to, and will be, held, everyone must remember that a broader community discussion will also be engaged about the choices this town faces. It will be difficult and challenging, but Brookline has risen to the occasion in the past and we know it will in this case, too.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 20, 2014, on the budget as offered by the Advisory Committee, but with an amendment to restore the $1,000,000 appropriation for the Driscoll School Feasibility Study / Schematic Design. The proposed language for the appropriation is as follows:

> 58.) Appropriate the sum of $1,000,000 for a feasibility study, schematic design, and costs associated with the feasibility study and schematic design to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, said sum to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee; and to meet said appropriation, transfer $1,000,000 from the overlay surplus account; and further that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; all provided that the MSBA's Board votes to invite the Town into the Eligibility Period; and further provided that no money be committed or expended until after such invitation, if any, has been received from the MSBA.

In addition, the Board voted to authorize the Town Administrator to execute a Contract with a qualified consultant to survey and report on stakeholders' viewpoints for a proposed expansion and renovation of the Driscoll School, including describing the objectives, concerns and suggestions of school administrators, faculty, students, parents, neighbors, abutters and local businesses. That report will then be used to inform the Town and any future consultants engaged in preparing a feasibility study as decisions about the project are made and project parameters are considered. Lastly, they voted that the adequacy of parking issue would be part of this process.

[As previously noted, the revised votes offered by the Advisory Committee under Articles 7 and 8 use the $1 million in Overlay Surplus that was originally being allocated to fund the Driscoll School Feasibility Study / Schematic Design to reduce the bond authorization recommended under Article 7 for the Lawrence School, from $1.5 million to $500,000. Under our proposed amendment for Article 8, the $1 million is used as originally intended and, therefore, our vote under Article 7 remains the same as contained in the Combined Reports, which is now different than the Advisory Committee's.]

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The Advisory Committee reconsidered an item in the proposed FY 15 budget. Specifically, CIP Item number 58 (Driscoll School Feasibility and Schematic Design) funded with money from the Overlay Surplus Account.

The proposed feasibility study has engendered a high degree of concern among many Driscoll School parents. Expansion and renovation of Driscoll is part of the Town's larger strategy of "Expand in Place" to contend with our growing school population. Heath, Lawrence, Runkle and now Devotion have so far been part of this effort. Driscoll has a geographic disadvantage in that it is not associated with a town park like many other schools; and there is concern a school addition may be too big for this site, reducing the size of its playground. There is no specific plan or design at this time, but Item 58 would fund a feasibility study and specifications for a possible project at Driscoll with the goal of bringing the school up to a full four sections (7-12 additional classrooms). Many in the Driscoll community have asked for assurances as to the per-pupil ratios of outdoor play space and building common area space prior to the commencement of any feasibility study.

The School Committee has countered that it cannot pre-prescribe specific ratios, especially without full information, but that there are required SBA standards and a feasibility study done with the school community is exactly the way to figure these things out.

No consensus has been reached, though the Driscoll community and the School Committee continue to meet. And, the Selectmen are facilitating a process to ascertain all views and concerns.

It was with this backdrop and updated information that the Advisory Committee reconsidered this item with the idea of not funding this study now, before hearing back from the Massachusetts School Building Authority (MSBA). Instead, the proposed strategy is to wait until the fall and let this item be brought back for consideration.

Within the Advisory Committee there were strong and diverging opinions.

DISCUSSION:
Reconsideration of the AC's previous vote on Item 58 (Driscoll Feasibility and Schematic Design) in Article 8 was based, in part, on several factors:

1. Focusing on the MSBA regulations which state: *It is premature for a city, town, or regional school district to authorize and appropriate funding for a feasibility study prior to being invited into the Eligibility Period by the MSBA.* Although the MSBA website acknowledges that some cities, towns, and regional school districts, due to local meeting schedules, may decide to vote to authorize and appropriate funding for a feasibility study in advance of a potential invitation into the MSBA's Eligibility Period, it seems clear that voting funds ahead of time is neither required nor encouraged. Early in the process, the AC was given to understand that voting feasibility study money in May would show community support for the undertaking. While that may be so, it is not clear that it provides an advantage.

2. Receipt of recommendations from the OSC's Capital Subcommittee, that a long range facilities plan for town and school facilities should ideally be developed before a feasibility study for a specific school is undertaken to provide long range planning context for individual projects. A recommendation that is, admittedly, not uncontroversial.

3. The vote of the BOS which funds and supports a facilitator to work with the School Committee and Driscoll community on understanding a Driscoll School project and the associated concerns.

4. Response (invitation to participate) from MSBA may be as late as November.

Objecting:
Members objecting to a change in the AC's initial recommendation maintain that a feasibility study will answer in a professional, deliberative and inclusive way many of the outstanding questions of the Town and Driscoll community – serving both. And, that proposed language in the appropriation vote specifies that no funds may be expended until we receive a favorable response from the MSBA, providing both flexibility and caution.

They point out that a thorough comprehensive School Building Master Plan was done in 2008. It was updated with new demographic data and reviewed and vetted in the B-SPACE process, after which they reached the same conclusions. Part of the solution to accommodating our growing school population, predominately in North Brookline, is

through an "Expand in Place" approach to our existing schools. As is true with Heath, Lawrence, Runkle and Devotion; Driscoll is part of this solution.

These members contend that the question is not so much whether we need a project at Driscoll; it is rather what kind. A feasibility study will allow us to discern what is possible and, most importantly, what is proper. And, it will help inform our decisions around a likely over-ride question in the spring.

They believe this sends a very strong and important message to the MSBA that we support an important project at Driscoll, and that any other message may well jeopardize support by the State – having potential consequences for the entire school system.

Supporting:
Those favoring the change maintain there is no urgency to fund this now, especially since we have yet to hear from the MSBA. They point out that the answer will likely not come before this fall. MSBA meets on September 25th and November 19th; TM likely meets Nov. 18th. Worst case – there's a delay of 7 weeks.

This change takes pressure off our bonding capacity, which could be tapped in the fall, by allocating the $1M in overlay account money – which must be committed by June 30th – to Lawrence which, under this proposed vote, would need to bond only $0.5M of the full $1.5M appearing in Article 7. (Bonding requires a 2/3's vote; the overlay money a majority vote).

This can easily be brought back to Town Meeting in the fall when we will presumably receive a response from the MSBA.

Further, waiting until November to consider this allows Town Meeting and others to review, vet and process the Override Study Committee's report, any additional information facilitated through the BOS efforts, and possibly the recommendations of a long-term community needs study. As well, our capacity needs may be lessened should the School Committee institute different School Department policies relative to the placement of new or existing students or increased class size.

Finally, it allows the Driscoll community and School Committee the time and space they need to work through and understand the requirements and circumstances of a project at this school before beginning the feasibility. And, this would be in keeping with the published guidelines of the MSBA itself.

RECOMMENDATION:
By a vote of 10-8-1, the Advisory Committee supports amending the FY15 budget by removing the $1M in funding for the Driscoll School Feasibility and Schematic Design (item 58) and appropriate that $1M for the addition to the Lawrence School (Article 7), thereby reducing the amount to bond under that project to $0.5M. The vote taken was as follows:

Voted: To delete $1M for Item 58 in Article 8 and appropriate $1M for the addition to the Lawrence School, under Article 7, reducing the bond authorization to $.5m, (thereby retaining capacity to bond $1m for the Driscoll Feasibility Study at the November 2014 Town Meeting).

By a vote of 12-6-1, the Advisory Committee recommends Favorable Action on Article 8 (FY15 Budget) as amended. A revised Article 8 vote is as follows:

VOTED: To approve the budget for fiscal year 2015 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 FY2015 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the 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 $101,748 effective July 1, 2014, 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 $1,331,923 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	$464,599
Purchase of Services	$132,218
Supplies	$169,950
Other	$4,100
Utilities	$98,538
Capital	$86,420
Debt Service	$188,049
Reserve	$25,000
Total Appropriations	$1,168,874
Indirect Costs	$163,049
Total Costs	$1,331,923

Total costs of $1,331,923 to be funded from golf receipts with $166,049 to be reimbursed to the General Fund for indirect costs.

7.) **WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling $26,875,578, 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	2,104,341	360,870	2,465,212
Purchase of Services	184,598	157,200	341,798
Supplies	102,020	21,000	123,020
Other	8,900	0	8,900
Utilities	135,854	0	135,854
Capital	158,300	155,000	313,300
Intergovernmental	6,551,770	12,556,277	19,108,047
Debt Service	882,154	1,257,229	2,139,383
Reserve	117,056	149,039	266,095
Total Appropriations	10,244,993	14,656,615	24,901,607
Indirect Costs	1,577,672	396,298	1,973,970
Total Costs	11,822,665	15,052,913	26,875,578

Total costs of $26,875,578 to be funded from water and sewer receipts with $1,973,970 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 $2,950,000.

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 $150,000.

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

d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section

53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed $30,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of $4,557,039, 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 $389,091, 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 [to the General Fund for the Department of Public Works - $2,150,000] [to the General Fund for the Police Department - $2,150,000]	$4,300,000
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]	$ 349,934

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 62, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #60 - 62, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

34.) Raise and appropriate $270,000, 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.

35.) Raise and appropriate $65,000, 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.

36.) Raise and appropriate $580,000, 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 #5.

37.) Raise and appropriate $325,000, 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.

38.) Raise and appropriate $40,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for a feasibility study of the construction of a fleet maintenance facility for the Fire Department and for renovations to the training facility located at Fire Station #6.

39.) Raise and appropriate $50,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the Library Trustees, for development of a written building program and a feasibility / concept study of renovations to the Coolidge Corner Library.

40.) Raise and appropriate $30,000, 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.

41.) 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, for a study of MBTA Traffic Signalization, under the following conditions:

~~1) that before utilizing Town funds to implement the recommendations, if any, of the consultant, the Town shall seek implementation funds from the MBTA and document all such efforts;~~

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2) that if MBTA implementation funds are not forthcoming, the Town shall seek implementation funds from other sources, including the state and federal governments, and document all such efforts; and

3) that before funds are sought or expended to implement any TSP project, the MBTA shall present a plan to the Town describing how congestion at Cleveland Circle resulting from reduced transit time on Beacon Street will be avoided.

42.) Raise and appropriate $1,550,000, 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.

43.) Raise and appropriate $290,000, 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.

44.) Raise and appropriate $515,000, 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.

45.) Raise and appropriate $90,000, 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 Pierce playground.

46.) 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.

47.) 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.

48.) 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.

49.) Raise and appropriate from the Sale of Lots special revenue fund (SW01) $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.

50.) Raise and appropriate $60,000, 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.

51.) Raise and appropriate $320,000, 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 mobile carts and mounted projection systems.

52.) 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.

53.) 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, with respect to School Buildings, by the School Committee, for improvements to elevators in Town and School facilities.

54.) Raise and appropriate $160,000, 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.

55.) Raise and appropriate $730,000, 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 building envelope / fenestration repairs to Town and School buildings.

56.) 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, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities.

57.) Raise and appropriate $300,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

~~58.) Appropriate the sum of $1,000,000 for a feasibility study, schematic design, and costs associated with the feasibility study and schematic design to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further~~

See Supplement #2

~~described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, said sum to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee; and to meet said appropriation, transfer $1,000,000 from the overlay surplus account; and further that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided, that that no money be committed or expended before the District's Statement of Interest to the MSBA has been approved and the District has received an invitation from the MSBA to enter the Eligibility Period; and provided further, that there are adequate parking accommodations in accordance with transportation board policy.~~

~~59.)~~58.) 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 Unanimous Vote

~~60.)~~59.) Appropriate $900,000, 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 Ladder #2, and to meet the appropriation, authorize the Treasurer, with the approval of the Selectmen, to borrow $900,000 under General Laws, Chapter 44, Section 7 (9), as amended, or pursuant to any other enabling authority.

Passed By A Unanimous Vote

~~61.)~~60.) Appropriate $4,600,000, 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 capping, cleaning up or preventing pollution and closing out the Newton Street Landfill (rear) and associated solid waste disposal facilities, including all costs incidental thereto, and to meet the appropriation authorize the Treasurer, with the approval of the Selectmen, to borrow $4,600,000 under General Laws, Chapter 44, Section 8, Clauses (21), (23) and (24), as amended, 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 Unanimous Vote

~~62.)~~61.) Appropriate $1,200,000, to be expended under the direction of the Commissioner of Public Works, to pay costs of (i) traffic circulation improvements in Brookline Village (at an approximate cost of $1,000,000) and (ii) Riverway Park pedestrian and bicycle crossing improvements at Route 9 and the Riverway (at an approximate cost of $200,000), including the payment of any and all other costs incidental and related thereto; that to meet this appropriation, the Treasurer, with

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the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the General Laws, Chapter 74 of the Acts of 1945, as amended, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that the Selectmen are authorized to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project; provided, however, that the total amount authorized to be borrowed pursuant to this vote shall be reduced to the extent of any grants or gifts received by the Town on account of this project.

14.) **FREE CASH:** Appropriate and transfer $5,084,152 from free cash for the following purposes:

a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $530,584;
b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $234,839;
c.) Reduce the tax rate (Special Appropriations) – $4,148,339;
d.) Housing Trust Fund – $170,390.

Cont. –

FY15 AMENDED BUDGET - TABLE 1

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	$$ CHANGE FROM FY14	% CHANGE FROM FY14
	REVENUES						
	Property Taxes	162,674,174	169,029,414	175,783,902	181,848,174	6,064,272	3.4%
	Local Receipts	23,849,795	24,480,797	22,119,366	22,770,225	650,859	2.9%
	State Aid	13,796,975	15,125,059	16,659,162	17,629,357	970,195	5.8%
	Free Cash	5,380,264	5,336,413	7,655,155	5,084,152	(2,571,003)	-33.6%
	Overlay Surplus	400,000	1,750,000	0	0	0	-
	Other Available Funds	6,218,966	10,144,344	6,846,435	6,903,508	57,073	0.8%
	TOTAL REVENUE	**212,320,174**	**225,866,027**	**229,064,019**	**234,235,416**	**5,171,396**	2.3%
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Selectmen	633,913	644,074	666,294	671,197	4,904	0.7%
	2 . Human Resources	503,323	574,019	517,681	523,365	5,683	1.1%
	3 . Information Technology	1,399,122	1,472,035	1,691,246	1,751,863	60,618	3.6%
	4 . Finance Department	2,986,279	2,991,976	2,883,755	2,845,778	(37,977)	-1.3%
	5 . Legal Services	842,311	821,872	815,521	832,893	17,372	2.1%
	6 . Advisory Committee	22,121	14,974	24,156	24,372	216	0.9%
	7 . Town Clerk	577,160	775,342	545,728	627,632	81,904	15.0%
	8 . Planning and Community Development	634,153	620,599	666,449	765,310	98,861	14.8%
	9 . Police	14,947,822	14,954,651	15,211,679	15,312,691	101,012	0.7%
	10 . Fire	12,855,469	12,844,259	12,959,959	13,005,941	45,982	0.4%
	11 . Building	6,823,180	6,854,850	7,080,776	7,024,504	(56,272)	-0.8%
(1)	12 . Public Works	13,283,953	14,480,045	14,051,437	14,066,549	15,112	0.1%
	a. Administration	*799,178*	*823,184*	*826,817*	*864,369*	*37,552*	*4.5%*
	b. Engineering/Transportation	*1,096,910*	*1,105,748*	*1,240,771*	*1,262,215*	*21,445*	*1.7%*
	c. Highway	*4,774,773*	*4,579,656*	*4,940,010*	*5,034,219*	*94,208*	*1.9%*
	d. Sanitation	*2,873,192*	*3,003,721*	*2,976,972*	*2,990,830*	*13,859*	*0.5%*
	e. Parks and Open Space	*3,325,274*	*3,507,459*	*3,662,776*	*3,525,824*	*(136,952)*	*-3.7%*
	f. Snow and Ice	*414,627*	*1,460,278*	*404,091*	*389,091*	*(15,000)*	*-3.7%*
	13 . Library	3,621,074	3,742,982	3,720,993	3,754,728	33,735	0.9%
	14 . Health	1,158,084	1,152,529	1,263,418	1,300,189	36,771	2.9%
	15 . Veterans' Services	273,859	294,085	295,993	321,818	25,825	8.7%
	16 . Council on Aging	770,862	872,570	840,951	840,206	(745)	-0.1%
	17 . Human Relations	108,596	117,064	0	0	0	-
	18 . Recreation	1,003,409	1,016,673	1,050,192	1,006,120	(44,072)	-4.2%
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2)	20 . Collective Bargaining - Town	1,175,000	1,775,000	1,314,514	2,321,220	1,006,706	76.6%
	Subtotal Town	*62,444,691*	*64,244,600*	*66,315,741*	*67,711,376*	*1,395,635*	*2.1%*
	21 . *Schools*	*75,387,189*	*79,079,823*	*82,780,770*	*86,827,207*	*4,046,437*	*4.9%*
	TOTAL DEPARTMENTAL EXPENDITURES	**137,831,880**	**143,324,423**	**149,096,511**	**154,538,583**	**5,442,072**	3.7%
	NON-DEPARTMENTAL EXPENDITURES						
(1)	22 . Employee Benefits	41,529,043	45,240,975	50,100,251	50,500,116	399,865	0.8%
(3)	*a. Pensions*	*14,556,225*	*15,801,983*	*17,385,688*	*17,882,573*	*496,885*	*2.9%*
	b. Group Health	*21,546,572*	*22,865,804*	*24,618,704*	*25,136,108*	*517,405*	*2.1%*
	c. Health Reimbursement Account (HRA)	*0*	*50,876*	*70,000*	*70,000*	*0*	*0.0%*
(3)	*d. Retiree Group Health Trust Fund (OPEB's)*	*1,801,527*	*2,601,927*	*3,514,360*	*3,311,860*	*(202,500)*	*-5.8%*
	e. Employee Assistance Program (EAP)	*25,180*	*27,400*	*28,000*	*28,000*	*0*	*0.0%*

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	$$ CHANGE FROM FY14	% CHANGE FROM FY14
	f. Group Life	*129,889*	*132,118*	*132,500*	*140,000*	*7,500*	*5.7%*
	g. Disability Insurance	*13,279*	*13,376*	*16,000*	*16,000*	*0*	*0.0%*
(3)	*h. Worker's Compensation*	*1,250,000*	*1,200,000*	*1,720,000*	*1,450,000*	*(270,000)*	*-15.7%*
(3)	*i. Public Safety IOD Medical Expenses*	*300,000*	*560,660*	*400,000*	*300,575*	*(99,425)*	*-24.9%*
(3)	*j. Unemployment Compensation*	*350,000*	*350,000*	*450,000*	*325,000*	*(125,000)*	*-27.8%*
	k. Medical Disabilities	*26,989*	*18,421*	*40,000*	*40,000*	*0*	*0.0%*
	l. Medicare Coverage	*1,529,382*	*1,618,410*	*1,725,000*	*1,800,000*	*75,000*	*4.3%*
(2)	23 . Reserve Fund	605,103	1,250,621	2,161,799	2,122,336	(39,463)	-1.8%
	24 Stabilization Fund	253,092	0	250,000	0	(250,000)	-100.0%
	25 Affordable Housing	355,264	251,363	555,106	170,390	(384,716)	-69.3%
	26 . Liability/Catastrophe Fund	141,959	253,669	154,115	234,839	80,724	52.4%
	27 . General Insurance	248,469	263,478	335,000	371,500	36,500	10.9%
	28 . Audit/Professional Services	129,335	130,000	130,000	130,000	0	0.0%
	29 . Contingency Fund	12,895	14,383	15,000	15,000	0	0.0%
	30 . Out-of-State Travel	1,403	2,374	3,000	3,000	0	0.0%
	31 . Printing of Warrants & Reports	14,219	19,837	25,000	25,000	0	0.0%
	32 . MMA Dues	11,178	11,346	11,686	11,979	293	2.5%
	Subtotal General	*1,167,814*	*946,450*	*3,640,706*	*3,084,044*	*(556,662)*	*-15.3%*
(1)	33 . Borrowing	10,112,066	9,834,605	9,583,111	9,621,757	38,646	0.4%
	a. Funded Debt - Principal	*7,955,436*	*7,428,882*	*7,207,338*	*7,246,544*	*39,206*	*0.5%*
	b. Funded Debt - Interest	*2,142,824*	*2,376,113*	*2,215,772*	*2,215,213*	*(560)*	*0.0%*
	c. Bond Anticipation Notes	*0*	*0*	*100,000*	*100,000*	*0*	*0.0%*
	d. Abatement Interest and Refunds	*13,806*	*29,610*	*60,000*	*60,000*	*0*	*0.0%*
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**52,808,923**	**56,022,030**	**63,324,067**	**63,205,920**	**(118,147)**	**-0.2%**
	TOTAL GENERAL APPROPRIATIONS	**190,640,803**	**199,346,453**	**212,420,578**	**217,744,503**	**5,323,925**	**2.5%**
	SPECIAL APPROPRIATIONS						
	34 . Technology Applications (revenue financed)				270,000		
	35 . Commercial Areas Improvements (revenue financed)				65,000		
	36 . Fire Engine #5 Replacement (revenue financed)				580,000		
	37 . Fire Station Renovations (revenue financed)				325,000		
	38 . Fire Department Fleet Maint. Facility/Training Center - Feasibility Study (revenue financed)				40,000		
	39 . Coolidge Corner Library Feasibility/Concept Study (revenue financed)				50,000		
	40 . Bicycle Access Improvements (revenue financed)				30,000		
	41 . MBTA Traffic Signalization (revenue financed)				50,000		
	42 . Street Rehabilitation (revenue financed)				1,550,000		
	43 . Sidewalk Repair/Reconstruction (revenue financed)				290,000		
	44 . LED Streetlight Conversion (revenue financed)				515,000		
	45 . Pierce Playground - Design (revenue financed)				90,000		
	46 . Playground Equipment, Fields, Fencing (revenue financed)				295,000		
	47 . Town/School Grounds Rehab (revenue financed)				85,000		
	48 . Tree Removal and Replacement (revenue financed)				170,000		
	49 . Walnut Hills Cemetery - roadway work (special revenue fund)				100,000		
	50 . School Furniture Upgrades (revenue financed)				60,000		
	51 . School Technology (revenue financed)				320,000		
	52 . Town/School ADA Renovations (revenue financed)				65,000		
	53 . Town/School Elevator Renovations (revenue financed)				250,000		
	54 . Town/School Energy Conservation Projects (revenue financed)				160,000		

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	$$ CHANGE FROM FY14	% CHANGE FROM FY14
	55 . Town/School Bldg Envelope/Fenestration Repairs (revenue financed)				730,000		
	56 . Town/School Building Roof Repair/Replacement (revenue financed)				375,000		
	57 . Town/School Building Security / Life Safety (revenue financed)				300,000		
	~~58 . Driscoll School Addition - Feasibility/Schematic Design (revenue financed - Overlay Reserve Surplus)~~				~~1,000,000~~ 1,000,000		
	~~59~~ 58 . Classroom Capacity (revenue financed)				1,750,000		
	~~60~~ 59 . Ladder #2 Replacement (bond)				900,000		
	~~61~~ 60 . Newton St. Landfill - Rear Landfill Closure (bond)				4,600,000		
	~~62~~ 61 . Village Square and Riverway Park Bike/Pedestrian Improvements Projects (bond/CDBG Sec. 108)				1,200,000		
(4)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**7,379,000**	**12,933,500**	**8,581,000**	**8,415,000**	**(166,000)**	**-1.9%**
	TOTAL APPROPRIATED EXPENDITURES	**198,019,803**	**212,279,953**	**221,001,578**	~~**226,159,503**~~ 227,159,503	**5,157,925**	**2.3%**
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	106,839	109,160	111,026	112,059	**1,033**	**0.9%**
	State & County Charges	5,671,508	6,105,553	6,199,912	6,238,854	**38,942**	**0.6%**
	Overlay	1,910,493	1,958,780	1,726,503	1,700,000	**(26,503)**	**-1.5%**
	Deficits-Judgments-Tax Titles	7,374	12,394	25,000	25,000	**0**	**0.0%**
	TOTAL NON-APPROPRIATED EXPEND.	**7,696,214**	**8,185,887**	**8,062,441**	**8,075,913**	**13,472**	**0.2%**
	TOTAL EXPENDITURES	**205,716,017**	**220,465,841**	**229,064,019**	~~**234,235,416**~~ 235,235,416	**5,171,397**	**2.3%**
	SURPLUS/(DEFICIT)	**6,604,157**	**5,400,186**	**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).

Passed as amended and Appropriately Voted by a unanimous Vote

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)	643,349	14,118	4,000	7,600		2,130			671,197
Human Resources Department (Human Resources Director)	281,472	200,503	9,000	31,000		1,390			523,365
Information Technology Department (Chief Information Officer)	1,045,042	599,322	33,850	32,550		41,100			1,751,863
Finance Department (Director of Finance)	2,041,479	717,294	43,697	18,865	2,143	22,300			2,845,778
Legal Services (Town Counsel)	587,334	127,559	3,500	111,500		3,000			832,893
Advisory Committee (Chair, Advisory Committee)	21,232		2,275	570		295			24,372
Town Clerk (Town Clerk)	527,086	77,887	13,750	1,400		7,510			627,632
Planning and Community Department (Plan. & Com. Dev. Dir.)	731,403	16,945	9,212	4,550		3,200			765,310
Police Department (Police Chief)	13,615,205	505,169	221,750	64,000	425,423	481,144			15,312,691
Fire Department (Fire Chief)	12,217,365	160,755	146,260	27,650	233,334	220,577			13,005,941
Public Buildings Department (Building Commissioner)	2,163,287	2,118,980	23,170	5,350	2,657,117	56,600			7,024,504
Public Works Department (Commissioner of Public Works)	7,627,972	3,430,752	915,750	40,900	1,331,175	700,000	20,000		14,066,549
Public Library Department (Library Board of Trustees)	2,663,832	181,641	562,600	3,700	316,955	26,000			3,754,728
Health Department (Health Director)	1,004,803	202,291	19,700	4,570	40,855	27,970			1,300,189
Veterans' Services (Veterans' Services Director)	159,864	2,609	650	158,185		510			321,818
Council on Aging (Council on Aging Director)	706,884	44,083	18,000	2,900	63,139	5,200			840,206
Recreation Department (Recreation Director)	674,976	56,882	91,480	12,400	166,362	4,020			1,006,120
School Department (School Committee)									86,827,207
Total Departmental Budgets	**46,712,584**	**8,456,789**	**2,118,644**	**527,690**	**5,236,503**	**1,602,946**	**20,000**		**151,502,363**
DEBT SERVICE									
Debt Service (Director of Finance)								9,621,757	9,621,757
Total Debt Service								**9,621,757**	**9,621,757**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	17,772,573								17,772,573
Non-Contributory Pensions Contribution (Director of Finance)	110,000								110,000
Group Health Insurance (Human Resources Director)	25,136,108								25,136,108
Health Reimbursement Account (HRA) (Human Resources Director)	70,000								70,000
Retiree Group Health Insurance - OPEB's (Director of Finance)	3,311,860								3,311,860
Employee Assistance Program (Human Resources Director)	28,000								28,000
Group Life Insurance (Human Resources Director)	140,000								140,000
Disability Insurance	16,000								16,000
Workers' Compensation (Human Resources Director)	1,450,000								1,450,000
Public Safety IOD Medical Expenses (Human Resources Director)	300,575								300,575
Unemployment Insurance (Human Resources Director)	325,000								325,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	1,800,000								1,800,000
Total Employee Benefits	**50,500,116**								**50,500,116**
GENERAL / UNCLASSIFIED									
Reserve Fund (*) (Chair, Advisory Committee)				2,122,336					2,122,336
Liability/Catastrophe Fund (Director of Finance)				234,839					234,839
Housing Trust Fund (Planning & Community Develpoment Dir.)				170,390					170,390
General Insurance (Town Administrator)		371,500							371,500
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)				11,979					11,979
Town Salary Reserve (*) (Director of Finance)	2,321,220								2,321,220
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	**3,041,220**	**514,500**	**10,000**	**2,554,544**					**6,120,264**
TOTAL GENERAL APPROPRIATIONS	**100,253,920**	**8,971,289**	**2,128,644**	**3,082,234**	**5,236,503**	**1,602,946**	**20,000**	**9,621,757**	**217,744,503**

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

ARTICLE 8

EIGHTH ARTICLE

Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2015 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 2015 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 2015 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $270,000, 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.

2. Appropriate $65,000, 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.

3. Appropriate $580,000, 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 #5.

4. Appropriate $325,000, 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.

5. Appropriate $40,000, 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 a feasibility study of the construction of a fleet maintenance facility for the Fire Department and for renovations to the training facility located at Fire Station #6.

6. Appropriate $50,000, 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 Library Trustees, for development of a written building program and a feasibility / concept study of renovations to the Coolidge Corner Library.

7. Appropriate $30,000, 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.

8. 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, for a study of MBTA Traffic Signalization.

9. Appropriate $1,550,000, 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.

10. Appropriate $290,000, 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.

11. Appropriate $515,000, 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.

12. Appropriate $90,000, 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 Pierce playground.

13. 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.

14. 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.

15. 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.

16. 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.

17. Appropriate $60,000, 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.

18. Appropriate $320,000, 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 costs associated with mobile carts and mounted projection systems in the Brookline Public Schools.

19. 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 facilities.

20. 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, with respect to School Buildings, by the School Committee, for improvements to elevators in Town and School facilities.

21. Appropriate $160,000, 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 facilities.

22. Appropriate $730,000, 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 building envelope / fenestration repairs to Town and School facilities.

23. 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, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities.

24. Appropriate $300,000, 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, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

25. Appropriate, borrow or transfer from available funds, $1,000,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectman and the School Committee for a feasibility study to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, for which feasibility study the Town may be eligible for a grant from the Massachusetts School Building Authority. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in

connection with the feasibility study in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town.

26. 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.

27. Appropriate $900,000, 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 Ladder #2.

28. Appropriate $4,600,000, 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 capping of the Newton St. rear landfill.

29. Appropriate $1,200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, to pay costs of (i) traffic circulation improvements in Brookline Village and (ii) Riverway Park pedestrian and bicycle crossing improvements at Route 9 and the Riverway, including the payment of any and all other costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; to authorize the Selectmen to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project, or to take any other action relative thereto.

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 FY2015. 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 11th. 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 FY15 budget.

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

The Board of Selectmen is in full agreement with the Advisory Committee's position on all items in the FY15 Budget. However, the Advisory Committee included the following two conditions on the Driscoll School Feasibility Study / Schematic Design appropriation that the Board has not yet considered:

1. that that no money be committed or expended before the District's Statement of Interest to the MSBA has been approved and the District has received an invitation from the MSBA to enter the Eligibility Period

2. that there are adequate parking accommodations in accordance with transportation board policy

The Board of Selectmen will consider these conditions at its May 13 meeting. Meanwhile, the Board has acknowledged and discussed the concerns expressed by the Driscoll community and neighborhood about the scope of the project. While these issues would be addressed as part of the feasibility study that the appropriation seeks to fund, the Board has committed to work with the School Committee in order to develop a process that would identify concerns and issues in advance of the feasibility study. Specifically, the Board believes that the next 5-6 months should be used to convene a public process to seek input on the scope of this project. Such a process and dialogue prior to the formal feasibility study will help inform the study and facilitate consensus. At its April 29, 2014 meeting, the Board took the following vote:

VOTED: that the Board of Selectmen intends to work with the School Committee to form a Driscoll School Study Committee to evaluate community concerns and to communicate those concerns to direct the feasibility study.

Any further recommendations including, but not limited to, the two conditions approved by the Advisory Committee will be documented in the Supplemental Mailing that will be sent prior to the commencement of Town Meeting.

The proposed $1 million[1] appropriation for a Driscoll School Feasibility Study / Schematic Design (Special Appropriations # 58) is a budget item that has understandably generated a lot of debate. Much of the debate has centered on the question of whether or not the full $1

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[1] The Massachusetts School Building Authority (MSBA) requires an appropriation for the full amount. They will reimburse the Town approx. 35% for this phase of the project, making the Town's share approx. $650,000.

million should be appropriated, or a smaller amount in order to study some specific items. This Board strongly believes that the full $1 million should be appropriated, as it indicates to the Massachusetts School Building Authority (MSBA), the state entity that provides financial support for school projects, that the Town is committed to moving forward with the project. The Capital Improvement Program (CIP) assumes that 30% of the project is funded by the MSBA, so their participation is of the utmost importance. The budget appropriation holds the funds for a specific purpose, i.e. capital improvements at Driscoll School. For any steps in the process to go forward, additional authorization votes must take place before actual expenditure of funds (see line-item language for Special Appropriation #58).

Concern was voiced that, if the full $1 million is approved and the debt exclusion planned for the Devotion School project in May, 2015 fails, then $1 million would have been spent on the Driscoll project with no funding for construction[2]. The MSBA process is a stringent one that requires numerous levels of approval along the way, including votes of the School Committee and the Board of Selectmen.

This Board wants to assure Town Meeting that the schematic design phase would not proceed without a plan in place for funding the Driscoll School project. Based on previous MSBA-supported projects (Runkle, Heath, Devotion), the timeline is such that the schematic design phase of the project is unlikely to be ready to proceed until after the time of the May, 2015 planned debt exclusion vote for Devotion. Therefore, there would be an opportunity to stop the Driscoll process if the debt exclusion were to fail.

Partially funding the appropriation in an amount sufficient only for feasibility would not be accepted by the MSBA, as they require an appropriation for the full amount of both phases (feasibility and schematic design). Such an action would result in the Town having to pay for the entirety of the project, something that is unaffordable. Therefore, we support fully-funding the $1 million.

ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN

Since the Financial Plan was released on February 11th, there have been a number of changes made, all of which have been approved by both the Selectmen and the Advisory Committee. The changes are as follows:

- Restored ½ of the position that was eliminated in the Town Clerk's budget ($22,425).
- Restored the $2,000 ZBA Stipend for the Town Clerk.
- Reduced the Public Safety IOD Trust Fund by $24,425 to fund the two Town Clerk items above.
- Moved the Board of Examiners stipends ($300) and ZBA stipends ($11,100) from the Town Clerk budget to the Building ($300) and Planning & Community Development ($11,100) budgets.

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[2] As explained in the Financial Plan, the Capital Improvement Program (CIP), and later in this Recommendation, a fundamental assumption in funding the Devotion School, Driscoll School, and High School projects is that a Debt Exclusion Override for the Devotion School is approved. Funding that project with property taxes outside of the Prop 2 ½ limitation then frees-up debt service capacity within the Town's 6% CIP Financing Policy.

- In-sourced the Help Desk position in the Information Technology Department (ITD) budget from a procured service to a Town employee, which resulted in the reduction of $90,000 in the Services budget, the addition of $68,704 in Personnel, and the move of $21,296 to the Personnel Benefits budget (to cover the cost of benefits associated with the position). There is no net impact to the budget.
- Reduced the Health Insurance budget by $978,703. This was to account for (1) final GIC rates coming in $1 million less than originally budgeted and (2) the move from the ITD budget described above associated with the Help Desk position (+$21,296).
- Eliminated the $1 million of new revenue originally called for in the Financial Plan ($850,000 in Parking Meter rate increases and $150,000 in Parking Ticket increases), using instead the $1 million of budget capacity that was made available from the Health Insurance savings noted above.
- Increased State Aid by $152,441 to account for the Local Aid Resolution adopted by both branches of the State Legislature. The funds were split 50% / 50% between the Town and the Schools, with the Town share ($76,220) going into the Collective Bargaining Reserve.
- Increased the MWRA Assessments in the Water and Sewer Enterprise Fund by $48,672 to account for updated estimates by the MWRA.

BUDGET SUMMARY

As shown in Table 1 on the following page, the General Fund budget proposed by the Advisory Committee totals $235.2 million, of which $227.2 million is appropriated, reflecting an increase of $6.2 million (2.8%). The remaining $8.1 million is the so-called "Non-Appropriated" portion of the budget. Table 2 on page 8-9 details the entire FY15 budget, including enterprise / revolving funds. In total, the $263.7 million reflects a 2.5% increase. This budget recommendation includes a General Fund Operating Budget of $217.7 million, which represents an increase of $5.3 million (2.5%); revenue-financed capital of $9.4 million; enterprise / revolving funds of $30.9 million (gross); and non-appropriated expenses of $8.1 million.

TABLE 1

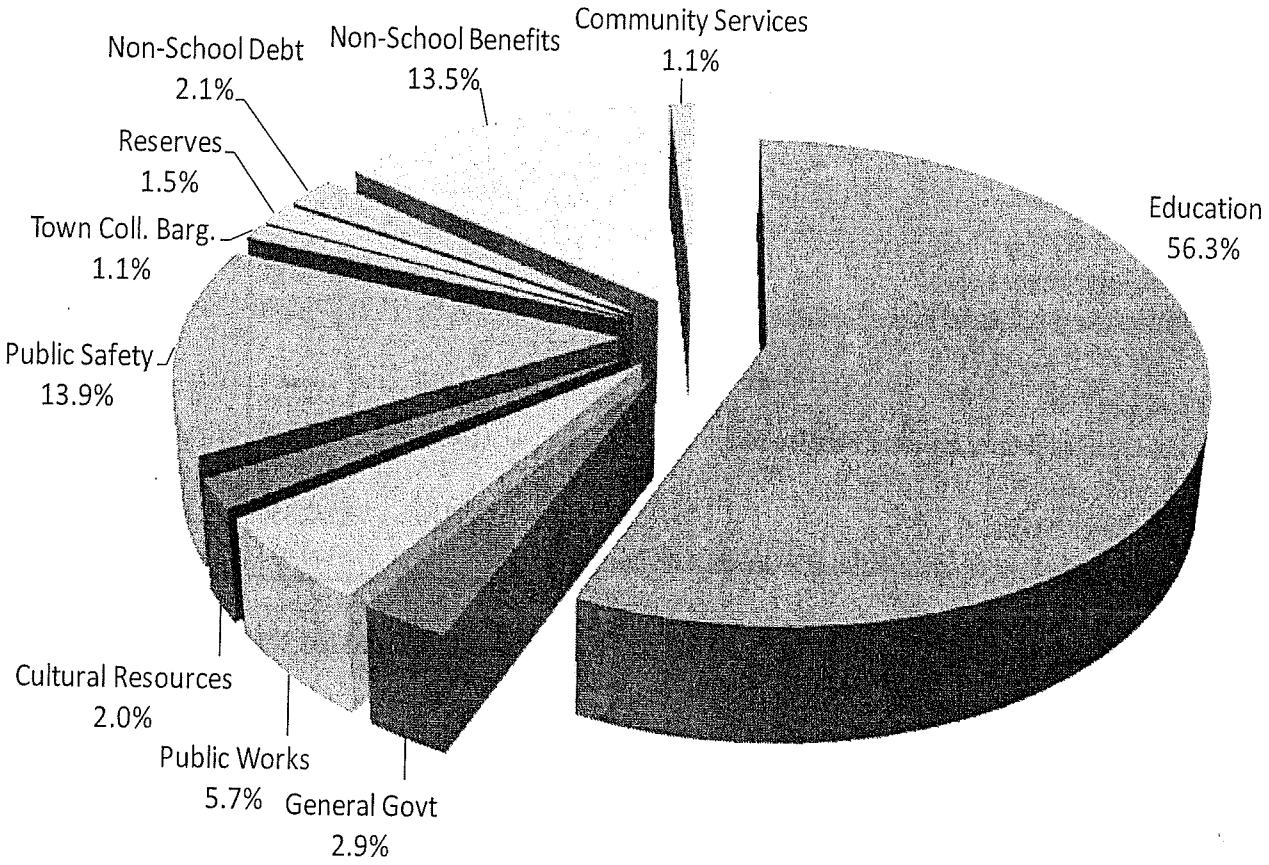
	FY2014 BUDGET	FY2015 BUDGET	INCREASE/DECREASE $	INCREASE/DECREASE %
REVENUE				
Property Tax	175,783,902	181,848,174	6,064,272	3.4%
Local Receipts	22,119,366	22,770,225	650,859	2.9%
State Aid	16,659,162	17,629,357	970,195	5.8%
Free Cash	7,655,155	5,084,152	(2,571,002)	-33.6%
Other Available Funds	6,846,435	7,903,508	1,057,073	15.4%
TOTAL REVENUE	**229,064,019**	**235,235,416**	6,171,397	2.7%
(LESS) NON-APPROPRIATED EXPENSES				
State & County Charges	6,199,912	6,238,854	38,942	0.6%
Tax Abatement Overlay	1,726,503	1,700,000	(26,503)	-1.5%
Deficits & Judgments	25,000	25,000	0	0.0%
Cherry Sheet Offsets	111,026	112,059	1,033	0.9%
TOTAL NON-APPROPRIATED EXPENSES	**8,062,441**	**8,075,913**	13,472	0.2%
AMOUNT AVAILABLE FOR APPROPRIATION	**221,001,580**	**227,159,503**	6,157,923	2.8%
APPROPRIATIONS				
Town Departments	66,315,742	67,711,377	1,395,635	2.1%
School Department	82,780,770	86,827,208	4,046,438	4.9%
Non-Departmental Total	63,324,068	63,205,918	(118,150)	-0.2%
General Fund Non-Departmental	60,694,188	60,718,964	24,776	0.0%
Water and Sewer Enterprise Fund Overhead	2,125,747	1,973,970	(151,776)	-7.1%
Golf Enterprise Fund Overhead	150,416	163,049	12,633	8.4%
Recreation Revolving Fund Overhead	353,717	349,934	(3,783)	-1.1%
OPERATING BUDGET SUBTOTAL	212,420,580	217,744,504	5,323,924	2.5%
Revenue-Financed CIP (Special Appropriations)	8,581,000	9,415,000	834,000	9.7%
TOTAL APPROPRIATIONS	**221,001,580**	**227,159,503**	6,157,924	2.8%
BALANCE	0	0	0	

TABLE 2

	FY2014	FY2015	INCREASE/DECREASE $	%
REVENUE				
General Fund Revenue	229,064,019	235,235,416	**6,171,397**	**2.69%**
Water and Sewer Enterprise Fund	26,928,495	26,875,577	**(52,918)**	**-0.20%**
(less Water & Sewer Overhead included in General Fund Revenue)	(2,125,747)	(1,973,970)	**151,776**	**-7.14%**
Golf Enterprise Fund	1,210,000	1,331,923	**121,923**	**10.08%**
(less Golf Overhead included in General Fund Revenue)	(150,416)	(163,049)	**(12,633)**	**8.40%**
Recreation Revolving Fund	2,627,874	2,742,350	**114,476**	**4.4%**
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(353,717)	(349,934)	**3,783**	**-1.1%**
TOTAL REVENUE	**257,200,508**	**263,698,313**	**6,497,805**	**2.5%**
APPROPRIATIONS				
General Fund Operating Budget	212,420,580	217,744,504	**5,323,924**	**2.5%**
Non-Appropriated Budget	8,062,441	8,075,913	**13,472**	**0.2%**
Revenue-Financed CIP Budget	8,581,000	9,415,000	**834,000**	**9.7%**
General Fund Total	229,064,021	235,235,417	**6,171,396**	**2.7%**
Water and Sewer Enterprise Fund	26,928,495	26,875,577	**(52,918)**	**-0.2%**
(less Water & Sewer Overhead included in General Fund Revenue)	(2,125,747)	(1,973,970)	**151,776**	**-7.1%**
Golf Enterprise Fund	1,210,000	1,331,923	**121,923**	**10.1%**
(less Golf Overhead included in General Fund Revenue)	(150,416)	(163,049)	**(12,633)**	**8.4%**
Recreation Revolving Fund	2,627,874	2,742,350	**114,476**	**4.4%**
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(353,717)	(349,934)	**3,783**	**-1.1%**
TOTAL APPROPRIATIONS	**257,200,508**	**263,698,313**	**6,497,805**	**2.5%**
BALANCE	**0**	**0**	**0**	

The fully-allocated $217.7 million General Fund Operating budget is broken out in the pie chart on the following page.

FULLY ALLOCATED FY2015 GENERAL FUND OPERATING BUDGET



FY2015 OVERVIEW

The FY 2015 Budget is intended to serve as a "Bridge" to a comprehensive solution beginning in FY 2016 to the pressing school budget issues driven by enrollment growth. This solution will likely involve a voter referendum to override the 2.5% tax levy limitation imposed by Proposition 2½. As Town Administrator Kleckner explained in his Financial Plan Budget Message, a "Bridge" is defined in the Merriam Webster Dictionary as "a pathway… over a depression or obstacle" and as "a means of connection or transition". With these definitions in mind, the FY 2015 Budget is labeled a Bridge Budget in recognition of a set of recommendations on policy and service level choices being developed by the Override Study Committee (OSC) beginning in the FY 2016 Budget. The OSC, jointly established by the Board of Selectmen and School Committee, is charged with "determining whether substantially more revenue capacity than what is currently anticipated will be necessary to maintain desired levels of services and fund future liabilities of the Town and the Public Schools, and therefore, whether a voter-approved override or overrides of Proposition 2 ½ will be necessary to raise that revenue."

The OSC has been hard at work since September, 2013 with late-night meetings followed by early-morning sub-committee meetings. The work to date has been expansive and impressive. This is another example of how fortunate Brookline is to have such dedicated

and intelligent residents willing to donate their valuable time to such an important cause. The topics they are exploring include significant policy issues that require more study and must involve community input and deliberation. In addition, an operating tax override should be coordinated with the likely tax referendum on the Devotion School renovation/expansion project in the Spring of 2015. As a result, the FY 2015 Bridge Budget serves as an interim step to mitigate program and service reductions in the School Department resulting from their "structural budget deficit" and from the cumulative impacts of enrollment growth until such time as the Town and School address the longer term plan beginning in FY 2016. An override debate allows for the community to decide whether to increase their taxes in order to maintain service levels and programs.

The formula established through the Town/School Partnership allocates an additional $3.1 million in general revenue for the operation of Brookline's public school system. Despite this new revenue, it was projected that increasing enrollment, special education costs and salary/benefit increases results in a FY 2015 School Department budget shortfall of $1.1 million. This FY 2015 projected shortfall is on top of other budget challenges identified by the School Department. These challenges include an ever-widening gap on non-teacher staff ratios related to increased enrollment, certain educational program enhancements, and a major technology initiative. Combined, these items total an overall school budget shortfall of nearly $6 million.

The FY 2015 Bridge Budget originally proposed to raise an additional $1 million in revenue from parking meter and parking violation rates and to allocate them fully to the School Department in order to effectively close the structural budget gap for another year. As noted under the "Actions Since the Release of the Financial Plan" section on page 8-6, more favorable health insurance rates from the GIC has enabled the Town to avoid raising the $1 million in new revenue. In effect, the $1 million savings in the health insurance budget is all allocated to the School budget rather than all of the $1 million in new revenue. The end result is the same: an overall School budget allocation of $86.8 million, or an increase of 4.9% over FY 2014.

The Board recognizes that this budget level does not support all of the priorities of the School Department, but it helps mitigate against further reductions in program and service levels. It should also be made clear that the School budget includes additional revenue from other funds within the School Department's control, including grant and other special revenue accounts available without Town Meeting appropriation, to supplement the FY 2015 Budget. We concur with the Town Administrator's words of caution included in his Budget Message that any plan to resolve the Town's long-term budget needs will involve a tax increase requiring voter approval. Accordingly, we must be careful that any plan to deal with an interim solution minimize the use of one-time funds and limit the implementation of policy issues that are better suited to the public process inherent in a plan to increase property taxes.

In summary, the FY 2015 Budget:

- Raises $263.7 million in revenue, including a 2.5% increase in the property tax levy, an additional $1.7 million in property taxes resulting from new property construction and an additional $970,195 in State Aid based upon the Local Aid Resolution approved by both branches of the State Legislature.

- Recommends the appropriation of $86.8 million to the School Department, representing an increase of 4.9% over FY 2014, in order to stem the erosion of programs and services in light of rapidly increasing enrollment.

- Recommends the appropriation of $67.7 million to fund municipal departments, representing an increase of 2.1% over FY 2014, in order to fund a modest increase in salaries/wages and other fixed costs.

- Establishes $18.9 million in funding (debt service and pay-as-you-go) to implement major capital projects in connection with a longer term Capital Improvement Program (CIP).

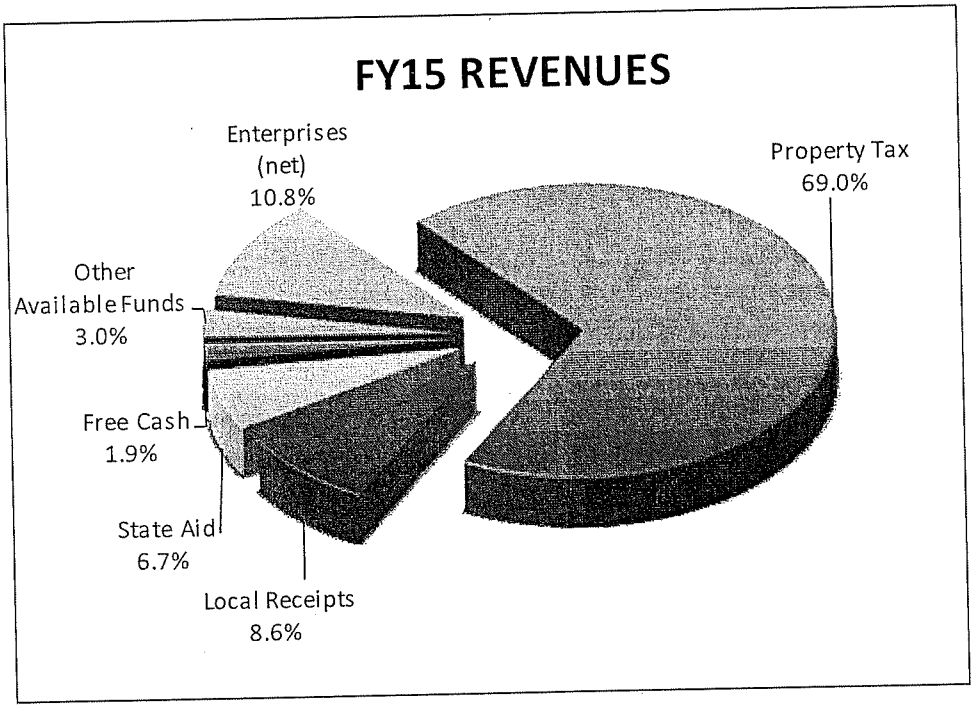
- Conforms with all Fiscal Policies, including the allocation of Free Cash to support the Town's capital improvement plan and the allocation of funds to offset long-term Pension and Retiree Health Care (OPEB) liabilities.

	FY 2014	FY 2015	$$$ CHANGE	% CHANGE
REVENUES				
Property Tax	175,783,902	181,848,174	6,064,272	3.4%
Local Receipts	22,119,366	22,770,225	650,859	2.9%
State Aid	16,659,162	17,629,357	970,195	5.8%
Free Cash	7,655,155	5,084,152	(2,571,002)	-33.6%
Other Available Funds	6,846,435	7,903,508	1,057,073	15.4%
Enterprises (net)	28,136,489	28,462,896	326,407	1.2%
TOTAL REVENUES	**257,200,508**	**263,698,313**	**6,497,805**	**2.5%**
EXPENDITURES				
Municipal Departments	66,315,742	67,711,377	1,395,635	2.1%
School Department	82,780,770	86,827,208	4,046,438	4.9%
Non- Departmental	63,324,068	63,205,918	(118,150)	-0.2%
Special Appropriations	8,581,000	9,415,000	834,000	9.7%
Enterprises (net)	28,136,489	28,462,896	326,407	1.2%
Non-Appropriated	8,062,441	8,075,913	13,472	0.2%
TOTAL EXPENDITURES	**257,200,508**	**263,698,313**	**6,497,805**	**2.5%**

Revenues

Taxes: Property taxes are projected to increase by $6.1 million or by 3.4 % over FY 2014. Property taxes represent over two-thirds of the total revenue available to the Town. This percentage has grown steadily over the last several years as other revenue sources have dwindled or stayed constant. The increase in property taxes in FY 2015 includes $4.4 million resulting from the allowable 2.5% increase under Proposition 2½, $1.7 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. Over the long-term, the Town's goal is to increase its tax base with commercial development that is compatible with the neighborhood and limits negative impacts of traffic, noise and costly municipal services. In addition to increased taxes, such development provides an additional bonus to residential taxpayers by shifting a greater share of the property tax burden to the commercial sector. This is true because the Town employs a dual tax rate (classification). In FY 2014, the tax rate for the commercial sector is 62% higher than the residential rate. Finally, additional commercial development adds jobs, vitality and residual revenue (e.g., meals taxes and parking meter receipts) for the Town. We are pleased to report that the improved economy has resulted in progress on each of the three major commercial development projects in the planning stage: 1.) the development of an extended day hotel at the former Red Cab site on Boylston Street, 2.) the development of a hotel and related retail development at the former Circle Cinema site in Cleveland Circle, and 3.) an office complex at 2 Brookline Place.



Local Receipts: FY 2015 Local Receipts are projected to increase by $650,859, or 2.9%, to $22,770,255. 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). Overall, Local Receipts have rebounded from the economic recession experienced over the last several years, especially our Motor Vehicle Excise taxes, Building Permit fees and Hotel/Meals taxes. Most of the FY 2015 increase comes from MVE ($200,000), Building Permits ($136,000), and Local Option Taxes ($125,000).

State Aid: As the economy has improved, so has the ability of the Commonwealth of Massachusetts to share its revenue growth with cities and towns. In FY 2015, we project an overall increase in State Aid of about 6%. The major source of increase is within the Education Aid category, known as Chapter 70. While the Financial Plan followed the local

aid proposal included in the Governor's budget, the budget before Town Meeting uses the figures included in the Local Aid Resolution that was adopted by both branches of the State Legislature and resulted in an additional $152,441 for Brookline. The end result is a State Aid figure of $17,629,357, an increase of $970,195 (5.8%).

Free Cash: Free Cash represents the unrestricted fund balance from the prior fiscal year as certified by the State Department of Revenue. The amount of Free Cash proposed to fund the Budget in FY 2015 is $5,084,152, representing a decrease of $2.6 million (or 33.6%) from FY 2014. Pursuant to the Town's financial policies, Free Cash is used only to support non-operating purposes. Over 80% of the amount of Free Cash allocated to the FY 2015 Budget will be used to support capital projects.

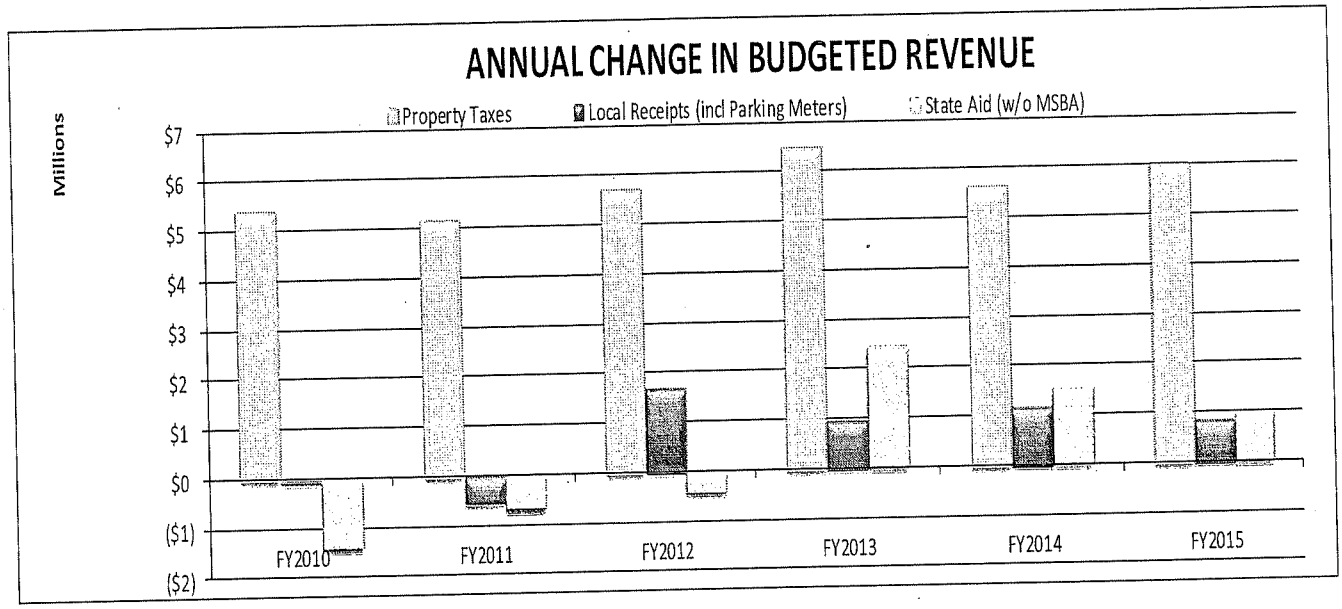
The Town has a fiscal policy that mandates a minimum level of operating reserves. The amount of certified Free Cash available for appropriation in FY 2015 is $7,084,861. However, in order to ensure that the Town's operating reserves will exceed 10% of operating revenues, only $5,084,152 of Free Cash is being made available for allocation in the FY 2015 Budget. The balance left in Free Cash will help support this essential financial reserve policy.

Certification of Free Cash	**$7,084,861**
1. Operating Budget Reserve (25% of Operating Budget Reserve)	$530,584
2. Fund Balance	$2,000,709
a. Unreserved Fund Balance (left unappropriated)	$2,000,709
b. Stabilization Fund (appropriated)	$0
3. Liability Reserve (to get fund to 1% of Prior Yr Net Revenue)	$234,839
4. Capital Improvements (to get to 7.5% of Prior Yr Net Revenue)	$3,183,504
5. Affordable Housing Trust Fund (since Fund Balance below $5M)	$170,390
Sub-Total	$6,120,026
Amount available for Special Use (#6)	$964,835
6. Special Use:	
Additional CIP	$964,835

Other Available Funds: The FY 2015 Budget proposes the use of $7,903,508 in other funding sources. Of this amount, $4.3 million is from Parking Meter revenue and nearly $2.5 million is from assessments on the Town's self-supporting Enterprise and Revolving funds in order to recover costs associated with general municipal expenses (e.g. employee benefits). Included in the $7.9 million is the proposal that $1 million in reserves available from prior year tax abatement accounts be used to support the capital 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 the operations accounted for in the Recreation Revolving Fund are proposed to

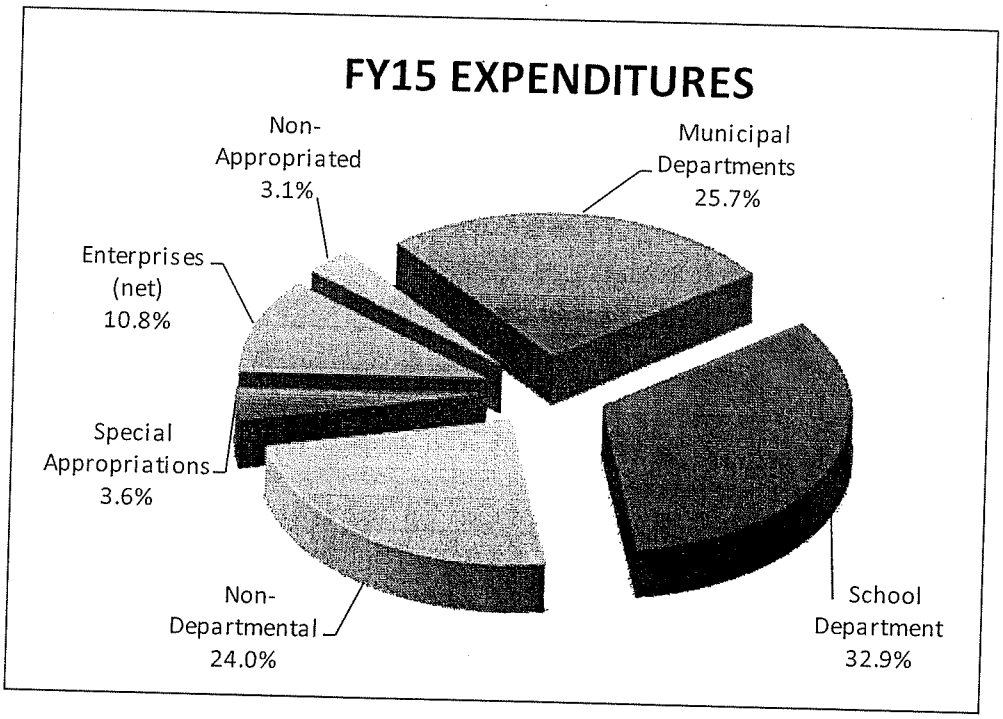
be $2.4 million, net of the reimbursements to the General Fund mentioned above under Other Available Funds, for an increase of 5.2%. An amount equal to this revenue is accounted for on the expenditure side of the Budget. In FY 2015, the share that the Recreation Revolving Fund contributes to their overall cost is increased. With this increase, the Fund will reduce the General Fund subsidy of the Town's recreational programs from 24% to 22.6% (see further discussion of this issue in the Policy Issues and Initiatives section below).



Expenditures

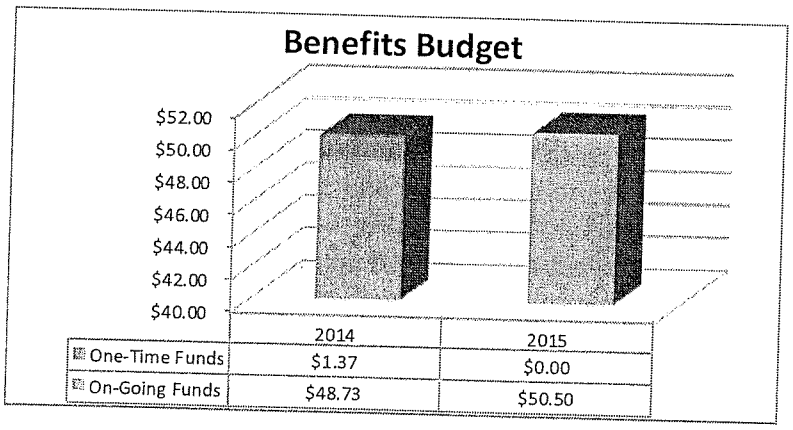
Municipal Departments: For FY 2015, it is proposed that funding for all municipal (non-school) departments be $67,711,377, an increase over FY 2014 of 2.1%. This amount is inclusive of a reserve for wage and salary increases for municipal employees, conditional upon negotiated settlements. The number of full-time equivalent personnel in municipal departments is modestly increasing by about 2 full-time equivalent (FTE) positions. See the "FY 2015 Policy Issues and Initiatives" section below for detail on the municipal departments. In general, any increase in departmental expenses was limited to an actual increase in personnel costs, materials or contracted services.

School Department: As previously addressed in this Recommendation, the FY 2015 Budget prioritizes the needs of the School Department by allocating 100% of the reduction in the health insurance budget (reduction from the original Financial Plan) to the School budget, notwithstanding the traditional Town-School Partnership allocation formula. The focus of the Override Study Committee process is developing a longer-term and sustainable plan to support the enrollment and programmatic pressures upon the Town's school system. The proposed FY 2015 School budget is $86,827,208, inclusive of negotiated salary increases. This budget represents an increase of 4.9%.



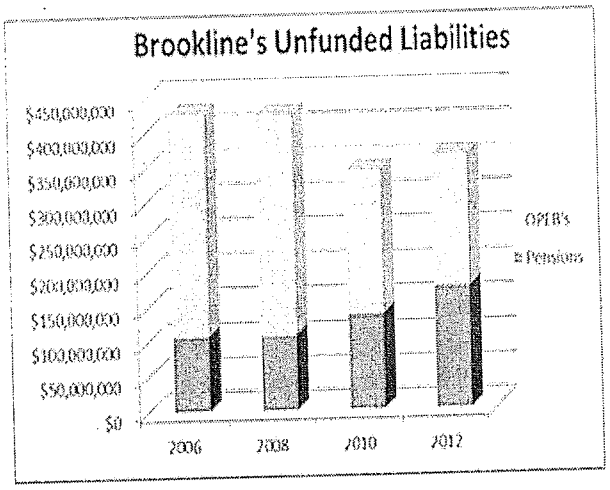
Non-Departmental: This is a large category of expenses that incorporates personnel benefits for municipal and school employees, debt service on bonds, insurance coverages and special reserve funds. The proposed budget for FY 2015 is $63,205,918, a decrease of 0.2% from FY 2014. The largest of these expenses 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. The Financial Plan assumed a composite premium increase of 5% for plans within the GIC. The final rates approved by the GIC in March resulted in premium increases of 1.5% in the aggregate, resulting in $1 million of budget capacity. As previously explained, that capacity was used in place of raising $1 million in new revenue from parking meters and parking tickets. As was the case with the $1 million in new revenue, 100% of the $1 million in group health savings is allocated to the School budget.

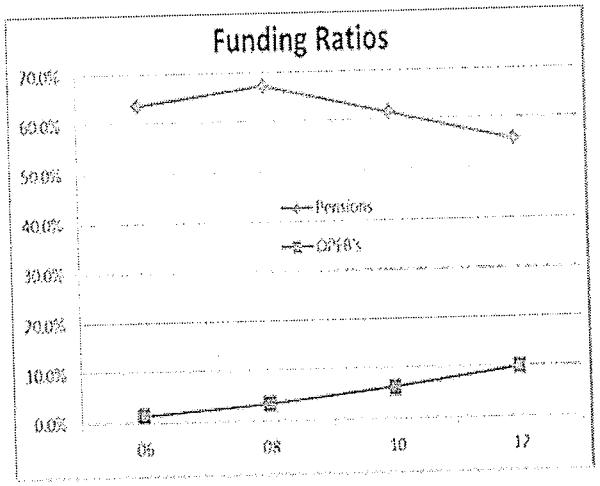
The Town continues to proactively fund its long- term liabilities for pensions and retiree health care benefits (OPEB). The FY 2015 Budget may appear to diminish funding for these items, but this reflects the supplemental funding we were able to achieve last year from Free Cash. The chart to the right shows how the FY 2015 on-going funding for the benefits budget compares to the same for FY 2014.



Net of the FY 2014 one-time funds, the FY 2015 benefits budget increase is $1.8 million (3.6%). The FY 2015 OPEB appropriation continues the Town's plan of increasing the base appropriation by $250,000, using the Medicare Part D (drug prescription) reimbursement, using the run-off from the Non-Contributory Retiree line-item, and assessing Special Revenue Funds. We remain committed to funding the Town's long-term liabilities and are especially focused on addressing the OPEB liability in order to reach the actuarially determined Annual Required Contribution (ARC) in less than 10 years. Once the ARC is reached, the Town will embark on a systematic long-term funding schedule.

We have worked closely with the Retirement Board to carefully address the Town's long-term Pension liability in light of major losses in the securities markets during 2008 and 2011. In order to offset the impact from future fluctuations in the markets, the Retirement Board has reduced the assumed rate of investment interest from 8.25% to 7.75%. Every two years, the Retirement Board contracts for an updated actuarial study of its Pension and OPEB liabilities. The most recent actuarial study for the Town's Pension system indicated that, as of January 1, 2012, the Town's unfunded Pension liability stood at $176.1 million, with a plan to eliminate this unfunded liability in 2030. A new actuary study will be completed this Spring/Summer, with data as of January 1, 2014.

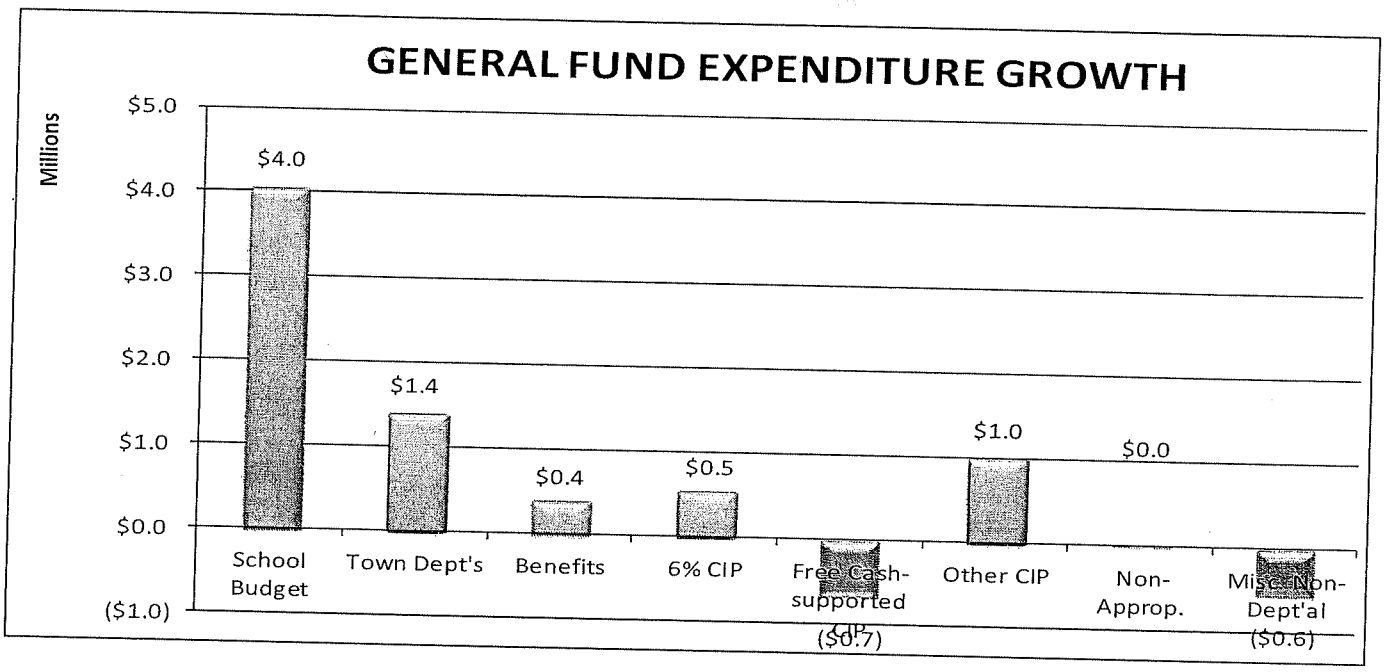




Special Appropriations: The Town funds its Capital Improvement Program (CIP) through a combination of current funding and debt. The current revenue-financed portion of the CIP is $9.4 million in FY 2015. This includes $4.3 million funded by general operating revenue combined with $4.1 million from Free Cash and $1 million from Overlay Reserve Surplus. Together, this represents 8.4% of the Town's prior year net revenue. A portion of the cost of large school building projects is reimbursed by the State through the Massachusetts School Building Authority (MSBA). The Town has received approval from the MSBA to pursue a feasibility study to expand and renovate/replace the Devotion School, the Town's largest elementary school. The study is well under way and we hope to receive MSBA approval to proceed to final design in 2014, with funding sought in 2015. Currently, we are assuming that the overall cost of this project will be $110 million, of which the MSBA will reimburse the Town 30%.

Last year, the blue ribbon Brookline School Population and Capacity Exploration Committee (B-Space Committee) spent several months studying the challenge and potential solutions to

the rapid growth in the Town's school population. It eventually recommended a plan to expand the Town's existing school facilities rather than propose a 9th elementary school and/or a second high school. The cost will be significant and cannot be absorbed within the Town's general revenue or debt capacity. Acknowledging this fact, it is likely that the Town will seek voter approval to cover its share of the debt for the Devotion School outside of the Proposition 2½ tax levy limit. This is referred to as a Debt Exclusion. 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 ($785,286). Overall, the cost of Non-Appropriated items in FY 2015 is $8.1 million, an increase of 0.2% from FY 2014.

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 2015 is $28,462,896, an increase over FY 2014 of 1.2%. As previously mentioned in the "Revenue" section above, the Town aggressively pursues full cost recovery of the Enterprise and Revolving Fund accounts to cover the cost of expenses accounted for in the general budget (including Pension and OPEB contributions). In particular, the Town is pursuing greater cost recovery in the Recreation Revolving Fund in FY 2015. It is the Town's plan to make the Recreation Department's Soule Early Education program cover 100% its costs over the next three years.

FY 2015 POLICY ISSUES AND INITIATIVES

A budget should not be limited to just a balancing of revenue and expenditure numbers. Rather, it should represent a series of policies and initiatives designed to achieve meaningful goals for the Town. There are a number of such policy issues incorporated within the FY 2015 Budget. In addition to the School enrollment and resource challenge, the following policy issues and initiatives have driven the overall budget planning this year:

Zoning Administration: In its *Organizational Study of the Planning and Community Development Department* in 2012, the University of Massachusetts' Collins Center for Public Management recommended that the Department serve as staff to the Zoning Board of Appeals (ZBA) and that the budgetary resources account for this new responsibility. With the submission of a comprehensive permit (40B) application to the Zoning Board of Appeals at Hancock Village, it has become increasingly clearer that the Town must consolidate all functions related to the zoning approval process within the Planning and Community Development Department. As a result, this budget includes transferring administrative support currently provided by the Town Clerk's office to the Department of Planning and Community Development. The Massachusetts Zoning Act and the Zoning By-Laws of the Town of Brookline are extremely complicated and a mistake by the Town could result in an automatic (constructive) approval. While the Town Clerk's office has worked hard to meet the regulations of the zoning process, we can no longer risk this outcome by having the functions decentralized. The transfer of these duties will create a more coordinated and effective operation. In addition, with the Planning and Building Departments working so closely together, this position will reduce the number of staff attending the ZBA's evening meetings, resulting in reduced overtime costs and increased employee productivity.

Mode of Service Delivery: The Town is consistently reviewing the costs and benefits of staffing certain functions versus contracting out. While the focus is often on contracting out, occasionally the analysis reveals a more cost effective approach by bringing contracted services back in-house. This was the case last year when the Town decided to discontinue its contracted payroll service and handle it in-house using the existing financial package, MUNIS. This year, we have evaluated the costs of HVAC maintenance. We believe the work can be done more cost effectively and efficiently by bringing it in-house. The Town currently spends $228,000 on this service. After hiring two Senior Maintenance Craftsmen for a total of $145,000, including benefits, there is a savings of $83,000. These savings remain in the Repair and Maintenance budget in order to alleviate the continued pressure our Building Department faces to maintain Town and School buildings. As we continue to expand the footprint of our School facilities and pursue more energy efficiency, the Repair and Maintenance budgets will need to continue to strive for creative solutions such as this in order to mitigate budget constraints.

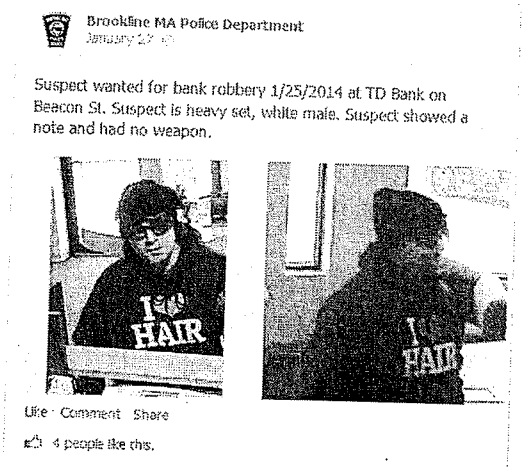
CDBG Budget: Finally, the Town has adjusted funding within the Planning and Community Development Department in order to more properly account for its use of federal Community Development Block Grant (CDBG) funding. The net impact to the Town budget is approximately $32,000.

Technology: Keeping pace with technology is not only an expectation of the Town's residents, business partners and vendors, it is essential to maintain our programs and services

in the face of limited financial resources. Technology initiatives are spread throughout the Town's Budget. The Town recently brought its payroll service in-house and has integrated it with the Town's MUNIS financial system. The result will be lower overall costs, but just as important are the opportunities for better information and automation of related tasks. For example, the new payroll system has created opportunities for employee self-service and applicant tracking functions, creating less paper transactions and more control.

Most business processes of the Town are converting to digital and web-based solutions. This past year, the Selectmen's office introduced on-line applications and renewals of its business licensing process, creating convenience for businesses and better/timelier information for the Town.

The Town continues to promote the use of BrookOnLine, its suite of on-line/mobile applications that enable a two-way interface between the Town and its residents. The system is used extensively to report physical issues in the community (potholes, missing signs and graffiti), to receive timely information on municipal meetings and issues, and to view/pay bills. Use of social media is revolutionizing the way the Town communicates with our citizens. In particular, the Police Department has embraced this technology and is actively using Twitter and Facebook to update citizens on criminal activity, traffic and other emergency information on a real-time basis.



The Town continues to move toward a more mobile workforce. The FY 2015 budget includes funding that allows the Fire Department and DPW to improve their mobile operations. Specifically, they will be able to view and modify inspectional data in real-time through the enhanced use of the Firehouse (Fire) and Cartegraph (DPW) systems.

A major initiative of the School Department is the use of technology to support teaching, enhance student achievement and extend the classroom's physical boundaries. This ambitious initiative will be a core component of the Override Study Committee's consideration and recommendation in FY 2016. For now, these plans compel the Town's IT Department and the School Department to better collaborate on technology. The Superintendent of Schools and Town Administrator are committed to reviewing the organizational structure and creating solutions that more effectively support technology, including improvements in the "help desk" service for users.

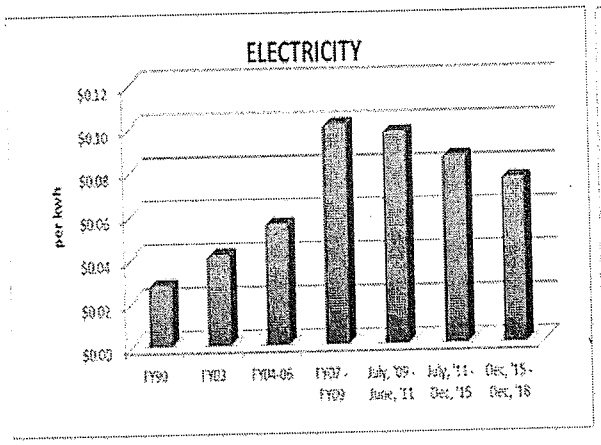
The Town is dealing with constant changes in the external business environment related to technology. In 2007, the Town and Galaxy Internet Services entered into a partnership that was a first-of-its-kind in the country. The relationship offered residents with a mobile wi-fi option, provided the Town free wi-fi services for certain municipal operations, and established a number of "hotspots" throughout town. After several years of successful operation, the wireless network ceased operation. While many businesses and residents no

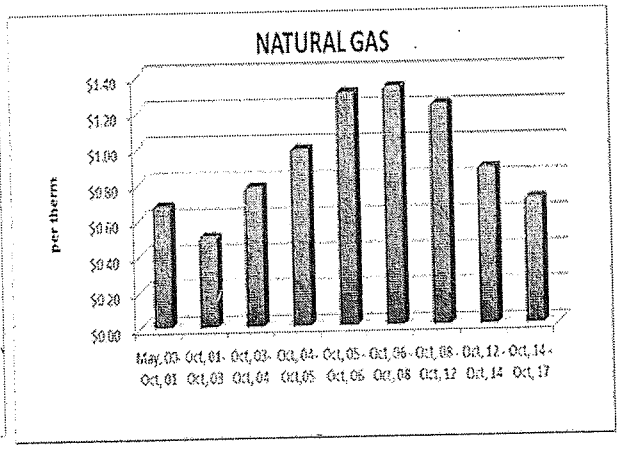
longer relied on this service (thus the change in the business model), the Town used the system for communication among its public safety units in the field , communicating with its smart parking meters, and mobile computing. The Town must now transition to a cellular-based wireless system that costs $50 per month per air card. Similarly, the business model for the PXT smart card used in hundreds of parking meters was discontinued this past year, forcing the Town to scramble and convert meters in high usage areas to accept credit cards.

Energy Efficiency and Sustainability: Another major policy focus in this Budget is to find ways to reduce the Town's use of energy and make its operations more sustainable. With the support of the Commonwealth of Massachusetts and its regional planning agency, the Town is actively pursuing opportunities for solar power. This involves both rooftop installations on municipal and school buildings and ground mounted installations on open land. The Town successfully adopted zoning to accommodate such use at the Singletree site adjacent to a municipal water tower.

The Department of Public Works recently awarded a major contract for the conversion of the Town's street lights to LED technology. This project meets the Town's goal of saving money by reducing energy while enhancing the effectiveness of the service. Once fully-implemented, the Town's streetlight bill will decrease by approximately $225,000. The payback period is estimated to be less than 10 years. After that, the savings totals approximately $2.16 million over the life of the equipment.

On the procurement side, the Town is realizing substantial savings in the FY 2015 Budget through its creative purchase of natural gas to heat/cool Town and School buildings. In the Fall of 2012, due to favorable market conditions and long-term energy market projections, the Town "blended-and-extended" its electricity supply contract; the reduced price will commence in December, 2015. The Town also entered into a new natural gas contract that begins in October, 2014. The natural gas savings kicks in during FY 2015 and the savings in the School Budget alone will be $64,000 in FY 2015.



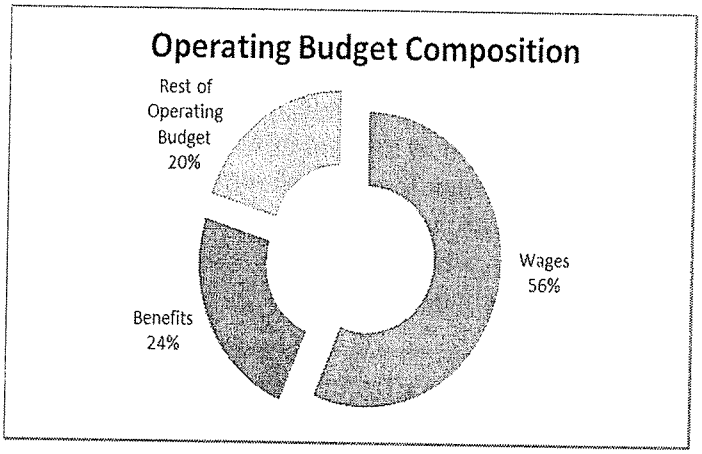


Performance Management and Open Government: A major priority of Town management is the use of performance data in budgeting and decision making. This Financial Plan requires each department to quantify its performance through data, linked back to its Objectives. In addition to measuring our internal performance, we have embarked on a program to gauge the satisfaction of our consumers (the Town's residents) on municipal

services and engagement. This past Fall, the Town partnered with the National Research Center, Inc. and the International City Management Association (ICMA) to issue an opinion survey to 1,200 residents in Brookline. The National Citizen Survey is a tested survey instrument designed to elicit feedback on essential municipal services and other factors that measure our performance. The results of the survey were presented to the Board of Selectmen and the community a couple of months ago, and they were both spectacular and concerning. For example, the conclusion began with "Brookline residents enjoy an exceptionally high quality of life". However, some areas received low ratings (e.g., public parking, affordable quality housing, cost of living), proof that improvements can and will be made.

We are also committed to being transparent in our municipal government operations and finances. The Town partnered with the City of Woburn and several other communities to develop a web-based "Open Checkbook" application. This application, linked directly to the MUNIS financial system, allows a citizen to view expenditure of public funds. Just this past month, the application was previewed to the Selectmen and made available to the public.

Human Resource Management and Collective Bargaining: Approximately 80% of the Town's operating expenditures are personnel or personnel related. This budget includes additional administrative staff capacity to support the Human Resources Office. This is accomplished by creating two part-time, non-benefit eligible employees, giving the Human Resources Office greater flexibility to address a convergence of long-term demands. These demands include benefits administration for an influx of new school employees, criminal background checking of construction workers in an expanded capital project environment, increased recruitment and succession planning, and a healthy, consumer-based health insurance environment. The Town's lean budget years have also resulted in protracted labor negotiations, placing additional demands on staff. The proposed increased staff will allow the Director and Assistant Director to focus on the high priority matter of staff development, which includes better succession planning, increased supervisor training, employee development, recruitment strategies and performance management. Finally, a well-functioning Human Resources Office is critical to the Town's overall commitment to increasing the diversity of our work force, especially within the management ranks.



Another key area under the purview of the Human Resources Office is employee benefits. The vast majority of the Town's (and School's) employees are unionized. The Town is obligated to collectively bargain wages, benefits and working conditions with these organizations. Prompted by the impacts of the economic recession and the costs of health care, the landscape for employee benefits in the public sector is being recalibrated. In addition to focusing on the eligibility and cost sharing of health insurance for active and retired employees, the Town is engaging with its unions on the matter of paid leave. In

particular, the Town is more consistently placing a financial value on this leave, similar to actual wages and benefits. This discussion must be pursued carefully given the gratitude the Town has for the dedication and service our employees provide.

Solid Waste Collection and Disposal: With the expiration of its solid waste disposal contract on June 30, 2014, the Town has the opportunity to reevaluate its system of collecting, hauling and disposing of its solid waste. The Town has the added value of maintaining a licensed solid waste transfer station at its facility off of Newton St. in south Brookline. The Department of Public Works has issued a comprehensive Request for Proposals and has been evaluating all aspects of its solid waste operations with the goal of saving money and enhancing services. This includes exploring ways to introduce a "Pay as you Throw" system of incentivizing recycling. It is not possible at this time to quantify any savings or impacts to the FY 2015 budget. However, we look forward to the outcome of the RFP and expect that this opportunity will provide a great value to the Town and its residents.

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 serves to connect a municipality's annual operating budget with its Capital Improvement Program (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 2015 – FY 2019 Long Range Financial Projection for the General Fund makes the following key assumptions:

- New Growth in the Property Tax Levy of $1.7 million - $1.8 million per year, augmented by the redevelopment of the former Red Cab Site ($325,000 in FY 2016 and FY 2017) and by the re-development of 2 Brookline Place re-development ($460,000 per year in FY's 2017-2019).

- For State Aid in FY 2015, use the Local Aid Resolution approved by both branches of the State Legislature, which results in an increase of $970,175 (5.8%). For FY 2016-FY 2019, annual 2.5% increases in Ch. 70 and Unrestricted General Government Aid (UGGA).

- For Local Receipts, FY 2015 reflects an increase of $650,859 (2.9%). In FY's 2016-2019, limited growth is expected (approximately $350,000/yr, or 1.5%).
- Use of Free Cash continues to follow the Town's Free Cash Policy, as recently updated by the Selectmen in 2011.
- For FY's 2016-2019, a 2% annual wage increases for all Town and School unions.
- 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 $150,000.
- Annual Special Education growth of $500,000.
- Enrollment growth cost increases of $1,000,000 per year.
- Step increases in the School Department of $750,000 per year and $250,000 per year for Town Departments.
- For FY 2015, a Health Insurance rate increase of 1.5% and an increase in enrollment of 40. For FY's 2016-2019, assume a 5% annual rate increase and 30 new enrollees per year.
- A Pension appropriation based on the most recent funding schedule approved by PERAC.
- Continue to fund OPEB's by increasing the appropriation by at least $250,000 per year from on-going revenues.
- Debt Service and pay-as-you-go CIP that reflects full-funding of the CIP (6% of net revenue plus the use of Free Cash to get to 7.5%).

These assumptions create an escalating deficit position for FY 2016 and beyond, starting at $1.8 million in FY 2016 and reaching $8 million by FY 2019. It should be noted that the deficits in the "out-years" are inflated because they are built upon a deficit in the prior fiscal year. In fact, the Town must balance its budget each year, and that balanced budget will become the base for the following year's projection. Nonetheless, the cumulative deficits in the Long Range Projection are a reminder that the Town must find ways to support a sustainable budget in the long term.

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

	2015	2016	2017	2018	2019
REVENUE					
Property Taxes	**181,848,174**	**188,373,618**	**196,640,865**	**207,331,924**	**215,844,583**
Local Receipts	**22,770,225**	**23,116,675**	**22,963,028**	**23,308,177**	**23,595,409**
Motor Vehicle Excise (MVE)	5,150,000	5,253,000	5,358,060	5,465,221	5,574,526
Local Option Taxes	2,275,000	2,363,500	2,512,370	2,606,617	2,658,750
Licenses & Permits	1,189,975	1,189,975	1,189,975	1,189,975	1,189,975
Parking / Court Fines	4,200,000	4,200,000	4,200,000	4,200,000	4,200,000
General Government	3,459,750	3,505,485	3,552,637	3,620,024	3,673,359
Interest Income	740,000	758,500	777,463	796,899	816,822
PILOT's	1,165,000	1,231,600	733,232	759,897	786,595
Refuse Fee	2,650,000	2,650,000	2,650,000	2,650,000	2,650,000
Departmental & Other	1,940,500	1,964,615	1,989,292	2,019,543	2,045,383
State Aid	**17,629,357**	**18,049,579**	**18,480,306**	**18,921,801**	**19,374,334**
General Government Aid	5,750,919	5,892,154	6,036,920	6,185,305	6,337,400
School Aid	11,725,977	12,004,964	12,290,925	12,584,035	12,884,473
Tax Abatement Aid	40,402	40,402	40,402	40,402	40,402
Offset Aid	112,059	112,059	112,059	112,059	112,059
Other Available Funds	**7,903,508**	**7,021,133**	**7,147,713**	**7,283,156**	**7,428,148**
Parking Meter Receipts	4,300,000	4,300,000	4,300,000	4,300,000	4,300,000
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	2,137,019	2,242,397	2,353,564	2,472,762	2,600,630
Reimb. from Rec Revolving Fund	349,934	362,181	377,594	393,839	410,962
Tax Abatement Reserve Surplus	1,000,000	0	0	0	0
Free Cash (for Appropriation)	**5,084,152**	**4,000,000**	**4,100,000**	**4,200,000**	**4,350,000**
Capital Improvements/Other Spec Approp.	4,148,339	3,299,714	3,408,278	3,524,914	3,641,966
Operating Budget Reserve	530,584	549,952	568,046	587,486	606,994
Strategic Reserves	405,229	150,333	123,676	87,600	101,039
TOTAL REVENUE	**235,235,416**	**240,561,005**	**249,331,912**	**261,045,058**	**270,592,474**
$$ Increase	6,171,396	5,325,589	8,770,907	11,713,146	9,547,416
% Increase	2.7%	2.3%	3.6%	4.7%	3.7%

	2015	2016	2017	2018	2019
EXPENDITURES					
Departmental	**66,635,156**	**68,308,549**	**70,098,901**	**71,768,587**	**73,662,977**
Personnel	48,672,584	49,948,804	51,335,804	52,595,804	54,074,016
Services	8,456,789	8,615,234	8,777,640	8,944,107	9,114,735
Supplies	2,118,644	2,171,610	2,225,900	2,281,547	2,338,586
Other	527,690	540,882	554,404	568,264	582,471
Utilities	5,236,503	5,386,503	5,536,503	5,686,503	5,836,503
Capital	1,602,946	1,625,516	1,648,649	1,672,361	1,696,665
Intergovernmental	20,000	20,000	20,000	20,000	20,000
Coll. Barg. - Town	**1,076,220**	**1,087,000**	**1,110,000**	**1,130,000**	**1,150,000**
Schools	**85,359,740**	**89,159,472**	**93,165,389**	**97,291,560**	**101,405,021**
Coll. Barg. - School	**1,467,469**	**1,448,000**	**1,580,000**	**1,620,000**	**1,650,000**
Non-Departmental - Benefits	**50,500,116**	**53,496,813**	**56,712,683**	**60,184,977**	**63,840,070**
Pensions	17,882,573	18,700,041	19,768,033	20,900,806	22,102,185
Group Health	25,136,109	26,868,838	28,634,719	30,515,730	32,519,366
Health Reimbursement Account (HRA)	70,000	70,000	0	0	0
Retiree Group Health Trust Fund (OPEB's)	3,311,860	3,596,860	3,892,829	4,208,577	4,509,809
EAP	28,000	28,000	33,000	33,000	33,000
Group Life	140,000	143,499	147,087	150,764	154,533
Disability Insurance	16,000	16,000	16,000	16,000	16,000
Workers' Compensation	1,450,000	1,500,000	1,537,500	1,575,938	1,615,336
Public Safety IOD Medical Expenses	300,575	300,575	300,575	300,575	300,575
Unemployment Compensation	325,000	325,000	325,000	325,000	325,000
Medical Disabilities	40,000	40,000	45,000	45,000	45,000
Medicare Coverage	1,800,000	1,908,000	2,012,940	2,113,587	2,219,266
Non-Departmental - General	**961,707**	**645,715**	**661,536**	**680,878**	**704,294**
Liability/Catastrophe Fund	234,839	56,250	50,377	55,036	54,535
Affordable Housing	170,390	14,113	10,995	4,885	6,976
General Insurance	371,500	390,075	409,579	430,058	451,561
Audit/Management Services	130,000	130,000	135,000	135,000	135,000
Misc.	54,979	55,278	55,585	55,900	56,222
Non-Departmental - Debt Service	**9,621,757**	**9,974,554**	**10,705,463**	**14,780,877**	**17,461,274**
General Fund	9,621,757	9,974,554	10,705,463	14,780,877	17,461,274
Non-Departmental - Reserve Fund	**2,122,336**	**2,199,810**	**2,272,185**	**2,349,943**	**2,427,977**
Tax Supported	1,591,752	1,649,857	1,704,139	1,762,457	1,820,983
Free Cash Supported	530,584	549,952	568,046	587,486	606,994
Special Appropriations	**9,414,999**	**7,739,989**	**8,234,036**	**8,316,612**	**7,437,315**
Tax Supported	4,266,661	4,360,303	4,763,454	4,764,018	3,755,821
Free Cash Supported	4,148,339	3,379,685	3,470,582	3,552,594	3,681,494
Other	1,000,000	0	0	0	0
Non-Appropriated	**8,075,913**	**8,266,496**	**8,461,844**	**8,662,075**	**8,867,312**
State Assessments	6,238,854	6,386,937	6,538,722	6,694,302	6,853,771
Cherry Sheet Offsets	112,059	112,059	112,059	112,059	112,059
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	**235,235,416**	**242,326,397**	**253,002,036**	**266,785,509**	**278,606,240**
$$ Increase	6,171,396	7,090,981	10,675,639	13,783,472	11,820,731
% Increase	2.7%	3.0%	4.4%	5.4%	4.4%

	2015	2016	2017	2018	2019
CUMULATIVE SURPLUS/(DEFICIT)	0	(1,765,392)	(3,670,124)	(5,740,450)	(8,013,766)
DEFICIT AS A % OF OP REV	0.0%	-0.7%	-1.5%	-2.2%	-3.0%
Surplus / (Deficit) Prior to Collective Bargaining	2,543,689	769,608	(980,124)	(2,990,450)	(5,213,767)
Town Share of Surplus / (Deficit)	1,076,220	631,219	144,069	(284,408)	(973,550)
Town Collective Bargaining	1,076,220	1,087,000	1,110,000	1,130,000	1,150,000
Total Town Surplus / (Deficit)	0	(455,781)	(965,931)	(1,414,408)	(2,123,550)
School Share of Surplus / (Deficit)	1,467,469	138,389	(1,124,193)	(2,706,043)	(4,240,217)
School Collective Bargaining	1,467,469	1,448,000	1,580,000	1,620,000	1,650,000
Total School Surplus / (Deficit)	0	(1,309,611)	(2,704,193)	(4,326,043)	(5,890,217)

CAPITAL IMPROVEMENT PROGRAM

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 $340 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 have helped yield savings in the Operating Budget through investment 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 2015 – FY 2020 CIP calls for an investment of $318.2 million, for an average of approximately $53 million per year. This continues the Town's commitment to prevent the decline of its infrastructure, upgrade its facilities, improve its physical appearance, and invest in opportunities that positively impact the Operating Budget. This represents a vastly increased level of capital commitment resulting from the need to expand and renovate the Town's school buildings. Over the last 10 years (FY 2005 – FY 2014), the Town authorized expenditures of $178.8 million, for an average of nearly $17.9 million per year.

It was a challenge to develop a balanced CIP that continues to reflect the various priorities of the Town while simultaneously addressing the overcrowding issue in the schools. The overcrowding issue has prompted the recommendation for a Debt Exclusion Override for the Devotion School, as described below. As has been widely reported, what used to be Kindergarten classes of 425 students are now classes of 630-660. As those classes move through the system, there will continue to be annual classroom space challenges in the

elementary schools and a space crisis at the High School in 4-5 years. This CIP encompasses the B-Space Committee plan to address this issue in a comprehensive manner.

Absent any changes in School policies, it is not possible to fund the projects already in the capital pipeline, plus the new school expansion projects recommended by the B-Space Committee, within the Town's 7.5% Financing Policy. Therefore, it is recommended that the Devotion School project be funded outside of the Proposition 2½ tax levy limit through a voter approved Debt Exclusion Override. In addition, it is recommended that $1 million from surpluses in the Overlay account be used in FY 2015 to fund the feasibility study/schematic design phase of the Driscoll School project. Finally, the Town assumes that major school expansion projects will receive a portion of their costs reimbursed by the Commonwealth of Massachusetts through the Massachusetts School Building Authority (MSBA).

The decision to recommend a Debt Exclusion for the Devotion School project is not made lightly. The B-Space Committee made its recommendations in September and the School Committee subsequently voted to support the "expand in place" approach to creating needed classroom space. As a result, this CIP incorporates three major school expansion projects:

- *Devotion School* – a renovation/addition project that results in a larger school (1,000+ students) than originally conceived.
- *Driscoll School* – new to the CIP, this project would add 12 new classrooms and make it an 800+ student school.
- *High School* – with the larger grades making their way through the elementary schools, they will soon be at the High School. This CIP provides funding for an addition.

Without a Debt Exclusion for the Devotion School project, this CIP does not work. The basic premise here is using the Debt Exclusion for Devotion as a way to free-up future debt service capacity for the Driscoll and High School projects. The current (FY 2014 – FY 2019) CIP assumes $54 million of Town funding for the Devotion project within the Proposition 2½ tax levy. By funding it with a Debt Exclusion, the revenue capacity previously allocated to the Devotion School becomes available for the Driscoll and High School projects. Simply stated, a Debt Exclusion Override for the Devotion School allows for the funding of all three projects.

It should also be clearly stated that the Override Study Committee (OSC) is in the process of reviewing the B-Space recommendations. If they determine that the classroom expansion plan supported by B-Space is not required or could be scaled back, then a Debt Exclusion for the Devotion project would be revisited. Also, the Town will not be in a position to seek a Debt Exclusion until the Spring of 2015, so there will more time to study the issue.

In addition to the large scale school building projects, this CIP contains several other projects that alleviate school overcrowding. The sum of these projects is expensive and place great pressure on the CIP. This FY 2015 – FY 2020 CIP includes the following items that address the school overcrowding issue:

- $1.75 million is included in FY 2015 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 both FY13 and FY14. The amount requested for FY15 will go toward the creation of additional classroom space at Lawrence School and costs associated with any further space conversions into classrooms within existing school buildings, a process that is more complex and challenging each year as available space is reduced. There is also $500,000 in FY16 for work required at the High School to start preparing the facility for the influx of students.

- $43 million is included for the Driscoll School addition project recommended by B-Space. Of that amount, $14.7 million (35%) is assumed to be funded by the MSBA and $27.3 million (65%) by the Town. $1 million is included in FY15 for the feasibility / schematic design portion of the project (funded from Overlay Surplus), followed by funding for design completion and construction in FY17.

- Last year during the preparation of the FY14- FY19 CIP, no funding was included for future work required at the High School to address the space issues that will present themselves as the larger classes in the elementary schools reach the high school because a concept study was underway. That concept study, which was funded in FY13, has been helpful in the development of a plan to address the overcrowding issue. A High School addition project was also recommended by the B-Space Committee and supported by the School Committee. This CIP includes $76 million for this project, of which $26.3 million (35%) is assumed to be funded by the MSBA and $48.8 million (65%) by the Town. $1.75 million is included in FY17 for the feasibility/schematic design portion of the project, followed by funding for design completion and construction in FY19.

- Based on updated figures from the project architect (HMFH), the estimate for the Devotion School Project is increased to $110 million and the MSBA participation rate assumption is reduced from 40% to 30%. This results in a $77 million Town cost. As previously detailed, this CIP assumes a Debt Exclusion for the Devotion project.

All of this is being addressed while 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 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, including dedicated funding and taxpayer support above the Proposition 2½ tax levy limit, have allowed the community to fund these needs at the appropriate funding levels. 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	FY2015 Amount	FY2016 Amount	FY2017 Amount	FY2018 Amount	FY2019 Amount	FY2020 Amount	Future Years Amount
Pierce Playground	1,010,000	90,000	920,000					
Brookline Ave Playground	870,000		870,000					
Emerson Garden Playground	670,000		60,000	610,000				
Corey Hill Playground	600,000		40,000	560,000				
Brookline Reservoir Park	1,880,000			80,000	1,800,000			
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	
Larz Anderson Park	8,400,000					2,700,000	2,200,000	3,500,000
Kraft Family Athl. Field Turf Repl.	770,000					70,000	700,000	
Robinson Playground	990,000					90,000	900,000	
Riverway Park	425,000							425,000
Cypress Playground/Athl. Field	1,500,000						100,000	1,400,000

This CIP also includes a plan to utilize Cemetery Funds for roadwork ($150,000 between FY 2015-2016) and lot expansion ($770,000 in Future Years). This is an outcome of the conversations with the Cemetery Trustees regarding the appropriate use of their separate funds. As part of the FY 2015 budget process, there will be continued discussions with the Trustees regarding the prudent allocation of these funds.

A few years ago, a study was made of the conditions of the fire stations and what was needed to maintain the integrity of the floors and building in regard to the heavier and larger fire equipment that is replacing our existing apparatus. The work outlined in the report included flooring, shoring, beams, columns, and structural work. The report also included recommendations for the HVAC systems, generators, lighting, life safety, and mechanical, electrical, plumbing (MEP), along with other peripheral systems. In FY 2012, $650,000 was appropriated to undertake the Structural component. The next phase for implementation was the Life Safety component. This CIP continues the plan to modify basic life safety components (e.g., smoke detectors, carbon monoxide detectors). The final phase (mechanical, electrical, plumbing) is also included, starting in FY 2017.

This CIP also addresses a long-standing need in the Fire Department: a modern fleet maintenance facility. The current maintenance facility is located in Station #1 and that shop is not large enough to allow access to many of the Department's vehicles. This requires the mechanics no choice but to do repairs out in the street, the drill yard at Station #6, or on occasion inside another fire station. This creates unsafe and inefficient conditions. The limited size of the shop and its inability to house the apparatus leaves the Fire Department looking to costly outside repair venders more often than would be necessary if the Department had an adequate facility. The plan is to construct a new facility behind Station #6. In addition, the Fire Chief has expressed his desire to modernize the Department's training facility, which is also located at Station #6. A total of $4.2 million is included for these projects.

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. This CIP continues to follow the policy and replaces Ladder #2 in FY15 ($900,000), Engine #5 in FY 2015

($580,000), and Engine #6 in FY 2019 ($660,000). It also includes $1.2 million for rehabilitation.

The Village Square and Riverway Park Pedestrian/Bike Path are significant public works projects that are slated for FY 2015/FY 2016. The table below summarizes the funding plan, which shows both projects being funded 100% with non-Town funding:

	FY2015	FY2016
Village Sq. Circulation Improv. - CD	375,000	250,000
Village Sq. Circulation Improv. - Offsite Improvements from 2 Brookline Pl		750,000
Village Sq. Circulation Improv. - State Grant (TIP)		4,375,971
Village Sq. Circulation Improv. - Total	**375,000**	**5,375,971**
Riverway Park Pedestrian/Bike Path - Federal Grant		675,000
Riverway Park Pedestrian/Bike Path - State Grant (DCR)		300,000
Riverway Park Pedestrian/Bike Path - State Grant (Tip)		325,000
Riverway Park Pedestrian/Bike Path - CD		200,000
Riverway Park Pedestrian/Bike Path. - Total	**-**	**1,500,000**

For a number of years the School Department has been working on the development of a plan to enhance educational technology. The Override Study Committee is reviewing this issue, as there is a substantial cost associated with the overall plan. The funding in this CIP ($320,000 in FY 2015 + $200,000/yr for FY's 16-20) is for the infrastructure and equipment required to start implementing the plan. It should be noted that a final plan has not been adopted yet and the out-year costs may be modified.

This CIP includes a new $1 million bond authorization for grounds and facility improvements at the Robert T. Lynch Municipal Golf Course. The funds would be used to finish cart paths on holes 14 and 15, complete bunker renovations on holes 14, 16 and 17, restoration of the 9th fairway, substantial tree pruning/elimination, and irrigation maintenance. Additionally, the clubhouse would get a much needed upgrade to the electrical and HVAC system. The debt will be phased so that debt service will remain at affordable levels. The golf course enterprise fund pays for all debt service associated with the golf course and its facilities.

Some of the major projects proposed in the CIP include:

- **Devotion School** - $77 million of Town funding + $33 million of State funding (FY 2015)
- **BHS** - $50.5 million of Town funding + $26.3M of State funding (FY 2017, FY 2019)
- **Driscoll School** - $28 million of Town funding + $14.7 million of State funding (FY 2015, FY 2017)
- **Village Square** - $5.8 million (FY 2016) - - all outside funding
- **Larz Anderson** - $4.9 million (FY 2019-2020)
- **Newton St. Landfill (Rear Landfill Closure)** - $4.6 million (FY 2015)
- **Fire Fleet Maintenance / Training Facility** - $4.2 million (FY 2015, FY 2017)
- **Classroom Capacity** - $2.3 million (FY 2015-2016)

- **Fire Sta. Renovations** - $1.9 million (FY 2015, FY 2017-2020)
- **Brookline Reservoir Park** - $1.9 million (FY 2017-2018)
- **Educational Technology** - $1.6 million (FY 2015-FY 2020)
- **LED Streetlights** - $1.5 million (FY 2015-FY 2017)
- **Riverway Park Ped/Bike Path** - $1.5 million (FY 2016) - - all outside funding
- **Pierce Playground** - $1 million (FY 2015-FY 2016)
- **Golf Course** - $1 million (FY 2016) -- enterprise fund

Continued major investments include:

- **Parks and Open Space** - $19.7 million
- **Street and Sidewalk Rehab** - $17.5 million
- **Town/School Roofs** - $7.5 million
- **General Town/School Building Repairs** - $6.9 million
- **Fire Apparatus**- $3.3 million
- **Water & Sewer Infrastructure** - $3 million -- enterprise fund
- **Information Technology** - $1.9 million
- **Tree Replacement** - $1.1 million
- **Energy Conservation** - $1 million

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

CONCLUSION

The FY 2015 budget represents a Bridge to FY 2016, when the Town's residents will consider very fundamental issues about the level and quality of educational services and their willingness to fund them. The Board looks forward to hearing the recommendations of the Override Study Committee and to discuss their thoughts about fashioning a plan that balances expenditure efficiencies, non-tax revenue enhancement and property tax increases that will create a long-term and sustainable budget framework going forward. Meanwhile, this FY 2015 Budget provides a realistic and fiscally prudent plan to fund existing services and helps mitigate any further erosion in the School System that has been burdened with unprecedented growth in its student population.

The Board is very appreciative of the efforts of the Town Administrator and all of the department heads and financial personnel in preparing their budgets this year. We continue to be grateful for the quality of the Financial Plan, as it provides an outstanding and useful document for the Selectmen, Advisory Committee and Town Meeting, and creates transparency and confidence among the Town's citizenry and other stakeholders. Our independent Auditor has publicly acknowledged the quality of this document and we are proud to announce that the Town was awarded the Government Finance Officers Association's (GFOA) award for Excellence in Budget Presentation for the ninth consecutive year.

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 FY 2015 Budget. However, the Advisory Committee did include the following two conditions on the Driscoll School Feasibility Study / Schematic Design appropriation:

1. that that no money be committed or expended before the District's Statement of Interest to the MSBA has been approved and the District has received an invitation from the MSBA to enter the Eligibility Period

2. that there are adequate parking accommodations in accordance with transportation board policy

The Selectmen have not had an opportunity to discuss and vote on the conditions, but we will do so at the May 13 meeting. A Recommendation will be prepared as part of the Supplemental Mailing that will be sent prior to the commencement of Town Meeting.

With that one exception, the Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on April 29, 2014, on the motion offered by the Advisory Committee.

In addition, the Board wants to restate the vote we took at our April 29, 2014 meeting regarding the appropriation for the Driscoll School Feasibility Study / Schematic Design funding:

VOTED: that the Board of Selectmen intends to work with the School Committee to form a Driscoll School Study Committee to evaluate community concerns and to communicate those concerns to direct the feasibility study.

The Board would once again 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.

ROLL CALL VOTE:

Favorable Action
DeWitt
Daly
Benka
Goldstein

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

TRANSITIONAL BUDGETING

Brookline is a community with much to offer. We therefore attract people – many of whom are young and wanting to start families in a community rich in diversity, cultural and intellectual resources, and a pace and pattern that blends urban and suburban lifestyles. In some ways we are an attractive nuisance. But those families who add lives to our community, also bring life to our community. The challenges, of course, can be seen in our expanded school population. And this is reflected in the proposed FY15 Budget.

Last year's budget was characterized as a "bridge budget", allowing the Town and Public Schools of Brookline time to formulate an 'ideal' sustainable school budget, and propose an approach for contending with our burgeoning school population.

Since then, much work has been done. There have been two committees to consider population, space, finance and policy issues around our public school system. While the work is nearly complete, the task is not yet finished. So, what is before us for FY15 is a "transitional budget". It maintains services, and even allows for some modest expansion. While it is a balanced budget, it is not fundamentally secure beyond FY15 in that unusually favorable healthcare premiums for this year allowed us extra budget capacity. That's not something we can bank on for the future.

REVENUES AND EXPENSES

A number of sources support this year's revenues of just over $235M (+2.7%). State Aid accounts for $17.6M. While this is still not back to levels seen in years past, it is nonetheless an increase of 5.8% over last year. Local Receipts increased by 2.9% to $22.8M. This includes revenues from such things as Building Permits, various fees, and fines. It is also derived from Interest Income that, as one would expect, is negligible. Building Permits increased this year, with new construction and renovations. State-certified Free Cash is $7.1M, a reduction of $2.9M. 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 $5.1M of Free Cash available for appropriation. After allocation to a variety of strategic reserves (e.g. Liability/Catastrophe Fund and Operating Budget Reserve), $4.1M 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 3.4% to $181.8M (representing more than 77% of our total revenue). When all revenue sources are aggregated, the sum is $235.2M, a 2.7% increase in total revenue. Operating revenue increases $7.7M, or 3.5%. Of our $235.2M General Fund revenue, $8.1M is deducted for Non-Appropriated Expenses (State/County charges of $6.2M, "Cherry Sheet" offsets of $112K, Tax Abatement Overlay of $1.7M). This leaves us with a total of $227.2M in revenues for appropriation.

Balancing our revenues are our expenditures. Departmental expenditures (~71% of total general expenditures) increase by 3.7% to $154.5M ($86.8M Schools [+4.9%] / $67.7M Town [+2.1%]). Non-Departmental expenditures of $63.2M are flat and include such things

as Employee Benefits (80% of this category), Insurance, and Debt Service (15.2% of this category) [-0.4%]. Additionally, there are revenue-financed Special Appropriations (CIP) of $9.4M, up just shy of 10%.

There are also the Non-Appropriated expenses of $8.1M as mentioned above.

The proposed FY15 Budget is a thoughtful balance of priorities given the financial resources currently available. But it is recognized as a transitional budget. What follows is a summary of that proposal.

Revenues

	$	% change
Property Tax	181,848,174	3.4
Local Receipts	22,770,225	2.9
State Aid	17,629,357	5.8
Free Cash	5,084,152	(33.6)
Other Funds	7,903,508	15.4
Total Revenue	$ 235,235,416	2.7 %

Expenditures

	$	% change
Departmental	154,538,584	3.7
Non-Departmental	63,205,920	(0.2)
Special Appropriations (CIP)	9,415,000	9.7
Non-Appropriated Exp.	8,075,913	0.2
Total Expenditures	$ 235,235,416	2.7 %

PERSONNEL

Personnel are at 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 and Lanes.

Of this year's $217.7M General Appropriation, more than 79% is dedicated to Personnel and Benefit Expenses. Personnel increases 4.1% to $123.2M, and Benefits increase just 0.8% to $50.5M, largely as a result of favorable healthcare premium rates. 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 its total number of Full Time Equivalent (FTE) positions over the past few years.

This year, our total number of Town FTE's does increase a bit by a net of 3.56 FTE's, bringing the total Town General Fund FTE count to 679.19 FTE's.

FTE's within Non-general Town Funds (Revolving Funds/Enterprise Funds) increase by 0.76 FTE to a total of 73.47 FTE's. This is driven by increased services 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 approximately 35 FTE's to a total of approximately 1,218 FTE's. An expanded discussion of the School Department appears later in this report.

As always, better support, quality, and service are the goals in staffing. All of which, however, must be constrained within the limits of our available funds.

GROUP HEALTH & BENEFITS

At $50.5M, Employee Benefits (including Pensions, Workers' Compensation, Unemployment, Life Insurance and Health Insurance), represents more than 23% or our General Appropriation.

- 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 2.1% to $25.1M. For FY15, there are projected to be 3,045 enrolled employees (1,374 Town / 1,671 School). 48.5% of the enrollees are active employees, and 51.5% retired.

  This year's premium rate increase is just 1.5% (in aggregate). It is a rate of increase that is below our overall revenue increase – and an anomaly we don't expect to repeat. This is a far cry from a few years ago before we entered the GIC (2010). While the premium rate increase is only 1.5%, the full increase in healthcare is 2.1% and is driven by the greater number of enrolled employees.

  As employees retire and are replaced, we add to our healthcare role – one active employee and one retiree associated with the same position for example. With the run up in student enrollment, School positions have 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 can still outpace our capacity to raise revenue.

  We are currently in the second year of a three-year agreement with our employees. In the current negotiated agreement, the Town covers 83% of the cost, while employees cover 17%. The state-wide average is 70% municipality / 30% employee. Budgetarily, there is a $270K savings for each 1% reduction in the Town's share.

  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 may have a favorable and significant impact on our future healthcare and OPEB costs.

- **Retiree Health**
  Just as we provide healthcare benefits for our active employees, we have also promised to provide healthcare benefits to our retirees. These fall under the category of Other Post Retirement Benefits (OPEBs). The calculated unfunded liability for our retiree health obligation is $190M as of June 30, 2012. The next actuarial assessment is this summer.

  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 – this year is an exception. 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 in the early-1990's 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 ($21.1M as of January 1, 2014). 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 annually to the base. With continued and disciplined adherence to the payment schedule, we have shortened the initial funding timeline.

  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 less than a decade. Additional relief may be felt if there are future changes in State regulations regarding vesting requirements for post-retirement healthcare benefits.

  The FY15 recommendation brings the total appropriation in this budget to $3.3M. 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 3,361 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 and Brookline's is scheduled 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 to help address previously poor investment returns – a market phenomenon with which all municipalities had to contend. Fortunately, we gave this issue due attention to address the issue, reducing the hit to any one given year. Better returns this past year will obviously help.

  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%, though some express the belief that even that is too optimistic a rate. The unfunded Pension liability as of 12/31/2011 was $176M and is addressed in the FY15 budget with an allocation of

$17.8M. There is a new actuarial study currently underway and we should have the new numbers by early summer.

CAPITAL IMPROVEMENTS PROGRAM (CIP)

The Town anticipates investing approximately $318M, averaging $53M annually, over the next six years toward the CIP. Some of this will depend on decisions that may arise in response to our increased school enrollment and space needs. This year (FY15) we are slated to authorize nearly $18M 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 FY15 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.

We continue our program to replace 3,600 streetlights with more energy efficient and longer lasting LED lights. The replacement is rolled out over several years and for FY15 we allocate $515K in this ongoing effort. These lights have a 20 year life expectancy and will pay for themselves in the first 10 years. After that, it is anticipated that the Town will save nearly $2M in the remaining 10 years due to reduced maintenance and a 2/3rds reduction in energy consumption.

$1.48M is slated for two new fire trucks - $900K for a ladder truck and $580K for an engine. Originally, the CIP anticipated purchasing a Quint apparatus (combined pumper and ladder truck). However, Quints have a large turning radius and are not well suited in much of town. Rather than purchasing one Quint, we will purchase two trucks (engine and ladder) and move the existing Quint in Coolidge Corner to Boylston Street where it is more appropriate. In that process we will wind up with two better suited trucks instead of one all while saving money. This creative dance of efficiency and savings was orchestrated by our Fire Chief.

$1.2M is for Village Square Circulation Improvements with a recommendation for the authorization of a Section 108 loan. This project is to reconfigure the area in Brookline Village where Walnut, High, Pearl and Washington Streets meet Route 9. It includes the removal of the existing pedestrian bridge, creating a new intersection and cross-walks, and landscaping among other things. We do not anticipate needing to use the loan authorization as we expect CDBG funding in the future, as well off-site improvements financed by the developer of the B2 parcel. A Section 108 loan can be used to borrow against anticipated CDBG funds in the event that a project needs to progress prior to a release of those funds. While we do not expect to use this approach, it provides a level of insurance that we won't be pinched by timing.

$4.6M is slated for the capping of the Newton Street Landfill. The front portion is to be fully capped, and the rear partially capped to accept soil contaminated with ash from the surrounding neighborhood.

There are also CIP funds dedicated to addressing the School's pressing space needs. The school system is woefully short of space. And, the now crowded elementary classes will begin entering the High School, pushing it beyond its currently configured limits.

In addition to $1.75M for Classroom Capacity, there is also $1M from the Overlay Reserve Surplus to fund a Driscoll School addition feasibility/schematic design study. The School Department is pursuing a plan to expand the Driscoll School from a 3-section school to a 4-section school, leaving the Runkle and Heath schools as the only remaining 3-section schools in Brookline.

The School Department envisions expanding the school by 7 to 10 classrooms. Driscoll occupies the fourth smallest school site and is currently one of our smaller schools, but sits in an area experiencing some of the fastest student growth in Brookline.

Parents are concerned by the changes contemplated for Driscoll and have particular concerns around open play space on the site. Unlike most other schools, Driscoll is not sited close to or adjoining a town park. While other schools have seen additions and enjoyed renovations, Driscoll has had relatively little done to it in many years.

During Advisory Committee considerations, it was apparent how apprehensive many in the Driscoll community are about an addition to what has traditionally been a smaller school – especially in light of its limited open space options. Many asked for a rubric of specific formulaic constraints to be placed on a feasibility study. While the Committee understands their earnest fears, pre-prescribing a feasibility study risks limiting potentially good and creative solutions. Many of the community's concerns and questions need to be answered with a good technical analysis of the site and its surrounding – something a feasibility study can do.

In order for Town Meeting to ever consider a project for the school in the future, it will need the insight of a feasibility study. Much of the discussion revolved around the potential of making Driscoll a larger school. What must be equally considered is the opportunity of making Driscoll a better school.

The Advisory Committee supports the $1M for feasibility/schematic design study for the Driscoll School in evaluating a possible expansion and renovation on that site, while acknowledging that there are still many outstanding questions with regard to student population projections, and the policies that may affect future space needs and classroom requirements. Our recommendation includes conditions that there be no money commitments until the MSBA has invited us to enter the Eligibility Period, and that there be an adequate parking study conforming to the Transportation Board's Policies.

The Advisory Committee has provided detailed descriptions of each of the many projects in the FY15 CIP later in this budget summary.

DEVOTION SCHOOL AND THE CIP

While not part of the FY15 CIP, we should be cognizant of the Devotion School project and its influence on our overall multi-year CIP. Significantly, the Devotion School is anticipated to cost $110M, with the expectation of $77M coming from the Town (bonded) and $33M

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. It is anticipated in the Town's budget projections that the Devotion project will be financed through Debt Exclusion bonding (Override). Current low interest rate levels make this an advantageous climate in which to borrow. A Debt Exclusion will allow for the building and renovation of the Devotion School, and thereby maintain capacity in our CIP for future projects.

The Town and schools are pursuing an "expand in place" approach to provide necessary capacity in our neighborhood schools. The precise manner will be determined by numerous factors and through a broad community process. In any approach, however, the solutions will be expensive and must be responsibly conceived. Some form of debt exclusion will be critical.

DEBT AND DEBT FINANCING

As has been noted, the CIP is largely financed through debt (bonding). Projected total outstanding debt for FY15 is just over $75M, with total debt service (annual payments on that debt) at just under $12M ($9M from the General Fund). Of that $12M in debt service, however, $2.3M 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 less than 5%, 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, is a prudent way to manage our debt levels. This is important, as debt service immediately impacts our Operating Budget. Though, there are times when, and projects where, longer term financing is appropriate.

The table below details the anticipated funding source (as percentages [rounded]) for the proposed FY15-FY20 CIP, and the CIP allocation by category for the same period. Of particular note is that the funding source schedule anticipates a Debt Exclusion Override to fund the Devotion School project. The Town's share of the $110M project (after State reimbursement) is estimated at $77M.

CIP (6 Yr) Funding by Source (%)			**CIP (6 Yr) Allocation by Category (%)**	
General Fund Bond	31.8		Facility Renovation/Repair	79.1
Free Cash	6.8		Infrastructure	11.0
State/Federal Grants	26.9		Park/Open Space / Playgrounds	6.3
Utility Bond	0.9		Misc. & Other	1.3
Property Tax	8.2		Vehicles	1.0
CDBG	0.3		New Facility Construction	1.3
Debt Exclusion Bond	24.2		**Total**	**100.0**
Overlay Res. Surplus /	0.9			

Other				
Total	**100.0**			

SCHOOLS

Underpinning great societies and great communities are great educational institutions. The strength, character and vitality of Brookline is enhanced by, and enhances, its tremendous school system.

Right now, though, our educational institutions suffer from system stress, strained by an unprecedented and sustained surge in school enrollment. From1990, there has been a system-wide cumulative enrollment growth of more than 1800 students. Since 2006 alone, there has been a 35% increase, with the enrollment surge now entering BHS.

What were once quaint neighborhood schools with small classes have now grown as classrooms have been added through new construction and conversion of existing space. We must understand that schools of 500 students are a thing of the past.

The schools we recall of only a few years ago are changed and there's more to come. In managing these changes we must find economies of scale, as well as think creatively about how to turn our new growth into opportunity. Solutions will not be easy or inexpensive. Space solutions will necessitate constructing new classrooms and common space. It may also involve reconsidering existing policies and practices such as how, when, where, and to what extent we can accommodate non-resident students or reevaluating the number of students we are willing to place in a given classroom. These are hard questions and decisions with real consequences. And, decisions that will require significant community input.

In the near future, the PSB will need to make formal decisions around policies and programming, and the community will need to make decisions around its level of financial support. That exercise, and those choices, must be guided by thorough and thoughtful analysis. This past year the B-SPACE Committee explored facility and space options. Currently, the Override Study Committee (OSC) is evaluating the financial policy, population, and facility implications of our public school system. We expect a report in the next couple of months followed by a plan from the PSB.

The School Department is the largest and most complex of the Town's departments – financially and structurally.

While the School Department's budget manages to expand and reinforce some positions and programs, it does so with much risk in that it is ultimately an unsustainable budget relying on serendipitous healthcare premium savings and one time funds such as reserves. And, it has no capacity to contend with the continuing increases in student enrollment. While we have concerns with the inherent risks in the School Department's budget, we realize we cannot stand still and must continue to advanced education in Brookline.

A complete financial analysis of the PSB FY15 Financial Plan is provided below in our budget summary.

STABILITY AND ASPIRATIONS

Brookline's FY15 budget provides stability and continuity, but it doesn't solve our looming problems.

While budgets are an expression of shared priorities and aspirations, they are constrained and tempered by the levels of our resources; the funds we have available or the funds that we are willing to, and can, make available. The determination of that level will be one of the most important decisions we make in this next year, given that there is likely to be an Override/Debt-Exclusion on the ballot.

How the Town structures that Override, and how we as a community respond, will define (or re-define) what Brookline will be.

It will be a choice and tangible expression of our priorities and aspirations. Clearly, deliberatively and responsibly, we will make that decision as a community.

By a vote of 16-1, the Advisory Committee submits the FY15 Town Budget with a recommendation of FAVORABLE ACTION

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Advisory Committee Report to Town Meeting on the
Public Schools of Brookline FY2015 Budget

[As presented in "The Public Schools of Brookline (PSB), The Superintendent's Preliminary Operating Budget 2015", as amended by Addendum #1]

BACKGROUND

The 2015 PSB financial plan reflected in the operating budget is high-risk and tries to reconcile educational priorities and excellence with fiscal responsibility.

Most importantly, without significant changes, the plan is financially unsustainable in the long term. There is significant real growth in educational spending compared to recent years' experience, across all schools, programs and grades; and significant reliance on nonrecurring sources of revenue. A more conservative approach could have been funding inflationary and Special Education (SPED) growth, and the minimum requirements for enrollment growth. This alternative, while more fiscally prudent, would continue a pattern of underinvestment in the educational program.

The 2015 financial plan is not a "bridge", but rather the important "first step" in a multi-year continuum that recognizes

- the challenges of enrollment growth
- a lack of equity of resources between schools and student populations
- deferred investment from previous years' cumulative underinvestment in educational resources
- investment in programmatic educational enhancements

And bear in mind that the 2015 operating budget is not representative of the financial resources that will be required as a consequence of expenditures contemplated in capital spending plans, largely for buildings and technology.

PROLOGUE

It has been a long time building to this moment; since the operating budget overrides in 2008, the PSB has had a history of serious challenges in meeting the delivery of its strategic mission with recurring, sustainable funding sources. The demand for financial resources is driven by

- enrollment growth
- implementation of the Common Core Curriculum
- unfunded mandated services
- discretionary educational advances

Recurring revenue sources - property taxes, state funding and tuition and fees – fund the inflationary growth of existing resources (largely personnel) and SPED growth, leaving little room to address enrollment growth, and nothing beyond that.

There have been many years of using unsustainable revenue sources to fund the shortfall created by spending that meets the PSB's vision of an educational program that achieves academic excellence for all

- federal fiscal stimuli
- availability of unspent resources from prior years' budgets
- liberal exercise of the Town School Partnership agreement (TSP)
- a reserve fund transfer

On the expense side, there has been successful management of the SPED program to control growth, while improving qualitative results, and artistic construction of collective bargaining contracts that defer increases from the economic period of benefit.

And when these actions have proven insufficient, other spending reductions and spending freezes have been instituted that are harmful to the quality of the PSB's mission.

Despite these challenges, the level of academic proficiency remains high, and while lower achievers have improved, the achievement gap is not narrowing.

The Advisory Committee coined the term "bridge budget" in 2014, when it recommended the reinstatement of approximately $0.5 million of educational programs, with the expectation that a sustainable educational financial plan would be in place for 2015. In its recommendation, the Advisory Committee believed that the PSB's fiscal 2014 managerial energies should be dedicated to the success of a lasting educational program for 2015 and beyond. Unfortunately, this did not come to pass.

Rather than another bridge, the 2015 spending plan puts the Town squarely in deep water

- we may reach the other shore with "replacement" sustainable resources for 2016, principally from overrides and other revenue measures being contemplated
- failing that, we would necessarily return to where we ended fiscal 2014, and figure out what to do next

PSB ASSUMPTIONS REFLECTED IN 2015 FINANCIAL PLAN

The School Committee and the PSB administration are well aware of these risks, they prepared the 2015 financial plan in light of them, and they are committed to proceed with the operating budget before you. Their judgment is that the PSB cannot afford to wait another year, and would regrettably prefer to make what could be harder choices next year, if sustainable funding resources do not become available for fiscal year 2016.

The underlying assumptions for the 2015 financial plan are consistent with the PSB's existing educational mission and long term spending projections for real growth

- they reflect an "incremental" approach to the existing base of spending, not a "zero-based" analysis
- there are no fundamental change in core philosophy and large-scale programs, e.g. METCO, Materials Fee, class size, and Elementary World Language
- there is no sizeable reallocation and rationalization of other existing resources, similar to what has been accomplished in SPED
- there is a commencement of spending on the additional non-technology operating resources determined to be needed by the PSB - totaling $15.4 million for 2015 – 2022 ($6.8 million for teacher growth; $8.6 million for enhancements and deferred investment).
- There is a commencement of spending on the technology resources determined to be needed by the PSB - from 2015 through 2019, $9.5 million ($1.3 million operating and $8.2 million capital) on top of $1.7 million and $1.4 million, respectively, reflected in previous spending plans

Many of the assumptions in the long term projections are based on achieving certain quantitative resource ratios or other standards.

There are relatively small revenue increases ($172 thousand) from building rentals, tuitions and fees. Overtime, revolving funds have been managed to make their operations more self-supporting, lessening the 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 families.

TIMING AND PROCESS OF DECISIONS

Unfortunately, the 2015 PSB operating budget must be considered now by Town Meeting, well before a sustainable educational financial plan is in place, reflecting the completion of a process that includes the PSB, the Override Study Committee (OSC), and the Board of Selectmen.

Despite that substantive limitation, the Advisory Committee supports the 2015 PSB Operating Budget, with its risks and uncertainties, most significantly the assurance of a sustainable revenue stream. But it respects the School Committee's willingness to proceed in this manner, and deal with the consequences if sufficient sustainable resources are not garnered.

The reality is that December 2014 is the likely end-date for establishing a sustainable financial plan, given that a vote for a potential override would need to be on a Spring 2015

ballot, leaving just over a remaining half-year (including summer months) to make critical decisions.

The PSB has the singular responsibility and obligation bring this plan forward, notwithstanding that the Town's financial circumstances likely will require consideration of an override. And while the PSB's decisions and assumptions have to stand the test of due diligence and cost/benefit analysis, whether or not an override was called for, the OSC provides a valuable, contributory resource.

In late April 2014, the School Committee and the PSB administration embarked on an effort to reconsider the assumptions and projections discussed in the preceding section, encompassing core issues, large-scale programs and more qualitative measurements of needed resources. These efforts include issues raised by the OSC, although it has not issued a formal report of conclusions and recommendations.

This effort reflects the presumption that the additional resource needs will likely be meaningfully reduced by the PSB, with the School Committee and the administration's expectation that there will be a consequential negative impact of the educational program.

In the end, the School Committee is empowered to oversee and manage pedagogical choices, within the financial resources provided by the Selectmen, Town Meeting and voters.

INTERNAL CONTROL

The PSB's operating budget is the largest of any Town department, and arguably, the most complex and difficult to understand. The degree of complexity and understanding have been affected by years of (i) reliance on nonrecurring revenues to fund and/or reinstate sensitive programs, (ii) difficulty understanding the sources, availability and amount of nonrecurring revenues and (iii) collective bargaining agreements, where form has compromised economic substance.

Additionally, the portion of Town's General Fund appropriation that is spent at the discretion of the PSB ($86.8 million in 2015) is an amorphous total, which is not bound by the specifics of the operating budget that is presented to Town Meeting. The PSB manages its financial affairs with far greater independence and latitude than other departments. This too has led to greater complexity and difficulty of understanding, as well as questions relating to the beneficial nature of selected spending changes and decisions.

The Advisory Committee has discussed with the School Committee the need to ease complexity and enhance understanding through more transparent financial reporting and accompanying informative disclosure, discussion and analysis.

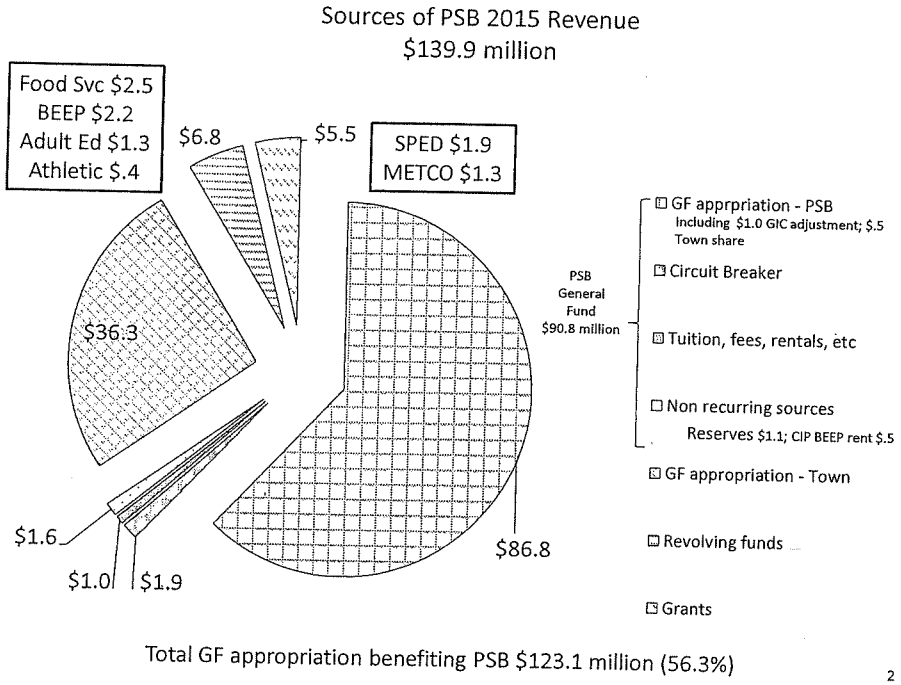
A subtle but substantial benefit to using significant nonrecurring funding resources in 2015 is that the PSB will, in all likelihood, exhaust its supply of such monies (upwards of $1.8 million). The availability of such a large amount is a consequence of likely favorable revenue and spending results in 2014 that will not require any of the originally anticipated use of $650 thousand of nonrecurring revenues.

This would establish a starting point for 2015 and beyond, where if circumstances suggest that potential spending could exceed what is planned, the PSB would have to manage within its existing resources or consider requesting a reserve fund transfer from the Town. Further, improved transparency and disclosure would provide an understanding of the availability of potentially unspent resources from prior years' budgets, the major source of its nonrecurring revenues; on the Town side, such unspent monies would flow into free cash and not be available to the department that generated the unspent funds.

Under this scenario, it should be expected that the PSB would come to the Town for reserve fund transfers should its assumptions on out-of-district placements be low. Currently, 69 such placements cost approximately $6 million. Individual placements have cost more than $200 thousand each. While the significance of the underlying circumstances is vastly different, the financial planning challenge is similar to snow removal, where the reserve fund is used to absorb spending variances.

ANALYSIS OF 2015 PSB OPERATING BUDGET

Slide 1



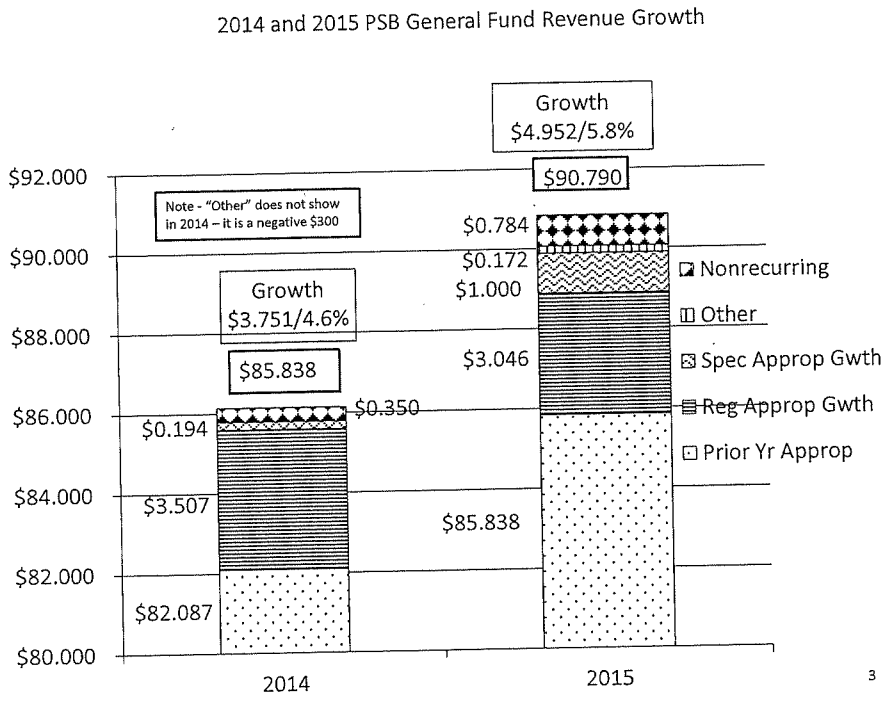
Revenues (Slides 1 and 2)

Approximately $140 million of revenue are available to spend on the PSB educational effort, including $123 million appropriated from the Town's General Fund (56.3% of that fund), of which the PSB has discretionary control for $86.8 million, while Town departments have spending responsibility for $36.3 million on the behalf of the PSB.

$1 million of the $86.8 million is attributable to a lower than expected GIC premium increase (1.5% rather than 5%). While the split between the Town and PSB was largely 50/50, all the benefit was assigned to the PSB through the TSP. Viewed conservatively, health care

insurance is not expected to continue at that rate of increase - future years' budget assumptions will remain at 5%; accordingly, this 2015 revenue source is considered nonrecurring.

Slide 2



The PSB General Fund is $90.8 million, consisting of the $86.8 million Town appropriation, $1.9 million of SPED Circuit Breaker reimbursement, $1.0 million of tuition, fees and rentals and $1.1 million (of a potential $1.8 million) of nonrecurring sources.

Grants total $6.8 million and revolving funds total $5.5 million.

The remaining $0.5 million is an appropriation of the Town's Capital Improvement Program (CIP) for operating rents for third-party BEEP locations. It is included here on a pro forma basis, reflect as nonrecurring revenues, because the intent is to include it in the 2016 operating budget. This treatment is consistent with the views of the OSC.

In total, $2.6 million of nonrecurring funds are included in the 2015 operating plan. And, as mentioned earlier, in all likelihood the remaining $0.7 million of $1.8 million in remaining available nonrecurring revenues sources will be needed to address contingencies not comprehended in the 2015 operating budget. This compares to no nonrecurring revenues sources being required in 2014's current spending projection (although the PSB prepared material shows $350 thousand).

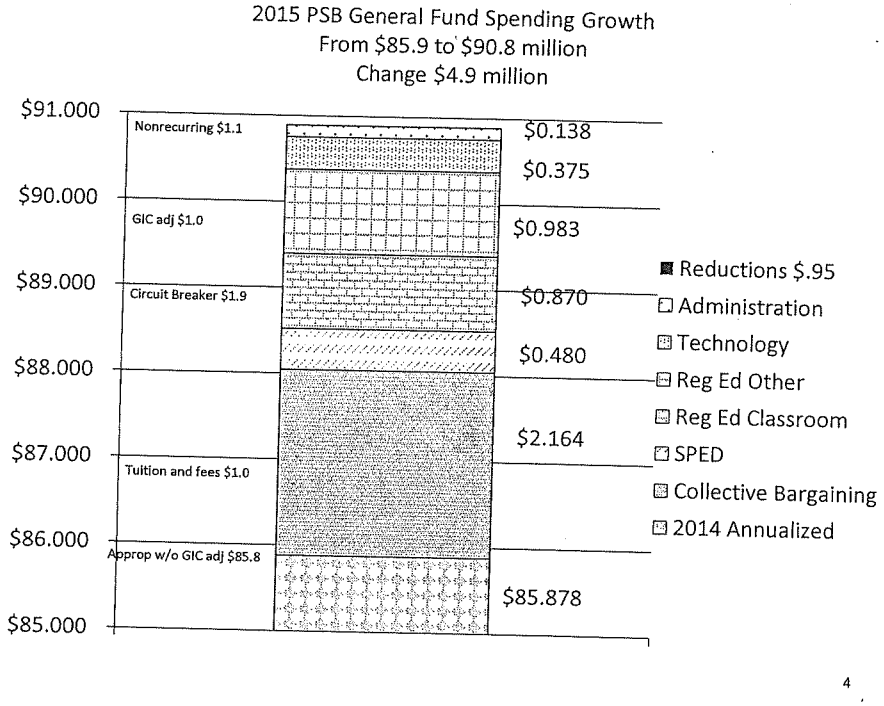
An additional element of complexity in comparing 2015 with 2014 is the lower growth in the Town's General Fund appropriation, excluding the GIC anomaly in 2015 and the Town's one-time allocation of additional funds in 2014 ($194 thousand). The fiscal 2013 to 2014 growth was $3.5 million, while the 2014 to 2015 growth is a lower $3.0 million.

PSB General Fund revenues grow by $5.0 million (5.8%) in 2015 compared to $3.8 million (4.6%)in 2014. Adjusted for the $350 thousand of nonrecurring revenue sources that will not be needed in 2014, revenue growth is $5.3 million (6.2%).

It is this revenue growth, relying on significant nonrecurring sources, that allows for the aggressive real growth in educational spending discussed earlier and in the next section.

Spending (Slide 3 and 4)
This discussion is limited to the PSB General Fund ($90.8 million of spending), and is oriented to the "incremental" approach followed by the PSB, not a "zero-based" analysis.

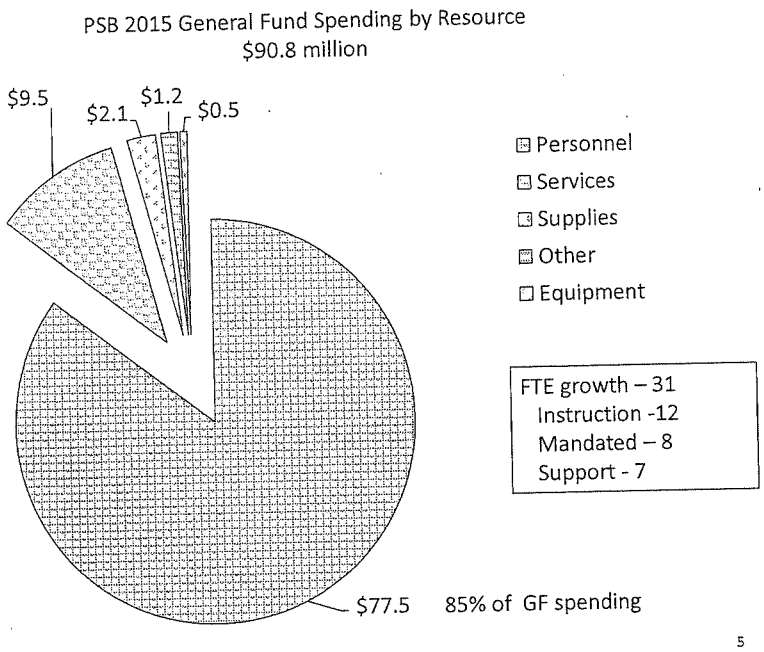
Slide 3



The PSB material assumes entering 2015 with annualized 2014 spending of $85.9 million. Inflationary growth from collective bargaining for the existing employ complement is $2.2 million (down from $3.1 million in 2014). SPED growth is another $480 thousand. These three components represent a collective $88.5 million.

Personnel is the single largest resource, representing 85% of the General Fund spending. The number of FTEs is over 1,060, representing growth of over 30 FTE's. Additionally, there are 155 FTEs funded in grant and revolving funds, bringing the total complement to over 1,200.

Slide 4



The recurring revenue consisting of the Town appropriation (excluding the GIC adjustment), rentals, tuition and fees, and the Circuit Breaker reimbursement totals $88.7 million.

This leaves only $200 thousand to meet real growth.

Real growth totals $2.4 million, consisting of

- Regular education classroom teachers
  - $558 thousand in the K-8 system
  - $312 thousand at BHS (the first attempt to reflect enrollment consequences at the high school)
- Other regular education resources $983 thousand
  - Vice principals and specialists $409 thousand
  - Educational equity $237 thousand (largely technology)
  - Supplies $111 thousand
- Technology $375 thousand
  - Shortening computer replacement cycle $234 thousand
  - In addition, $400 thousand is spent through the CIP and $75 through the CIO operating budget of the Town
- Administration $138 thousand

Offsetting this real growth are spending reductions of $95 thousand.

So a net $2.3 million of real growth can be funded with only $200 thousand of recurring revenue availability, requiring $2.1 million of nonrecurring revenue sources, i.e., the GIC premium adjustment of $1.0 million and the other $1.1 million of availability.

The PSB has revised the non-technology 2015 to 2022 projections discussed earlier to reflect the budgeted 2015 spending - $2.3 million compared to the original $4.7 million, the difference pushed into 2016 where the original $2.2 million grows to $4.6 million. The total projection remains $15.4 million.

The Advisory Committee has not seen an analysis of changes to the long-term technology projection.

Beyond what is included in the spending plans, there are significant concerns that remain outstanding, including:

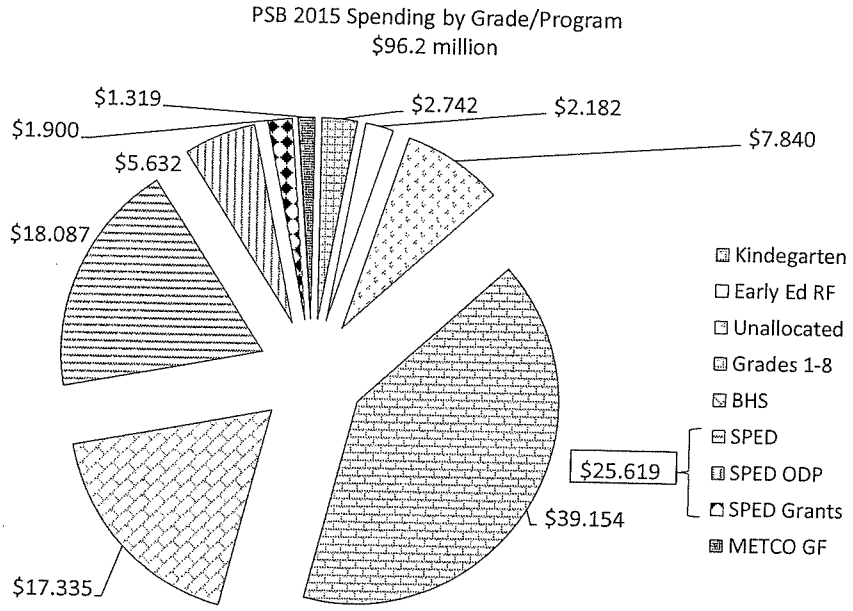
- The sufficiency of the assumption for inflationary wage growth
- The potential for a kindergarten class size larger than 630 children

And there are resource needs discussed as highly necessary that are not included in the spending plan, including building repairs $100 thousand, a Team facilitator at Devotion $33 thousand, expansion of the Landmark Partnership to Pierce $50 thousand, a BHS Employment and Community Resource Specialist $50k thousand and an additional BEEP class and Parent Center (neither quantified). Also, there is a central administration study be conducted at present ($38k thousand) in 2014, where a guesstimate of $150 thousand has been put forth for the potential additional resources that might come out of the study.

The collective risk of these issues leads the Advisory Committee to the conclusion, expressed earlier, that the remaining $0.7 million of available nonrecurring funding sources will in all likelihood be needed to meet additional spending beyond that included in the budget.

SPENDING BY GRADE/PROGRAM (Slides 5 and 6)

Slide 5



Based on the accumulation of spending data within the PSB's accounting system, spending by grade and program was analyzed. This effort is intended to be a crude indicator of where resources are deployed, and should not be viewed as the product of a sophisticated cost allocation system. That being said, the PSB general Fund and certain of its grant and revolving funds aggregate $96.2 million. The lion's share is devoted to Grades 1-8 ($39.1 million; 40.7%), BHS ($17.3 million; 18.0%) and SPED ($25.6 million; 26.6%). Some $7.8 million is not allocated in this analysis, in addition to $1.3 million in the METCO grant. The remain spending is for Kindergarten ($2.7 million; 2.8%) and the non-SPED portion Early Childhood Education in a revolving fund ($2.2 million; 2.2%)

The PSB student population, including SPED, for 2014 and 2015 totals 7,302 and 7,502. Slide 7 shows the population by grade.

Slide 6

Enrollment Data

Grade	2014	2015	SPED	
			#	%
Pre K	295	259	66	25.5
K	630	630	63	10.0
1 – 8	4,598	4,736	728	15.4
BHS	1,802	1,877	298	15.9
Total	7,325	7,502	1,152	

SPED data as of 10/1/2013. Excludes 69 ODP students in 2014 and approximately 50 services only students.

7

Advisory Committee Report on the FY2015
Capital Improvement Program (CIP)
Recommendations and Project Descriptions

34. TECHNOLOGY APPLICATIONS
Recommended – $270,000 (Property Tax/Free Cash)

This annual appropriation funds 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. In FY 15, primary focus areas for IT investments include Enterprise Applications/Better Government initiatives (Munis HR/Payroll Implementation-Phase II; Work Order Management System Upgrade; and Building Department Scanning Project – Part II), Public Safety (Fire Department Records Management Integration and Public Safety Radio System Integration); and Network Infrastructure (Public School infrastructure, new Town website; Email System upgrade; and handheld computing).

35. COMMERCIAL AREAS IMPROVEMENTS
Recommended - $65,000 (Property Tax/Free Cash)

Appropriations for Commercial Areas improvements fund projects detailed in the Economic Development Division's Strategic Plan and Five Year Commercial Areas Capital Improvement Plan. 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. In FY15, funds will be used to implement improvements that increase social interaction in Brookline Village, particularly in Harvard Square.

36. ENGINE #5 REPLACEMENT
Recommended - $580,000 (Property Tax/Free Cash)

Under this plan, a new Engine #5 would be purchased at a cost of $580,000. Quint #5, a combination ladder and pumper with a 500 gallon tank and wide turning radius, purchased in 2010 and located at Station 5 in Coolidge Corner, would be relocated to Station 4 on Boylston Street, replacing Engine #4 and saving $1,250,000 in its replacement cost in FY 17, as had been previously proposed. Quint #5 would be better utilized in the Station 4 neighborhood since the streets are typically wider, there are fewer medical calls, and most importantly, the operation of a Quint in a single company station is more effective than operating it in tandem with a Ladder Company as is currently the practice. Engine #4 would be traded in with some of its value going towards the purchase of the new Engine #5 and some of it towards the purchase of Ladder #2.

37. FIRE STATION RENOVATIONS
Recommended - $325,000 (Property Tax/Free Cash)

A study of the conditions of the Town's fire stations and what is needed to maintain their structural integrity, particularly light of the design and production of newer, larger fire equipment, generated a number of recommendations related to flooring, shoring, beams, columns, and structural work. The study also included 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).

For FY 15, $325,000 is requested for improvements to life safety systems at the Babcock Street and Hammond Street fire stations. Life safety items can include smoke alarms, carbon monoxide detectors, fire enclosures for emergency generators, and upgraded annunciator panels.

38. FIRE DEPARTMENT FLEET MAINTENANCE AND TRAINING BUILDING
Recommended - $40,000 (Property Tax/Free Cash)

FY 15 funds are requested to undertake a feasibility study to create both a repair and maintenance facility for the Fire Department's apparatus and an updated training facility on Hammond Street, adjacent to Station 6.

The current maintenance facility is located in Station #1 and is staffed by a mechanic and a master mechanic. The service area (shop) is on the first floor with storage and office space located in the basement. At this time the service elevator, used to transport supplies to the basement for storage, has been condemned. Because of that, tires in the basement, weighing several hundred pounds, have become virtually inaccessible. The shop floor requires replacement and/or reinforcement if work in the area is to continue. Additionally, the shop is not large enough to allow access to many of the Department's vehicles, leaving the mechanics no choice but to do repairs on the street, in the drill yard, or, on occasion, inside another fire station. Repairing vehicles on the street is unsafe and working on vehicles off site, away from tools and equipment, is inefficient. Finally, the limited size and physical capacity of the existing shop results in the more frequent use of outside vendors for repairs, which has budgetary implications.

The Department's current training facility is located at Station #6. The modernization of the facility calls for a classroom with the technology necessary for the delivery of essential training and for a new drill yard with a fully NFPA-compliant, live-fire training building. The existing tower, which is in poor condition, will be removed.

Related to the training facility would be with a new Self Contained Breathing Apparatus (SCAB) filling station at Station 6, to be utilized for replenishing air depleted during training and during the course of regular firefighting activities. This would eliminate the need for Engine #6 to travel outside its first due response area in order to fill cylinders. The Training Division would acquire appropriate and sufficient equipment to aid in the administration of hands-on training programs without depleting the equipment from front line companies. This will leave companies fully complemented and better able to return to service and respond to emergencies while at the Training Facility.

The $40,000 in FY15 would fund the feasibility study, followed by design ($375,000) and construction ($3.75 million) in FY 17.

39. COOLIDGE CORNER BRANCH LIBRARY FEASIBILITY/CONCEPT STUDY
Recommended- $50,000 (Property Tax/Free Cash)

The Coolidge Corner Branch Library was built in the mid 1950s and expanded in 1970. More recently, it has seen repairs and renovations to the HVAC system and the façade.

In 2013, with a circulation of 417,356 items, it was the busiest branch library in the state. As a result of the heavy use, it is showing its age. In addition, a Space Allocation Report, completed in the Fall of 2012, identified the need for an additional 3,000-5,000 square feet of space, including a larger children's room, small and large group meeting space, and more public computers.

Last year, the Waldo Street Area Study Committee identified the branch library as one of the possible participants in the redevelopment of the Durgin/Waldo parcels since the site could offer several advantages. Until more information becomes available about the Durgin-Waldo project, it seems unwise to proceed with plans to repair and upgrade the library. (The current CIP identifies the installation of windows and an elevator/HP lift in FY 15 and replacement of the roof and window repairs in FY 16, at an estimated cost of $1,135,000.)

The Library Trustees request that these funds be put on hold until further study and consideration can take place and instead seek $50,000 to develop a written building program and Feasibility/Concept Study. This study would determine if the current facility could be adapted to meet current and projected needs. It may also evaluate the value of the existing building if it were to be sold as part of a larger development project.

40. BICYCLE ACCESS IMPROVEMENTS
Recommended - $30,000 (Property Tax/Free Cash)

The $30,000 requested for FY15 is for pavement markings along Cypress Street and School Street. This proposal is part of an ongoing program to provide appropriate on-street pavement treatments to develop a regional bicycle route. It is anticipated that pavement markings will last for five years.

41. MBTA TRAFFIC SIGNALIZATION
Recommended- $50,000 (Property Tax/Free Cash) with the following conditions:

1. **that before utilizing Town funds to implement the recommendations, if any, of the consultant, the Town shall seek implementation funds from the MBTA and document all such efforts;**
2. **that if MBTA implementation funds are not forthcoming, the Town shall seek implementation funds from other sources, including the state and federal governments, and document all such efforts; and**
3. **that before funds are sought or expended to implement any TSP project, the MBTA shall present a plan to the Town describing how congestion ("bunching") at Cleveland Circle resulting from reduced transit time on Beacon Street will be avoided.**

Last spring, Town Meeting approved Article 22, a resolution asking the Department of

Public Works to submit a request for FY15 capital funds to study Transit Signal Prioritization (TSP) on the MBTA's C Line. As a result, $50,000 is now being sought to hire a consultant to 1) study the new MBTA proposed communication system, 2) study the Town's traffic control system on Beacon Street, 3) identify the technology needed to implement the T's system, and 4) provide a report that includes a cost-benefits analysis of upgrading the Town-owned traffic signal controllers and associated equipment on Beacon Street to allow for the prioritization of MBTA C-Line trolleys. If eventually implemented, the cost, as currently estimated by the Town, would be between $100,000 and $250,000. Last spring, Article 22's sponsors stated that they felt confident that these costs could be funded through other sources such as the State or Federal government.

The T is currently evaluating existing TSP systems along the B and E branches of the Green Line. In order for the TSP system to be implemented, Green Line Tracking, whose full implementation is expected by late 2016, must be operational. It should be noted that faster trips will not result in increased services without power upgrades.

The Town's MBTA assessment for FY 15 is $5,033,938. The MBTA's FY 2015 – FY 2020 Capital budget is $2.5 billion.

42. STREET REHABILITATION - TOWN
Recommended - $1,550,000 (Property Tax/Free Cash) with the condition that the Board of Selectmen be notified 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 2008 Override Study Committee 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, reducing the amount of work that could be completed each year.

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 FY15, the appropriation is recommended at $1.55 million (the original $1 million base plus the $300,000 added in FY09 increased annually by 2.5%). An updated report on pavement conditions and pavement management indicates that priority be given to the following streets and roads:

Reclaimation	Buckminster Road from Holland Road to Cotswold Road Reservoir Road from Boylston Street to Crafts Road
Mill and Overlay	Blake Road from Sumner Road to Gardner Road Sumner Road from Boylston Street to Clark Road

Beaconsfield Road
Greenough Street from Washington Street to Davis Avenue
Tappan Street from Greenough Street to Blake Road
Claflin Road
Buckminster Road from Sumner Road to Holland Road

Micro Surface

Bonad Road
Chapel Street
Cotswold Road from Buckminster Road to Fisher Avenue
Holland Road from Buckminster Road to Fisher Avenue
Welland Road from Gardner road to Stanton Road
Clinton Road from Chestnut Hill Avenue to Dead End
Loveland Road

43. SIDEWALK REPAIR
Recommended - $290,000 (Property Tax/Free Cash)

The Department of Public Works developed 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. In the coming fiscal year, particular attention will be given to sidewalks in the Longwood area. The 2008 Override Study 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 FY15, the appropriation is recommended at $290,000 (the original $200,000 base plus the $50,000 added in FY09 increased annually by 2.5%).

44. LED STREETLIGHT REPLACEMENT PROGRAM
Recommended - $515,000 (Property Tax/Free Cash)

The Town 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.

Beginning in 2010, DPW implemented two pilot programs, replacing 104 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), industry standards for the bulb life of LEDs (20 years) is significantly longer than that of sodium lamps (six years). Because this technology is no longer considered cutting edge, a number of Massachusetts communities are striving to make this the new standard for their lighting systems. As a result, it appears as though the price has plateaued.

The LED Streetlight Replacement Program was designed to replace the high-pressure lamps with LED's over a four-year period. Most of the FY 14 funds have been used to purchase approximately 900 fixtures; the remaining FY 14 funds have been used to purchase

replacement arms and incidental supplies. Installation will begin this spring on arterial streets and in the Thatcher/Browne street area in response to citizen concerns regarding public safety. The fixtures cost about $600 each (there is currently a $100 rebate) and will be installed by two 2-person DPW crews. Existing streetlights are in the 2700 kelvin range; the new fixtures will be in the 4000-4500 kelvin range. The fixtures can be retrofitted with Smart Control Technology to allow automatic dimming.

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. With the life expectancy of LEDs at 20 years, that means after paying off the purchase cost, each subsequent year results in savings in both the Town's utility budget and DPW's maintenance budget.

In FY 14 $540,000 was approved for the first of four phases; $515,000 is requested for FY 15, but because of the reduced cost of the program, smaller amounts will be requested in FY 16 and FY 17.

45. PIERCE PLAYGROUND
Recommended - $90,000 (Property Tax/Free Cash)

Pierce Playground, last renovated in 1991, is located between School Street and Harvard Avenue. The park serves both the Pierce School and the adjoining neighborhoods. The park has an upper level with play equipment and a lower level with a ball field, with a steep slope in between. The playground is in need of a full renovation that will include drainage improvements; play equipment for both younger children and school-aged children; upgraded utilities, water play, basketball facility, and site furniture; a rehabilitated field; and repair to pathways, masonry and fencing. Funding for this project is estimated to total $1.01 million, with $90,000 in FY15 for design and $920,000 in FY16 for construction.

46. 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

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

Town and School grounds require on-going structural improvements and repair. These funds will be applied to create attractive and functional landscapes and hardscape improvements including 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 more expensive rehabilitation that would be necessary if these items were left to deteriorate.

48. 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.

Historically, and particularly during the past five years, the vast majority of these funds have been directed to street tree removal and replacement, as appropriate. A very small percentage of the money has been used to remove trees presenting a public safety hazard in the Town's conservation sanctuaries.

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

The 45-acre Walnut Hills Cemetery was established by the Town in 1875. Influenced by the 19th century rural cemetery movement, its design preserves a picturesque landscape with abundant plantings, pathways, and varied topography. The Cemetery was listed on the National and State Registers of Historic Places in 1985.

In 2004, the Town completed a master plan for the Walnut Hills Cemetery in order to set the parameters necessary to meet future town needs while maintaining the property's visual qualities and services. 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 roadways indicates that a program of replacement/resurfacing/repair is warranted. The goal is to maintain the historic vehicular circulation system through phased pavement improvements, resurfacing the drives, and reconstructing areas that are beyond repair.

The financing plan for roadway improvements and other capital projects 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. Discussions with the Trustees will continue and include how revenues received for the sale of lots will be divided between SW01 (perpetual care) and TW24 (non-expendable fund).

50. SCHOOL FURNITURE
Recommended - $60,000 (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.

51. SCHOOL TECHNOLOGY
Recommended - $320,000 (Property Tax/Free Cash)

The School Department is in the final stages of proposing a technology plan designed to establish an appropriate infrastructure, build capacity in instruction, and improve efficiency in administrative functions within the PSB. Both the School Committee and Override Study Committee will be reviewing the specific proposals since there is a substantial cost and programmatic benefit associated with the overall plan.

FY15 – FY20 CIP funds are intended to be used to upgrade and maintain instructional technology system-wide. In addition, investments will assist in meeting classroom instruction goals, the implementation of a learning management system, and/or a one-to-one device initiative for students at Brookline High School.

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

This annual program of improvements is requested in order to bring Town and School buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all.

53. 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.) Some elevators are also partially upgraded to meet the

requirements of the existing building codes. The buildings that have not been renovated have elevators that are close to 40 years old. Maintenance is an issue and parts are increasingly difficult to find. This project would upgrade those cars and lifts with new equipment.

54. TOWN/SCHOOL BUILDING - ENERGY CONSERVATION
Recommended - $160,000 (Property Tax/Free Cash)

With continued volatility in utility costs, it is imperative that monies be invested to decrease energy consumption in Town and School 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 are explored. This program augments existing gas and electric utility conservation programs. A new area of focus is building commissioning. Many years ago, a building's HVAC system was set up by multiple contractors and then signed off by the design engineer. Sometimes there would be control issues, leading to complaints or high energy usage. The Building Department, for all new projects, hires a Commissioning Agent. Recommissioning of certain buildings is suggested in order to confirm that the equipment was designed, installed and set up properly.

55. TOWN/SCHOOL BUILDING - ENVELOPE /FENESTRATION REPAIRS
Recommended- $730,000 (Property Tax/Free Cash)

In FY12, $250,000 was appropriated for costs associated with repairs to the outside envelope of all Town and School buildings, including a visual inspection of the exterior of all buildings that will help prioritize these repairs. The outside envelope of facilities includes masonry, bricks and mortar, flashing, dental work, coping stones, metal shelves, and tower work. Some of these structures are over 100 years old and have never had exterior work done to them.

As part of the Town's program to convert to heating systems that burn both oil and natural gas, new liners are required by the plumbing and gas codes to be installed in those buildings with the dual-fuel burners. Chimneys will be inspected and repaired if appropriate; if not, a new metal liner will be installed to connect to the gas burning equipment in the building.

A number of buildings have windows, door entrances, and other wall openings that are in need of repair/replacement. This causes water to penetrate into buildings behind walls and ceilings, causing security and safety problems. The plan is to develop a long- range strategy to repair/replace these openings, prioritizing them as required.

The $730,000 in FY15 is for work at the Old Lincoln School ($580,000), Soule Recreation Center Gym ($100,000), and the Eliot Recreation Center ($50,000).

56. TOWN/SCHOOL BUILDING - ROOF REPAIR/REPLACEMENT PROGRAM
Recommended - $375,000 (Property Tax/Free Cash)

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 $7.5 million required within the six-year period of this FY15 – FY20 CIP. In the coming fiscal year, roof work is scheduled to take place at the

Baker School, the Soule Recreation Center gym, and the Larz Anderson Carriage House.

57. TOWN/SCHOOL BUILDING - SECURITY/LIFE SAFETY SYSTEMS
Recommended - $300,000 (Property Tax/Free Cash)

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

58. DRISCOLL SCHOOL ADDITION –Feasibility/Schematic Design
Recommended -$1,000,000 (Overlay Reserve Surplus) with the following conditions:

1. that no money be committed or expended before the District's Statement of Interest to the MSBA has been approved and the District has received an invitation from the MSBA to enter the Eligibility Period; and

2. that all proposals generated by the feasibility study ensure that there are adequate parking accommodations for school staff, parents, and visitors in accordance with Transportation Board policy

The School Department has requested $1 million to undertake a feasibility study and to develop schematic designs for the renovation and expansion of the Driscoll School within a projected budget of $42 million ($27.3 million from the Town and $14.7 million from the State). The current schedule calls for the feasibility/schematic design phase to take place between March 2015 and June 2016; design development, specs, and bidding between July 2016 and June 2017; a construction start in July 2017; and completion in August 2018 or possibly later, depending on the schedule for the renovations to and expansion of the Devotion School.

Subsequent to the issuance of the B-SPACE Committee's report and the recommendation to "renovate and expand the Driscoll School to the maximum extent that the site, project feasibility, cost (including potential MSBA partnership) and pedagogical considerations allow", the School Committee voted to pursue the expansion of the Driscoll School into a 4-section school, translating into the addition of 8-10 classrooms (or 7-9, depending on whether two classrooms currently occupied by BEEP would be repurposed).

Built in 1910, Driscoll was expanded in 1929 and again in 1953. A gymnasium was added in 1980, and a small gym was converted into an auditorium in 1995. The facility has been upgraded from time to time – in 1994, 2002, 2004 and mostly recently in 2006 with improvements to the cafeteria and the addressing of accessibility issues - but has not benefitted from a complete renovation. Comprising approximately 90,000 square feet, it has a current enrollment of 551 students; its expansion contemplates an enrollment of between 756 and 792 students, based on an average class size of either 21 or 22 pupils.

The school campus, just under four acres in size, is the fourth smallest K-8 school site in the Town and does not enjoy nearby parks, fields, or playgrounds. Bordered by two major commercial thoroughfares, Driscoll's outdoor recreational space includes tennis courts, a field, and a playground, used not only by the school by neighboring families during non-school hours.

On April 10th, a Statement of Interest (SOI) was submitted to the Massachusetts School Building Authority (MSBA) explaining that the expanded school will be used to "buffer" students who live in buffer zones adjoining Devotion, Pierce, Lawrence, and Runkle.

A response to the SOI is expected in September. If it is accepted, the MSBA will invite the Town to enter the Eligibility Period ("Module 1") during which time it must take a number of steps, including setting up a School Building Committee, confirming the community's authorization and funding, and executing a Feasibility Study Agreement. Although there are no precise figures at this time, a feasibility study can be expected to cost between $250,000 and $300,000, with the remaining funds supporting the schematic design phase.

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

K-8 enrollment has grown by 1,342 students (35%) between FY05 and FY14. There are now 5,228 K-8 students compared with less than 3,900 in FY05.

Beginning in 2009, representatives from the Board of Selectmen, Planning Board, School Committee, Advisory Committee, and Building Commission started a series of meetings to discuss options for addressing the space needs of the elementary schools. This School Facilities Committee was replaced in January, 2013, by the Brookline School Population and Capacity Exploration (B-SPACE) Committee, a joint committee of the Selectmen and the School Committee that included members of the Board of Selectmen, Advisory Committee, Building Commission, and School Committee as well as two school parent and two community representatives. B-SPACE was 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". The B-SPACE Committee submitted its final report to the School Committee in September 2013.

In order to address the issue, a number of mitigation measures have been taken, including expanding two schools and remodeling and renovating internal spaces to create more usable spaces within existing constraints. Since FY 2008, $4,830,000 in appropriations has been

made to fund the costs associated with repurposing existing spaces or renting classroom space.

The amount requested for FY15 ($1.75 million) was initially intended to fund the final three lease/purchase payments for the Lawrence School classroom modular classroom addition (previously allocated Classroom Capacity funds were to finance the first two payments) and to pay for further space conversions into classrooms within existing school buildings, including Heath, Devotion, Baker, Driscoll, and Pierce. Since the modular project has been replaced with a plan to construct four new classrooms on site, a portion of these funds will be applied towards the cost of that undertaking. Remaining funds will be used to rent additional classroom space for the Pre-K program.

60. LADDER #2 REPLACEMENT
Recommended - $900,000 (General Fund Bond)

The Town's policy is to replace front-line ladder trucks every 20 years. Ladder #2 will be 20 years old in FY15.

61. NEWTON STREET LANDFILL - REAR LANDFILL CLOSURE
Recommended- $4,600,000 (General Fund Bond)

The capping of the front landfill and the partial capping of the rear landfill is complete. An estimated $4.6 million is requested to complete the capping of the rear landfill, along with the construction of the DPW operations area. Grading of the rear landfill will be modified to accommodate acceptance of soil contaminated with ash from the Martha's Lane, Kensington Circle, and Arlington Road neighborhood.

The Advisory Committee recommends that the Department of Public Works seek competitive bids for consultant services for this project.

62. VILLAGE SQUARE CIRCULATION IMPROVEMENTS
Recommended - $1,200,000 (Bond/CDBG Sec.108)

Village Square improvements are focused on reconfiguring the existing circulation system at the confluence of Washington Street, Route 9, Walnut Street, High Street, and Pearl Street. The existing jughandle used to provide access to Washington Street from Route 9 eastbound would be removed and replaced with a new four-way intersection at Pearl Street. Signals would be relocated and upgraded, while the existing pedestrian bridge would be demolished and replaced with an ADA-compliant surface-level pedestrian crosswalk with walk signal, crossing Route 9 just west of Pearl Street as part of a new four-way intersection. In addition, lighting and landscaping improvements will be made in the area.

Funding for the project is assumed to come from the following:

1. $375,000 in FY 2015 CDBG funding for the removal of the pedestrian bridge
2. $250,000 in FY 2016 CDBG funding for the local construction match
3. $750,000 as part of the 1% of off-site improvements related to the re-development of 2 Brookline Place site by Children's Hospital

4. $4.376 million grant from the State's Transportation Improvement Program (TIP), programmed in Federal Fiscal Year 2015

It should also be noted that the Town will be seeking authorization from Town Meeting for a Section 108 loan in the amount of $1.2 million, representing $450,000 in CDBG funds and $750,000, part of the 1% for off-site improvements financed by the developer of 2 Brookline Place.

Under the provisions of a Section 108 loan, a community borrows against its future CDBG funds. Like a conventional loan, the Section 108 loan would have an amortization term, but instead of making payments, the Town's loan is paid back once per year off the top of the entitlement.

While the use of a loan is not anticipated, there are two situations that could necessitate such an action. The first would be a timing gap between when the funding is required for the Village Square project and when the developer of 2 Brookline Place will provide the $750,000. In such a case, the Town would use an interest-only, short-term Section 108 loan until such time as the developer's funds were received. If, for some reason the private funding did not materialize, the Town would flip the short-term loan to a permanent Section 108 loan, with the debt service costs paid from the annual CD budget.

The second instance that could create the need for a loan would be a change in HUD regulations, rendering the Village Square project ineligible to be funded with CDBG dollars. However, should HUD regulations change, if the project were part of a Section 103 loan application that was submitted beforehand, the project would remain eligible.

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RECOMMENDATION

The Advisory Committee recommends Favorable Action on the following vote:

VOTED: To approve the budget for fiscal year 2015 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 FY2015 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the 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 $101,748 effective July 1, 2014, 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 $1,331,923 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	$464,599
Purchase of Services	$132,218
Supplies	$169,950
Other	$4,100
Utilities	$98,538
Capital	$86,420
Debt Service	$188,049
Reserve	$25,000
Total Appropriations	$1,168,874
Indirect Costs	$163,049
Total Costs	$1,331,923

Total costs of $1,331,923 to be funded from golf receipts with $166,049 to be reimbursed to the General Fund for indirect costs.

7.) **WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling $26,875,578, 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	2,104,341	360,870	2,465,212
Purchase of Services	184,598	157,200	341,798
Supplies	102,020	21,000	123,020
Other	8,900	0	8,900
Utilities	135,854	0	135,854
Capital	158,300	155,000	313,300
Intergovernmental	6,551,770	12,556,277	19,108,047
Debt Service	882,154	1,257,229	2,139,383
Reserve	117,056	149,039	266,095
Total Appropriations	10,244,993	14,656,615	24,901,607
Indirect Costs	1,577,672	396,298	1,973,970
Total Costs	11,822,665	15,052,913	26,875,578

Total costs of $26,875,578 to be funded from water and sewer receipts with $1,973,970 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 $2,950,000.

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 $150,000.

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

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

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of $4,557,039, 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 $389,091, 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 [to the General Fund for the Department of Public Works - $2,150,000] [to the General Fund for the Police Department - $2,150,000]	$4,300,000
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]	$ 349,934

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 62, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #60 - 62, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

34.) Raise and appropriate $270,000, 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.

35.) Raise and appropriate $65,000, 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.

36.) Raise and appropriate $580,000, 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 #5.

37.) Raise and appropriate $325,000, 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.

38.) Raise and appropriate $40,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for a feasibility study of the construction of a fleet maintenance facility for the Fire Department and for renovations to the training facility located at Fire Station #6.

39.) Raise and appropriate $50,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the Library Trustees, for development of a written building program and a feasibility / concept study of renovations to the Coolidge Corner Library.

40.) Raise and appropriate $30,000, 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.

41.) 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, for a study of MBTA Traffic Signalization, under the following conditions:

1) that before utilizing Town funds to implement the recommendations, if any, of the consultant, the Town shall seek implementation funds from the MBTA and document all such efforts;

2) that if MBTA implementation funds are not forthcoming, the Town shall seek implementation funds from other sources, including the state and federal governments, and document all such efforts; and

3) that before funds are sought or expended to implement any TSP project, the MBTA shall present a plan to the Town describing how congestion at Cleveland Circle resulting from reduced transit time on Beacon Street will be avoided.

42.) Raise and appropriate $1,550,000, 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.

43.) Raise and appropriate $290,000, 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.

44.) Raise and appropriate $515,000, 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.

45.) Raise and appropriate $90,000, 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 Pierce playground.

46.) 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.

47.) 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.

48.) 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.

49.) Raise and appropriate from the Sale of Lots special revenue fund (SW01) $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.

50.) Raise and appropriate $60,000, 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.

51.) Raise and appropriate $320,000, 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 mobile carts and mounted projection systems.

52.) 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.

53.) 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, with respect to School Buildings, by the School Committee, for improvements to elevators in Town and School facilities.

54.) Raise and appropriate $160,000, 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.

55.) Raise and appropriate $730,000, 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 building envelope / fenestration repairs to Town and School buildings.

56.) 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, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities.

57.) Raise and appropriate $300,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

58.) Appropriate the sum of $1,000,000 for a feasibility study, schematic design, and costs associated with the feasibility study and schematic design to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, said sum to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee; and to meet said appropriation, transfer $1,000,000 from the overlay surplus account; and further that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided, that that no money be committed or expended before the District's Statement of Interest to the MSBA has been approved and the District has received an invitation from the MSBA to enter the Eligibility Period; and provided further, that there are adequate parking accommodations in accordance with transportation board policy.

59.) 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.

60.) Appropriate $900,000, 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 Ladder #2, and to meet the appropriation, authorize the Treasurer, with the approval of the Selectmen, to borrow $900,000 under General Laws, Chapter 44, Section 7 (9), as amended, or pursuant to any other enabling authority.

61.) Appropriate $4,600,000, 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 capping, cleaning up or preventing pollution and closing out the Newton Street Landfill (rear) and associated solid waste disposal facilities, including all costs incidental thereto, and to meet the appropriation authorize the Treasurer, with the approval of the Selectmen, to borrow $4,600,000 under General Laws, Chapter 44, Section 8, Clauses (21), (23) and (24), as amended, 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.

62.) Appropriate $1,200,000, to be expended under the direction of the Commissioner of Public Works, to pay costs of (i) traffic circulation improvements in Brookline Village (at an approximate cost of $1,000,000) and (ii) Riverway Park pedestrian and bicycle crossing improvements at Route 9 and the Riverway (at an approximate cost of $200,000), including the payment of any and all other costs incidental and related thereto; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the General Laws, Chapter 74 of the Acts of 1945, as amended, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that the Selectmen are authorized to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project; provided, however, that the total amount authorized to be borrowed pursuant to this vote shall be reduced to the extent of any grants or gifts received by the Town on account of this project.

14.) **FREE CASH**: Appropriate and transfer $5,084,152 from free cash for the following purposes:

a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $530,584;
b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $234,839;
c.) Reduce the tax rate (Special Appropriations) – $4,148,339;
d.) Housing Trust Fund – $170,390.

XXX

FY15 BUDGET - TABLE 1

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	$$ CHANGE FROM FY14	% CHANGE FROM FY14
	REVENUES						
	Property Taxes	162,674,174	169,029,414	175,783,902	181,848,174	6,064,272	3.4%
	Local Receipts	23,849,795	24,480,797	22,119,366	22,770,225	650,859	2.9%
	State Aid	13,796,975	15,125,059	16,659,162	17,629,357	970,195	5.8%
	Free Cash	5,380,264	5,336,413	7,655,155	5,084,152	(2,571,003)	-33.6%
	Overlay Surplus	400,000	1,750,000	0	1,000,000	1,000,000	-
	Other Available Funds	6,218,966	10,144,344	6,846,435	6,903,508	57,073	0.8%
	TOTAL REVENUE	**212,320,174**	**225,866,027**	**229,064,019**	**235,235,416**	**6,171,396**	2.7%
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Selectmen	633,913	644,074	666,294	671,197	4,904	0.7%
	2 . Human Resources	503,323	574,019	517,681	523,365	5,683	1.1%
	3 . Information Technology	1,399,122	1,472,035	1,691,246	1,751,863	60,618	3.6%
	4 . Finance Department	2,986,279	2,991,976	2,883,755	2,845,778	(37,977)	-1.3%
	5 . Legal Services	842,311	821,872	815,521	832,893	17,372	2.1%
	6 . Advisory Committee	22,121	14,974	24,156	24,372	216	0.9%
	7 . Town Clerk	577,160	775,342	545,728	627,632	81,904	15.0%
	8 . Planning and Community Development	634,153	620,599	666,449	765,310	98,861	14.8%
	9 . Police	14,947,822	14,954,651	15,211,679	15,312,691	101,012	0.7%
	10 . Fire	12,855,469	12,844,259	12,959,959	13,005,941	45,982	0.4%
	11 . Building	6,823,180	6,854,850	7,080,776	7,024,504	(56,272)	-0.8%
(1)	12 . Public Works	13,283,953	14,480,045	14,051,437	14,066,549	15,112	0.1%
	a. Administration	*799,178*	*823,184*	*826,817*	*864,369*	*37,552*	*4.5%*
	b. Engineering/Transportation	*1,096,910*	*1,105,748*	*1,240,771*	*1,262,215*	*21,445*	*1.7%*
	c. Highway	*4,774,773*	*4,579,656*	*4,940,010*	*5,034,219*	*94,208*	*1.9%*
	d. Sanitation	*2,873,192*	*3,003,721*	*2,976,972*	*2,990,830*	*13,859*	*0.5%*
	e. Parks and Open Space	*3,325,274*	*3,507,459*	*3,662,776*	*3,525,824*	*(136,952)*	*-3.7%*
	f. Snow and Ice	*414,627*	*1,460,278*	*404,091*	*389,091*	*(15,000)*	*-3.7%*
	13 . Library	3,621,074	3,742,982	3,720,993	3,754,728	33,735	0.9%
	14 . Health	1,158,084	1,152,529	1,263,418	1,300,189	36,771	2.9%
	15 . Veterans' Services	273,859	294,085	295,993	321,818	25,825	8.7%
	16 . Council on Aging	770,862	872,570	840,951	840,206	(745)	-0.1%
	17 . Human Relations	108,596	117,064	0	0	0	-
	18 . Recreation	1,003,409	1,016,673	1,050,192	1,006,120	(44,072)	-4.2%
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2)	20 . Collective Bargaining - Town	1,175,000	1,775,000	1,314,514	2,321,220	1,006,706	76.6%
	Subtotal Town	*62,444,691*	*64,244,600*	*66,315,741*	*67,711,376*	*1,395,635*	*2.1%*
	21 . *Schools*	*75,387,189*	*79,079,823*	*82,780,770*	*86,827,207*	*4,046,437*	*4.9%*
	TOTAL DEPARTMENTAL EXPENDITURES	**137,831,880**	**143,324,423**	**149,096,511**	**154,538,583**	**5,442,072**	3.7%
	NON-DEPARTMENTAL EXPENDITURES						
(1)	22 . Employee Benefits	41,529,043	45,240,975	50,100,251	50,500,116	399,865	0.8%
(3)	*a. Pensions*	*14,556,225*	*15,801,983*	*17,385,688*	*17,882,573*	*496,885*	*2.9%*
	b. Group Health	*21,546,572*	*22,865,804*	*24,618,704*	*25,136,108*	*517,405*	*2.1%*
	c. Health Reimbursement Account (HRA)	*0*	*50,876*	*70,000*	*70,000*	*0*	*0.0%*
(3)	*d. Retiree Group Health Trust Fund (OPEB's)*	*1,801,527*	*2,601,927*	*3,514,360*	*3,311,860*	*(202,500)*	*-5.8%*
	e. Employee Assistance Program (EAP)	*25,180*	*27,400*	*28,000*	*28,000*	*0*	*0.0%*

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	$$ CHANGE FROM FY14	% CHANGE FROM FY14
	f. Group Life	*129,889*	*132,118*	*132,500*	*140,000*	*7,500*	*5.7%*
	g. Disability Insurance	*13,279*	*13,376*	*16,000*	*16,000*	*0*	*0.0%*
(3)	*h. Worker's Compensation*	*1,250,000*	*1,200,000*	*1,720,000*	*1,450,000*	*(270,000)*	*-15.7%*
(3)	*i. Public Safety IOD Medical Expenses*	*300,000*	*560,660*	*400,000*	*300,575*	*(99,425)*	*-24.9%*
(3)	*j. Unemployment Compensation*	*350,000*	*350,000*	*450,000*	*325,000*	*(125,000)*	*-27.8%*
	k. Medical Disabilities	*26,989*	*18,421*	*40,000*	*40,000*	*0*	*0.0%*
	l. Medicare Coverage	*1,529,382*	*1,618,410*	*1,725,000*	*1,800,000*	*75,000*	*4.3%*
(2)	23 . Reserve Fund	605,103	1,250,621	2,161,799	2,122,336	(39,463)	-1.8%
	24 Stabilization Fund	253,092	0	250,000	0	(250,000)	-100.0%
	25 Affordable Housing	355,264	251,363	555,106	170,390	(384,716)	-69.3%
	26 . Liability/Catastrophe Fund	141,959	253,669	154,115	234,839	80,724	52.4%
	27 . General Insurance	248,469	263,478	335,000	371,500	36,500	10.9%
	28 . Audit/Professional Services	129,335	130,000	130,000	130,000	0	0.0%
	29 . Contingency Fund	12,895	14,383	15,000	15,000	0	0.0%
	30 . Out-of-State Travel	1,403	2,374	3,000	3,000	0	0.0%
	31 . Printing of Warrants & Reports	14,219	19,837	25,000	25,000	0	0.0%
	32 . MMA Dues	11,178	11,346	11,686	11,979	293	2.5%
	Subtotal General	*1,167,814*	*946,450*	*3,640,706*	*3,084,044*	*(556,662)*	*-15.3%*
(1)	33 . Borrowing	10,112,066	9,834,605	9,583,111	9,621,757	38,646	0.4%
	a. Funded Debt - Principal	*7,955,436*	*7,428,882*	*7,207,338*	*7,246,544*	*39,206*	*0.5%*
	b. Funded Debt - Interest	*2,142,824*	*2,376,113*	*2,215,772*	*2,215,213*	*(560)*	*0.0%*
	c. Bond Anticipation Notes	*0*	*0*	*100,000*	*100,000*	*0*	*0.0%*
	d. Abatement Interest and Refunds	*13,806*	*29,610*	*60,000*	*60,000*	*0*	*0.0%*
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**52,808,923**	**56,022,030**	**63,324,067**	**63,205,920**	(118,147)	-0.2%
	TOTAL GENERAL APPROPRIATIONS	**190,640,803**	**199,346,453**	**212,420,578**	**217,744,503**	**5,323,925**	2.5%
	SPECIAL APPROPRIATIONS						
	34 . Technology Applications (revenue financed)				270,000		
	35 . Commercial Areas Improvements (revenue financed)				65,000		
	36 . Fire Engine #5 Replacement (revenue financed)				580,000		
	37 . Fire Station Renovations (revenue financed)				325,000		
	38 . Fire Department Fleet Maint. Facility/Training Center - Feasibility Study (revenue financed)				40,000		
	39 . Coolidge Corner Library Feasibility/Concept Study (revenue financed)				50,000		
	40 . Bicycle Access Improvements (revenue financed)				30,000		
	41 . MBTA Traffic Signalization (revenue financed)				50,000		
	42 . Street Rehabilitation (revenue financed)				1,550,000		
	43 . Sidewalk Repair/Reconstruction (revenue financed)				290,000		
	44 . LED Streetlight Conversion (revenue financed)				515,000		
	45 . Pierce Playground - Design (revenue financed)				90,000		
	46 . Playground Equipment, Fields, Fencing (revenue financed)				295,000		
	47 . Town/School Grounds Rehab (revenue financed)				85,000		
	48 . Tree Removal and Replacement (revenue financed)				170,000		
	49 . Walnut Hills Cemetery - roadway work (special revenue fund)				100,000		
	50 . School Furniture Upgrades (revenue financed)				60,000		
	51 . School Technology (revenue financed)				320,000		
	52 . Town/School ADA Renovations (revenue financed)				65,000		
	53 . Town/School Elevator Renovations (revenue financed)				250,000		
	54 . Town/School Energy Conservation Projects (revenue financed)				160,000		

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	$$ CHANGE FROM FY14	% CHANGE FROM FY14
	55 . Town/School Bldg Envelope/Fenestration Repairs (revenue financed)				730,000		
	56 . Town/School Building Roof Repair/Replacement (revenue financed)				375,000		
	57 . Town/School Building Security / Life Safety (revenue financed)				300,000		
	58 . Driscoll School Addition - Feasibility/Schematic Design (revenue financed - Overlay Reserve Surplus)				1,000,000		
	59 . Classroom Capacity (revenue financed)				1,750,000		
	60 . Ladder #2 Replacement (bond)				900,000		
	61 . Newton St. Landfill - Rear Landfill Closure (bond)				4,600,000		
	62 . Village Square and Riverway Park Bike/Pedestrian Improvements Projects (bond/CDBG Sec. 108)				1,200,000		
(4)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**7,379,000**	**12,933,500**	**8,581,000**	**9,415,000**	**834,000**	**9.7%**
	TOTAL APPROPRIATED EXPENDITURES	**198,019,803**	**212,279,953**	**221,001,578**	**227,159,503**	**6,157,925**	**2.8%**
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	106,839	109,160	111,026	112,059	1,033	0.9%
	State & County Charges	5,671,508	6,105,553	6,199,912	6,238,854	38,942	0.6%
	Overlay	1,910,493	1,958,780	1,726,503	1,700,000	(26,503)	-1.5%
	Deficits-Judgments-Tax Titles	7,374	12,394	25,000	25,000	0	0.0%
	TOTAL NON-APPROPRIATED EXPEND.	**7,696,214**	**8,185,887**	**8,062,441**	**8,075,913**	**13,472**	**0.2%**
	TOTAL EXPENDITURES	**205,716,017**	**220,465,841**	**229,064,019**	**235,235,416**	**6,171,397**	**2.7%**
	SURPLUS/(DEFICIT)	**6,604,157**	**5,400,186**	**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).

FY15 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)	643,349	14,118	4,000	7,600		2,130			671,197
Human Resources Department (Human Resources Director)	281,472	200,503	9,000	31,000		1,390			523,365
Information Technology Department (Chief Information Officer)	1,045,042	599,322	33,850	32,550		41,100			1,751,863
Finance Department (Director of Finance)	2,041,479	717,294	43,697	18,865	2,143	22,300			2,845,778
Legal Services (Town Counsel)	587,334	127,559	3,500	111,500		3,000			832,893
Advisory Committee (Chair, Advisory Committee)	21,232		2,275	570		295			24,372
Town Clerk (Town Clerk)	527,086	77,887	13,750	1,400		7,510			627,632
Planning and Community Department (Plan. & Com. Dev. Dir.)	731,403	16,945	9,212	4,550		3,200			765,310
Police Department (Police Chief)	13,615,205	505,169	221,750	64,000	425,423	481,144			15,312,691
Fire Department (Fire Chief)	12,217,365	160,755	146,260	27,650	233,334	220,577			13,005,941
Public Buildings Department (Building Commissioner)	2,163,287	2,118,980	23,170	5,350	2,657,117	56,600			7,024,504
Public Works Department (Commissioner of Public Works)	7,627,972	3,430,752	915,750	40,900	1,331,175	700,000	20,000		14,066,549
Public Library Department (Library Board of Trustees)	2,663,832	181,641	562,600	3,700	316,955	26,000			3,754,728
Health Department (Health Director)	1,004,803	202,291	19,700	4,570	40,855	27,970			1,300,189
Veterans' Services (Veterans' Services Director)	159,864	2,609	650	158,185		510			321,818
Council on Aging (Council on Aging Director)	706,884	44,083	18,000	2,900	63,139	5,200			840,206
Recreation Department (Recreation Director)	674,976	56,882	91,480	12,400	166,362	4,020			1,006,120
School Department (School Committee)									86,827,207
Total Departmental Budgets	**46,712,584**	**8,456,789**	**2,118,644**	**527,690**	**5,236,503**	**1,602,946**	**20,000**		**151,502,363**
DEBT SERVICE									
Debt Service (Director of Finance)								9,621,757	9,621,757
Total Debt Service								**9,621,757**	**9,621,757**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	17,772,573								17,772,573
Non-Contributory Pensions Contribution (Director of Finance)	110,000								110,000
Group Health Insurance (Human Resources Director)	25,136,108								25,136,108
Health Reimbursement Account (HRA) (Human Resources Director)	70,000								70,000
Retiree Group Health Insurance - OPEB's (Director of Finance)	3,311,860								3,311,860
Employee Assistance Program (Human Resources Director)	28,000								28,000
Group Life Insurance (Human Resources Director)	140,000								140,000
Disability Insurance	16,000								16,000
Workers' Compensation (Human Resources Director)	1,450,000								1,450,000
Public Safety IOD Medical Expenses (Human Resources Director)	300,575								300,575
Unemployment Insurance (Human Resources Director)	325,000								325,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	1,800,000								1,800,000
Total Employee Benefits	**50,500,116**								**50,500,116**
GENERAL / UNCLASSIFIED									
Reserve Fund (*) (Chair, Advisory Committee)				2,122,336					2,122,336
Liability/Catastrophe Fund (Director of Finance)				234,839					234,839
Housing Trust Fund (Planning & Community Develpoment Dir.)				170,390					170,390
General Insurance (Town Administrator)		371,500							371,500
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)				11,979					11,979
Town Salary Reserve (*) (Director of Finance)	2,321,220								2,321,220
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	**3,041,220**	**514,500**	**10,000**	**2,554,544**					**6,120,264**
TOTAL GENERAL APPROPRIATIONS	**100,253,920**	**8,971,289**	**2,128,644**	**3,082,234**	**5,236,503**	**1,602,946**	**20,000**	**9,621,757**	**217,744,503**

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

ARTICLE 9

Amendment Offered by Neil Gordon, TMM Precinct 1

Passed as Amended

Moved: To delete the second paragraph of the main motion.

Explanation:
The petitioners of WA9 proposed two changes to the Senior Real Estate Tax Deferral program: (i) an increase in the income limit, and (ii) a reduction in the interest rate, from 5% to 3%. The Advisory Committee has recommended Favorable Action; the Board of Selectmen have offered an amendment that, alternatively, would reduce the interest rate to the prime rate, adjusted annually.

This amendment offers Town Meeting the alternative of maintaining the status quo with respect to the interest rate, and effectively provides TM with the opportunity to consider the interest and income limit components separately.

The Senior Real Estate Tax Deferral program has not been widely utilized in Brookline, but there is little, if any, evidence that lack of participation is a result of the current 5% interest rate. There is also little, if any, evidence that either of the proposed changes in the interest rate will increase participation in the program.

The amended article would read as follows:

To see if the Town will vote to adopt a local option to increase qualifying gross receipts under Massachusetts General Laws chapter 59, section 5, Clause 41A from $40,000 to the income limit established under G.L. c. 62, section 6(k) for the "circuit breaker" state income tax credit for single seniors who are not head of households.

~~To see if the Town will reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws 59, Section 5, Clause 41, the Senior Real Estate Tax Deferral, from 5% to 3%.~~

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen's original vote under Article 9 was to (a) support the increase in the income limit and (b) reduce the interest rate from the current 5% to the prime rate. The Town's Finance Director voiced concerns that using a variable rate will cause

administrative issues. The Board prefers the approach offered by Neil Gordon, which keeps the current 5% rate in effect. There is no evidence that the 5% rate is stopping residents from taking advantage of this program and that reducing it would entice more residents to participate. For example, the City of Newton uses an 8% interest rate and they have a higher participation rate than Brookline. The end result of the Gordon amendment is to accept the petitioners' language to broaden the income eligibility but keep the program interest rate as it is now.

Therefore, by a vote of 5-0 taken on May 13, 2014, the Board recommends FAVORABLE ACTION, on the amendment offered by Neil Gordon, which increases the income limit and maintains the current 5% interest rate.

ARTICLE 9

NINTH ARTICLE
Submitted by: Arthur Wellington Conquest III and Brooks Ames

To see if the Town will vote to adopt a local option to increase qualifying gross receipts under Massachusetts General Laws chapter 59, section 5, Clause 41A from $40,000 to the income limit established under G.L. c. 62, section 6(k) for the "circuit breaker" state income tax credit for single seniors who are not head of households.

To see if the Town will reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws 59, Section 5, Clause 41, the Senior Real Estate Tax Deferral, from 5% to 3%.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Senior Real Estate Tax Deferral program allows seniors who have lived in Massachusetts for at least 10 years and who have owned and occupied their homes for at least 5 years to defer paying real estate taxes until they sell their home or pass away.

This article seeks to raise the income limit for eligibility for the program from $40,000 to $55,000 by tying it to the state's income limit for the senior "circuit breaker" tax credit, which is increased each year according to a formula. The current income limit is $55,000. In addition, the article seeks to lower the interest charged to participants in the program from 5% to 3%. Seniors have identified high interest as a disincentive to participating in the program.

SELECTMEN'S RECOMMENDATION

Article 9 is a petitioned article that would modify the Town's Senior Real Estate Tax Deferral, which is allowable under Massachusetts General Laws Ch. 59, Sec. 5, Clause 41A. This program allows elderly taxpayers, who meet certain requirements, to defer 100% of their taxes, at an interest rate that cannot exceed 8%. The taxes and interest are ultimately paid to the Town when the house is sold. The requirements that must be met in order to participate are as follows:

- Must be at least 65 years old

- Gross income cannot exceed $40,000 [1]
- The homeowner must occupy the property
- The homeowner must have lived in state for at least the past 10 years
- The homeowner must have owned property in the state for at least the past five years

The Clause 41A deferral is a very powerful elderly tax relief tool. Unfortunately, the program has not been utilized in Brookline to the extent it has been in other communities. In order to help make the program more attractive, the Town's Finance Director and Council on Aging Director filed a warrant article for the 2008 Annual Town Meeting, which was ultimately approved, to reduce the then 8% interest rate to 5%. As proposed, Article 9 would further reduce the rate to 3%.

While the Board is fully supportive of reducing the interest rate charged, we believe that setting at 3% is not the prudent course to take. Rather, we support pegging it to the prime rate as of January first. Therefore, by a vote of 4-0 taken on April 29, 2014, the Board recommends FAVORABLE ACTION on the following:

Amendments Vote

VOTED: (1) That the Town vote to adopt a local option to increase qualifying gross receipts under Massachusetts General Laws chapter 59, section 5, Clause 41A from $40,000 to the income limit established under G.L. c. 62, section 6(k) for the "circuit breaker" state income tax credit for single seniors who are not head of households.

~~(2) That the Town reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws 59, Section 5, Clause 41, the Senior Real Estate Tax Deferral, from 5% to the prime rate published by the New York Times effective January 1st prior to the start of each fiscal year.~~

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 9 is a real estate tax deferral program for seniors who have lived in Massachusetts for 10 years and in their homes for at least 5 years, to defer paying real estate taxes until they either sell their homes or pass away. It would raise the income limit for eligibility for the

[1] Town Meeting increased this threshold from $20,000 to $40,000 in November, 2003.

program from $40,000 to $55,000 by tying it to the state's "circuit breaker." In addition, it would lower the interest rate charged to participants from 5% to 3%.

DISCUSSION:
This is an existing program. The article would raise the income limit and lower the interest rate charged. To compare interest rates charged in other communities, consider the following: Newton is at 8% (and may come down), Boston, Cambridge, and Quincy are at 4%, Sudbury at 2.5%, Lexington, Acton, and Wellesley are below 1%. A question was asked about having the interest rate float. The Town would like to keep it at a fixed rate. The previous interest rate drop from 8% to 5% did not change the amount of participation.

The Town Assessor said that the Town would not be impacted by the change and that the costs would be recovered. There are ten homeowners in the program now. He thought that participation was low because people were not comfortable having liens placed on their properties.

The Town's Finance Director said that the goal is to help seniors stay in their homes. It is hoped that more people will take advantage of the program. Some communities (Newton, for example) have participation ten times that of Brookline. Information about the program is distributed through the Council on Aging. Other ways of publicizing this program such as including information with tax bills or in separate mailings were suggested. He had no problem with a lower interest rate and if participation grew the Town would be willing, borrowing if necessary, to make the program available.

It was asked if a lower interest rate would be a gift to the heirs. The Finance Director thought that would not be the case and that the Town would get the money back eventually. Some thought that the accumulating interest would be more of a burden.

Members of the Brookline Community Aging Network were concerned with seniors having the ability to stay in their homes and said that something should be done for people who might be asset rich but cash poor. The Finance Director said that the Town has been very cooperative and sensitive to this, and that he personally has helped introduce seniors to the program. $50,000 is currently deferred annually as a result of this program.

RECOMMENDATION:
The Advisory Committee voted 17-0-2 for favorable action on the following:

VOTED: (1) That the Town vote to adopt a local option to increase qualifying gross receipts under Massachusetts General Laws chapter 59, section 5, Clause 41A from $40,000 to the income limit established under G.L. c. 62, section 6(k) for the "circuit breaker" state income tax credit for single seniors who are not head of households.

(2) That the Town reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws 59, Section 5, Clause 41, the Senior Real Estate Tax Deferral, from 5% to 3%.

XXX

ARTICLE 10

Both the Board of Selectmen and the Advisory Committee are recommending a final amendment to Article 10. The recommendation is to use the language contained in the original warrant article for Section 3.14.3 (A) (vii) "Other Complaints", with the change in sub-paragraph (3) indicated below. That language reads as follows:

(vii) **Other Complaints:** Receive complaints, according to procedures developed by the Commission and as approved by the BOS, and initiate preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission shall also have the authority, in its discretion, to take one or more of the following actions:

(1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;
(2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service;
(3) Present any results of preliminary review of the alleged facts to the Town Administrator and/or the BOS, ~~and/or the School Superintendent, and School Committee~~, in an appropriate case, for action;

Accepted as a substitution by the Moderator

ARTICLE 10

Amendment Offered by Stanley Spiegel, TMM Precinct 2 and Martin Rosenthal, TMM Precinct 9 and Co-Chair of Brookline PAX

Moved: change the first sentence of the second paragraph of Section 3.14.2 of the main motion under Article 10 by adding the underlined language, to read:

"The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator."

[Note: The designation "Department Head/Senior Administrator" is derived from the text used in Section 3.15.7 of the By-Laws to describe the Director of the Human Resources Office, a closely related Town department.]

Explanation:
When the predecessor of Section 3.14 was first adopted over 40 years ago, the Human Relations undertaking it defined was deemed important enough to give it the status of a Town department led by a Department Head. Times and issues have changed somewhat since then, but there remains important work to be done regarding Diversity, Inclusiveness, and Community Relations, and its importance still merits leadership with the rank and prestige of a Department Head.

Over a period of many years, the Town had responded to its budgetary constraints by repeatedly cutting the staff of this important HR/YR department until it was reduced to just a single person, the Director, a few years ago. It is ironic that in a town that values diversity, this previous slashing of personnel is now being used to justify the permanent elimination of the department, rather than being a spur to restore the department's capacity to carry out its important mission by giving appropriate Department Head authority to the person in charge (with the potential of adding departmental staff as needs arise and funding permits).

Although the Town Administrator argues that in the name of organizational efficiency and effectiveness, the Director should be assigned to an existing department (but still be invited to department head meetings and have access to the TA), titles carry meaning and convey authority, both affecting the confidence and performance of the affected official and influencing the respect afforded by colleagues. Simply stated, a department head will inevitably carry more clout when dealing with fellow department heads, the Selectmen, and the general public than would an official of lesser rank, status and stature.

Furthermore, giving Department Head status and authority to the Director will help the Town attract the most highly qualified applicants when searches are conducted for this position. A job announcement for a Department Head position is considerably more appealing than one for a less prominent post.

To those who say that last year's staffing structure within the Health Department is "working well," it's a non-sequitur to assert that our proposal, with a Department Head (that's provided with a similar level of staff support) would not work just as well if not better. The Town Administrator can certainly provide the Director, as a Department Head, with all necessary staff support, summoning the cooperation of other department heads as necessary, just as had been done routinely in recent years for the former HR/YR Director. This may potentially involve personnel transfers or sharing of staff between departments -- not the simplest organizationally perhaps, but our TA is surely up to providing the appropriate will and leadership.

Transfers of the Director and one or two other Health Department personnel currently assigned to diversity issues could readily form the nucleus of a reconstituted Diversity, Inclusiveness and Community Relations Department, thereby reversing the recent decimation of the HR/YR Department. (BTW, please note that our Veteran's Services Department functions quite well as a small department with just a Department Head and a clerk.)

Above all, the Town needs to send a strong message to Town personnel and residents alike about the importance with which we as a community view Diversity, Inclusiveness, and Community Relations. Defining the leader of this important Town effort as a Department Head/Senior Administrator send this powerful message.

This amendment is endorsed by Brookline PAX.

ARTICLE 10

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

After two successive years of Town Meeting Warrant Articles seeking modification of the scope and responsibility of the Human Relations/Youth Resources Commission, the Board of Selectmen established an ad hoc committee and charged it with rewriting the Town's forty-year-old by-law. The Board established and appointed members to a Diversity, Inclusion, and Affirmative Action Committee to draft a new by-law to replace Article 3.14, and to make the role of the Commission more relevant and effective.

During the nine-months the Committee worked, substantial public input was solicited and more than 15 public meetings were held and the Committee collaborated with the existing Human Relations Commission and staff, Town Counsel's Office, the Advisory Committee's subcommittee, the Human Resources Board and staff, and the Committee for Town Organization and Structure. A draft of the new by-law was submitted in time for it to be placed in the Annual Town Meeting Warrant, but additional collaboration and work was necessary before it could be finalized. As a result, the Board was unable to include a recommendation in the Combined Reports. Since that time, additional work and collaboration has ensued and the Board is pleased to unanimously recommend for favorable action the final version of the Committee's proposed by-law. This version is identical to the version being recommended by the Advisory Committee.

The new by-law renames the Commission to focus on its current mission, to eliminate confusion with other appointed boards and commissions, and to reflect more modern terminology. The new 15-member Commission would be called the Diversity, Inclusion, and Community Relations Commission. In addition, the by-law establishes an organizational unit called an "Office" of Diversity, Inclusion, and Community Relations and creates a professional position called the "Chief Diversity Officer," who would provide support to the Commission and manage the affairs of the Office and in addition, get directly involved in employee matters concerning diveristy which would not go before the Commission. The Chief Diversity Officer (CDO) would be appointed by the Board of Selectmen and report directly to the Town Administrator in matters related to this by-law. That person would also work with the Commission on all the matters that comes before it. The role of the CDO would be to prepare, with the help of the Commission and the Human Resources Board, for Board of Selectmen approval a policy on diversity and inclusion and to serve as an ombudsperson for all persons, including employees, who feel they may have been discriminated against or treated unfairly by the Town due to their membership in a protected class. The CDO would attempt to mediate disputes and/or refer them to other appropriate dispute resolution agencies or processes. While the CDO would report to the Commission on trends or other general policy issues related to complaints, the Commission would not have direct jurisdiction over employee complaints given the complications of privacy

laws, union and contracting rules concerning interactions between union employees and the Town, the state's Open Meeting Law, and other factors.

The new Commission would have the following essential duties and responsibilities;

- To strive to eliminate discriminatory barriers in employment, housing and education and to help increase the capacity of private and public institutions to effectively respond to discrimination.
- To enhance communication among and across the community to promote awareness and the value of diversity.
- To work with the Board of Selectmen, the Human Resources Board and other municipal entities to increase diversity in employment and in the membership on Town boards and committees.
- To provide advice and counsel to the CDO in connection with the preparation and implementation of a diversity and inclusion policy, including equal employment and affirmative action.
- To receive and refer complaints of discrimination.

Given the complexities of law and the patchwork of existing by-laws and other relevant agencies, the task of rewriting this by-law was a challenge. For example, the Committee recognized that Article 5.5 of the Town By-Laws, which pertains to Fair Housing and references the Human Relations Commission, also needs substantial revision. The Committee intends to address this in the future. The Committee also realized that, despite substantial success, it was unable to reconcile all differences when drafting the by-law. The major points of dispute that were not reconciled include;

1.) Status of the CDO Position. The Committee attempted to balance the desire of the Town Administrator to retain flexibility on the organizational aspects of the Office/Position with the desire of others to create a separate department and department head status of the CDO. We believe the Committee struck the proper balance by referring to the organizational unit as an Office (implying cross departmental responsibilities), vesting the Board of Selectmen with the appointing authority for the CDO, and creating a direct reporting relationship of the CDO to the Town Administrator, but not creating a one-person department, such as the Town had prior to the reorganization last year and which was found to be less effective.

2.) Coordination with Other Laws or By-Laws. The Committee on Town Organization and Structure (CTOS) pointed out areas where the by-law could be inconsistent with the spirit of other laws and by-laws of the Town, including the Town Administrator Act. In particular, CTOS does not support provisions of the by-law that assign a Selectman as an ex officio/non-voting member of the Commission and provide the CDO with the ability to contact the Board of Selectmen directly. While we respect CTOS' views on these matters, we do not view them to be material and believe the

overall by-law is consistent other laws and by-laws of the Town. In addition, this by-law can be amended in the future if problems or inconsistencies arise.

3.) Authority of the Commission. Some have suggested that the Commission needs more direct involvement and authority in adjudicating claims of discrimination against the Town or others. As previously mentioned, we feel strongly that a volunteer appointed body subject to the open meeting law should not be involved in specific matters that implicate complex privacy rights, labor law or other factors that could compromise the Town's interests. Should this Commission be assigned this quasi-judicial role, persons appearing before them would have to be advised that they had a right to bring legal counsel and that any statements they made could later be used to their detriment. The Commission would also require extensive training and a set of procedural rules to ensure fairness in such proceedings. We believe that the CDO, under the general advice and policy direction of the Commission, is better suited for this task.

In summary, the Board of Selectmen unanimously supports the final version of the by-law prepared by the ad hoc Committee and appreciates the efforts of so many who contributed to it. We believe that this new by-law will advance the Town's goal of Brookline being a diverse and inclusive community. Therefore, by a vote of 5-0 taken on May 20, 2014, the Board recommends FAVORABLE ACTION on the following motion:

VOTED: That see the Town revoke Article 3.14 of the Town By-Laws and replace it with the following version of a new Article 3.14:

DIVERSITY, INCLUSION AND COMMUNITY RELATIONS COMMISSION AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS

SECTION 3.14.1 ESTABLISHMENT AND PURPOSE

This by-law establishes the Diversity, Inclusion, and Community Relations Commission (the "Commission") and the Office of Diversity, Inclusion, and Community Relations Department (the "Office").

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline ("the Town"), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide

opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, "Brookline Protected Classes").

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) that the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) that justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) that the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing.

The Commission shall consist of ~~at least eleven (11) to no more than~~ fifteen (15) residents of the Town– who shall be called Commissioners.

Commissioners shall be appointed by the Board of Selectmen (the "BOS") and shall hold office for a period of three (3) years except that of the ~~eleven (11) to~~ fifteen (15) Commissioners first appointed; five~~three~~ or 1/3 of the total shall be appointed for one (1) year, five~~four~~ or 1/3 of the total shall be appointed for two (2) years, and five~~four~~ or 1/3 of the total shall be appointed for three (3) years. The term of office of the Commissioners shall expire on August 31 of the appropriate year. The BOS may appoint additional non-voting associate (bylaw §3.1.5) members as it determines to be necessary, which may include youth or persons who do not reside in Brookline, but have a substantial connection to Brookline, or the Brookline Public Schools. The BOS shall select one of its members to serve *ex officio* as a non-voting member of the Commission. A quorum of the Commission shall consist of a majority of the serving members~~11 to 15 seats~~ on the Commission, with a minimum of six.

The BOS shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training as is necessary to enable the Commission to perform the duties assigned to it by this Bylaw. All Commissioners shall serve without compensation.

In the event of the discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the BOS candidates to fill such vacancies. The current Human Relations/Youth Resources Commission shall be dissolved at the time that appointments are made for the Commission established by this Bylaw. However, the current Human Relations/Youth Resources Commissioners may be considered for appointment to the new Commission.
~~zachievement~~

SECTION 3.14.2 APPOINTMENT , ROLES AND RESPONSIBILITIES OF THE DIRECTOR AND CHIEF DIVERSITY OFFICER

There shall be a Diversity, Inclusion and Community Relations Office (the "Office"), which shall be a unit of the Selectmen's Office. The Town Administrator, ~~after~~ after consultation with the Commission, shall recommend to the BOS for appointment a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Diversity, Inclusion an Community Relations Office (the "Director") and and that person shall also serve as the Chief Diversity Officer ("CDO") for the Town.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this Bylaw or any other Bylaw giving the Commission responsibilities. If needed, the Director shall ask for additional assistance to carry out that person's duties. The Office shall be physically situated in whatever department the Town Administrator determines would be easiest to provide the Director any such assistance.

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~~The Director/CDO shall report to the Town Administrator.~~ The Director/CDO may bring a matter directly to the attention of the BOS in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO may attend meetings held by the Town Administrator with Department Heads and shall work with the Human Resources Office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the BOS of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The diversity and inclusion policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The Director/CDO will report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who come in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after having sought the services of the CDO in said officer's role as an ombudsperson, the Director/CDO may discuss the case in general terms with the Commission (see section 3.14.3 (A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall hold all such Town/employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss, in general terms, the problems or issues that such individual cases suggest with the Commission, provided however, that there is no ongoing or threatened litigation concerning the matter, and doing so does not violate any persons rights to privacy.

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Office, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

(i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

(ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;

(iii)Work with the BOS, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, awareness, and sensitivity to civil and human rights in all departments and agencies of Town government;

(iv)Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the BOS, including equal employment opportunity and

affirmative action procedures, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity and inclusion policy;

~~Complaints~~ **(v) Complaints Against the Town:** Receive complaints, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see section 3.14.2), and after notifying the Town Administrator, ~~initiate~~ review and summarize the complaint as well as any issues of concern to the Commission, without investigating or making determinations of fact~~preliminary review of the, alleged facts, without~~ or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee~~;~~. The Commission/CDO, ~~and after an affirmative vote by a majority of the Commission~~ may in addition (1) present ~~the alleged facts~~its summary and concerns to the Town Administrator and the BOS for consideration of further action and/or (2) provide the complainant with information on their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agencies. This bylaw does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Office's procedures;

~~(vi) Complaints Against the Schools:~~**(vi) Complaints Against the Public Schools of Brookline:** Receive complaints, directly or through the CDO, against the Public Schools of Brookline, ~~School Department,~~ its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Schools, except school employees, and, after notifying the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint, ~~initiate preliminary~~ review ~~of the alleged facts~~and summarize the complaint as well as any issues of concern to the Commission, without investigating or making determinations of fact or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any School official or employee. ~~Should the CDO or Commission (independently or through the CDO) receive a complaint against the Public Schools of Brookline,~~ The Commission/CDO, may ~~after an affirmative vote by majority of~~in addition ~~the Commission~~ (1) present ~~the alleged facts~~its summary, and concerns to the School Superintendent and/or the School Committee for ~~further~~consideration of further action and/or (2) provide the complainant with information on their options regarding dispute resolution and the boards, agencies, or courts to which the complainant may file a complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.

~~(vii)~~ **Other Complaints(Not Against the Town or Schools):** Receive complaints directly or through the CDO, ~~from any person other than a Town or School employee,~~ according to ~~procedures developed~~ by the Commission and as approved by the BOS, ~~and initiate~~

Cont.-

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summarize the complaint as well as any issues of concern to the Commission, without investigating or making determinations of fact, or drawing any legal conclusions, concerning allegations of discrimination, ~~preliminary review of the facts, without drawing any legal conclusions,~~ from any person who comes in contact with the Town other than Town or School employees, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission ~~shall also have the authority~~may in addition~~, in its discretion, to take one or more of the following actions~~:

(1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;

(2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service; and/or

(3) Present ~~any results of preliminary review~~its summary and concerns ~~of the alleged facts~~ to the Town Administrator, and/or the BOS, in an appropriate case, for consideration of further action;

(viii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v) and (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the Annual Report filed with the Board pursuant to Section 3.14.4 of this Bylaw.

(ix) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt and follow-up by the Commission of such complaints;

(x) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to Fair Housing responsibilities, as authorized by law, under By-Law 5.5;

(xi) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson to facilitate necessary changes that will reduce and eliminate violations of rights;

(xii) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to

those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the BOS and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town Bylaws.

(C) On a bi-annual basis, prepare written organizational goals for the Commission (the "Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) time bound as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the BOS at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the BOS at the public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this Bylaw, the Commission, with the approval of the BOS, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the

Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues; and may establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing. Such rules and regulations may also provide for the governance of the Commission with respect to matters such as the appointments of subcommittees as necessary to deal with specific community issues or concerns.

SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

The Town Administrator shall be notified of all complaints that the Commission receives from any persons who come in contact with the Town related to discrimination or unfair treatment due to their status as a member of a Brookline Protected Class. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually provide a report to the Commission on their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form. The Police Chief shall present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

SECTION 3.14.6 REPORT

The Commission shall submit an annual report to the BOS, the School Committee, and the Board of Library Trustees, detailing its activities and the results thereof. The Annual Report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the achievement of the Commission's Goals and the implementation of the diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town bylaws, in consultation with other pertinent departments, and suggest changes if necessary.

SECTION 3.14.8 SEVERABILITY

The provisions of this Bylaw shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder of this Bylaw shall continue to be in full force and effect.

SECTION 3.14.9 RESOLUTION OF CONFLICTING PROVISIONS

References in Bylaws adopted prior to May 2014 to the Human Relations/Youth Resources Commission and the Human Relations/Youth Resources Department henceforth shall be interpreted as referring to the Diversity, Inclusion and Community Relations Commission and Office, respectively. In case of any conflict between this Bylaw and other Bylaws, the Provision(s) last adopted by Town Meeting shall prevail.

SECTION 3.14.10 APPLICATION OF THIS BYLAW

To the extent that any remedies in this Bylaw conflict with grievance or dispute resolution procedures in collective bargaining agreements with Town employees, the provisions of the collective bargaining agreements shall apply.

Passed, as amended, by an FRV of 185 – In Favor, 18 – Opposed and 6 – Abstentions

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The Selectmen's Committee on Diversity and the Advisory Committee have reconciled several differences in language between the petitioner's version and the AC's version of Article 10. The Advisory Committee recommended favorable action on the reconciled version by a vote of 18 – 0.

There are several minor differences between the version sent with the Combined Reports and the final version, along with three changes that are more substantive. The substantive changes are:

1. It was agreed that there should be 15 members of the new Diversity Commission, and that a quorum would be defined as a majority of the serving members of the Commission, with a

minimum of six. Thus if there are 14 or 15 serving members, a quorum would be 8; with 12 or 13 a quorum would be 7, and if there are 11 of fewer serving members the quorum would be six.

Discussion:
It has been hard in the past to recruit qualified people to serve on the current Human Relations/Youth Resources Commission. Further, the commission had difficulty assembling a quorum even before several members resigned early in 2013. By creating a flexible quorum rule, it becomes easier for the new Diversity Commission to function even with a modest number of empty seats. Setting the minimum quorum at 6 makes the point that it is important for the Selectmen to appoint new members promptly as seats open up.

2. The title of the Chief Diversity Officer was changed so that the CDO is also the "Director of the Diversity, Inclusion and Community Relations Office." The Article allows the Town Administrator to house the Office in the department that can best support the CDO's work.

Discussion:
The AC considered whether the CDO should be a department head of a separate new department with a staff and budget. We voted 12-6 against an amendment to do so. Similarly, the Selectmen's Committee that wrote Article 10 turned down the proposal for a separate department. The argument in favor of a separate department is that the title of "Department Director" carries stature – and that matters when dealing with other department heads on equal footing. And, it sends a message of seriousness, purpose and commitment.. There are two arguments against it.

First, a very small department with its own budget line is inefficient. There are times when the CDO will need more staff, and if the Office of Diversity exists in its own department, it will be cumbersome to assign staff from other departments to help. Second and more significant, departments have line functions, focused on a particular activity (DPW focuses on roads, water, and waste; Parks focuses on parks and programs run in the parks, etc.). In contrast, the Chief Diversity Officer has responsibilities that cut across <u>all</u> departments. It's a senior staff position, not a senior line position. Giving the senior person the title of Director of the Office of Diversity should convey – and is intended to convey -- more "clout" than a title of department head, not less.

In the view of the Advisory Committee, when the former head and sole employee of the Human Relations/Youth Resources Department retired, the Town Administrator rationalized the position by placing it inside Health & Human Services. Re-creating a new micro-department would reverse this positive step – in effect "irrationalizing" it.

3. The procedures for handling complaints against the Town and the Schools, as well as complaints about other parties (such as businesses accused of discrimination) have been standardized so that the procedures are the same no matter what the focus of a complaint. The CDO and the Diversity Commission are responsible for reviewing complaints without

making any finding of fact, reporting the complaint to the appropriate person (the Town Administrator or the School Superintendent), and advising the complainant of their rights. Language was added say that the "Schools… are encouraged to engage the expertise and or resources of the CDO/Commission" when reviewing complaints and considering relevant policies.

Discussion:
The Schools are not subject to the authority of a Town commission, and they have their own policies on dealing with discrimination. But a commission with broad responsibility for improving Brookline's acceptance of diversity will be interested in the Schools, and may receive complaints about them. Article 10 recognizes the separate nature of the Schools and provides for a liaison across Town/School lines when complaints or concerns about the Schools are directed to the CDO and Commission. The article also draws a line between (a) summarizing a complaint and referring it to the appropriate party for resolution and (b) trying to determine who is right and who is wrong. The CDO will still be in a position to offer support to the department or agency trying to resolve complaints.

RECOMMENDATION:
This by-law amendment represents much effort by many individuals and Town bodies over the past year. By a vote of 18-0, the Advisory Committee recommends FAVORABLE ACTION on Article 10 as amended and as moved by the Board of Selectmen.

COMMITTEE ON TOWN ORGANIZATION & STRUCTURE RECOMMENDATION

CTO&S offers the following two amendments:

(1) Moved: To amend Article 10, Section 3.14.1, seventh paragraph, by deleting the following sentence: **"The Board of Selectmen shall select one of its members to serve *ex officio* as a non-voting member of the Commission."**

Explanation:
The Board of Selectmen, as the Town's chief elected officials, appoints approximately 30 subordinate boards and commissions. As Directors of the municipal corporation, Board members should exercise overall supervision, but should refrain from getting involved in the ongoing activities and projects of subordinate boards and commissions. Periodic meetings with the full Commission will enable all *five* Selectmen to be informed of the work of the Commission.

(2) Moved: To amend Article 10, Section 3.14.2, third paragraph, by deleting the following sentence:

"The Director/CDO may bring a matter directly to the attention of the Board of Selectmen in the event that person believes, in their professional judgment, that a particular situation so warrants."

and replacing it with the following sentence:

"The Director/CDO may bring a matter directly to the attention of the Commission in the event that person believes, in their professional judgment, that a particular situation so warrants."

Explanation:
This proposal establishes a precedent that could undermine the authority of the Town Administrator.

The Town Administrator works directly with the Board of Selectmen and is the supervisor of all departments and senior administrators. In the event of a disagreement with the Town Administrator, the Director should take the matter to the Commission, not to the Board of Selectmen.

HUMAN RESOURCES BOARD RECOMMENDATION

The Town of Brookline's Human Resources Board is responsible for developing consistent employment policies for the town's work force. The HR Board is composed of members with expertise in employee and labor relations, and employment law. The creation of clear and consistent policies to govern employee relations for the Town's staff, as required in the Board's by-law adopted by Town Meeting, has been one of the HR Board's priorities in recent years. Section 3.15.1 – Purpose and Intent provides:

> "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."

Further, what has been overlooked in this current discourse is the clear mandate of Town Meeting, as reflected in the Human Resources By-Law Section 3.15.2, that "[t]he Town of Brookline Human Resources program shall be consistent with," among other responsibilities:

> (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[1], sexual orientation, 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, 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."

The HR Board supports efforts to promote diversity in the Town's work force and, under its direction and with its support; the Town's HR Department has promoted diversity in hiring, promotion and retention. The HR Board supports the creation of a diversity and inclusion policy as provided in Article 10. The HR Board, however, believes that this diversity and inclusion policy is an employment policy and so should be consistent with the town's other human resources policies as required by our Board's by-law that has long governed the creation of employment policies in Brookline. We believe strongly that ensuring this consistency will make the diversity and inclusion policy more effective in that it will provide clear and consistent guidance to staff and employees.

To accomplish this, the HR Board recommends amendments to two sections of Article 10, which are stated above.

The language of the HR Board's proposed amendments is as follows:

Amend Warrant Section 3.14.2 by replacing the fifth paragraph with the following:
The CDO shall be responsible, with the advice and counsel of the Commission, and the Human Resources Director~~, and the Human Resources Board,~~ for developing a ~~the preparation and submission to the BOS of a~~ recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures, for review and adoption by the Human Resources Board and the Board of Selectmen pursuant to Article 3.15.9. The diversity and inclusion policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

Amend Warrant Section 3.14.3(A)(iv) by replacing that subsection with the following:
Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for review and ~~recommendation to the BOS, including equal employment opportunity and affirmative action procedures,~~ adoption pursuant to Article 3.15.9, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director, the Human

[1] Although not listed in the Town's by-law, adopted in 2000, the Town's *Policy Against Discrimination, Sexual Harassment, and Retaliation* includes gender identity as a protected class.

Resources Board, and the School Committee on the implementation of the diversity, inclusion, equal employment opportunity, and affirmative action policy;

ARTICLE 10

TENTH ARTICLE
Submitted by: Selectmen's Diversity, Inclusion, and Affirmative Action Committee

To see if the Town will revoke Article 3.14 of the Town By-laws and replace it with the following version of a new Article 3.14,

or act on anything relative thereto,

DIVERSITY, INCLUSION AND COMMUNITY RELATIONS COMMISSION AND DEPARTMENT

SECTION 3.14.1 ESTABLISHMENT AND MISSION

This by-law establishes the Diversity, Inclusion, and Community Relations Commission (the "Commission") and the Diversity, Inclusion, and Community Relations Department (the "Department").

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Department, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline ("the Town"), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The mission of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, "Brookline Protected Classes").

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their

membership in a Brookline Protected Class; (2) that the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) that justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) that the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing.

The Commission shall consist of eleven (11) to fifteen (15) residents of the Town or students who attend a Brookline Public School, who shall be called Commissioners. Commissioners shall be appointed by the Board of Selectmen (the "BOS") and shall hold office for a period of three (3) years except that of the eleven (11) to fifteen (15) Commissioners first appointed; three or 1/3 of the total (3-5) shall be appointed for one (1) year, four or 1/3 of the total shall be appointed for two (2) years, and four or 1/3 of the total shall be appointed for three (3) years. The term of office of the Commissioners shall expire on August 31 of the appropriate year. The BOS may expand the size of the Commission by adding additional non-voting auxiliary members as it determines to be necessary, which may include youth who reside in Brookline or attend a Brookline Public School. The BOS shall select one of its members to serve *ex officio* as a non-voting member of the Commission. A quorum of the Commission shall consist of a majority of appointed voting Commissioners.

The BOS shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training as is necessary to enable the Commission to perform the duties assigned to it by this Bylaw. All Commissioners shall serve without compensation.

In the event of the discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the BOS candidates to fill such vacancies. The current Human Relations/Youth Resources Commission shall be dissolved at the time that appointments are made for the Commission established by this Bylaw. However, the current Human Relations/Youth Resources Commissioners may be considered for appointment to the new Commission.

SECTION 3.14.2 APPOINTMENT , ROLES AND RESPONSIBILITIES OF THE DIRECTOR OF THE DIVERSITY, INCLUSION AND COMMUNITY RELATIONS DIVISION AND THE CHIEF DIVERSITY OFFICER

The Town Administrator, in consultation with the Commission, shall recommend to the BOS for appointment a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Diversity, Inclusion and Community Relations Division (the "Director"). The Director may also serve as the Chief Diversity Officer ("CDO") for the Town. The Town Administrator, in consultation with the Commission may alternatively recommend to the BOS the appointment of a separate person to serve as CDO.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this Bylaw or any other Bylaw giving the Commission responsibilities. If needed, the Department Head shall ask for additional assistance to carry out that person's duties.

The CDO shall report to the Town Administrator. The CDO may bring a matter directly to the attention of the BOS in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO may attend meetings held by the Town Administrator with Department Heads and work with the Human Resources office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the BOS of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The CDO will report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who come in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after having sought the services of the CDO in said officer's role as an ombudsperson, the CDO may discuss the case in general terms with the Commission (see section 3.14.3 (A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The CDO shall hold all such Town/employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss, in general terms, the problems or issues that such individual cases suggest with the Commission, provided however, that there is no ongoing or threatened litigation concerning the matter, and doing so does not violate any persons rights to privacy.

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Division, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

(i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

(ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;

(iii) Work with the BOS, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, awareness, and sensitivity to civil and human rights in all departments and agencies of Town government;

(iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the BOS, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity, inclusion, equal employment opportunity, and affirmative action policy;

(v) **Complaints Against the Town:** Receive complaints, through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see section 3.14.2), and initiate preliminary review of the alleged facts, without drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee; and after an affirmative vote by a majority of the Commission (1) present the alleged facts to the Town Administrator, the BOS, and/or the School Superintendent for further action or (2) provide the complainant with information on their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agencies. This bylaw does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Offices procedures;

(vi) **Other Complaints:** Receive complaints, according to procedures developed by the Commission and as approved by the BOS, and initiate preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact

with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission shall also have the authority, in its discretion, to take one or more of the following actions:

(1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;
(2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service;
(3) Present any results of preliminary review of the alleged facts to the Town Administrator, the BOS, and/or the School Superintendent, and School Committee, in an appropriate case, for action;

(vii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v) and (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the Annual Report filed with the Board pursuant to Section 3.14.4 of this Bylaw.

(viii) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt and follow-up by the Commission of such complaints;

(ix) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to Fair Housing;

(x) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson to facilitate necessary changes that will reduce and eliminate violations of rights;

(xi) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the BOS and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town Bylaws.

(C) On a bi-annual basis, prepare written organizational goals for the Commission (the "Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) time bound as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the BOS at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the BOS at the public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this Bylaw, the Commission, with the approval of the BOS, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues; and may establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing. Such rules and regulations may also provide for the governance of the Commission with respect to matters such as the appointments of subcommittees as necessary to deal with specific community issues or

concerns; and may provide procedures and standards for recommending to the BOS the removal of a Commissioner for cause, including missing a specified number of meetings.

SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

The Town Administrator shall be notified of all complaints that the Commission receives from any persons who come in contact with the Town related to discrimination or unfair treatment due to their status as a member of a Brookline Protected Class. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually present a report to the Commission concerning their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form, and on any other matters that would be relevant to the Commission's mission. The Police Chief shall present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

SECTION 3.14.6 REPORT

The Commission shall submit an annual report to the BOS, the School Committee, and the Board of Library Trustees, detailing its activities and the results thereof. The Annual Report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the achievement of the Commission's Goals and the implementation of the diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town bylaws, in consultation with other pertinent departments, and suggest changes if necessary.

SECTION 3.14.8 SEVERABILITY

The provisions of this Bylaw shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder of this Bylaw shall continue to be in full force and effect.

PETITIONER'S ARTICLE DESCRIPTION

In May 2013, the Board of Selectmen appointed the Diversity, Inclusion, and Affirmative Action Committee to rewrite the Town's forty-year-old Bylaw which established the Human Relations/Youth Resources Commission, 3.14, and to make the role of the Commission more relevant and effective.

The Committee members have considerable expertise in the areas of diversity, inclusion, recruiting, personnel policies, and civil rights law. After a nine-month process, which included substantial public input, the Committee collaboratively wrote a new Bylaw for the proposed Diversity, Inclusion, and Community Relations Commission and Department, which would replace the Human Relations/Youth Resources Commission and Division. The Bylaw also provides for a Chief Diversity Officer for the Town, who would most likely be the head of the Diversity, Inclusion, and Community Relations Department.

The Committee recognizes that Article 5.5 of the Town Bylaws, which pertains to Fair Housing, also needs substantial revision. The Committee intends to begin working on that Bylaw now that we have completed 3.14.

There were minority views on several issues:

First, there was a great deal of discussion as to whether the entity being established by this bylaw should be a Department, Division, or Office. The Town Administrator indicated his strong feeling that one-person departments are a problem and he would prefer some other designation. Some members of the Commitee agreed with his viewpoint. However, we have used the most expansive term, "Department," in this warrant article so that the discussion can continue and it can be changed later if Town Meeting deems it appropriate.

Second, Martin Rosenthal, a civil rights lawyer, former Selectman, and member of the Committee offers the following thoughts and a few divergent views:

After decades of great interest in our HRYR Commission, I was keenly aware of its structural deteriorations due to decades of "outside" developments that were adopted without revisiting the HRYRC by-law. However, since being appointed to this committee, I was surprisingly astonished by the scope of those complications -- some like the mega-issue of housing reflected in the long and thoughtful Charge we were given by the selectmen, and some less obvious, e.g. better devising a Commission role with the "independent" School system which is so central to our community's "human relations" concerns. About a month ago I publicly

voiced pessimism about producing an adequate warrant article for this Spring, and urged that we target the Fall Town Meeting.

With two dissenting suggestions, one minor and one major, I vote with enthusiasm to support the committee's proposal, knowing it will soon be improved by all our usual sausage-making process. My most dire concerns have been obviated by: (1) the selectmen's re-filling of the current HRYRC by some outstanding appointments (see my second "dissent," below), (2) Herculean efforts the last few weeks by our committee, especially Bernard Greene and our chair, Nancy Daly; and (3) our explicit recommendations -- some recent amendments and this committee's Explanation -- for ongoing future revisions, making this a "living by-law."

My two "dissents" are: (1) given the obvious, and indeed explicitly stated concerns about our Fair Housing by-law (5.5), which gave great -- but eventually theoretical -- power to the HRYRC, I propose adding to §3.14.4, after "... regulations to carry out its responsibilities with respect to Fair Housing" the words "*under By-Law 5.5.*" And, (2) far more significant, I prefer to keep *FIFTEEN Commissioners.* I'm not worried about theoretical and unproven fears that the (newly energized and empowered) Commission will have quorum issues or be "unwieldy." Indeed they will need the extra and fully-empowered subcommittees and members; and I reject a presumption that some of them will be either not reappointed or dis-empowered by becoming non-voting members. *Martin Rosenthal*

HUMAN RELATIONS YOUTH RESOURCES COMMISSION RECOMMENDATION

After a long struggle by diversity advocates, the Human Relations Commission has acquired a moderately diverse membership; of the 15 members, 6 are persons of color.

BACKGROUND

The Commission was charged to address discrimination. It was to develop 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. It was supposed to adopt, with the approval of the Selectmen, affirmative action "guidelines" for the Town departments and contractors, and to initiate, receive, secure the investigation and seek the satisfactory adjustment of complaints charging discrimination, and develop or assist in developing educational programs to improve our community relations (Current Bylaws 3.14.3).

Back in the 70s the much claimed power and independence granted to the Commission was in fact never there. The potential power of the Commission was stripped away by requiring the approval of the selectmen to approve actions taken by the Commission. When there was the opportunity to seek authorization from the state for the Administrative Procedures Act Chapter 30A to cover the adjudicatory role for the Rent Control Board, such authorization was not pursued for the Commission. Soon after his appointment, the Commission's first department head and only black person ever to be appointed department head, Richard

Fischer, resigned in frustration. The first chair of the Commission George Blackmun did the same thing. They were not allowed to work.

In 2013, workforce diversity , equal opportunity and access, discrimination and related civil rights issues relevant to the population at large but particularly to those who suffer from discrimination, people of color, were brought forth via two articles for Town Meeting. These were Art. 10 (reaffirming the role of the Commission as the body to develop Affirmative Action Policy) and Art. 16 (seeking the appointment of candidates of color to the Commission.)

Our lack of diversity in the top positions in the Town's workforce (0 of the 25 Department heads are people of color) and the School Department (the faculty is 89% white while the student population is 40% non-white) as well as in different Town boards, commissions and committees was also a serious concern.

The BoS Committee on Diversity, Inclusion, Equal Opportunities and Affirmative Action was set up in 2013 in response to proposed Art. 10 (above.) It was charged with reviewing the Bylaws of HRYRC Bylaws (3.14), Human Resources (3.15) and Fair Housing (5.5) So far the Committee has offered Art. 10 which deals with HRYRC only.

The two most important goals for the Commission from the perspective of people for whom the commission was established, people of color and other protected classes, were and are to address effectively discriminatory experiences of all people, including employees, who suffer from disparate treatment, exclusion and unequal opportunities in the workforce, in schools and out in the community.

A number of matters were brought to the attention of the Commission's Diversity Committee last year that related to employees or former employees of color who had allegedly been unfairly treated. In two instances, the person who was aggrieved fully consented to having their matter dealt with in public. In their past experience, their issues were ignored and there was no interest in addressing them. Their hope this time was that their matters would not end in the bottom of a garbage bin or in endless procedures conducive to nothing. They wanted to understand what went wrong. They wanted answers to their questions.

THIS IS THE RELEVANCE OF THE COMMISSION

ASSESSMENT OF PROPOSALS

The current proposals for Art. 10 do not solve the flaws in the Department and the Commission. In the past complaints of discrimination were dealt with privately by the Director. They would now be dealt with privately by the CDO. Employees, while able to come to the Commission were not encouraged to do so in cases of discrimination. Employees would now be excluded from the option. Workforce diversity has been handled by the Human Resources since around 2003 with no oversight by the Commission. The CDO would be in charge of drafting now a policy on "diversity and inclusion."

The new Bylaw as proposed and amended would institutionalize the flawed practices of the Commission and remove powers that should have been acted on. It specifically will:

1. Provide for the Selectmen to approve all actions, regulations and procedural rules (3.14.1, 3(vi),4) ;
2. Take away the Commission's authority for developing equal opportunity and affirmative action policy (3.14.2);
3. Take away any direct role or oversight by the Commission on complaints of discrimination brought to the CDO by employees. Only trends and issues in general terms will be shared by the CDO (3.14.2,3);
4. Take away the current Commission's powers of investigation and satisfactory adjustments (recommendations) on all complaints charging discrimination (3.14.3 (v));
5. Not allow for employees to seek assistance of relief from the Commission; instead the AC amendment will add a layer of permission by Human Resources to "verify" whether mediation is appropriate (3.14.2, ,3 (v));
6. Remove the requirement of full cooperation of all Town Departments with the Commission's requests of information (including Schools) (3.14.5);
7. Task the Commission with a number of roles in educational programs, research, campaigns of awareness, goals setting and reports but appropriates no money for them (3.14.3 (B), (C);

COMMISSION SUGGESTED AMENDMENTS DEEMED BEYOND THE SCOPE

As a Commission, we met on three occasions to address Art. 10. Amendments were proposed for a motion to move forward and try to improve Art. 10. These amendments at first were "allowable" by the Moderator but soon after they were deemed "beyond the scope."

The amendments suggested addressed the following issues:

1. 1. Deleted needless long text in the establishment and mission section, leaving the purpose and definition of inclusion. Included one METCO parent as a potential appointee and clarified that the Commission will assume the responsibility of the Fair Housing Bylaw Art. 5.5 (Section 3.14.1)
2. Addressed the roles of the Director and CDO by adding "in the absence of a Director" when appropriate (3.14.2)
3. Included a Commission recommendation to School Committee on diversity, inclusion, equal employment and affirmative action policy (3.12.2)
4. Allowed for employees to have the option to seek relief at the Commission (3.14.3 (v))
5. Included recommendations for appropriate action on complaints of discrimination (3.14.3 (v and vi)) according to Town Bylaws Section 5.5.7
6. Added for Town to appropriate sum or sums from time to time to carry out responsibilities (3.14.3 B))
7. Amended Rules and Regulations section to keep closer to existing language and more consistent with other Boards and Commissions' Bylaws (3.14.4)
8. Amended Information and cooperation section to require cooperation of all departments, consistent with existing Bylaw (3.14.5)

Several amendments were voted on and passed. At that point, we learned that the Moderator deemed the following, particularly relevant amendments, beyond the scope:

1. Keeping the option for employees to seek relief from the Commission;
2. Keeping a direct investigatory and recommending role for the Commission on complaints of discrimination;
3. Including the School department among the departments required to cooperate.

The Commission reconsidered Art. 10 in its two last meetings. Some appreciated the inclusion of gender identity or expression of Art. 10, and some still wanted to proceed with voting on our proposed amendments despite being deemed beyond the scope. A comparative analysis prepared by a former chair of the Advisory Committee of the existing Bylaw and current proposal by the AC was circulated to all commissioners. The analysis confirmed concerns raised by commissioners of not moving forward. There was heated discussion in both meetings. The number of commissioners attending them was around 10.

RECOMMENDATION

Taking into account its mission, the unequivocal assessment of all commissioners of color present, who represent the expert opinion on issues the Commission was set up for, that the proposed Bylaws and amendments known (AC) so far do not effectively address the following: defects of structure, independence, oversight and accountability; that instead they exclude employees, take away the much needed responsiveness to complaints of discrimination, eliminate responsibilities for workforce diversity policy, and thus there is a peril to become a "token commission," no more than "window dressing," by a vote of 5 in favor, 4 against, 0 abstentions, the Human Relations Youth Resources Commission recommends NO ACTION on Art. 10.

SELECTMEN'S RECOMMENDATION

The Board of Selectmen will offer their Recommendation in a Supplemental Report to be issued prior to the commencement of Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

Article 10 is the product of the Selectmen's Committee on Diversity, Equal Employment Opportunities and Affirmative Action, which was formed in response to the May 2013 TM request for an update to Bylaw 3.14. That 1970 By-Law created the Human Rights/Youth Resources Commission and Department and had not been meaningfully re-appraised for decades . The Article submitted by the Selectmen's Committee is intended to completely replace the current version of 3.14.

DISCUSSION:
This is a long and somewhat complicated article, and Selectmen's Committee put a great deal of work into it. A skeptic might say that this proposed bylaw change is testimony to the adage that a camel is a horse designed by a committee, but a realist would say that considering the complex task, the Selectmen's Committee produced a pretty sleek camel.

The Article was initially reviewed by an ad hoc subcommittee of the Advisory Committee whose members were Bernard Greene, Amy Hummel, Systke Humphrey, Janice Kahn, Bobbie Knable & Michael Sandman. After much consideration, the Advisory Committee amended the article as follows:

- Provide for a commission of 15 members, not the 11 to 15 proposed in the article.

  There are currently 15 commissioners, and we believe that number of seats is needed to provide representation for the expanded number of groups included as protected minorities. The Selectmen would have authority to add associate members, in accordance with Bylaw 3.1.5, including people who are not residents of Brookline but who are closely connected to the Town or the Schools.

- Create an Office of Diversity, Inclusion and Community Relations headed by a Chief Diversity Officer (or CDO), rather than a Department or Division

  The Selectmen's Committee proposed the creation of a new Department and required the appointment of a Department head, and also proposed creating the position of Chief Diversity Officer, who would report to the Town Administrator. Proponents of having a new department argued that there needed to be someone who had the clout of a senior title. They, and some on the Advisory Committee, contend it also sends an important message about the seriousness with which we view this role and the mission.

  The Town Administrator expressed concern, however, that a very small department would be neither effective nor efficient. He believes there is value in the flexibility to have the CDO be part of an existing department that provides support to both the CDO and the Commission. Town Meeting accepted that argument in last May's Town Meeting, and the Advisory Committee still thinks it is valid.

  The Committee voted that the CDO should be the head of an autonomous Office [uppercase O] much like an Inspector General's Office, and report directly to the Town Administrator. This is a more significant change than it may at first appear. The term "Office" refers to a unit of the Town that has advisory responsibilities and authority that touch multiple departments. For example, the title of the head of Human Resources is Human Resources Officer, even though, as a director, she manages the Human Relations Department. She is the HR Officer because that Department touches all Town departments. Similarly, this is true of Town Counsel.

  The Advisory Committee believes that heading an Office affords the CDO at least the same the status as a title of Director. At the same time, it leaves the Town Administrator

free to provide support for the Office from an existing department, which has benefits from a cost and effectiveness perspective. We do this now with the Chief Procurement Officer, who has responsibilities that intersect with many departments, and whose office is part of the Finance Department. It's important to note that the CDO will report directly to the Town Administrator, which itself confers considerable status.

- Accept with modifications the changes suggested by the School Committee in response to their concerns about endowing a Town agency with authority over the Schools, which are a parallel organization to the Town, not a subordinate one.

  The Selectmen's Committee version required that the Schools provide demographic data to the Chief Diversity Officer and could be read as extending the authority of the Commission over the Schools. The AC kept the requirement for demographic data in place but added section 3.14.10, which explicitly limits the authority of the CDO and Commission over the Schools.

- Accept some of the changes suggested the Human Resources Board, which wanted to ensure that personnel policies be coordinated through the HR Department and the HR Board. The AC believes that the changes we made are sufficient to preserve that coordination.

- Add provisions to avoid conflict with existing bylaws and labor agreements

- Add a specific reference to By-Law 5.5 to transfer fair housing-related responsibilities of the existing HR/YR Commission to the new Commission, with a small but important change.

  The Advisory Committee's language refers to housing responsibilities "as authorized by law." It appears that the investigatory powers given to the Human Relations/Youth Resource Commission by By-Law 5.5 fall outside the law. First, Section 5.5.7 gives the existing HR/YR Commission the ability to require testimony from people without guaranteeing they have benefit of counsel. Second, state statute grants the right to subpoena witnesses to specific types of agencies, and a town Commission is not one of those agencies. Revising By-Law 5.5 is outside the scope of Article 10, but the discussion of the new Commission's fair housing responsibilities highlights the need to review 5.5 at some point in the near future.

The Human Relations/Youth Resources Commission did not submit any amendments to the Advisory Committee due to its own time constraints, but the Commission chairperson spoke at the AC's April 29 meeting and expressed her views of both the original Article 10 and the amendments suggested by the AC's ad hoc subcommittee.

RECOMMENDATION:

This proposed bylaw represents a thoughtfully collaborative and balanced approach to formally respectfully and structurally advancing the Town and communities interest in the promotion of diversity in Brookline and the Town's workforce. The Advisory Committee

unanimously recommends FAVORABLE ACTION on the following amended version of the article (red-lined against the original warrant article):

VOTED: That see the Town revoke Article 3.14 of the Town By-laws and replace it with the following version of a new Article 3.14,

DIVERSITY, INCLUSION AND COMMUNITY RELATIONS COMMISSION AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS~~DEPARTMENT~~

SECTION 3.14.1 ESTABLISHMENT AND MISSION

This by-law establishes the Diversity, Inclusion, and Community Relations Commission (the "Commission") and the Office of Diversity, Inclusion, and Community Relations Department (the "~~Department~~Office").

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the ~~Department~~Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline ("the Town"), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The ~~mission~~ Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, "Brookline Protected Classes").

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) that the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) that justice in a community requires, at a minimum, monitoring and enforcing

civil rights laws as they apply to all persons who come in contact with the Town; and (4) that the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing.

The Commission shall consist of ~~eleven (11) to~~ fifteen (15) residents of the Town~~ or students who attend a Brookline Public School,~~ who shall be called Commissioners.

Commissioners shall be appointed by the Board of Selectmen (the "BOS") and shall hold office for a period of three (3) years except that of the ~~eleven (11) to~~ fifteen (15) Commissioners first appointed; ~~three or~~ 1/3 of the total ~~(3-5)~~ shall be appointed for one (1) year, ~~four or~~ 1/3 of the total shall be appointed for two (2) years, and ~~four or~~ 1/3 of the total shall be appointed for three (3) years. The term of office of the Commissioners shall expire on August 31 of the appropriate year. The BOS may appoint~~expand the size of the Commission by adding~~ additional non-voting ~~auxiliary~~associate (bylaw §3.1.5) members as it determines to be necessary, which may include youth or persons who do not reside in Brookline, but have a substantial connection to Brookline, or the Brookline Public Schools~~ or attend a Brookline Public School~~. The BOS shall select one of its members to serve *ex officio* as a non-voting member of the Commission. A quorum of the Commission shall consist of a majority of 15 seats on the Commission~~appointed voting Commissioners~~.

The BOS shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training as is necessary to enable the Commission to perform the duties assigned to it by this Bylaw. All Commissioners shall serve without compensation.

In the event of the discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the BOS candidates to fill such vacancies. The current Human Relations/Youth Resources Commission shall be dissolved at the time that appointments are made for the Commission established by this Bylaw. However, the current Human Relations/Youth Resources Commissioners may be considered for appointment to the new Commission.

SECTION 3.14.2 APPOINTMENT , ROLES AND RESPONSIBILITIES OF THE ~~DIRECTOR OF THE DIVERSITY, INCLUSION AND COMMUNITY RELATIONS DIVISION AND THE~~ CHIEF DIVERSITY OFFICER

The Town Administrator, in consultation with the Commission, shall recommend to the BOS for appointment a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the ~~Director of the Diversity, Inclusion and Community Relations Division (the "Director"). The Director may also serve as the~~ Chief Diversity Officer ("CDO") for the Town. ~~The Town Administrator, in consultation with the Commission may alternatively recommend to the BOS the appointment of a separate person to serve as CDO.~~

The ~~Director~~ CDO shall offer professional and administrative support to the Commission in the administration of its functions and policies under this Bylaw or any other Bylaw giving the Commission responsibilities. If needed, the ~~Department Head~~CDO shall ask for additional assistance to carry out that person's duties.

The CDO shall report to the Town Administrator. The CDO may bring a matter directly to the attention of the BOS in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO may attend meetings held by the Town Administrator with Department Heads and work with the Human Resources ~~office~~ Office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the BOS of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The diversity and inclusion policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The CDO will report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who come in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after having sought the services of the CDO in said officer's role as an ombudsperson, the CDO may discuss the case in general terms with the Commission (see section 3.14.3 (A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The CDO shall hold all such Town/employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss, in general terms, the problems or issues that such individual cases suggest with the Commission, provided however, that there is no ongoing or threatened litigation concerning the matter, and doing so does not violate any persons rights to privacy.

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the ~~Division~~Office, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

(i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

(iii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;

(iii) Work with the BOS, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, awareness, and sensitivity to civil and human rights in all departments and agencies of Town government;

(iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the BOS, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity~~,~~and inclusion~~, equal employment opportunity, and affirmative action~~ policy;

(v) Complaints Against the Town: Receive complaints, through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see section 3.14.2), and initiate preliminary review of the alleged facts, without drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee; and after an affirmative vote by a majority of the Commission (1) present the alleged facts to the Town Administrator~~,~~ and the BOS~~, and/or the School Superintendent~~ for further action or (2) provide the complainant with information on their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agencies. This bylaw does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Offices procedures;

(vi) Complaints Against the Schools: Should the CDO or Commission (independently or through the CDO) receive a complaint against the Public Schools of Brookline, the Commission/CDO may provide counsel or guidance to the

complainant regarding dispute resolution and the boards or agencies to which the complainant may appeal, and shall notify the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.

(vii) **Other Complaints:** Receive complaints, according to procedures developed by the Commission and as approved by the BOS, and initiate preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission shall also have the authority, in its discretion, to take one or more of the following actions:

(1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;
(2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service;
(3) Present any results of preliminary review of the alleged facts to the Town Administrator and/or~~,~~ the BOS, ~~and/or the School Superintendent, and School Committee,~~ in an appropriate case, for action;

(viii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v) and (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the Annual Report filed with the Board pursuant to Section 3.14.4 of this Bylaw.

(~~viii~~ix) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt and follow-up by the Commission of such complaints;

(~~ix~~x) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to Fair Housing responsibilities, as authorized by law, under By-Law 5.5;

(xi) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson to facilitate necessary changes that will reduce and eliminate violations of rights;

(xii) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xiii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the BOS and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(v) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(vi) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town Bylaws.

(C) On a bi-annual basis, prepare written organizational goals for the Commission (the "Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) time bound as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the BOS at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the BOS at the public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this Bylaw, the Commission, with the approval of the BOS, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues; and may establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing. Such rules and regulations may also provide for the governance of the Commission with respect to matters such as the appointments of subcommittees as necessary to deal with specific community issues or concerns; and may provide procedures and standards for recommending to the BOS the removal of a Commissioner for cause, including missing a specified number of meetings.

SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

The Town Administrator shall be notified of all complaints that the Commission receives from any persons who come in contact with the Town related to discrimination or unfair treatment due to their status as a member of a Brookline Protected Class. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually ~~present~~provide a report to the Commission ~~concerning~~ their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form~~, and on any other matters that would be relevant to the Commission's mission~~. The Police Chief shall present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

SECTION 3.14.6 REPORT

The Commission shall submit an annual report to the BOS, the School Committee, and the Board of Library Trustees, detailing its activities and the results thereof. The Annual Report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director

of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the achievement of the Commission's Goals and the implementation of the diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town bylaws, in consultation with other pertinent departments, and suggest changes if necessary.

SECTION 3.14.8 SEVERABILITY

The provisions of this Bylaw shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder of this Bylaw shall continue to be in full force and effect.

SECTION 3.14.9 RESOLUTION OF CONFLICTING PROVISIONS
References in Bylaws adopted prior to May 2014 to the Human Relations/Youth Resources Commission and the Human Relations/Youth Resources Department henceforth shall be interpreted as referring to the Diversity, Inclusion and Community Relations Commission and Office, respectively. In case of any conflict between this Bylaw and other Bylaws, the Provision(s) last adopted by Town Meeting shall prevail.

SECTION 3.14.10 APPLICATION OF THIS BYLAW
This Bylaw shall apply to the Town of Brookline and Town departments and other town entities. Except as otherwise provided or permitted in the Town Bylaws or in connection with communications to the schools from the Commission established hereunder or Town officials, this Bylaw shall not apply to the Brookline Public Schools.

To the extent that any remedies in this Bylaw conflict with grievance or dispute resolution procedures in collective bargaining agreements with Town employees, the provisions of the collective bargaining agreements shall apply.

XXX

ARTICLE 11

ELEVENTH ARTICLE
Submitted by: Neighborhood Conservation District Commission

To see if the Town will amend Article 5.10 of the Town's By-laws, Neighborhood Conservation District By-law, in the following manner:

By adding a Section 5.10.3.d.2 to establish the Greater Toxteth Neighborhood Conservation District:

There shall be a Neighborhood Conservation District, to be entitled the "Greater Toxteth Neighborhood Conservation District" the boundaries of which are shown on the map entitled "Greater Toxteth Neighborhood Conservation District", a copy of which is on file with the Town Clerk's office, which is hereby declared to be a part of this By-law.

The purpose of the Greater Toxteth Neighborhood Conservation District is to preserve and protect the unique character of the neighborhood and the individual properties and buildings located therein in ways that are not typically protected by the Zoning Bylaws or other By-laws of the Town of Brookline.

Neighborhood Characteristics. The pattern of development of the Greater Toxteth Neighborhood Conservation District includes a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most homes sit back farther from the street than is required under current zoning and cover less of their lots than is permitted by underlying zoning. This pattern contributes to a sense of open space and a wider street, with homes still close enough to actively contribute to the neighborhood's street-level social dynamic. The neighborhood is predominately single or two-family three storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses, thereby mitigating the effect of the upper stories on abutting properties. Homes are generally respectfully positioned on their lots, address the street, and most have open porches that promote an active transition from the home to the street, which enhances the neighborhood's social fabric and fosters street level sociability. Broad backyard view corridors are broken only by mature trees and fences. While nestled in a rather dense area, the neighborhood has an abundance of open and green space and many mature trees – traditional characteristics found in Brookline – that soften the near-urban locale. There are a variety of architectural styles that coexist to create a pleasing liveliness that functions as a cohesive neighborhood. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the surrounding neighborhoods (such as Coolidge Corner, Brookline Village and the Harvard Street corridor).

Special Definitions. With regard to the Greater Toxteth Neighborhood Conservation District, the following terms shall have the meaning given to them below.

i. "Habitable Space" shall mean space in a building or structure suitable for living, sleeping, eating or cooking; otherwise used for human occupancy; or finished or built

out and meeting the State Building Code requirements for height, light, ventilation and egress for human habitation or occupancy. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas shall not be excluded from Habitable Space solely because they are excluded from the definition of habitable space under the State Building Code.

ii. "Base-line Living Area" shall mean the amount of Habitable Space above grade in a building as of the Effective Date of this legislation. The Neighborhood Conservation District Commission shall use reasonable efforts to create and maintain a record of such baseline Habitable Space for each property in the district. The Commission may use Assessor records, building permits and such other Town records and information as it deems appropriate to create such record. In the event of demolition or destruction of a building that was existing as of the Effective Date, the Base–line Living Area of such building shall be used as the measurement for any new construction on that property.

iii. "Reviewable Project" shall have the meaning given to it in the section below entitled "Projects Subject To Review."

iv. "Front Plane" shall mean the forward most plane of the main structure façade on any above grade floor containing Habitable Space.

v. "Effective Date" shall mean the date that this Bylaw amendment is approved at Town Meeting and becomes effective.

Projects Subject To Review.. Section 5.10.2(m) sets forth the activities that are reviewable in a neighborhood conservation district unless otherwise exempted. In the Greater Toxteth Neighborhood Conservation District, only the following activities shall be reviewable. The term Reviewable Project, when used in this Section 5.10.3(d)(2) shall refer only to the following activities.

i. Any Addition or Alteration to the existing exterior envelope of a building that, for any single project, increases the existing Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 15% or more of the applicable Base-line Living Area. Multiple Additions or Alterations undertaken under separate building permits maybe deemed by the Commission to constitute a single project if the Commission reasonably determines that the intent is to break a larger project into smaller pieces in order to avoid being subject to review.

ii. Any Addition or Alteration to the existing exterior envelope of a building that, when aggregated with any prior such projects, would have the effect of increasing the Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 33% or more over the Base-line Living Area. The purpose of this section is to prevent property owners from undertaking multiple smaller projects over time that would have the cumulative effect of adding volume to building and/or structures that is inconsistent in scale, massing and/or siting with other buildings in the district.

iii. Construction of a new building or other improvements (whether constructed on vacant land or on land where prior improvements have been demolished), and construction to replace buildings or other improvements destroyed by fire or other casualty.

iv. The addition of or to a front porch, or the enclosure of any portion thereof (such as to create a vestibule or a partially or fully enclosed porch) on an existing building.

v. Any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements (including the enclosure of any existing or newly constructed porch) that would have the effect of advancing the Front Plane of the building toward the street than the condition existing as of the Effective Date.

Projects Exempt From Review. The Reviewable Projects set forth above shall be the only projects subject to review in the Greater Toxteth Neighborhood Conservation District. All other activities listed in the definition of "Reviewable Project" at Section 5.10.2(m) of these By-laws, when undertaken as an independent project, shall be exempt from review, provided, however, that such activities may be considered and be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by guidelines set forth below. In addition, all projects or activities listed in Section 5.10.6(c) shall be exempt from review, including renovations to the interior of a structure that do not impact the exterior of the structure.

Activities affecting the following elements shall be exempt from review when undertaken as an independent project, but such activities may be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by the guidelines set forth below.

i. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level, provided, however, that the grade is not changed and such improvements are not to be used for parking between the street and the Front Plane of a building (or the principal side wall plane along the street in the case of a building that occupies a corner property).
ii. Walls and fences in front yards four feet high or less as measured from the grade of the sidewalk or the surface of the ground immediately below the wall or fence, whichever grade is lower.
iii. Replacement Doors and windows (including storm doors and windows), trelliswork, cladding, roofing material.
iv. Flat skylights or solar collectors that are parallel to and in close contact with the plane of the roof.
v. Permanent exterior lighting, provided that it is installed in a manner that limits direct light from shining onto any adjacent property.
vi. Chimney caps.
vii. Ordinary maintenance, repair or replacement of any exterior feature so long as it does not involve a change in scale, massing or open space.

Guidelines applicable to Reviewable Projects. The Greater Toxteth Neighborhood Conservation District shall be governed by the following design guidelines, and the Commission shall apply such guidelines to all Reviewable Projects in order to protect and preserve the unique neighborhood characteristics described above.

i. Construction of any buildings or other improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner that is compatible with the existing historic patterns of scale, massing and siting in the district, and maintains streetscapes, view sheds and green

open space. Open/green space should be safeguarded, and respect shall be given to adjoining properties and the district as a whole.

ii. A Reviewable Project generally shall be deemed by the Commission not to be consistent with these design guidelines (including, but not limited to, the design guidelines immediately set forth above in Paragraph (i) of this section), and should therefore not typically be approved, to the extent that it results in an increase of Habitable Space within an expansion of the exterior building envelop above grade (including new habitable space created by adding dormers to the roof) by more than 33% of the Base-line Living Area (whether such increase results from a one-time activity or from the aggregated effect of two or more successive activities, such that all such activities shall be cumulative and considered in the aggregate relative to the Base-line Living area condition). Notwithstanding the foregoing, the Commission may find in some circumstances that due to the unique characteristics of a particular property, the Base line Living Area is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may find that an increase of more than 33% is appropriate, provided that such larger increase does not result in a derogation of the special character of the neighborhood intended to be protected by this By-law.

iii. Construction of any buildings or improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner such that the back and side-yard setbacks are consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole. Such activity shall generally be deemed by the Commission to not be consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole, and should therefore not typically be approved, if it results in any part of a building or other improvements (such as porches, porticos, entryways, breezeways and bay windows) exceeding the established back and side-yard setback requirements for the house itself under the Town's applicable zoning by-laws. Notwithstanding the foregoing, in certain circumstances, owing to the unique setting of the property and the improvements situated thereon, the Commission may permit modest variations to such setbacks so long as the special character of the neighborhood is preserved.

iv. In the event that a lot existing as of the Effective Date is subdivided into two or more lots, then any new construction on such new lot or lots shall not be subject to Paragraph (ii) of this section, but shall otherwise be subject to these design guidelines in all respects. After such new construction has been approved, any additional Additions or Alterations that materially affect the massing, size or siting shall in general not be deemed to be consistent with these Bylaws.

v. All Reviewable Projects shall be done in such a manner so as to preserve and promote the existing streetscape condition characterized by generous front yard setbacks and the transition from the home to the street through open front porches that foster street level sociability. Therefore, no Addition or Alteration of an existing building or other improvements, or the construction of any new or replacement buildings or other improvements shall be deemed to be consistent with these by-laws if it results in:

a. The enclosure of an open porch in such a manner as to inhibit the transitional nature from the home to the street and the street level sociability fostered thereby.

b. The Front Plane of a building being closer to the street as compared to the existing condition as of the Effective Date. Enclosure of an existing or newly constructed porch should be deemed to constitute such a change in the location of the Front Plane of the building, provided, however, that the creation of enclosed front door vestibules of less than fifty (50) square feet shall be deemed to be consistent with the character of the neighborhood. Notwithstanding the foregoing, the Commission may find in certain circumstances that, due to the unique characteristics of a particular property, the existing front yard setback is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may, with respect to a new building, permit or require an increase to the front yard setback.

vi. In reviewing the siting, massing and design of any Reviewable Project, efforts shall be made to maintain front yard open space for each property in the district and ensure its compatibility with the streetscape pattern and preservation of neighborhood front and rear view corridors.

vii. The Commission shall endeavor to apply the following principles when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:

a. Promote and support the mixed architectural vernacular of the neighborhood and acknowledge any historical significance.

b. Ensure that buildings, including and especially new buildings, respect the traditional scale, massing and configuration of the neighborhood, particularly as buildings relate to each other, to open space, and to the street. Buildings shall be similarly oriented, and have similar yard depths and distance between buildings as their existing counterparts. The Commission shall take into account that the neighborhood desires to embrace both traditional and contemporary architectural style and design, as well as both traditional and new building materials practices and technologies.

c. Take into account the imposition of a Demolition Delay under Brookline's Demolition Delay By-Law with respect to any Reviewable Project, and consider the special qualities of the property identified by the Preservation Commission.

d. Conserve and promote green space, including the tradition of mature trees and plantings, shading, green setbacks, topography, rear view corridors, streetscapes, and other landscape amenities of the neighborhood and the potential consequences to immediate neighbors of proposed changes.

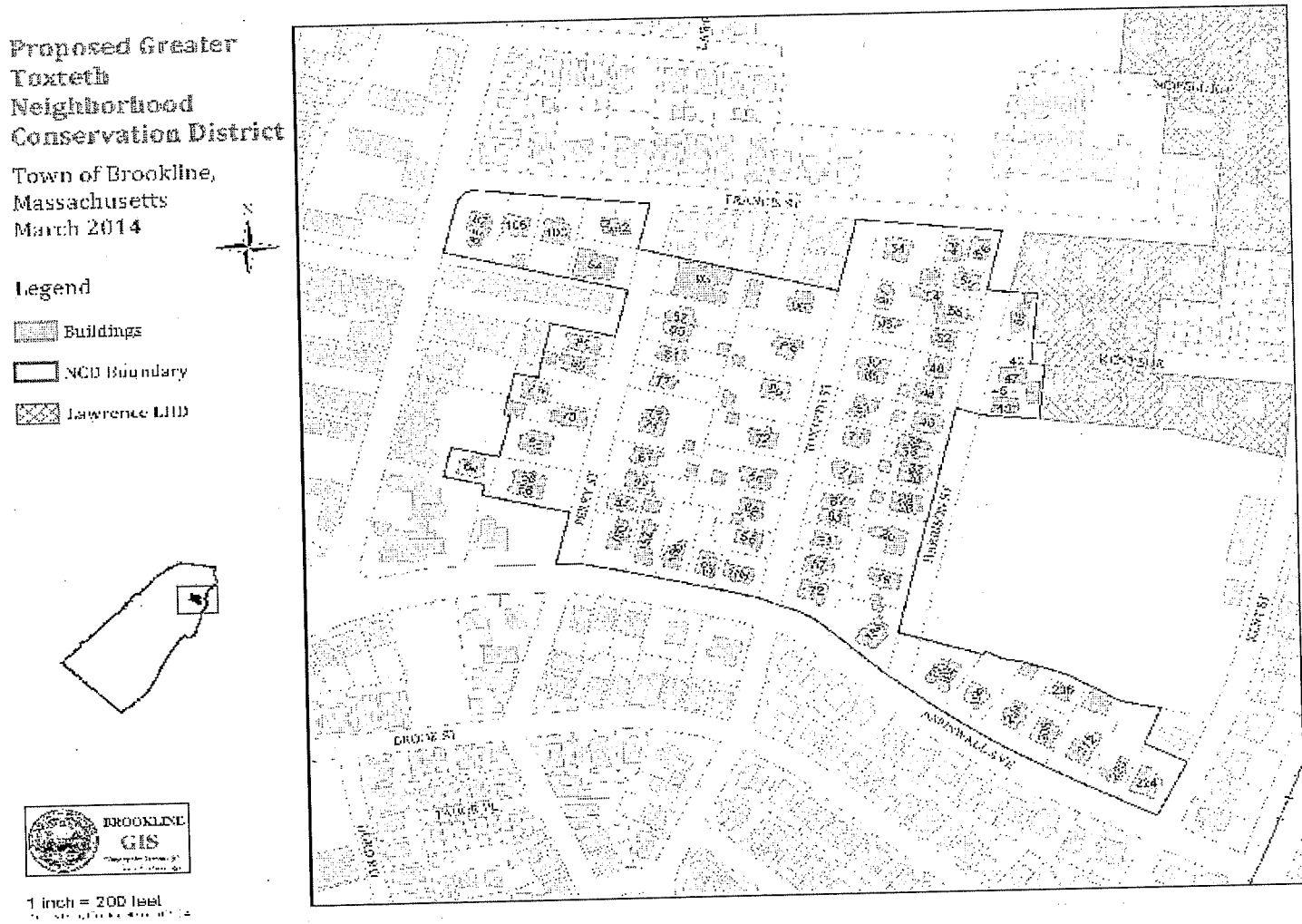
e. Minimize the adverse visual and acoustical effects of trash/recycling containers, air conditioning compressors, transformers and other fixtures.

f. Consider traffic and parking impacts as they may affect traditional street patterns and use, pedestrian activity, and safety (particularly with respect to the Lawrence School area

viii. The Commission shall also consider the following specific factors when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:

a. The consistency of any proposed Alteration or Addition of an existing building or other improvement, or new or replacement building or other improvements with the scale, massing and configuration of surrounding properties;
b. The significance to the neighborhood (e.g. historical, architectural, social), if any, of the existing buildings or structure(s);
c. The design of any proposed Addition or Alteration, or new or replacement building, including potential adverse effects of the Project on the surrounding properties and/or the district as a whole;
d. The extent to which the integrity of the established streetscape and its pattern and character are restored or enhanced;
e. The proximity of surrounding buildings and structures;
f. Provisions for green/open space and landscaping;
g. Provisions for and character of parking; and
h. If made, a claim of substantial hardship.

Nothing in this Section 5.10.3.d.2 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.2 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.2 shall be deemed to be severable. If any of its provisions, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.



PETITIONER'S ARTICLE DESCRIPTION

Town Meeting enacted the Neighborhood Conservation District by-law at its Fall 2011 Town Meeting. The by-law, which went into effect in June 2012, allows residents to work with the Neighborhood Conservation District Commission (NCDC) to establish a new Neighborhood Conservation District (NCD) with boundaries and guidelines appropriate to maintaining the valued characteristics of their neighborhood. The establishment of a new NCD requires a majority vote at Town Meeting.

On January 27, 2014, residents of Toxteth Street appeared before the NCDC to request its support to establish a Greater Toxteth Neighborhood Conservation District. They had met with neighborhood residents for several months and had developed guidelines they felt would protect their neighborhood from incompatible development without being too burdensome. They submitted an historical report for the area, some of which had been compiled in the early stages of establishing the Lawrence LHD. Two members of the NCDC walked the proposed district with residents and, after discussion, determined that the proposed district had characteristics worthy of consideration as a new NCD and that the proponents had sufficient support to investigate its creation. Following the commission's adopted

procedures, it requested the proponents to identify a leadership team and established a sub-committee to work with them on establishing a new NCD.

Following the January 27 meeting, the proponents' team engaged residents of the surrounding streets interested in joining the proposed NCD. They met informally with the Vice-Chair and a staff member to discuss the process and steps to get an article on the warrant for Town Meeting. They held a neighborhood meeting at which several members of the NCDC were present to answer questions and gauge interest. Over 50 residents attended. At the NCD's February 24, 2014 meeting, the neighbors presented the resulting expanded proposed Greater Toxteth NCD's district boundary and a preliminary by-law. The Commission authorized a mailing, including a boundary map, a draft by-law and a response form to all affected property owners to gauge support. Town Meeting members in in the impacted precincts were also sent the materials to notify them of the activity. Copies of the map and by-law were also sent to the Planning Board and the Preservation Commissions.

The NCDC held a Public Hearing on March 10, 2014, at which presentations included the proposed by-law, a revised map, and the results of the canvass of property owners. Responses representing 85.7% of the affected property owners were favorable. There were 5.5% opposed and 8.8% who did not respond. The NCDC voted unanimously to forward the Greater Toxteth NCD to Town Meeting. The Preservation Commission voted unanimously to support the by-law at its March 11, 2014 meeting.

The pattern of development of the Greater Toxteth Street Neighborhood includes a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most sit back farther from the street than is required under current zoning and cover less of their lots than they are entitled. This pattern contributes to a sense of open space and a wider street than the pavement allows, with homes still close enough to actively contribute to the neighborhood's street-level social dynamic. The neighborhood is predominately single or two-family three storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses.

Homes are generally centered in their lots, address the street, and most have porches that enhance the neighborhood's social fabric. Broad backyard view corridors are broken only by mature trees and fences. While nestled in a rather dense area, the neighborhood has an abundance of open and green space and many mature trees – traditional characteristics found in Brookline – that soften the near-urban locale. There are a variety of architectural styles that coexist to create a pleasing liveliness that functions as a cohesive neighborhood. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the surrounding neighborhoods (Coolidge Corner, Brookline Village, Harvard Street corridor).

The Greater Toxteth NCD by-law and guidelines focus on the character of the neighborhood and the massing, context and the relation of structures to each other and the commonly shared streetscape and view sheds. Its goal is to ensure that significant additions and new buildings are compatible with the existing historic patterns of scale, massing, and siting in the district; to maintain streetscapes, view sheds, green open space and mature trees by extension; and, to respect adjoining properties and the neighborhood as a whole. It contains

review thresholds, including additions to the exterior volume of existing properties that increase the above-grade habitable building area by 15% or more or enclosures of front porches. (Entryway vestibules under 50 sq. ft. are deemed to be consistent with the character of the neighborhood.) The front plane of homes should not move forward towards the street. Extensions such as porticos, bay windows, and entrance overhangs may be restricted from extending beyond current zoning setbacks for the main structure of the home. To preserve the current streetscape setbacks, new dwellings and their structures should be similarly oriented, and have similar yard depths and similar distances between buildings as their preexisting counterparts. Additions that increase the habitable space of existing structures more than 33%, or new structures that are 33% larger than the previously existing structure, are generally to be considered not in conformance with neighborhood characteristics. No new or replacement structure may come forward of the previously existing structure's front plane on that property. All work inside a building is exempt from review. Routine maintenance and projects under the 15% threshold are exempt from review including changes such as, terraces, replacement doors and windows, gutters, cladding, roofing material, as well as other features outlined in the proposed by-law.

Town of Brookline
Massachusetts

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Robert Cook
Steven A. Heikin
Steven R. Kanes
Sergio Modigliani
Jonathan Simpson

Memorandum

DATE: **April 14, 2014**

TO: **Brookline Neighborhood Conservation District Commission**

FROM: **Planning Board**

RE: **ARTICLE 11, NCD, PLANNING BOARD COMMENTS**

On April 10, 2014, the Planning Board opened a public hearing on Warrant Article 11, which would establish a Neighborhood Conservation District for the Greater Toxteth neighborhood. During the public hearing, the Planning Board heard comments from the Neighborhood

Conservation District Commission (NCDC), who are the article's petitioners, and from residents in the neighborhood. After discussion, the Planning Board determined it would not be appropriate to vote on a formal recommendation for the district's establishment, as it is not a zoning article. However, the Board would like to provide comments on the warrant article, and therefore directed staff to compile a summary of the Board's comments expressed during the public hearing. These comments are outlined below.

Generally, the Planning Board supports and recognizes the efforts of the NCDC and homeowners to draft Warrant Article 11, establish and implement a broad outreach initiative among their neighbors, and gain as much consensus as possible. This involves significant work and underscores the value these neighbors place on their neighborhood and their desire to protect it from out-of-scale development.

In critique, the Board called attention to a possible missed opportunity to limit rear yard development more directly, and it asked the NCDC to consider rewording the definition of "front plane" so that it would be clearer and not open to interpretation. The Board discussed the possibility of removing some properties from the NCD whose homeowners have expressed significant opposition to the district. Finally, the Board discussed with the NCDC how projects that need both zoning relief and NCD review will be handled by multiple review boards, expressing concern that the process be clear and consistent for applicants and neighbors. Specific rules and regulations should be drafted to lay out the process.

Overall, the Planning Board's comments were favorable towards Article 11, noting that Article 11 represented one of the strongest cases yet for establishment of an NCD.

SELECTMEN'S RECOMMENDATION

Approval of Article 11 would result in the creation of the Greater Toxteth Neighborhood Conservation District (NCD), which would be the Town's second NCD. NCD's were established by Town Meeting at the 2011 Fall Town Meeting and provide an alternative to Local Historic Districts (LHD) as a tool to protect against development that would destroy the fabric of the neighborhood. LHD's are governed by a single set of town-wide rules and regulations whereas NCD guidelines can be "tailored" for each NCD so that the guidelines established for an NCD address the particular attributes of a neighborhood critical to preserving what the neighborhood deems to be significant aspects of its character. Residents of the neighborhood included in the proposed NHD are beginning to see some residential redevelopment projects that are out of character with the rest of the neighborhood and fear that those will continue unless actions are taken to deter them. The tool they believe is most appropriate is the NCD.

The current neighborhood is characterized by a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most homes are set back farther from the street than is required under current zoning and cover less of their lots than they are entitled under zoning, which contributes to a sense of open space and a more generous

streetscape.The neighborhood is predominately single- or two-family three-storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses. In addition, homes are generally centered in their lots, face the street, and most have porches that enhance the neighborhood's social fabric. Broad backyard view corridors are broken only by mature trees and fences. While abutting a more dense area, the neighborhood has an abundance of open and green space and many mature trees that soften the near-urban locale. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the immediately surrounding neighborhoods.

The Selectmen were impressed with the process the neighborhood followed to garner support for the creation of the NCD. As a result of the well-designed and inclusive process, 85.7% of the affected property owners were in favor of the NCD compared with just 5.5% being opposed (8.8% did not respond). The Board notes that this is a perfect example of why NCD's were proposed in the first place. Utilizing a tool that is less restrictive than an LHD, but offers a neighborhood protection against unwarranted redevelopment that dramatically alters its special character, is exactly what was envisioned when NCD's were presented to Town Meeting in November, 2011. By a vote of 3-0 taken on April 24, 2014, the Selectmen recommend FAVORABLE ACTION, on the following:

VOTED: That the Town amend Article 5.10 of the Town's By-laws, Neighborhood Conservation District By-law, in the following manner:

By adding a Section 5.10.3.d.2 to establish the Greater Toxteth Neighborhood Conservation District:

There shall be a Neighborhood Conservation District, to be entitled the "Greater Toxteth Neighborhood Conservation District" the boundaries of which are shown on the map entitled "Greater Toxteth Neighborhood Conservation District", a copy of which is on file with the Town Clerk's office, which is hereby declared to be a part of this By-law.

The purpose of the Greater Toxteth Neighborhood Conservation District is to preserve and protect the unique character of the neighborhood and the individual properties and buildings located therein in ways that are not typically protected by the Zoning Bylaws or other By-laws of the Town of Brookline.

Neighborhood Characteristics. The pattern of development of the Greater Toxteth Neighborhood Conservation District includes a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most homes sit back farther from the street than is required under current zoning and cover less of their lots than is permitted by underlying zoning. This pattern contributes to a sense of open space and a wider street, with homes still close enough to actively contribute to the neighborhood's street-level social dynamic. The neighborhood is predominately single or two-family three storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses, thereby

mitigating the effect of the upper stories on abutting properties. Homes are generally respectfully positioned on their lots, address the street, and most have open porches that promote an active transition from the home to the street, which enhances the neighborhood's social fabric and fosters street level sociability. Broad backyard view corridors are broken only by mature trees and fences. While nestled in a rather dense area, the neighborhood has an abundance of open and green space and many mature trees – traditional characteristics found in Brookline – that soften the near-urban locale. There are a variety of architectural styles that coexist to create a pleasing liveliness that functions as a cohesive neighborhood. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the surrounding neighborhoods (such as Coolidge Corner, Brookline Village and the Harvard Street corridor).

Special Definitions. With regard to the Greater Toxteth Neighborhood Conservation District, the following terms shall have the meaning given to them below.

i. "Habitable Space" shall mean space in a building or structure suitable for living, sleeping, eating or cooking; otherwise used for human occupancy; or finished or built out and meeting the State Building Code requirements for height, light, ventilation and egress for human habitation or occupancy. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas shall not be excluded from Habitable Space solely because they are excluded from the definition of habitable space under the State Building Code.

ii. "Base-line Living Area" shall mean the amount of Habitable Space above grade in a building as of the Effective Date of this legislation. The Neighborhood Conservation District Commission shall use reasonable efforts to create and maintain a record of such baseline Habitable Space for each property in the district. The Commission may use Assessor records, building permits and such other Town records and information as it deems appropriate to create such record. In the event of demolition or destruction of a building that was existing as of the Effective Date, the Base–line Living Area of such building shall be used as the measurement for any new construction on that property.

iii. "Reviewable Project" shall have the meaning given to it in the section below entitled "Projects Subject To Review."

iv. "Front Plane" shall mean the forward most plane of the main structure façade on any above grade floor containing Habitable Space.

v. "Effective Date" shall mean the date that this Bylaw amendment is approved at Town Meeting and becomes effective.

Projects Subject To Review. Section 5.10.2(m) sets forth the activities that are reviewable in a neighborhood conservation district unless otherwise exempted. In the Greater Toxteth Neighborhood Conservation District, only the following activities shall be reviewable. The term Reviewable Project, when used in this Section 5.10.3(d)(2) shall refer only to the following activities.

i. Any Addition or Alteration to the existing exterior envelope of a building that, for any single project, increases the existing Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 15% or more of the applicable Base-line Living Area. Multiple Additions or Alterations undertaken under separate building permits maybe deemed by the Commission to

constitute a single project if the Commission reasonably determines that the intent is to break a larger project into smaller pieces in order to avoid being subject to review.

ii. Any Addition or Alteration to the existing exterior envelope of a building that, when aggregated with any prior such projects, would have the effect of increasing the Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 33% or more over the Base-line Living Area. The purpose of this section is to prevent property owners from undertaking multiple smaller projects over time that would have the cumulative effect of adding volume to building and/or structures that is inconsistent in scale, massing and/or siting with other buildings in the district.

iii. Construction of a new building or other improvements (whether constructed on vacant land or on land where prior improvements have been demolished), and construction to replace buildings or other improvements destroyed by fire or other casualty.

iv. The addition of or to a front porch, or the enclosure of any portion thereof (such as to create a vestibule or a partially or fully enclosed porch) on an existing building.

v. Any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements (including the enclosure of any existing or newly constructed porch) that would have the effect of advancing the Front Plane of the building toward the street than the condition existing as of the Effective Date.

Projects Exempt From Review. The Reviewable Projects set forth above shall be the only projects subject to review in the Greater Toxteth Neighborhood Conservation District. All other activities listed in the definition of "Reviewable Project" at Section 5.10.2(m) of these By-laws, when undertaken as an independent project, shall be exempt from review, provided, however, that such activities may be considered and be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by guidelines set forth below. In addition, all projects or activities listed in Section 5.10.6(c) shall be exempt from review, including renovations to the interior of a structure that do not impact the exterior of the structure.

Activities affecting the following elements shall be exempt from review when undertaken as an independent project, but such activities may be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by the guidelines set forth below.

i. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level, provided, however, that the grade is not changed and such improvements are not to be used for parking between the street and the Front Plane of a building (or the principal side wall plane along the street in the case of a building that occupies a corner property).

ii. Walls and fences in front yards four feet high or less as measured from the grade of the sidewalk or the surface of the ground immediately below the wall or fence, whichever grade is lower.

iii. Replacement Doors and windows (including storm doors and windows), trelliswork, cladding, roofing material.

iv. Flat skylights or solar collectors that are parallel to and in close contact with the plane of the roof.
v. Permanent exterior lighting, provided that it is installed in a manner that limits direct light from shining onto any adjacent property.
vi. Chimney caps.
vii. Ordinary maintenance, repair or replacement of any exterior feature so long as it does not involve a change in scale, massing or open space.

Guidelines applicable to Reviewable Projects. The Greater Toxteth Neighborhood Conservation District shall be governed by the following design guidelines, and the Commission shall apply such guidelines to all Reviewable Projects in order to protect and preserve the unique neighborhood characteristics described above.

i. Construction of any buildings or other improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner that is compatible with the existing historic patterns of scale, massing and siting in the district, and maintains streetscapes, view sheds and green open space. Open/green space should be safeguarded, and respect shall be given to adjoining properties and the district as a whole.

ii. A Reviewable Project generally shall be deemed by the Commission not to be consistent with these design guidelines (including, but not limited to, the design guidelines immediately set forth above in Paragraph (i) of this section), and should therefore not typically be approved, to the extent that it results in an increase of Habitable Space within an expansion of the exterior building envelop above grade (including new habitable space created by adding dormers to the roof) by more than 33% of the Base-line Living Area (whether such increase results from a one-time activity or from the aggregated effect of two or more successive activities, such that all such activities shall be cumulative and considered in the aggregate relative to the Base-line Living area condition). Notwithstanding the foregoing, the Commission may find in some circumstances that due to the unique characteristics of a particular property, the Base line Living Area is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may find that an increase of more than 33% is appropriate, provided that such larger increase does not result in a derogation of the special character of the neighborhood intended to be protected by this By-law.

iii. Construction of any buildings or improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner such that the back and side-yard setbacks are consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole. Such activity shall generally be deemed by the Commission to not be consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole, and should therefore not typically be approved, if it results in any part of a building or other improvements (such as porches, porticos, entryways, breezeways and bay windows) exceeding the established back and side-yard setback requirements for the house itself under the Town's applicable zoning by-laws. Notwithstanding the foregoing, in certain

circumstances, owing to the unique setting of the property and the improvements situated thereon, the Commission may permit modest variations to such setbacks so long as the special character of the neighborhood is preserved.

iv. In the event that a lot existing as of the Effective Date is subdivided into two or more lots, then any new construction on such new lot or lots shall not be subject to Paragraph (ii) of this section, but shall otherwise be subject to these design guidelines in all respects. After such new construction has been approved, any additional Additions or Alterations that materially affect the massing, size or siting shall in general not be deemed to be consistent with these Bylaws.

v. All Reviewable Projects shall be done in such a manner so as to preserve and promote the existing streetscape condition characterized by generous front yard setbacks and the transition from the home to the street through open front porches that foster street level sociability. Therefore, no Addition or Alteration of an existing building or other improvements, or the construction of any new or replacement buildings or other improvements shall be deemed to be consistent with these by-laws if it results in:

a. The enclosure of an open porch in such a manner as to inhibit the transitional nature from the home to the street and the street level sociability fostered thereby.

b. The Front Plane of a building being closer to the street as compared to the existing condition as of the Effective Date. Enclosure of an existing or newly constructed porch should be deemed to constitute such a change in the location of the Front Plane of the building, provided, however, that the creation of enclosed front door vestibules of less than fifty (50) square feet shall be deemed to be consistent with the character of the neighborhood. Notwithstanding the foregoing, the Commission may find in certain circumstances that, due to the unique characteristics of a particular property, the existing front yard setback is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may, with respect to a new building, permit or require an increase to the front yard setback.

vi. In reviewing the siting, massing and design of any Reviewable Project, efforts shall be made to maintain front yard open space for each property in the district and ensure its compatibility with the streetscape pattern and preservation of neighborhood front and rear view corridors.

vii. The Commission shall endeavor to apply the following principles when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:

a. Promote and support the mixed architectural vernacular of the neighborhood and acknowledge any historical significance.

b. Ensure that buildings, including and especially new buildings, respect the traditional scale, massing and configuration of the neighborhood, particularly as buildings relate to each other, to open space, and to the street. Buildings shall be similarly oriented, and have similar yard depths and distance between buildings as their existing counterparts. The Commission shall take into account that the neighborhood desires to embrace both traditional and contemporary architectural style and design, as well as both traditional and new building materials practices and technologies.

c. Take into account the imposition of a Demolition Delay under Brookline's Demolition Delay By-Law with respect to any Reviewable Project, and consider the special qualities of the property identified by the Preservation Commission.

d. Conserve and promote green space, including the tradition of mature trees and plantings, shading, green setbacks, topography, rear view corridors, streetscapes, and other landscape amenities of the neighborhood and the potential consequences to immediate neighbors of proposed changes.

e. Minimize the adverse visual and acoustical effects of trash/recycling containers, air conditioning compressors, transformers and other fixtures.

f. Consider traffic and parking impacts as they may affect traditional street patterns and use, pedestrian activity, and safety (particularly with respect to the Lawrence School area

viii. The Commission shall also consider the following specific factors when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:

a. The consistency of any proposed Alteration or Addition of an existing building or other improvement, or new or replacement building or other improvements with the scale, massing and configuration of surrounding properties;

b. The significance to the neighborhood (e.g. historical, architectural, social), if any, of the existing buildings or structure(s);

c. The design of any proposed Addition or Alteration, or new or replacement building, including potential adverse effects of the Project on the surrounding properties and/or the district as a whole;

d. The extent to which the integrity of the established streetscape and its pattern and character are restored or enhanced;

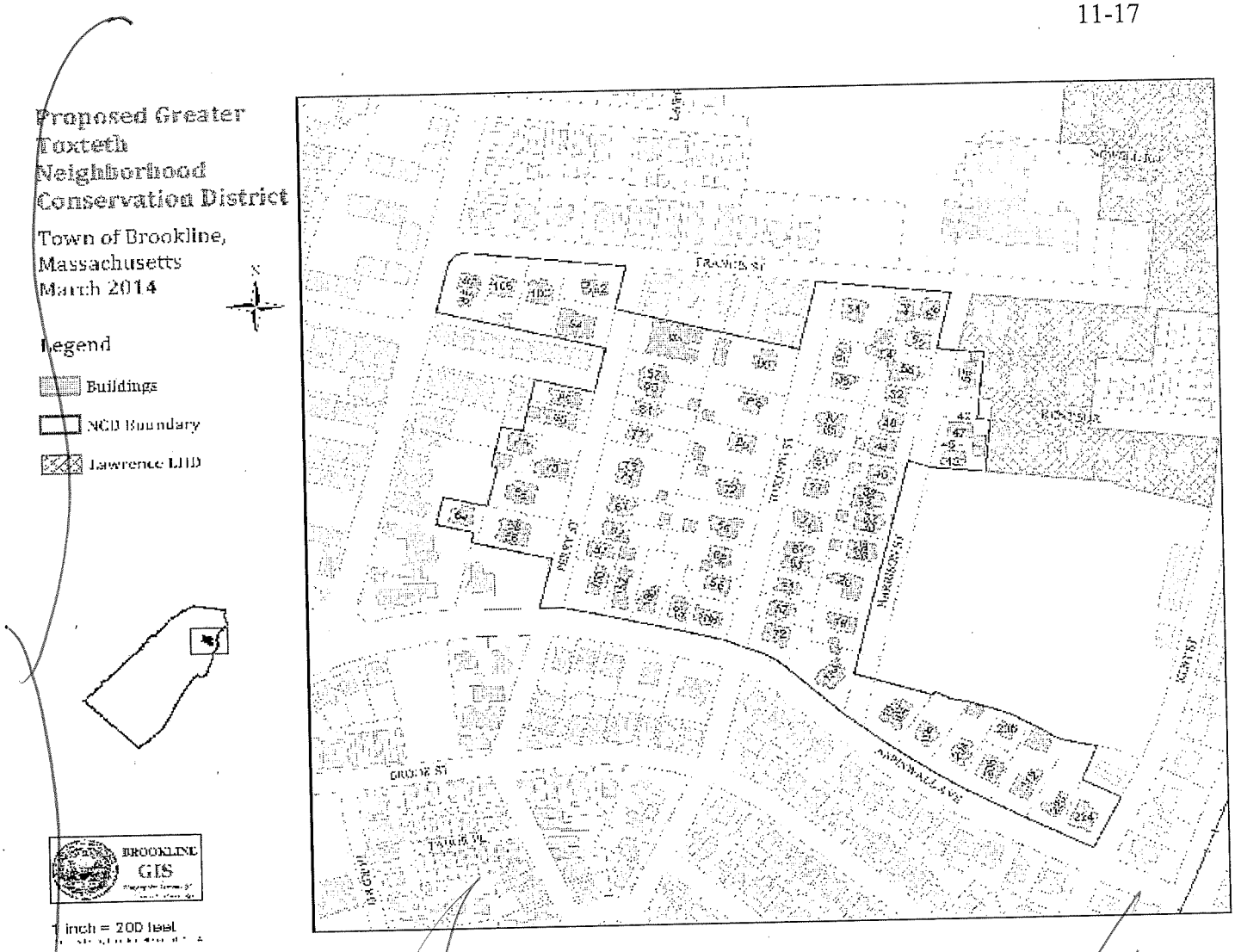
e. The proximity of surrounding buildings and structures;

f. Provisions for green/open space and landscaping;

g. Provisions for and character of parking; and

h. If made, a claim of substantial hardship.

Nothing in this Section 5.10.3.d.2 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.2 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.2 shall be deemed to be severable. If any of its provisions, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.



ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Wishinsky

Passed by a Counted Vote of 128 In Favor and 2 Opposed

ADVISORY COMMITTEE'S RECOMMENDATION

Article 11, submitted by the Neighborhood Conservation District (NCD) Commission, seeks to amend Article 5.10 of the Town's By-laws by adding Section 5.10.3.d.2, establishing the Greater Toxteth Neighborhood Conservation District which, as proposed, encompasses sections of Harrison, Francis, Perry, and Toxteth Streets and Aspinwall Avenue.

BACKGROUND:
Article 5.10 of the Town's By-laws went into effect in June 2012; there is currently one other NCD in Brookline.

NCDs differ from Local Historic Districts (LHD) insofar as their requirements can specifically target those physical characteristics of a neighborhood that property owners want to preserve and protect without having to adopt the generally more stringent requirements of an LHD. Unlike LHDs, NCDs can protect property features that are not visible from a public way, park or body of water. Similarly, when reviewing a project subject to its review, the NCD Commission is authorized to take into consideration the promotion and conservation of green space, including mature trees and plantings. An LHD Commission has no such authority.

The construction of an 8300 square foot structure on Toxteth Street, overwhelming its neighbors and disrupting the appearance of a harmonious streetscape, was a wake-up call for neighborhood residents. They recognized that the existing T-5 zoning designation (with a permissible FAR of 1.0) enabled additional as-of-right expansions, thereby creating a major threat to the neighborhood's characteristic size, massing, and scale of homes with accompanying front and back yard view corridors highlighted by mature trees and plantings. Accordingly, a group of Toxteth Street neighbors met in the Fall of 2013 to explore the possible creation of an NCD by identifying commonly held neighborhood visual values and preservation goals and by defining the scope of the NCD authority for design review and approval. In January 2014, having drafted both a report on the history and architecture of their neighborhood as well as guidelines that could protect their street from future incompatible development without imposing unduly burdensome regulations on homeowners, the neighbors asked for the support of the NCD Commission in pursuing NCD designation.

Multiple meetings with neighbors on adjoining streets (Harrison, Perry, Francis and Aspinwall Avenue) and with the NCD Commission followed, culminating in a public hearing in March with the presentation of the proposed by-law, map, and tally of those affected property owners for and against the NCD. The vast majority - 85.7% - was in favor, while 5.5% were opposed, and 8.8% did not respond.

Neighborhood Characteristics, Reviewable Projects, and Guidelines
The defining and treasured features of the single and two-family homes found in the Greater Toxteth Neighborhood include:

- The scale, massing, and height of the houses (generally three stories with roof designs creating the appearance of 2 ½ stories);
- The placement of the houses on their lots, many with setbacks from the street more generous than required by existing zoning provisions and with less lot coverage than permissible under current zoning;
- Front porches that enhance the streets' social fabric; and
- Broad backyard view sheds or view corridors – "borrowed" landscapes whose benefits extend to abutters and others in the neighborhood.

Reviewable Projects
Seeking to preserve these features of the area, the provisions of Article 11 focus on massing, relationship of structures to each other, interaction between structure and streetscape, and open space, in both front and back yards. When specific thresholds in a proposed project are reached, review by the NCD Commission, guided by numerous written principles, is required. Projects subject to review include:

1) Additions or alterations that increase the above-grade building size by 15% or more. If there are multiple building projects applied for under separate building permits for the purposes of avoiding NCD Commission review, the Commission may treat the multiple projects as a single large project.

2) Additions to or alterations of the above-grade exterior of a building that, when added to previous additions, would result in increasing above-grade *Habitable Space*, as defined in the Article by 33% or more over the *Baseline Living Area*, as defined in the Article.

3) Construction of a new building or construction to replace a building destroyed by fire or other disaster.

4) An addition to or an enclosure of an existing front porch.

5) Additions to or alterations of an existing building or the construction of a new building or other project, including the enclosure of any existing or newly constructed porch, that would push the *Front Plane*, as defined in the Article, of the building closer to the street.

Exempted Projects
In addition to the provisions of Sec 5.10.6 (c) of the current Town By-laws, which exempts alterations or projects such as interior demolition that does not impact the structure's exterior, installation of storm windows and doors or gutters and downspouts, etc., the proposed Greater Toxteth NCD guidelines would exempt from review other actions, when undertaken as an independent project, including walkways and driveways, flat skylights or solar collectors parallel and close to the plane of the roof, chimney caps, cladding, roofing material, ordinary repairs and maintenance, and projects under the 15% threshold. (For additional exemptions, see "Projects Exempt From Review", i-vii in proposed Sec. 5.10.3.d.2.)

Guidelines Applicable to Reviewable Projects
Within proposed Sec. 5.10.3.d.2 are design guidelines intended to preserve and protect the defining features of the neighborhood and to be applied by the NCD Commission when considering reviewable projects. In general, these guidelines require that new construction or alterations constituting a reviewable project respect historic patterns of scale, massing and siting, including setbacks and orientation; maintain front and rear view corridors; and encourage and preserve the appearance of the existing streetscapes as typified by liberal front yard setbacks and open front porches that mediate the space from street to home. The Commission is authorized to make modest exceptions regarding the 33% limit on increasing baseline living areas and regarding back and side yard setbacks for specific situations, including the unique setting of a property and its structure(s).

Underlying the Guidelines are a set of principles and other considerations to assist the NCD Commission in its review process and to define the parameters of public expectations and comment. They convey the neighborhood's openness to accept both traditional and contemporary architectural styles, materials and building technologies as well as its sensitivity to traffic and parking and their potential impacts on street patterns, pedestrian activity and public safety. The visual and audible impacts of transformers, air conditioning compressors, solid waste and recycling containers on neighboring properties are also identified as matters both to be taken into account by the Commission and on which neighbors are entitled to comment. An applicant's claim of substantial hardship is specifically identified as factor for the Commission to consider in its deliberations.

DISCUSSION:

Both at the subcommittee hearing and full Advisory Committee meeting, proponents of Article 11 spoke about the appropriateness of an NCD to preserve the distinctive characteristics of their neighborhood without overly burdening property owners. There was full recognition that the provisions of this article were customized to suit the objectives of the vast majority of participants while taking into account their willingness to accept the regulatory nature of its stipulations. Both neighbors and NCD Commissioners emphasized the thoroughness of the process, including the constructive interaction between NCD Commission members and property owners, the many volunteer hours invested in outreach, discussion, debate, and compromise, and the level of flexibility and discretion offered to the Commission through the proposed Guidelines, allowing Commissioners to mediate, rather than dictate outcomes. They believe that they have struck the right balance between placing minimal restrictions on those families who may wish to enlarge their homes and ensuring respect for neighborhood fabric, scale and massing patterns, and front and back yard open spaces

In response to questions about the Greater Toxteth area becoming a neighborhood "frozen in time" and averse to greater density, proponents answered that they drew a distinction between "freezing" and "preserving" and noted that none of the proposed guidelines exclude development or changes to existing buildings, nor do they prohibit contemporary architectural styles, materials, or technologies. They also stated that increased density was still permissible, but not in a way that disregarded the existing scale and massing of neighboring homes.

Lastly, there was a discussion of why Article 11 placed a strong emphasis on front porches. Residents spoke eloquently about how much they value the sociability of their neighborhood and the role that a front porch plays in contributing to social interaction. In addition, porches were recognized as providing a physical transition between the indoors and the outdoors and between what is viewed as "public" space (the front yard) and "private" space (the house). It was further noted that keeping front porches unenclosed prevented "structure creep" since the enclosure of a front porch and the conversion of that space into the house could prompt the construction of a new porch, thereby bringing the "front plane" of the house closer to the street.

RECOMMENDATION:
By a vote of 18-1-2, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 12

AMENDMENT OFFERED BY

BETSY DeWITT – TMM #AL

VOTED: To delete the underlined language in the main motion offered under Article 12 found under 8.15.3 (m).

Passed by a Majority Vote

ARTICLE 12

TWELFTH ARTICLE
Submitted by: Fred Lebow

To see if the Town will amend the General By-laws, Article 8.15, Noise Control, as follows (language to be deleted appears as a strike-out and new language is underlined):

ARTICLE 8.15
NOISE CONTROL

SECTION 8.15.1 SHORT TITLE

This By-law may be cited as the "Noise Control By-law of The Town of Brookline".

SECTION 8.15.2 DECLARATION OF FINDINGS, POLICY AND SCOPE

(a) Whereas excessive Noise is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive Noise may be substantially abated; and whereas the people have a right to and should be ensured an environment free from excessive Noise that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the Town of Brookline to prevent excessive Noise which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(b) Scope. This By-law shall apply to the control of all sound originating within the limits of the Town of Brookline.

1. Provisions in this By-law shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or in training exercises related to emergency activities, and in the performance of public safety activities.

2. Emergency generators used for power outages, ~~or~~ testing or required by the latest edition of the State Building Code are exempt from this By-law. However, generator testing must be done during daylight hours.

3. Noncommercial public speaking and public assembly activities as guaranteed by state and federal constitutions shall be exempt from the operation of this By-law.

SECTION 8.15.3 DEFINITIONS

(a) Ambient or Background Noise Level: Is the term used to describe the Noise measured in the absence of the Noise under investigation. It shall be calculated using the average lowest sound pressure level measured over a period of not less than five minutes using a sound

pressure level meter set for slow response on the "A" weighting filter in a specific area of the town under investigation. Background Noise Level at Night for the purpose of enforcement of this By-Law shall be 10 dBA lower than Background Noise Level measured during the Day.

(b) Construction and Demolition: Any site preparation, assembly erection, substantial repair, alteration, destruction or similar action for public or private rights-of-way, structures, utilities, or similar property.

(c) Day: 7:01 AM - 10:59 PM and Night: 11:00 PM – 7:00 AM

(d) Electronic Devices: Any radio, tape recorder, television, CD, stereo, public address system, loud speaker, amplified musical instrument including a hand held device, and any other electronic noise producing equipment.

Exemption: two-way communication radios used for emergency, safety and public works requirements.

(e) Emergencies: Any occurrence or set of circumstances necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm.

(f) Decibels (dB): The decibel is used to measure sound pressure level. The dB is a logarithmic unit used to describe a ratio of sound pressure, loudness, power, voltage and several other things.

(g) Decibels "A" weighted scale (dBA): The most widely used sound level filter is the "A" weighted scale. This filter simulates the average human hearing profile. Using the "A" weighted scale, the meter is less sensitive to very low and high frequencies.

(h) Decibels "C" weighted scale (dBC): The "C" filter uses little filtering and has nearly a flat frequency response (equal magnitude of frequencies) throughout the audio range.

(i) Fixed Plant Equipment: Any equipment such as generators, air conditioners, compressors, engines, pumps, refrigeration units, fans, boilers, heat pumps and similar equipment.

(j) Frequency response: Is the measure of any system's response at the output to a signal of varying frequency but constant amplitude at its input. The theoretical frequency range for humans is 20 - 20,000 cycles/second (Hz).

(k) Hertz (Hz): Cycles per Second (cps).

(l) Loudness: A rise of 10dB in sound pressure level corresponds approximately to doubling of subjective loudness. That is, a sound of 65dB is twice as loud as a sound of 55dB.

(m) Leaf blowers: Any portable machine carried by hand or configured as a backpack used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

(n) Noise: Sound which a listener does not wish to hear and is under investigation that may exceed the Noise requirements located in this Noise By-law.

(o) Noise Injury: Any sound that:

(1) endangers the safety of, or could cause injury to the health of humans; or
(2) endangers or injures personal or real property.

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards.

(q) Noise Pollution: If a Noise source increases Noise levels 10 dBA or more above the Background Noise Level, it shall be judged that a condition of Noise Pollution exists. However, if the Noise source is judged by ear to have a tonal sound, an increase of 5 dBA above Background Noise Level is sufficient to cause Noise Pollution.

(r) Person: Any individual, company, occupant, real property owner, or agent in control of real property.

(t) Sound: A fluctuation of air pressure which is propagated as a wave through air.

(u) Sound Level Meter: An instrument meeting Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.
(v) Sound Pressure Level: The level of Noise, normally expressed in decibels, as measured by a sound level meter.

(w) Tonal Sound: Any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

SECTION 8.15.3A MOTOR VEHICLE DEFINITIONS

(a) Gross Vehicle Weight Rating (GVWR): The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating, (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(b) Motorcycle: Any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

(c) Motor Vehicle: Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

SECTION 8.15.4 SOUND LEVEL EXAMPLES

The following are examples of approximate decibel readings of every day sounds:

0dBA	The faintest sound we can hear
30dBA	A typical library
45dBA	Typical office space
55dBA	Background Noise of a typical urban environment at night
65dBA	Background Noise of a typical urban environment during the day
70dBA	The sound of a car passing on the street
72dBA	The sound of two people speaking 4' apart
80dBA	Loud music played at home
90dBA	The sound of a truck passing on the street
100dBA	The sound of a rock band
115dBA	Limit of sound permitted in industry by OSHA
120dBA	Deafening
130dBA	Threshold of pain
140dBA	Rifle being fired at 3'
150dBA	Jet engine at a distance of 100'
194dBA	Theoretical limit for a sound wave at one atmosphere environmental pressure

SECTION 8.15.5 DUTIES AND RESPONSIBILITIES OF TOWN DEPARTMENTS

(a) Departmental Actions
All town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this By-law.

(b) Departmental Compliance with Other Laws
All town departments and agencies shall comply with federal and state laws and regulations and the provisions and intent of this By-law respecting the control and abatement of Noise to the same extent that any person is subject to such laws and regulations.

(c) The Department of Public Works is exempt for Day and Night time operations for routine maintenance including but not limited to snow removal, street cleaning, litter control, and graffiti removal, etc. However, the DPW shall make every effort to reduce Noise in residential areas, particularly at night.

(d) Prior to purchasing new equipment, the Department of Public Works must consider equipment with the lowest Decibel rating for the performance standard required.

(e) Any proposed new or proposed upgrade for a park or recreation facility must incorporate appropriate and feasible Noise abatement measures during the design review process.

SECTION 8.15.6 PROHIBITIONS AND MEASUREMENT OF NOISE EMISSIONS

(a) Use Restrictions

1. The following devices shall not be operated except between the hours of 8 (eight) A.M. to 8(eight) P.M. Monday through Friday, and from 9 (nine) A.M. to 8(eight) P.M. on Saturdays, Sundays and holidays:

All electric motor and internal combustion engine devices employed in yard and garden maintenance and repair.
Turf maintenance equipment employed in the maintenance of golf courses, snow blowers and snow removal equipment are exempt from this section.

2. The following devices shall not be operated except between the hours of 7(seven) A.M. to 7(seven) P.M. Monday through Friday, and from 8:30(eight-thirty) A.M. to 6(six) P.M. on Saturdays, Sundays and holidays:

All devices employed in construction or demolition, subject to the maximum Noise Levels specified in Section 8.15.6b and 8.15.6c.

(b) Vehicular Sources: Maximum Noise Levels Measurements shall be made at a distance of 50 (fifty) feet from the closest point of pass-by of a Noise source or 50(fifty) feet from a stationary vehicle.

	MAXIMUM NOISE LEVEL dBA	
Vehicle Class	Stationary Run-up or Speed Limit 35 mph or less	Speed Limit 35-45 mph
All vehicles over 10,000 lbs. GVWR or GCWR	83	87
All motorcycles	79	79
Automobiles and light trucks	75	75

(c) Construction and Maintenance Equipment:

Maximum Noise Levels
Noise measurements shall be made at 50 (fifty) feet from the source. The following Noise Levels shall not be exceeded:

Construction Item	Maximum Noise Level dBA	Maintenance Item	Maximum Noise Level dBA
Backhoe, bulldozer concrete mixer dumptruck, loader, roller, scraper, pneumatic tools, paver	90	Wood Chipper running concrete mixer,leaf vacuum	90
Air compressor	85	Chainsaw, solid waste compactor, tractor (full-size)	85
Generator	80	Home tractor, snow blower	80
		Lawn mower, trimmer,	75
Electric drills, power tools, sanders, saws, etc.	75	Leaf blowers	67

(d) Fixed Plant Equipment

Any person shall operate such equipment in a manner not to exceed 10 dBA over the Background Noise and not greater than 5 dBA of Tonal sound over the Background Noise. However, if the fixed equipment is operated during night time hours, the night time Sound Pressure Level of the Fixed Plant Equipment must not exceed the average daytime Background Noise to compensate for night time operations, which is assumed to be 10dBA below daytime Background Noise. See Definitions Section 8.15.3(c).

Noise measurements shall be made at the boundary of the property in which the offending source is located, or at the boundary line of the complainant if the complainant is not a direct abutter.

(e) Electronic Devices and Musical Instruments

No person owning, leasing or controlling the operation of any electronic device shall willfully or negligently permit the establishment or condition of Noise Injury or Noise Pollution.

In public spaces, the existence of Noise Injury or Noise Pollution is to be judged to occur at any location a passerby might reasonably occupy. When the offending Noise source is located on private property, Noise Injury or Noise Pollution judgments shall be made at the property line within which the offending source is located.

Any and all Decibel Levels of sound caused by playing non-electrified musical instruments between 9 A.M. and 9 P.M. shall be exempt with exception of drums.

(f) Leaf Blowers

No person shall operate any portable Leaf Blower(s) which does not bear an affixed manufacturer's label or a label from the town indicating the model number of the Leaf Blower(s) and designating a Noise Level not in excess of sixty-seven(67)dBA when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) or IEC 61672-1 methodology. Any Leaf Blower(s) which bears such a manufacturer's label or town's label shall be presumed to comply with the approved ANSI Noise Level limit or IEC Noise Limit under this By-law. However, any Leaf Blowers must be operated as per the operating instructions provided by the manufacturer. Any modifications to the equipment or label are prohibited. However, any portable Leaf Blower(s) that have been modified or damaged, determined visually by anyone who has enforcement authority for this By-law, may be required to have the unit tested by the town as provided for in this section, even if the unit has an affixed manufacturer's ANSI, IEC or town label. Any portable Leaf Blower(s) must comply with the labeling provisions of this By-law by January 1, 2010. However, the owners of any Leaf Blower(s) operating after January 1, 2010 without a manufacturer's ANSI or IEC label on the equipment, may obtain a label from the town by bringing the equipment to the town's municipal vehicle service center or such other facility designated by the Town for testing. The testing will be provided by the town's designated person for a nominal fee and by appointment only. Testing will be provided only between the months of May and October. If the equipment passes, a town label will be affixed to the equipment indicating Decibel Level.

Whether the equipment passes or not, the testing fee is non- refundable. Leaf blowers may be operated only during the hours specified in Section 8.15.6(a)(1). In the event that the label has been destroyed, the Town may replace the label after verifying the specifications listed in the owner's manual that it meets the requirements of this By-law.

(g) Animals

No person owning, keeping or controlling any animal shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the existence of Noise Pollution or Noise Injury.

(h) Additional Noise Sources

No person shall emit noise so as to cause a condition of Noise Pollution or Noise Injury.

(i) Alternative Measurement Procedures

If it is not possible to make a good Sound Pressure Level measurement at the distance as defined for specific equipment throughout Article 8.15, measurement may be made at an alternate distance and the level at the specified distance subsequently calculated. Calculations shall be made in accordance with established engineering procedures.

(j) Noise Level Exclusions

Any equipment that is used to satisfy local, state, federal health, welfare, environmental or safety codes shall be exempt from limitations for hours of operation (See Section 8.15.6(a)), except to the extent otherwise determined by the Board of Selectman. The following equipment shall also be exempt from Section 8.15.6(a) if necessary for emergency work performed by the Department of Public Works:

jack hammers
pavement breakers
pile drivers
rock drills
or such other equipment as the DPW deems necessary,

providing that effective Noise barriers are used to shield nearby areas from excessive Noise.

(k) Motor Vehicle Alarms

The sounding of any horn or signaling device as a part of a burglar, fire or alarm system (alarm) for any motor vehicle, unless such alarm is automatically terminated within ten minutes of activation and is not sounded again at all within the next sixty minutes, is prohibited. Any motor vehicle located on a public or private way or on public or private property whose alarm has been or continues to sound in excess of ten minutes in any sixty minute cycle is hereby deemed to be a public nuisance subject to immediate abatement. Any police officer who observes that the alarm has or is sounding in excess of ten minutes in any sixty minute cycle, who, after making a reasonable effort, is unable to contact the owner of such motor vehicle or, after contact, such owner fails or refuses to shut-off or silence the alarm or authorize the police officer to have the alarm shut-off or silenced, may abate the nuisance caused by the alarm by entering the vehicle to shut off or disconnect the power source of the alarm, by authorizing a member of the fire department or a tow company employee to enter such vehicle to shut off or disconnect the power source of the alarm and, if such efforts are unsuccessful, such officer is authorized to abate the nuisance by arranging for a tow company to tow the motor vehicle to an approved storage area or other place of safety. If a motor vehicle's alarm is shut off or disconnected from its power source and a police officer determines that the motor vehicle is not safe in its then location and condition, the police officer may arrange for a tow company to tow the motor vehicle to an approved storage area or other place of safety. The registered owner of the motor vehicle shall be responsible for all reasonable costs, charges and expenses incurred for the shutting-off or silencing of the alarm and all costs of the removal and storage of the motor vehicle. The provisions of Article 10.1 or Section 8.15.10 shall not apply to this paragraph (k).

(l) Tonal Sound Corrections

When a Tonal Sound is emitted by a Noise source, the limit on maximum Noise levels shall be 5 dB lower than specified.

SECTION 8.15.7 PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

(a) The Board of Selectmen, or designee, may give a special permit

(i) for any activity otherwise forbidden by the provisions of this By-law,

(ii) for an extension of time to comply with the provisions of this By-law and any abatement orders issued pursuant to it, and

(iii) when it can be demonstrated that bringing a source of Noise into compliance with the provisions of this By-law would create an undue hardship on a person or the community. A person seeking such a permit should make a written application to the Board of Selectmen, or designee. The Town will make all reasonable efforts to notify all direct abutters prior to the date of the Selectmen's meeting at which the issuance of a permit will be heard.

(b) The applications required by (a) shall be on appropriate forms available at the office of the Selectman. The Board of Selectmen, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria and conditions shall be considered:

(1) the cost of compliance will not cause the applicant excessive financial hardship;

(2) additional Noise will not have an excessive impact on neighboring citizens.

(3) the permit may require portable acoustic barriers during Night.

(4) the guidelines shall include reasonable deadlines for compliance or extension of non-compliance.

(5) the number of days a person seeking a special permit shall have to make written application after receiving notification from the Town that (s)he is in violation of the provisions of this By-law.

(c) If the Board of Selectmen, or designee, finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that any special permit granted under (a) would have adverse effects may file a statement with the Board of Selectmen, or designee, to support this claim.

SECTION 8.15.8 HEARINGS ON APPLICATION FOR PERMITS FOR EXEMPTIONS

Resolution of controversy shall be based upon the information supplied by both sides in support of their individual claims and shall be in accordance with the procedures defined in the appropriate guidelines issued by the Board of Selectmen, or designee.

SECTION 8.15.9 PENALTIES

(a) Any person who violates any provision of this By-law shall be subject to a fine pursuant to Article 10.3 (Non-Criminal Disposition) in accordance with GL c.40. Section 21d or they may be guilty of a misdemeanor in accordance with Article 10.1 of the Town By-law and each violation shall be subject to fines according to the following schedule:

(1) $50.00 for first offense;
(2) $100.00 for the second offense;
(3) $200.00 for the third offense;
(4) $200.00 for successive violations;
plus (5) court costs for any enforcement action.

Each day of a continuing violation shall be considered a separate violation. Fines that remain unpaid after 30 days shall accrue interest at the statutory rate of interest.

(b) If a person in violation of the Noise Control By-law at a real property is an occupant but not the record owner of the real property, the Police, Health, or Building Departments may notify the owner of record of the real property of the violation. If a fine is issued in connection with excessive Noise at real property to someone other than the record owner of the property then the record owner of that property shall be notified. If there are any successive violations at least 14 days after the notification of the record owner but within a one-year period, then the record owner of the property shall also be subject to the fine schedule delineated in Section (a).

(c) The Health, Building, Police and Public Works Departments shall have enforcement authority for the By-law. To report a violation, contact the appropriate department.

SECTION 8.15.10 SEVERABILITY

If any provisions of this article or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Additions to the Noise By-law

Definitons
Portable Leaf blowers: A leaf blower is considered portable for the purposes of the article to be hand carried or configured as a backpack. [trying to capture this]

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or Type II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards

(u) Sound Level Meter: An instrument metering Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.

Emergency Generators: Emergency generators as required by the latest edition of the state building code are exempt from the Noise Bylaw. [consistent with state building code]

Background Noise Levels at night: Background noise levels at night for the enforcement of this Bylaw will be considered to be 10 dBA lower than day time background noise.

Section 8.15.6 f Leaf Blowers. Insert Line 6 to read
(ANSI) or IEC 61672-1 methodology.

Section 8.15.6 f Leaf Blowers. Insert Line 8 to read
The approved ANSi or IEC Noise Limit under this By-law. However , any

Section 8.15.6 f Leaf Blowers. Insert line 15 to read
Unit has as affixed manufacturer's ANSI, IEC or town label. Any portable

Section 8.15.6 f Leaf Blowers. Insert line 18 to read
Operation after January 1, 2010 without a manufacturer's ANSI or IEC label

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SELECTMEN'S RECOMMENDATION

Article 12 is a petitioned article that would amend the Town's Noise Control By-Law. The Board thanks the petitioner, who played a significant role in updating the by-law a few years ago, for submitting this article, which consists primarily of a set of technical changes. The Board approves of all of the proposed changes with one exception: in Section 8.15.3 (m), the language "carried by hand or configured as a backpack" that is proposed to be added to the definition of leaf blower. Therefore, by a vote of 4-0 taken on April 29, 2014, the Board

recommends FAVORABLE ACTION on the following vote. (It is identical to the language in the article as filed except the proposed new language in Section 8.15.3 (m) is deleted.)

VOTED: That the Town amend the General By-laws, Article 8.15, Noise Control, as follows (language to be deleted appears as a strike-out and new language is underlined):

ARTICLE 8.15
NOISE CONTROL

SECTION 8.15.1 SHORT TITLE

This By-law may be cited as the "Noise Control By-law of The Town of Brookline".

SECTION 8.15.2 DECLARATION OF FINDINGS, POLICY AND SCOPE

(a) Whereas excessive Noise is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive Noise may be substantially abated; and whereas the people have a right to and should be ensured an environment free from excessive Noise that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the Town of Brookline to prevent excessive Noise which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(b) Scope. This By-law shall apply to the control of all sound originating within the limits of the Town of Brookline.

1. Provisions in this By-law shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or in training exercises related to emergency activities, and in the performance of public safety activities.

2. Emergency generators used for power outages, ~~or~~ testing or required by the latest edition of the State Building Code are exempt from this By-law. However, generator testing must be done during daylight hours.

3. Noncommercial public speaking and public assembly activities as guaranteed by state and federal constitutions shall be exempt from the operation of this By-law.

SECTION 8.15.3 DEFINITIONS

(a) Ambient or Background Noise Level: Is the term used to describe the Noise measured in the absence of the Noise under investigation. It shall be calculated using the average lowest sound pressure level measured over a period of not less than five minutes using a sound pressure level meter set for slow response on the "A" weighting filter in a specific area of the

town under investigation. Background Noise Level at Night for the purpose of enforcement of this By-Law shall be 10 dBA lower than Background Noise Level measured during the Day.

(b) Construction and Demolition: Any site preparation, assembly erection, substantial repair, alteration, destruction or similar action for public or private rights-of-way, structures, utilities, or similar property.

(c) Day: 7:01 AM - 10:59 PM and Night: 11:00 PM – 7:00 AM

(d) Electronic Devices: Any radio, tape recorder, television, CD, stereo, public address system, loud speaker, amplified musical instrument including a hand held device, and any other electronic noise producing equipment.

Exemption: two-way communication radios used for emergency, safety and public works requirements.

(e) Emergencies: Any occurrence or set of circumstances necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm.

(f) Decibels (dB): The decibel is used to measure sound pressure level. The dB is a logarithmic unit used to describe a ratio of sound pressure, loudness, power, voltage and several other things.

(g) Decibels "A" weighted scale (dBA): The most widely used sound level filter is the "A" weighted scale. This filter simulates the average human hearing profile. Using the "A" weighted scale, the meter is less sensitive to very low and high frequencies.

(h) Decibels "C" weighted scale (dBC): The "C" filter uses little filtering and has nearly a flat frequency response (equal magnitude of frequencies) throughout the audio range.

(i) Fixed Plant Equipment: Any equipment such as generators, air conditioners, compressors, engines, pumps, refrigeration units, fans, boilers, heat pumps and similar equipment.

(j) Frequency response: Is the measure of any system's response at the output to a signal of varying frequency but constant amplitude at its input. The theoretical frequency range for humans is 20 - 20,000 cycles/second (Hz).

(k) Hertz (Hz): Cycles per Second (cps).

(l) Loudness: A rise of 10dB in sound pressure level corresponds approximately to doubling of subjective loudness. That is, a sound of 65dB is twice as loud as a sound of 55dB.

(m) Leaf blowers: Any portable machine used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

(n) Noise: Sound which a listener does not wish to hear and is under investigation that may exceed the Noise requirements located in this Noise By-law.

(o) Noise Injury: Any sound that:

(1) endangers the safety of, or could cause injury to the health of humans; or
(2) endangers or injures personal or real property.

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards.

(q) Noise Pollution: If a Noise source increases Noise levels 10 dBA or more above the Background Noise Level, it shall be judged that a condition of Noise Pollution exists. However, if the Noise source is judged by ear to have a tonal sound, an increase of 5 dBA above Background Noise Level is sufficient to cause Noise Pollution.

(r) Person: Any individual, company, occupant, real property owner, or agent in control of real property.

(t) Sound: A fluctuation of air pressure which is propagated as a wave through air.

(u) Sound Level Meter: An instrument meeting Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.
(v) Sound Pressure Level: The level of Noise, normally expressed in decibels, as measured by a sound level meter.

(w) Tonal Sound: Any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

SECTION 8.15.3A MOTOR VEHICLE DEFINITIONS

(a) Gross Vehicle Weight Rating (GVWR): The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating, (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(b) Motorcycle: Any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

(c) Motor Vehicle: Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

SECTION 8.15.4 SOUND LEVEL EXAMPLES

The following are examples of approximate decibel readings of every day sounds:

0dBA	The faintest sound we can hear
30dBA	A typical library
45dBA	Typical office space
55dBA	Background Noise of a typical urban environment at night
65dBA	Background Noise of a typical urban environment during the day
70dBA	The sound of a car passing on the street
72dBA	The sound of two people speaking 4' apart
80dBA	Loud music played at home
90dBA	The sound of a truck passing on the street
100dBA	The sound of a rock band
115dBA	Limit of sound permitted in industry by OSHA
120dBA	Deafening
130dBA	Threshold of pain
140dBA	Rifle being fired at 3'
150dBA	Jet engine at a distance of 100'
194dBA	Theoretical limit for a sound wave at one atmosphere environmental pressure

SECTION 8.15.5 DUTIES AND RESPONSIBILITIES OF TOWN DEPARTMENTS

(a) Departmental Actions
All town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this By-law.

(b) Departmental Compliance with Other Laws
All town departments and agencies shall comply with federal and state laws and regulations and the provisions and intent of this By-law respecting the control and abatement of Noise to the same extent that any person is subject to such laws and regulations.

(c) The Department of Public Works is exempt for Day and Night time operations for routine maintenance including but not limited to snow removal, street cleaning, litter control, and graffiti removal, etc. However, the DPW shall make every effort to reduce Noise in residential areas, particularly at night.

(d) Prior to purchasing new equipment, the Department of Public Works must consider equipment with the lowest Decibel rating for the performance standard required.

(e) Any proposed new or proposed upgrade for a park or recreation facility must incorporate appropriate and feasible Noise abatement measures during the design review process.

SECTION 8.15.6 PROHIBITIONS AND MEASUREMENT OF NOISE EMISSIONS

(a) Use Restrictions

1. The following devices shall not be operated except between the hours of 8 (eight) A.M. to 8(eight) P.M. Monday through Friday, and from 9 (nine) A.M. to 8(eight) P.M. on Saturdays, Sundays and holidays:

All electric motor and internal combustion engine devices employed in yard and garden maintenance and repair.
Turf maintenance equipment employed in the maintenance of golf courses, snow blowers and snow removal equipment are exempt from this section.

2. The following devices shall not be operated except between the hours of 7(seven) A.M. to 7(seven) P.M. Monday through Friday, and from 8:30(eight-thirty) A.M. to 6(six) P.M. on Saturdays, Sundays and holidays:

All devices employed in construction or demolition, subject to the maximum Noise Levels specified in Section 8.15.6b and 8.15.6c.

(b) Vehicular Sources: Maximum Noise Levels Measurements shall be made at a distance of 50 (fifty) feet from the closest point of pass-by of a Noise source or 50(fifty) feet from a stationary vehicle.

	MAXIMUM NOISE LEVEL dBA	
Vehicle Class	Stationary Run-up or Speed Limit 35 mph or less	Speed Limit 35-45 mph
All vehicles over 10,000 lbs. GVWR or GCWR	83	87
All motorcycles	79	79
Automobiles and light trucks	75	75

(c) Construction and Maintenance Equipment:

Maximum Noise Levels
Noise measurements shall be made at 50 (fifty) feet from the source. The following Noise Levels shall not be exceeded:

Construction Item	Maximum Noise Level dBA	Maintenance Item	Maximum Noise Level dBA
Backhoe, bulldozer concrete mixer dumptruck, loader, roller, scraper, pneumatic tools, paver	90	Wood Chipper running concrete mixer,leaf vacuum	90
Air compressor	85	Chainsaw, solid waste compactor, tractor (full-size)	85
Generator	80	Home tractor, snow blower	80
		Lawn mower, trimmer,	75
Electric drills, power tools, sanders, saws, etc.	75	Leaf blowers	67

(d) Fixed Plant Equipment

Any person shall operate such equipment in a manner not to exceed 10 dBA over the Background Noise and not greater than 5 dBA of Tonal sound over the Background Noise. However, if the fixed equipment is operated during night time hours, the night time Sound Pressure Level of the Fixed Plant Equipment must not exceed the average daytime Background Noise to compensate for night time operations, which is assumed to be 10dBA below daytime Background Noise. See Definitions Section 8.15.3(c).

Noise measurements shall be made at the boundary of the property in which the offending source is located, or at the boundary line of the complainant if the complainant is not a direct abutter.

(e) Electronic Devices and Musical Instruments

No person owning, leasing or controlling the operation of any electronic device shall willfully or negligently permit the establishment or condition of Noise Injury or Noise Pollution.

In public spaces, the existence of Noise Injury or Noise Pollution is to be judged to occur at any location a passerby might reasonably occupy. When the offending Noise source is located on private property, Noise Injury or Noise Pollution judgments shall be made at the property line within which the offending source is located.

Any and all Decibel Levels of sound caused by playing non-electrified musical instruments between 9 A.M. and 9 P.M. shall be exempt with exception of drums.

(f) Leaf Blowers

No person shall operate any portable Leaf Blower(s) which does not bear an affixed manufacturer's label or a label from the town indicating the model number of the Leaf Blower(s) and designating a Noise Level not in excess of sixty-seven(67)dBA when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) or IEC 61672-1 methodology. Any Leaf Blower(s) which bears such a manufacturer's label or town's label shall be presumed to comply with the approved ANSI Noise Level limit or IEC Noise Limit under this By-law. However, any Leaf Blowers must be operated as per the operating instructions provided by the manufacturer. Any modifications to the equipment or label are prohibited. However, any portable Leaf Blower(s) that have been modified or damaged, determined visually by anyone who has enforcement authority for this By-law, may be required to have the unit tested by the town as provided for in this section, even if the unit has an affixed manufacturer's ANSI, IEC or town label. Any portable Leaf Blower(s) must comply with the labeling provisions of this By-law by January 1, 2010. However, the owners of any Leaf Blower(s) operating after January 1, 2010 without a manufacturer's ANSI or IEC label on the equipment, may obtain a label from the town by bringing the equipment to the town's municipal vehicle service center or such other facility designated by the Town for testing. The testing will be provided by the town's designated person for a nominal fee and by appointment only. Testing will be provided only between the months of May and October. If the equipment passes, a town label will be affixed to the equipment indicating Decibel Level.

Whether the equipment passes or not, the testing fee is non- refundable. Leaf blowers may be operated only during the hours specified in Section 8.15.6(a)(1). In the event that the label has been destroyed, the Town may replace the label after verifying the specifications listed in the owner's manual that it meets the requirements of this By-law.

(g) Animals

No person owning, keeping or controlling any animal shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the existence of Noise Pollution or Noise Injury.

(h) Additional Noise Sources

No person shall emit noise so as to cause a condition of Noise Pollution or Noise Injury.

(i) Alternative Measurement Procedures

If it is not possible to make a good Sound Pressure Level measurement at the distance as defined for specific equipment throughout Article 8.15, measurement may be made at an alternate distance and the level at the specified distance subsequently calculated. Calculations shall be made in accordance with established engineering procedures.

(j) Noise Level Exclusions

Any equipment that is used to satisfy local, state, federal health, welfare, environmental or safety codes shall be exempt from limitations for hours of operation (See Section 8.15.6(a)), except to the extent otherwise determined by the Board of Selectman. The following equipment shall also be exempt from Section 8.15.6(a) if necessary for emergency work performed by the Department of Public Works:

jack hammers
pavement breakers
pile drivers
rock drills
or such other equipment as the DPW deems necessary,

providing that effective Noise barriers are used to shield nearby areas from excessive Noise.

(k) Motor Vehicle Alarms

The sounding of any horn or signaling device as a part of a burglar, fire or alarm system (alarm) for any motor vehicle, unless such alarm is automatically terminated within ten minutes of activation and is not sounded again at all within the next sixty minutes, is prohibited. Any motor vehicle located on a public or private way or on public or private property whose alarm has been or continues to sound in excess of ten minutes in any sixty minute cycle is hereby deemed to be a public nuisance subject to immediate abatement. Any police officer who observes that the alarm has or is sounding in excess of ten minutes in any sixty minute cycle, who, after making a reasonable effort, is unable to contact the owner of such motor vehicle or, after contact, such owner fails or refuses to shut-off or silence the alarm or authorize the police officer to have the alarm shut-off or silenced, may abate the nuisance caused by the alarm by entering the vehicle to shut off or disconnect the power source of the alarm, by authorizing a member of the fire department or a tow company employee to enter such vehicle to shut off or disconnect the power source of the alarm and, if such efforts are unsuccessful, such officer is authorized to abate the nuisance by arranging for a tow company to tow the motor vehicle to an approved storage area or other place of safety. If a motor vehicle's alarm is shut off or disconnected from its power source and a police officer determines that the motor vehicle is not safe in its then location and condition, the police officer may arrange for a tow company to tow the motor vehicle to an approved storage area or other place of safety. The registered owner of the motor vehicle shall be responsible for all reasonable costs, charges and expenses incurred for the shutting-off or silencing of the alarm and all costs of the removal and storage of the motor vehicle. The provisions of Article 10.1 or Section 8.15.10 shall not apply to this paragraph (k).

(l) Tonal Sound Corrections

When a Tonal Sound is emitted by a Noise source, the limit on maximum Noise levels shall be 5 dB lower than specified.

SECTION 8.15.7 PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

(a) The Board of Selectmen, or designee, may give a special permit

(i) for any activity otherwise forbidden by the provisions of this By-law,

(ii) for an extension of time to comply with the provisions of this By-law and any abatement orders issued pursuant to it, and

(iii) when it can be demonstrated that bringing a source of Noise into compliance with the provisions of this By-law would create an undue hardship on a person or the community. A person seeking such a permit should make a written application to the Board of Selectmen, or designee. The Town will make all reasonable efforts to notify all direct abutters prior to the date of the Selectmen's meeting at which the issuance of a permit will be heard.

(b) The applications required by (a) shall be on appropriate forms available at the office of the Selectman. The Board of Selectmen, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria and conditions shall be considered:

(1) the cost of compliance will not cause the applicant excessive financial hardship;

(2) additional Noise will not have an excessive impact on neighboring citizens.

(3) the permit may require portable acoustic barriers during Night.

(4) the guidelines shall include reasonable deadlines for compliance or extension of non-compliance.

(5) the number of days a person seeking a special permit shall have to make written application after receiving notification from the Town that (s)he is in violation of the provisions of this By-law.

(c) If the Board of Selectmen, or designee, finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that any special permit granted under (a) would have adverse effects may file a statement with the Board of Selectmen, or designee, to support this claim.

SECTION 8.15.8 HEARINGS ON APPLICATION FOR PERMITS FOR EXEMPTIONS

Resolution of controversy shall be based upon the information supplied by both sides in support of their individual claims and shall be in accordance with the procedures defined in the appropriate guidelines issued by the Board of Selectmen, or designee.

SECTION 8.15.9 PENALTIES

(a) Any person who violates any provision of this By-law shall be subject to a fine pursuant to Article 10.3 (Non-Criminal Disposition) in accordance with GL c.40. Section 21d or they may be guilty of a misdemeanor in accordance with Article 10.1 of the Town By-law and each violation shall be subject to fines according to the following schedule:

(1) $50.00 for first offense;
(2) $100.00 for the second offense;
(3) $200.00 for the third offense;
(4) $200.00 for successive violations;
plus (5) court costs for any enforcement action.

Each day of a continuing violation shall be considered a separate violation. Fines that remain unpaid after 30 days shall accrue interest at the statutory rate of interest.

(b) If a person in violation of the Noise Control By-law at a real property is an occupant but not the record owner of the real property, the Police, Health, or Building Departments may notify the owner of record of the real property of the violation. If a fine is issued in connection with excessive Noise at real property to someone other than the record owner of the property then the record owner of that property shall be notified. If there are any successive violations at least 14 days after the notification of the record owner but within a one-year period, then the record owner of the property shall also be subject to the fine schedule delineated in Section (a).

(c) The Health, Building, Police and Public Works Departments shall have enforcement authority for the By-law. To report a violation, contact the appropriate department.

SECTION 8.15.10 SEVERABILITY

If any provisions of this article or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

ROLL CALL VOTE:
Favorable Action
DeWitt

May 27, 2014 Annual Town Meeting
12-22

Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Noise Control By-law, Article 8.15 of the Brookline Town By-laws sets noise volume standards, which are enforceable by four Town agencies: DPW, Building Department, Health Department and the Police Department. The By-law was passed at the November 18th 2011 Special Town Meeting and was based on work by a two-year Selectmen's study committee, of which the petitioner was co-chair. The petitioner has proposed the WA12 amendments to improve what he has found are some shortcomings of the bylaw: (1) lack of clear definition of certain terms, leading to confusion regarding how to interpret them; (2) limiting noise measurement standards to those used only by American equipment; and (3) requiring the police to obtain baseline noise levels during the nighttime.

DISCUSSION:
The Petitioner, an engineer with particular expertise in sound engineering, has had significant experience in the area of noise standards. He wrote Boston's noise by-law approximately 25 years ago, co-chaired the Selectmen's study committee that examined a similar one for Brookline and then wrote Brookline's Noise Control By-law, which was adopted by TM. The Petitioner proposes the following changes to improve the utility of the law:

1. Clarify the definitions of the terms "emergency generator" and "portable" in the definition of leaf blowers:

EMERGENCY GENERATOR. "Emergency generators" are exempt from the By-law; however, the lack of sufficient guidance in the By-law as to the definition led some members of the public to view home generators used to provide electricity during outages of limited duration as qualifying for exemption from the noise By-law as emergency generators. The exemption in the By-law was not intended to cover such uses of home generators absent a pressing need. Rather, such generators are considered stand-by or convenience generators according to the State Building Code, and so not exempt. The Petitioner adds "...or required by the latest edition of the State Building Code" to clarify when a generator is exempt as being used for an emergency.

PORTABLE LEAF BLOWER. Only portable leaf blowers are covered in the by-law. Lacking a definition of portability, however, has led to different interpretations as to what constitutes a "portable" leaf blower. According to the Petitioner, some people thought that if a leaf blower was movable, it was portable. The amendment adds wording specifying that portable leaf blowers refer to those that are either "carried by hand or carried as a backpack."
The clarification of these two terms would seem to have opposite outcomes for the implementation of the By-law. "Emergency generators," as defined by the amendments, likely will enable the Town to more easily enforce the By-law in circumstances when the applicability was not so clear before, thereby expanding its use. In contrast, providing a

definition of "portable" leaf blowers might, in practice, restrict the types of equipment for which the Town will enforce the By-Law's noise restrictions. Indeed, the Advisory Committee received letters expressing concerns that it might be possible for landscapers, who typically use hand-held or back-pack portable leaf blowers, to more easily skirt the by-law by putting the equipment in a cart or increasing the use of lawn-mower types of leaf blowers, since it will be clear under the amended law that these are exempt. While some members of the Advisory Committee had the same concerns, they also felt that this could be more appropriately addressed by specifically expanding the coverage of the Noise By-Law to cover other types of leaf blowers. Providing a clear definition of "portable," also should facilitate enforcement of the By-Law by Town employees.

2. Allow sound levels to be measured according to International IEC 61672-1 standards in addition to those specified under ANSI (American National Standard Institute), which are the only ones currently allowed in the present version of the By-law. The Petitioner provided two reasons for this change. First, by also allowing International acoustical standards, it would give the Town the option of buying a wider range of equipment. The Petitioner noted that this is becoming increasingly important, as American manufacturers, including Hewlett Packard, GenRad and Raytheon, have been halting their production of sound meter equipment. Second, the Petitioner noted that European meters have the advantage of a USB port to download data from the meter into a computer, providing a means to record and store the noise measurement so that it can be used as testimony in court in the case of disputes. The Advisory Committee received a public comment questioning whether the European standards were as rigorous as American standards. The Petitioner noted that both types of measurement tools are of high quality, that they cost similar amounts, that there is at most a ½ dBA difference in the two sets of standards, and that adding more options allows for the advantages discussed earlier. This is mean to provide the Town flexibility in its purchases of equipment.

3. Provide a proxy measure of nighttime ambient noise, based on an adjustment of daytime noise measurements. The Petitioner explained that to measure nighttime noise levels in various parts of Brookline in response to nighttime noise complaints, the Town's previous Building Commissioner, Mike Shepard, walked around Brookline neighborhoods with a sound level meter late into the night. According to the Petitioner, a sampling of nighttime sound levels in various parts of Brookline showed that there was roughly a 10 dBA difference between nighttime and daytime noise levels. Therefore, to eliminate the need for Town staff to measure ambient noise during the night, this amendment allows for the measurement during the day, with a 10dBA adjustment made to estimate nighttime levels. Some concerns have been raised in public comments that this type of estimation might lead to inaccurate findings. For example, areas of Town that are very busy during the day quiet down considerably at night, whereas other areas of Town are relatively peaceful during the day and at night. The Petitioner responded that, surprisingly, the samplings indicated that the variation was not so large to negate the usefulness of the proposed proxy measurements even if there is variation in different areas of town.

RECOMMENDATION:
By a unanimous vote of 18-0-0, the Advisory Committee recommends FAVORABLE ACTION on the following, which is identical to the Article as filed:

VOTED: That the Town amend the General By-laws, Article 8.15, Noise Control, as follows (language to be deleted appears as a strike-out and new language is underlined):

ARTICLE 8.15
NOISE CONTROL

SECTION 8.15.1 SHORT TITLE

This By-law may be cited as the "Noise Control By-law of The Town of Brookline".

SECTION 8.15.2 DECLARATION OF FINDINGS, POLICY AND SCOPE

(a) Whereas excessive Noise is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive Noise may be substantially abated; and whereas the people have a right to and should be ensured an environment free from excessive Noise that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the Town of Brookline to prevent excessive Noise which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(b) Scope. This By-law shall apply to the control of all sound originating within the limits of the Town of Brookline.

1. Provisions in this By-law shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or in training exercises related to emergency activities, and in the performance of public safety activities.

2. Emergency generators used for power outages, ~~or~~ testing ~~of~~ required by the latest edition of the State Building Code are exempt from this By-law. However, generator testing must be done during daylight hours.

3. Noncommercial public speaking and public assembly activities as guaranteed by state and federal constitutions shall be exempt from the operation of this By-law.

SECTION 8.15.3 DEFINITIONS

(a) Ambient or Background Noise Level: Is the term used to describe the Noise measured in the absence of the Noise under investigation. It shall be calculated using the average lowest sound pressure level measured over a period of not less than five minutes using a sound

pressure level meter set for slow response on the "A" weighting filter in a specific area of the town under investigation. Background Noise Level at Night for the purpose of enforcement of this By-Law shall be 10 dBA lower than Background Noise Level measured during the Day.

(b) Construction and Demolition: Any site preparation, assembly erection, substantial repair, alteration, destruction or similar action for public or private rights-of-way, structures, utilities, or similar property.

(c) Day: 7:01 AM - 10:59 PM and Night: 11:00 PM – 7:00 AM

(d) Electronic Devices: Any radio, tape recorder, television, CD, stereo, public address system, loud speaker, amplified musical instrument including a hand held device, and any other electronic noise producing equipment.

Exemption: two-way communication radios used for emergency, safety and public works requirements.

(e) Emergencies: Any occurrence or set of circumstances necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm.

(f) Decibels (dB): The decibel is used to measure sound pressure level. The dB is a logarithmic unit used to describe a ratio of sound pressure, loudness, power, voltage and several other things.

(g) Decibels "A" weighted scale (dBA): The most widely used sound level filter is the "A" weighted scale. This filter simulates the average human hearing profile. Using the "A" weighted scale, the meter is less sensitive to very low and high frequencies.

(h) Decibels "C" weighted scale (dBC): The "C" filter uses little filtering and has nearly a flat frequency response (equal magnitude of frequencies) throughout the audio range.

(i) Fixed Plant Equipment: Any equipment such as generators, air conditioners, compressors, engines, pumps, refrigeration units, fans, boilers, heat pumps and similar equipment.

(j) Frequency response: Is the measure of any system's response at the output to a signal of varying frequency but constant amplitude at its input. The theoretical frequency range for humans is 20 - 20,000 cycles/second (Hz).

(k) Hertz (Hz): Cycles per Second (cps).

(l) Loudness: A rise of 10dB in sound pressure level corresponds approximately to doubling of subjective loudness. That is, a sound of 65dB is twice as loud as a sound of 55dB.

(m) Leaf blowers: Any portable machine ~~carried by hand or configured as a backpack~~ used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

(n) Noise: Sound which a listener does not wish to hear and is under investigation that may exceed the Noise requirements located in this Noise By-law.

(o) Noise Injury: Any sound that:

(1) endangers the safety of, or could cause injury to the health of humans; or
(2) endangers or injures personal or real property.

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards.

(q) Noise Pollution: If a Noise source increases Noise levels 10 dBA or more above the Background Noise Level, it shall be judged that a condition of Noise Pollution exists. However, if the Noise source is judged by ear to have a tonal sound, an increase of 5 dBA above Background Noise Level is sufficient to cause Noise Pollution.

(r) Person: Any individual, company, occupant, real property owner, or agent in control of real property.

(t) Sound: A fluctuation of air pressure which is propagated as a wave through air.

(u) Sound Level Meter: An instrument meeting Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.
(v) Sound Pressure Level: The level of Noise, normally expressed in decibels, as measured by a sound level meter.

(w) Tonal Sound: Any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

SECTION 8.15.3A MOTOR VEHICLE DEFINITIONS

(a) Gross Vehicle Weight Rating (GVWR): The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating, (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(b) Motorcycle: Any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

(c) Motor Vehicle: Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

SECTION 8.15.4 SOUND LEVEL EXAMPLES

The following are examples of approximate decibel readings of every day sounds:

0dBA	The faintest sound we can hear
30dBA	A typical library
45dBA	Typical office space
55dBA	Background Noise of a typical urban environment at night
65dBA	Background Noise of a typical urban environment during the day
70dBA	The sound of a car passing on the street
72dBA	The sound of two people speaking 4' apart
80dBA	Loud music played at home
90dBA	The sound of a truck passing on the street
100dBA	The sound of a rock band
115dBA	Limit of sound permitted in industry by OSHA
120dBA	Deafening
130dBA	Threshold of pain
140dBA	Rifle being fired at 3'
150dBA	Jet engine at a distance of 100'
194dBA	Theoretical limit for a sound wave at one atmosphere environmental pressure

SECTION 8.15.5 DUTIES AND RESPONSIBILITIES OF TOWN DEPARTMENTS

(a) Departmental Actions
All town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this By-law.

(b) Departmental Compliance with Other Laws
All town departments and agencies shall comply with federal and state laws and regulations and the provisions and intent of this By-law respecting the control and abatement of Noise to the same extent that any person is subject to such laws and regulations.

(c) The Department of Public Works is exempt for Day and Night time operations for routine maintenance including but not limited to snow removal, street cleaning, litter control, and graffiti removal, etc. However, the DPW shall make every effort to reduce Noise in residential areas, particularly at night.

(d) Prior to purchasing new equipment, the Department of Public Works must consider equipment with the lowest Decibel rating for the performance standard required.

(e) Any proposed new or proposed upgrade for a park or recreation facility must incorporate appropriate and feasible Noise abatement measures during the design review process.

SECTION 8.15.6 PROHIBITIONS AND MEASUREMENT OF NOISE EMISSIONS

(a) Use Restrictions

1. The following devices shall not be operated except between the hours of 8 (eight) A.M. to 8(eight) P.M. Monday through Friday, and from 9 (nine) A.M. to 8(eight) P.M. on Saturdays, Sundays and holidays:

All electric motor and internal combustion engine devices employed in yard and garden maintenance and repair.
Turf maintenance equipment employed in the maintenance of golf courses, snow blowers and snow removal equipment are exempt from this section.

2. The following devices shall not be operated except between the hours of 7(seven) A.M. to 7(seven) P.M. Monday through Friday, and from 8:30(eight-thirty) A.M. to 6(six) P.M. on Saturdays, Sundays and holidays:

All devices employed in construction or demolition, subject to the maximum Noise Levels specified in Section 8.15.6b and 8.15.6c.

(b) Vehicular Sources: Maximum Noise Levels Measurements shall be made at a distance of 50 (fifty) feet from the closest point of pass-by of a Noise source or 50(fifty) feet from a stationary vehicle.

MAXIMUM NOISE LEVEL dBA

Vehicle Class	Stationary Run-up or Speed Limit 35 mph or less	Speed Limit 35-45 mph
All vehicles over 10,000 lbs. GVWR or GCWR	83	87
All motorcycles	79	79
Automobiles and light trucks	75	75

(c) Construction and Maintenance Equipment:

Maximum Noise Levels
Noise measurements shall be made at 50 (fifty) feet from the source. The following Noise Levels shall not be exceeded:

Construction Item	Maximum Noise Level dBA	Maintenance Item	Maximum Noise Level dBA
Backhoe, bulldozer concrete mixer dumptruck, loader, roller, scraper, pneumatic tools, paver	90	Wood Chipper running concrete mixer,leaf vacuum	90
Air compressor	85	Chainsaw, solid waste compactor, tractor (full-size)	85
Generator	80	Home tractor, snow blower	80
		Lawn mower, trimmer,	75
Electric drills, power tools, sanders, saws, etc.	75	Leaf blowers	67

(d) Fixed Plant Equipment

Any person shall operate such equipment in a manner not to exceed 10 dBA over the Background Noise and not greater than 5 dBA of Tonal sound over the Background Noise. However, if the fixed equipment is operated during night time hours, the night time Sound Pressure Level of the Fixed Plant Equipment must not exceed the average daytime Background Noise to compensate for night time operations, which is assumed to be 10dBA below daytime Background Noise. See Definitions Section 8.15.3(c).

Noise measurements shall be made at the boundary of the property in which the offending source is located, or at the boundary line of the complainant if the complainant is not a direct abutter.

(e) Electronic Devices and Musical Instruments

No person owning, leasing or controlling the operation of any electronic device shall willfully or negligently permit the establishment or condition of Noise Injury or Noise Pollution.

In public spaces, the existence of Noise Injury or Noise Pollution is to be judged to occur at any location a passerby might reasonably occupy. When the offending Noise source is located on private property, Noise Injury or Noise Pollution judgments shall be made at the property line within which the offending source is located.

Any and all Decibel Levels of sound caused by playing non-electrified musical instruments between 9 A.M. and 9 P.M. shall be exempt with exception of drums.

(f) Leaf Blowers

No person shall operate any portable Leaf Blower(s) which does not bear an affixed manufacturer's label or a label from the town indicating the model number of the Leaf Blower(s) and designating a Noise Level not in excess of sixty-seven(67)dBA when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) or IEC 61672-1 methodology. Any Leaf Blower(s) which bears such a manufacturer's label or town's label shall be presumed to comply with the approved ANSI Noise Level limit or IEC Noise Limit under this By-law. However, any Leaf Blowers must be operated as per the operating instructions provided by the manufacturer. Any modifications to the equipment or label are prohibited. However, any portable Leaf Blower(s) that have been modified or damaged, determined visually by anyone who has enforcement authority for this By-law, may be required to have the unit tested by the town as provided for in this section, even if the unit has an affixed manufacturer's ANSI, IEC or town label. Any portable Leaf Blower(s) must comply with the labeling provisions of this By-law by January 1, 2010. However, the owners of any Leaf Blower(s) operating after January 1, 2010 without a manufacturer's ANSI or IEC label on the equipment, may obtain a label from the town by bringing the equipment to the town's municipal vehicle service center or such other facility designated by the Town for testing. The testing will be provided by the town's designated person for a nominal fee and by appointment only. Testing will be provided only between the months of May and October. If the equipment passes, a town label will be affixed to the equipment indicating Decibel Level.

Whether the equipment passes or not, the testing fee is non- refundable. Leaf blowers may be operated only during the hours specified in Section 8.15.6(a)(1). In the event that the label has been destroyed, the Town may replace the label after verifying the specifications listed in the owner's manual that it meets the requirements of this By-law.

(g) Animals

No person owning, keeping or controlling any animal shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the existence of Noise Pollution or Noise Injury.

(h) Additional Noise Sources

No person shall emit noise so as to cause a condition of Noise Pollution or Noise Injury.

(i) Alternative Measurement Procedures

If it is not possible to make a good Sound Pressure Level measurement at the distance as defined for specific equipment throughout Article 8.15, measurement may be made at an alternate distance and the level at the specified distance subsequently calculated. Calculations shall be made in accordance with established engineering procedures.

(j) Noise Level Exclusions

Any equipment that is used to satisfy local, state, federal health, welfare, environmental or safety codes shall be exempt from limitations for hours of operation (See Section 8.15.6(a)), except to the extent otherwise determined by the Board of Selectman. The following equipment shall also be exempt from Section 8.15.6(a) if necessary for emergency work performed by the Department of Public Works:

jack hammers
pavement breakers
pile drivers
rock drills
or such other equipment as the DPW deems necessary,

providing that effective Noise barriers are used to shield nearby areas from excessive Noise.

(k) Motor Vehicle Alarms

The sounding of any horn or signaling device as a part of a burglar, fire or alarm system (alarm) for any motor vehicle, unless such alarm is automatically terminated within ten minutes of activation and is not sounded again at all within the next sixty minutes, is prohibited. Any motor vehicle located on a public or private way or on public or private property whose alarm has been or continues to sound in excess of ten minutes in any sixty minute cycle is hereby deemed to be a public nuisance subject to immediate abatement. Any police officer who observes that the alarm has or is sounding in excess of ten minutes in any sixty minute cycle, who, after making a reasonable effort, is unable to contact the owner of such motor vehicle or, after contact, such owner fails or refuses to shut-off or silence the alarm or authorize the police officer to have the alarm shut-off or silenced, may abate the nuisance caused by the alarm by entering the vehicle to shut off or disconnect the power source of the alarm, by authorizing a member of the fire department or a tow company employee to enter such vehicle to shut off or disconnect the power source of the alarm and, if such efforts are unsuccessful, such officer is authorized to abate the nuisance by arranging for a tow company to tow the motor vehicle to an approved storage area or other place of safety. If a motor vehicle's alarm is shut off or disconnected from its power source and a police officer determines that the motor vehicle is not safe in its then location and condition, the police officer may arrange for a tow company to tow the motor vehicle to an approved storage area or other place of safety. The registered owner of the motor vehicle shall be responsible for all reasonable costs, charges and expenses incurred for the shutting-off or silencing of the alarm and all costs of the removal and storage of the motor vehicle. The provisions of Article 10.1 or Section 8.15.10 shall not apply to this paragraph (k).

(l) Tonal Sound Corrections

When a Tonal Sound is emitted by a Noise source, the limit on maximum Noise levels shall be 5 dB lower than specified.

SECTION 8.15.7 PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

(a) The Board of Selectmen, or designee, may give a special permit

(i) for any activity otherwise forbidden by the provisions of this By-law,

(ii) for an extension of time to comply with the provisions of this By-law and any abatement orders issued pursuant to it, and

(iii) when it can be demonstrated that bringing a source of Noise into compliance with the provisions of this By-law would create an undue hardship on a person or the community. A person seeking such a permit should make a written application to the Board of Selectmen, or designee. The Town will make all reasonable efforts to notify all direct abutters prior to the date of the Selectmen's meeting at which the issuance of a permit will be heard.

(b) The applications required by (a) shall be on appropriate forms available at the office of the Selectman. The Board of Selectmen, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria and conditions shall be considered:

(1) the cost of compliance will not cause the applicant excessive financial hardship;

(2) additional Noise will not have an excessive impact on neighboring citizens.

(3) the permit may require portable acoustic barriers during Night.

(4) the guidelines shall include reasonable deadlines for compliance or extension of non-compliance.

(5) the number of days a person seeking a special permit shall have to make written application after receiving notification from the Town that (s)he is in violation of the provisions of this By-law.

(c) If the Board of Selectmen, or designee, finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that any special permit granted under (a) would have adverse effects may file a statement with the Board of Selectmen, or designee, to support this claim.

SECTION 8.15.8 HEARINGS ON APPLICATION FOR PERMITS FOR EXEMPTIONS

Resolution of controversy shall be based upon the information supplied by both sides in support of their individual claims and shall be in accordance with the procedures defined in the appropriate guidelines issued by the Board of Selectmen, or designee.

SECTION 8.15.9 PENALTIES

(a) Any person who violates any provision of this By-law shall be subject to a fine pursuant to Article 10.3 (Non-Criminal Disposition) in accordance with GL c.40. Section 21d or they may be guilty of a misdemeanor in accordance with Article 10.1 of the Town By-law and each violation shall be subject to fines according to the following schedule:

(1) $50.00 for first offense;
(2) $100.00 for the second offense;
(3) $200.00 for the third offense;
(4) $200.00 for successive violations;
plus (5) court costs for any enforcement action.

Each day of a continuing violation shall be considered a separate violation. Fines that remain unpaid after 30 days shall accrue interest at the statutory rate of interest.

(b) If a person in violation of the Noise Control By-law at a real property is an occupant but not the record owner of the real property, the Police, Health, or Building Departments may notify the owner of record of the real property of the violation. If a fine is issued in connection with excessive Noise at real property to someone other than the record owner of the property then the record owner of that property shall be notified. If there are any successive violations at least 14 days after the notification of the record owner but within a one-year period, then the record owner of the property shall also be subject to the fine schedule delineated in Section (a).

(c) The Health, Building, Police and Public Works Departments shall have enforcement authority for the By-law. To report a violation, contact the appropriate department.

SECTION 8.15.10 SEVERABILITY

If any provisions of this article or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Defeated Unanimously

XXX

ARTICLE 13

THIRTEENTH ARTICLE
Submitted by: Nathan Bermel

Whether the Town should amend Article 8.23 of the Town's General By-laws, *Tobacco Control,* as follows:

Article 8.23, Sec. 8.23.3: REGULATED CONDUCT

By amending paragraph (a)[1] of Section 8.23.3, *Public Places*, by adding the following subparagraph (4):

(4) No person shall smoke in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School grounds.

The Commissioner of Public Works shall erect and maintain signage identifying the locations where smoking is prohibited under this paragraph (4). Such signage shall be erected so as to notify the public of the smoking prohibition and the areas affected thereby.

Article 8.23, Sec. 8.23.6: VIOLATIONS AND PENALTIES

By amending paragraph (a) of Section 8.23.6, *Violations and Penalties*, by adding the following sentence after the first sentence in said paragraph (a):

For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of the fines set forth in this Section and in Section 10.3 of these By-laws.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Tobacco use is a leading cause of preventable morbidity and mortality in the United States; approximately 443,000 people die prematurely each year and another 8.6 million live with a serious illness due to tobacco use.[2] The negative consequences of using tobacco products include but are not limited to: cancers, respiratory and cardiac diseases, negative birth outcomes, and susceptibility to infectious diseases.

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[1] As amended at the November 19, 2013 Special Town Meeting.

[2] Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. MMWR Morb Mortal Wkly Rep. 2008; 57(45):1226-1228.

Despite current laws that prohibit the sale of tobacco products to minors, youth smoking remains a major public health problem. In the 24th Surgeon General's Report, U.S. Surgeon General David Satcher documented that smoking among U.S. high school students increased thirty three percent (33%) from 1992-1998.[3] According to a 2000 survey conducted by the Centers for Disease Control and Prevention, eighty two percent (82%) of smokers tried their first cigarette before the age of eighteen.[4] These numbers are alarming because the earlier a young person's smoking habit begins, the more likely he or she will suffer those diseases caused by smoking.[5] What is more, once someone becomes addicted to tobacco products, it is exceptionally difficult for that person to stop using them.[6] Individuals may start simply experimenting with tobacco use, but before they are aware of their own level of addiction, they begin to want, then crave, then need cigarettes, at which point they are unable to quit.[7] To break this pattern, Brookline must implement measures to make it more difficult for youth to access tobacco.

Currently, students at Brookline high school have easy access to tobacco products. School rules prohibit the use of tobacco products on school property, and yet throughout the day many students can be seen smoking in front of the high school. This is because the Greenough Street sidewalk opposite the school entrance is defined as public property rather than school property. This allows students to smoke, without restrain, a mere fifteen yards from the school's entrance. Students take advantage of this, and from eight o'clock to sunset one can count on smokers being in front of the high school.

While at the moment legal, this pattern creates significant problems for the community. One issue is the presence of secondhand smoke. Any exposure to secondhand smoke is enough to damage health; possible effects include lung cancer, heart disease, and respiratory issues (citation:http://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/) Because Greenough Street is the initial post-school social destination for hundreds of students daily, many are consistently at risk of inhaling secondhand smoke. Implementing the no-smoke zone would remove any potential hazard by relocating smokers away from the high school. In addition, undesirable fumes, odors, and litter would also be eliminated.

Implementing the no-smoke zone would also greatly reduce the number of new student smokers. For some in the high school, especially freshmen, the highly visible smokers are perceived to have status. Joining the group of smokers provides some with a readily

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[3] Centers for Disease Control and Prevention, *Tobacco Use Among High School Students-United States, 1997*, 47 MORBIDITY & MORTALITY WKLY. REP. 229 (1998)

[4] Centers for Disease Control and Prevention, "Youth Surveillance- United States 2000," 50 MMWR 1 (Nov. 2000).

[5] Emanuela Taioli & Ernst L. Wynder, *Effect of the Age at Which Smoking Begins on Frequency of Smoking in Adulthood*, 325 NEW ENG. J. MED. 968-969 (1991).

[6] *See* U.S Dep't of Health and Human Servs., THE HEALTH CONSEQUENCES OF SMOKING-NICOTINE ADDICTION: A REPORT OF THE SURGEON GENERAL iii-v (1988).

[7] Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics.* 2011;7(2):88-96.

available social group. By relocating the currently accessible smokers, fewer students will be negatively influenced.

Additionally, present smokers will be less likely to smoke. Because of students' current accessibility to places to smoke, all of five minutes are needed to go out front and smoke a cigarette. Throughout the day there are endless opportunities to do so, such as the five minutes between each class, thirty minutes for lunch, and up to sixty minutes during any free blocks. These times are being taken advantage of, and by increasing the distance smokers have to travel, there will be less time and fewer opportunities for students to smoke.

A similar law was implemented at Newton North High School in 2008. In just 3 years, the percentage of students who said they had smoked in the last thirty days declined from (13%) to (4%) and daily use of tobacco was reduced by more than fifty percent. Regular tobacco users also reported a decline in their use. (9.1% of girls and 13.1% of boys)
A no-smoke zone around the high school would help curtail Brookline's youths' access to tobacco and nicotine products and potentially reduce youth smoking rates within the town. 90% of smokers in the United States start to smoke prior to age 21.[8] However, people who reach the age of 21 as a non-smoker have only a 2% chance of ever becoming a smoker. This law would significantly decrease the number of students who started smoking at an early age. For these reasons, there is interest in implementing a 900-foot no-smoke around Brookline High School.[9]

The intent of this warrant article is to allow the town of Brookline to help curtail youth smoking. This warrant article is comparable to tobacco laws that have been passed in Newton.

SELECTMEN'S RECOMMENDATION

Article 13 is a petitioned article that would create a 400 foot no-smoking buffer around Brookline High School. Currently, school rules prohibit the use of tobacco products on school property. However, since the Greenough Street sidewalk opposite the school entrance is defined as public property rather than school property, students can smoke in front of the high school, just 15 yards from the school's entrance. This causes a number of issues, including portraying an image that smoking is acceptable and exposure to secondhand smoke.

The Selectmen are fully supportive of this article and congratulate the students that worked to get this article before Town Meeting. This is another example of the quality of the

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[8] *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health;2012.
[9] Bolton MM. Tobacco buying age now set at 21. *Boston Globe*May 18, 2013.

students that the Brookline Public Schools produce. Everyone should be proud of these students and supportive of their efforts. By a vote of 5-0 taken on April 17, 2014, the Selectmen recommend FAVORABLE ACTION on the motion offered by the Advisory Committee, which modifies the language of the original article by replacing the word "person" in the first sentence of section (4) with "minor or school personnel".

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 13 is submitted by co-petitioners Nathan Bermel and Mary Fuhlbrigge.

Warrant Article 13 seeks to amend Article 8.23 of the Town's General Bylaws on Tobacco Control by amending section 8.23.3 on regulating conduct in Public Places by adding the following sub paragraph

Article 8.23, SEC 8.23.4
[No **person** shall smoke in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School Grounds.
The Commissioner of Public Works shall erect and maintain signage identifying the locations where smoking is prohibited under this paragraph…]

And by amending section 8.23.6 (Violations and Penalties) by adding the following sentence after the first paragraph
Article 8.23, SEC 8.23.6
For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of fines set forth in this section and in Section 10.3 of these By-Laws

Tobacco control is the leading cause of preventable deaths and the article was filed to continue to change High School Students' smoking behaviors by creating a no-smoking zone (the age 19 tobacco purchase limit has not created a great change). A change in behaviors will result in fewer addictions and will save lives in the future. Currently the side walk in front of the HS ("Smokers Alley") is usually populated with groups of smokers throughout the school day and larger groups of smokers congregate there after school.

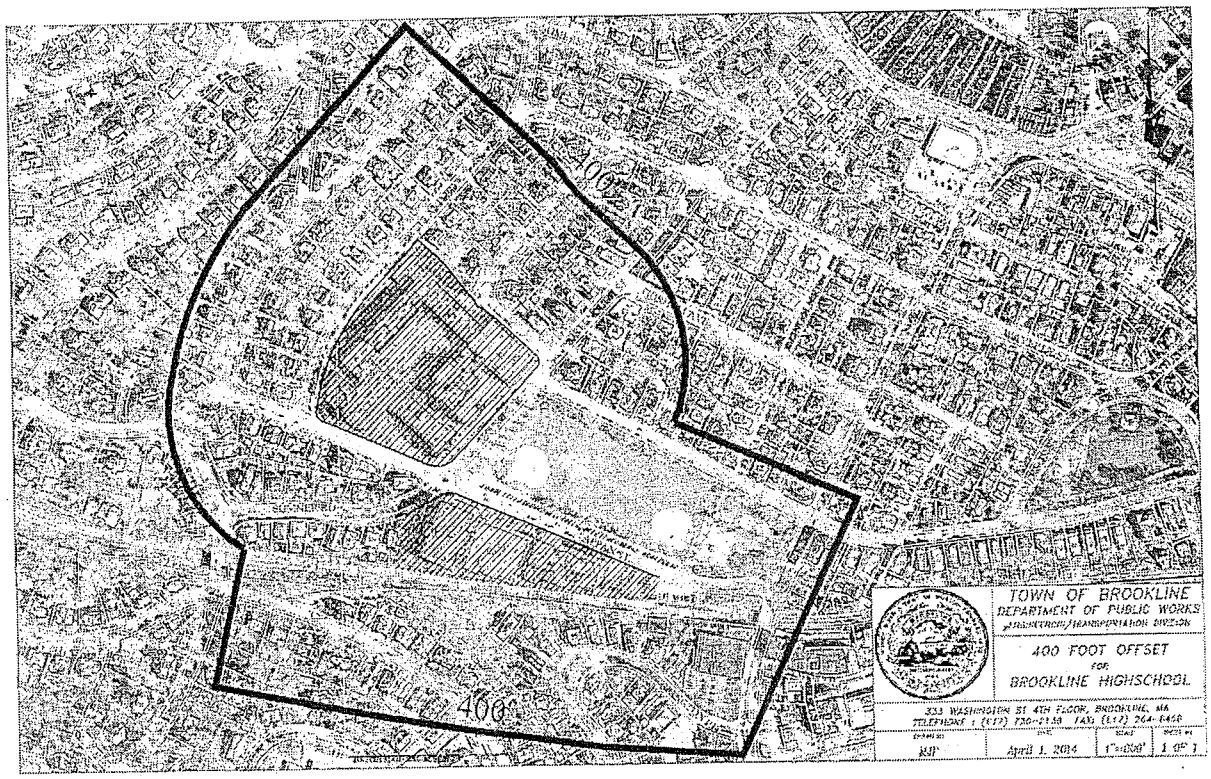
DISCUSSION:
At BHS 17% of seniors have smoked recently. When surrounding communities implemented no-smoking zones smoking decreased sharply – at Newton North down to 4% for girls and 6.3% for boys.

The petitioners want to make a better impression when visitors come to our High School. They

are concerned about second hand smoke for all who pass by and do not want to normalize smoking behaviors for the BEEP preschoolers who are located at the HS. The intent of the article is not to punish smokers, but to take a smoking cessation class instead of a fine"

The 400 feet perimeter covers a large area, however, according to Dr. Jonathan P. Winnickoff, the size of a no-smoking zone is important for de-normalizing smoking and the development of a large SAFE ZONE.

Concern was raised about banning something on a public street that is not banned to others in town, as well as how the proposed ban will affect adult activities in the evening (soft ball, dog walkers, people chatting and so on. In addition the wording in this article suggests smoking cessation/education programs instead of fines for *all* violations related to tobacco use. Amending 8.23.4 by substituting the word **MINORS and SCHOOL PERSONNEL** for "person", will eliminate this concern. Enforcement of this article falls on both the school department and the health department. Dr. Balsam stated that the goal of this article is to stop High School students from smoking on school grounds, not to harrass park users.



RECOMMENDATION:
The Advisory Committee voted FAVORABLE ACTION by a vote of 14-4-2 as follows, which reflects the vote to replace 'persons' with 'minors and school personnel':

VOTED: That the Town amend Article 8.23 of the Town's General By-laws, *Tobacco Control,* as follows:

Article 8.23, Sec. 8.23.3: REGULATED CONDUCT

By amending paragraph (a)[10] of Section 8.23.3, *Public Places*, by adding the following subparagraph (4):

(4) No minor or school personnel shall smoke in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School grounds.

The Commissioner of Public Works shall erect and maintain signage identifying the locations where smoking is prohibited under this paragraph (4). Such signage shall be erected so as to notify the public of the smoking prohibition and the areas affected thereby.

Article 8.23, Sec. 8.23.6: VIOLATIONS AND PENALTIES

By amending paragraph (a) of Section 8.23.6, *Violations and Penalties*, by adding the following sentence after the first sentence in said paragraph (a):

For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of the fines set forth in this Section and in Section 10.3 of these By-laws.

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Passed by a Counted Vote of
258 In Favor / Opposed

[10] As amended at the November 19, 2013 Special Town Meeting.

ARTICLE 14

FOURTEENTH ARTICLE
Submitted by: Nathan Bermel

To see if the Town will amend Article 8.23, Section 8.23.2(d) of the Town's General By-laws, Tobacco Control, definition of Minor, by deleting the word "nineteen" and replacing it with the word "twenty-one",

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Tobacco use is a leading cause of preventable morbidity and mortality in the United States; approximately 443,000 people die prematurely each year and another 8.6 million live with a serious illness due to tobacco use.[1] The negative consequences of using tobacco products include but are not limited to: cancers, respiratory and cardiac diseases, negative birth outcomes, and susceptibility to infectious diseases.

Despite current laws that prohibit the sale of tobacco products to minors, youth smoking remains a major public health problem. In the 24th Surgeon General's Report, U.S. Surgeon General David Satcher documented that smoking among U.S. high school students increased thirty three percent (33%) from 1992-1998.[2] According to a 2000 survey conducted by the Centers for Disease Control and Prevention, eighty two percent (82%) of smokers tried their first cigarette before the age of eighteen.[3] These numbers are alarming because the earlier a young person's smoking habit begins, the more likely he or she will suffer those diseases caused by smoking.[4] What is more, once someone becomes addicted to tobacco products, it is exceptionally difficult for that person to stop using them.[5] Individuals may start simply experimenting with tobacco use, but before they are aware of their own level of addiction, they begin to want, then crave, then need cigarettes, at which point they are unable to quit.[6] To break or change this pattern, Brookline must make it more difficult for merchants to sell to minors. If teenagers have difficulty buying tobacco, the initiation of tobacco use can be delayed or prevented.[7]

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[1] Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. MMWR Morb Mortal Wkly Rep. 2008; 57(45):1226-1228.
[2] Centers for Disease Control and Prevention, *Tobacco Use Among High School Students-United States, 1997*, 47 MORBIDITY & MORTALITY WKLY. REP. 229 (1998)
[3] Centers for Disease Control and Prevention, "Youth Surveillance- United States 2000," 50 MMWR 1 (Nov. 2000).
[4] Emanuela Taioli & Ernst L. Wynder, *Effect of the Age at Which Smoking Begins on Frequency of Smoking in Adulthood*, 325 NEW ENG. J. MED. 968-969 (1991).
[5] *See* U.S Dep't of Health and Human Servs., THE HEALTH CONSEQUENCES OF SMOKING-NICOTINE ADDICTION: A REPORT OF THE SURGEON GENERAL iii-v (1988).
[6] Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.

[7] U. S. Dep't of Health & Human Servs, PREVENTING TOBACCO USE AMONG YOUNG PEOPLE: SURGEON GENERAL'S REPORT (1994).

Prohibiting the sale of tobacco and nicotine containing products to people under the age of twenty-one would help curtail Brookline's youths' access to these products and potentially reduce youth smoking rates within the town. As the law currently stands, any person nineteen years or older can legally purchase and consume tobacco products. At Brookline High School, this means that a significant percentage of current seniors will be able to legally purchase tobacco products this year.[8] It should be noted that 90% of people who purchase cigarettes for distribution to minors are between the ages of 18 and 20.[9] Since, under usual circumstances, students do not reach twenty-one years of age while still enrolled in high school, increasing the legal age of consumption would greatly reduce the number of students in Brookline High School that could purchase tobacco products. By decreasing the number of eligible buyers in high school, this warrant article could help reduce youth smoking by decreasing the access of students to tobacco products. 90% of smokers in the United States start to smoke prior to age 21.[10] However, people who reach the age of 21 as a non-smoker have only a 2% chance of ever becoming a smoker. For these reasons, there is interest in extending the benefits of restricting tobacco sales to minors to apply to all individuals under the age of 21 in Brookline.[11]

The intent of this warrant article is to allow the town of Brookline to help curtail youth smoking. This warrant article is comparable to tobacco laws that exist in other towns. Locally, warrant articles that increase the age of consumption for tobacco products to twenty-one have passed in Needham, Ashland, Dover, Canton, and Sharon without issue. Twenty-one (21) is now set to become the minimum age of purchase for tobacco and nicotine products in New York City.

SELECTMEN'S RECOMMENDATION

Article 14 is a petitioned article that would amend the Town's General By-Laws by increasing the minimum age to buy tobacco products from 19 to 21. While the State minimum is 18 years old, municipalities are able to require a higher age. Clearly, tobacco use is an unhealthy choice that leads to serious health issues, and the Town has been a leader in taking steps to reduce the use of tobacco, especially by our youth. For example, in an effort to help reduce the opportunity for our youth to purchase these products, the Town has recently:

- increased from 18 to 19 the minimum age to buy tobacco products (May, 2012 Annual Town Meeting)

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[8] Hal Mason, Assistant Headmaster, Brookline High School

[9] Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.

[10] *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health;2012.

[11] Bolton MM. Tobacco buying age now set at 21. *Boston Globe*May 18, 2013.

- prohibited the sale of tobacco products on the property of any educational institution or health care provider, such as pharmacies (At the November, 2011 Special Town Meeting)

Increasing the minimum age to 21 will further address the flow of tobacco products to high school age youth.

The Selectmen are fully supportive of this article and congratulate the students that worked to get this article before Town Meeting. As we stated under the Article 13 Recommendation, this is another example of the quality of the students that the Brookline Public Schools produce and everyone should be proud of these students and supportive of their efforts. By a vote of 5-0 taken on April 8, 2014, the Selectmen recommend FAVORABLE ACTION on the following motion:

VOTED: That the Town amend Article 8.23, Section 8.23.2(d) of the Town's General By-laws, Tobacco Control, definition of Minor, by deleting the word "nineteen" and replacing it with the word "twenty-one".

Passed by a Majority Vote

ADVISORY COMMITTEE'S RECOMMENDATION

Article 14, submitted by co-petitioners and Brookline High School students Nathan Bermel and Mary Fuhlbrigge, seeks to amend Section 8.23.2(d) of Article 8.23 ("Tobacco Control") of the General By-Laws by changing the definition of Minor and deleting the word "nineteen" and replacing it with the word "twenty-one".

BACKGROUND:
Because tobacco control is the leading cause of preventable deaths in the United States, the petitioners filed this article to prevent tobacco addiction through restricting the sale of tobacco products to those aged 21 and over, thus limiting youth access. Ninety percent of smokers start before age 21.

Thirteen Massachusetts municipalities have raised the age limit for purchasing tobacco, and effective July 1, 2014, eight more municipalities will limit the sale of tobacco products. Fourteen of these 21 towns will have increased the minimum age to 21, and other municipalities are in the process of doing so. Furthermore, Representative Paul McMurtry of Dedham has filed a petition, HD4115, to raise the minimum age for tobacco sales in the Commonwealth to 21.

DISCUSSION:
During the teen years, an area of the brain called the prefrontal cortex continues to develop both functionally and structurally. Because smoking can affect brain function, increasing the age for legal access to tobacco allows the brain to develop for a longer period of time before potentially being negatively impacted by smoking.

According to pediatrician Jonathan Winickoff, tobacco sales to those 21 years of age and younger is about 2%. That 2% seeds all future smokers. When Needham changed its age restriction to 21, a youth smoking rate of 14% dropped to 6.7%. Between 2008 and the present, Needham has experienced a 57% drop in youth smoking.

Besides tobacco companies targeting youth through marketing efforts, young teens can often be influenced by older siblings who smoke. Increasing the purchase age will stop the transmission effect of older siblings influencing younger ones and will bring "a tidal wave of good health." It is expected that raising the age in Brookline will have similar positive outcomes for Brookline.

Raising the minimum age would affect more college students and young adults than high school students. Brookline has a sizable population of both, and some local merchants say they would lose business from that population, not just in cigarette sales but also in the sale of other items that are purchased at the same time. Some Brookline merchants affected by changing the age limit do support a universal raising of the minimum age in Massachusetts, however as of April 2nd, 2014, HD4115 had not yet been assigned to a committee.

RECOMMENDATION:
By a vote of 16-2-3, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 15

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

History

The area now known as Brookline Place was previously part of a Brookline neighborhood known as the Marsh. The Brookline Gas Light Company operated on the site, where it had a gas holding tank. Other properties in the Marsh included auto body shops and small houses. The commercial establishments on the site contributed to the contamination of the soil. This contamination has continued to influence the development of the site.

In the 1960s, the area was designated the Marsh Urban Renewal Project and was slated for redevelopment under the auspices of the Brookline Redevelopment Authority. Although redevelopment in the vicinity eventually produced Hearthstone Plaza (now known as 10 Brookline Place), 1 Brookline Place, the Brook House, and the Village at Brookline, 2 Brookline Place languished. (Note that there is a 2 Brookline Place and a 4 Brookline Place. Instead of using "2-4 Brookline Place" to refer to the site of these two adjacent building, this report uses "2 Brookline Place.") It remained a mix of newer low-rise buildings and older structures. The Town repeatedly attempted to encourage development by rezoning the site.

The current process of amending the zoning bylaw to make possible development at Brookline Place began in 2003, when the November Town Meeting considered a zoning amendment that would have facilitated the construction of a laboratory or office building at 2 Brookline Place. The Winn Development Company owned 2 Brookline Place and 1 Brookline Place at that time and apparently preferred laboratory use. Key provisions of the zoning amendment included increasing the height limit what was then known as the G-2.0 (VS [Village Square]) zoning district from 100 to 135 feet and the floor area ratio (FAR) from 2.5 to 4.0. The zoning also would be amended to permit biolab use. The developer would offer public benefits, including open space. In the face of opposition among Town Meeting members, questions raised by the Advisory Committee, and a general feeling that more time was needed to study the issue, the zoning amendment was referred to the Planning Board

In March 2004, a Special Town Meeting was convened to consider modified zoning amendments related to Brookline Place. The proposed amendments failed for lack of a two-thirds vote.

In June 2004, in response to a petition of Brookline citizens, another Special Town Meeting voted Favorable Action on another version of the zoning amendments,

apparently clearing the way for Winn Development to tear down the existing buildings at 2 Brookline Place and to build a new, much larger building on that site.

Winn Development, however, ran into financial difficulties because of its involvement in the massive Columbus Center development that would have been built over the Massachusetts Turnpike where the South End meets the Back Bay. In the fall of 2007, Winn sold its Brookline Place properties to Boston Children's Hospital.

The Town negotiated agreements with Winn Development and Children's Hospital providing for environmental remediation on the site and an arrangement under which the Town would own the Brookline Place properties and lease them to Children's Hospital, thereby assuring that the Town would receive payments equivalent to the property taxes due on the properties.

In May 2008, Town Meeting voted to change the parking requirements at Brookline Place. Warrant Article 15 of that Town Meeting, proposed by Hugh Mattison and amended as recommended by the Board of Selectmen, reduced the required minimum spaces if a Transportation Demand Management (TDM) program was in effect.

In the fall of 2008 Children's Hospital applied for a special permit to construct a 252,296 square foot building at 2 Brookline Place. The new building would include 586 new below-grade parking spaces. The special permit was granted in the spring of 2009.

Boston Children's Hospital was unable to proceed with its planned development in 2009 because of the global financial crisis and uncertainty in rental markets.

The Brookline Place Advisory Committee (BPLAC) was formed in September 2013 to consider a new proposal for Children's Hospital to redevelop the 2 Brookline Place site. BPLAC considered zoning amendments for Brookline Place and attempted to promote appropriate development while minimizing adverse impacts. It focused on whether zoning should be amended to permit more above-ground parking at Brookline Place and how to mitigate or offset the negative effects of above-ground parking. BPLAC consisted of 14 members, including representatives from the Board of Selectmen, Planning Board, Economic Development Advisory Board, Zoning By-Law Committee, and Transportation Board. Ken Goldstein and Neil Wishinsky served as co-chairs. BPLAC also retained consultants to analyze parking and financial issues.

DISCUSSION:

Article 15 has been submitted by the Brookline Place Advisory Committee. The Article amends Section 5.06 of the Zoning By-Law, the Special District Regulations that apply to General Business and Medical Research (GMR) districts. The Brookline Place area is Brookline's only GMR district. It was created as a GMR district in June 2004 so that it would be distinct from G districts, in which medical research laboratories would not be allowed.

The zoning changes include the following:

- A floor area ratio (FAR) of 3.45, which will be based on the combined total area of all parcels within the GMR district, not the area of any specific parcel within the district.
- A height limit of 115 feet, with lower limits in designated areas: (a) 65 feet (plus 10 feet by special permit for penthouses and other rooftop structures) in an area along Pearl Street on the north side of the district; (b) 55 feet along Pearl Street in the northeast corner of the district; and (c) 30 feet in the southeast corner of the district, where 5 Brookline Place is located.
- A requirement that at least 35% of the total area of the district shall be open space. No more than 55% of this open space could be hard surfaced walks and plazas. The remainder would be landscaped.
- A no-build area in the northwestern corner of the district, where Pearl Street turns.
- A pedestrian passage from the northwestern corner of the district to Route 9
- A cap on the number of parking spaces (683) allowed in the district, although by special permit up to 20% more vehicles could be parked by using managed/valet parking. (Note that Children's Hospital has agreed to develop the site even if a special permit is granted for only 15% more vehicles, but amending Article 15 to change 20% to 15% would be beyond the scope of the Article, according to the Moderator.)
- A requirement that a Transportation Demand Management (TDM) program be submitted before a special permit is granted for any major impact project within the GMR-2.0 district. (The Children's Hospital proposal and any other likely proposal would be a major impact project.)

Article 15 also amends Section 2.07 so that the floor space of the proposed parking garage in the GMR district is included in calculations of gross floor area and the floor area ratio.

These zoning changes would make possible the construction of a new 8-story office building with approximately 182,000 square feet at 2 Brookline Place. The no-build zones and height limits dictate that this building would be close to Route 9, not the Brookline Village MBTA station. Article 15 also would make it possible to construct a 6-story medical office expansion of the existing 1 Brookline Place building. This expansion would have approximately 47,000 square feet and would be located west of the current building and close to Route 9. The existing 4-story 1 Brookline Place garage would be demolished and replaced by a 6 1/2 –story garage (55–65 feet) with 683 parking spaces.

Potential Development in the GMR District

The zoning changes in Article 15 would make possible the construction of a new 8-story office building with approximately 182,000 square feet at 2 Brookline Place. The no-build zones and height limits dictate that this building would be close to Route 9, not the

Brookline Village MBTA station. Article 15 also would make it possible to construct a 6-story medical office expansion of the existing 1 Brookline Place building. This expansion would have approximately 47,000 square feet and would be located west of the current building and close to Route 9. The existing 4-story 1 Brookline Place garage would be demolished and replaced by a 6½ –story garage (55-65 feet) with 683 parking spaces.

The buildings in the GMR would have the following gross square footage of floor area:

1 Brookline Place (existing):	105,120
1 Brookline Place (expansion):	47,000
2 Brookline Place (new)	182,500
5 Brookline Place (existing)	10,711
Parking Garage (new)	175,810
TOTAL:	521,141
FAR:	3.32

Note that the overall gross square footage of the proposed new and existing buildings in the GMR district would be slightly lower than dictated by the 3.45 FAR for the site, so the buildings could be enlarged. For example, the new 2 Brookline Place building could be expanded to 199,600 square feet and an accessory building with 2,500 square feet could be constructed on the west side of the new parking garage, bring the total square footage to 540,741. Any such enlargements would still be constrained by height limits and open-space requirements.

Children's Hospital has presented images of what its proposed Brookline Place buildings would look like. These drawings remain preliminary. The actual structures could look very different. Nevertheless, the zoning provisions for the GMR district ensure that the overall size and location of the buildings would be essentially the same.

Children's Hospital would apply for a special permit within 120 days of the attorney general's approval of the zoning amendment in Article 15. After receiving a special permit in 2015, Children's anticipates starting construction of the new garage in early 2016. The existing garage and existing buildings at 2 Brookline Place would be demolished. Parking for 1 Brookline Place would be on the 2 Brookline Place site during construction of the new garage. By early 2017, the new garage would be complete and construction would start on the new building at 2 Brookline Place and the expansion of 1 Brookline Place. Children's Hospital anticipates that construction would be completed by 2019.

Benefits of Article 15

Article 15 offers many benefits to the Town of Brookline. Some of these benefits are included in the Article itself. Other are enumerated in the Memorandum of Agreement

(MOA) between the Town and Children's Hospital, but would only take effect after Town Meeting approves Article 15.

- **Annual tax payments to the Town of approximately $2 million**. The $2,000,000 in annual payments is the assessor's estimate. The Town would start receiving the full $2,000,000 in FY20, when construction at Brookline Place is completed. Payments for FY17 are estimated at $460,000, rising to $920,000 in FY18. These payments would increase annually subject to the limits of Proposition 2½ and changes in the assessment. The Override Study Committee's fiscal analysis assumes that the Town will receive these property tax payments. Without these annual payments, the Town would likely face a larger override proposal, deeper budget cuts, or some combination of the two.

- **Tax certainty if the properties are transferred to a tax-exempt entity**. The Restrictive Covenant that has been negotiated and will be recorded guarantees that the Town will receive tax payments for the next 95 years even if 1 Brookline Place and/or 2 Brookline Place are sold to an entity that is exempt from real estate taxes. Unlike earlier agreements that were negotiated to provide tax certainty, the Restrictive Covenant obliges future owners to enter into PILOT (Payment in Lieu of Taxes) agreements with the Town and to make voluntary tax payments. There is one limited exception that applies only to the 1 Brookline Place garage. John Hancock Life Insurance Company holds the mortgage on 1 Brookline Place. If it should foreclose, voluntary tax payments only would be due only on the net new spaces, not the entire garage.

- **A total of $1.3 million in one-time payments to the Town of Brookline**. These payments from Children's Hospital would be used to improve the area around Brookline Place. They will consist of: (a) $300,000 to be paid by August 31, 2014, to be used for demolition of the now-closed pedestrian bridge over Route 9; (b) $750,000 to be paid by August 31, 2015, to be used for the Gateway East project; and (c) $250,000 to be paid when the Certificate of Occupancy is issued and to be used to improve pedestrian and bicycle access, landscaping, etc.

- **Payment of $335,000 for the reconstruction of Pearl Street**. Pearl Street is likely to need reconstruction soon. Damage caused during construction at Brookline Place will make reconstruction imperative.

- **Payment of building permit fees**. Estimates of the building permit fees range from $1 million to $1.6 million. This revenue would be received in FY16. Because plans are far from final, a precise estimate is impossible. This one-time payment could be used for various purposes, including funding OPEBs.

- **Payment for town consultants and counsel**. BPLAC has retained special town counsel and consultants. Children's will pay up to $150,000 of the cost of their services.

- **Open space**. The zoning amendments in Article 15 mandate open space, effectively creating more parkland in one of Brookline's most densely-populated areas. This open space also would be available for community events.

- **Pedestrian access**. Article 15 and the Easement Agreements ensure that there will be a 45-foot wide easement for a pedestrian passageway from the northeast corner of the site (near the Brookline Village MBTA station) to Route 9. The actual passageway would be 10–15 feet wide. The additional width of the easement would ensure that pedestrians were not walking in a "canyon" between buildings.

- **Increased vitality of the Brookline Village commercial area**. When construction is completed in 2020, there will be 900–1,000 additional workers in the new and expanded buildings at Brookline Place. They will be likely to shop and eat at Brookline Village stores and restaurants. One of Brookline's most important commercial areas will thus become more vibrant and prosperous. Community events held in the open space at Brookline Place would add to the vitality of the area.

- **LEED certifiable buildings**. The Memorandum of Agreement required that the new building at 2 Brookline Place and the addition to 1 Brookline Place will be LEED certifiable buildings at the Silver level or higher. The developer also has suggested that the parking garage would be LEED certifiable or at least "green," but that is not required by the agreement.

- **Minimized shadow effects**. By creating no-build zones and limiting the height of the parking garage, Article 15 ensures that the taller new buildings in Brookline Place will be located toward Route 9, not near Pearl Street and the Brookline Village station.

- **Incentives for rapid progress and completion**. The Memorandum of Agreement provides various incentives for Children's Hospital to complete the project. Children's would pay the Town $200,000 if the project is not completed by December 20, 2020 and an additional $150,000 if construction is not completed by December 30, 2021, as well as assurances that the entire project will be built.

- **Limitation of the Town's environmental liability**. Much of the Memorandum of Agreement is devoted to provisions that minimize the Town's liability for any claims related to the existing contamination at Brookline Place and ensure that Children's Hospital assumes responsibility.

The Parking Issue

In contrast to previous discussions of Brookline Place, which included vigorous debates on the shadow impacts of proposed new buildings, the adequacy (or lack thereof) of open

space requirements, potential hazards of biolabs, height limits, and other issues, the discussion of Article 15 has focused on parking.

The proposed 683-space parking garage to be built on the site of the current 1 Brookline Place garage is seen by many as a clear disadvantage of the current proposal. Not surprisingly, it has generated the most discussion and controversy and was a major focus of the work of BPLAC. Article 16 was placed on the Warrant in an attempt to reduce the number size of the garage and to create incentive to minimize the number of above-ground spaces at Brookline Place.

Why does there have to be more above-ground parking?

Previous proposals for the redevelopment of Two Brookline Place assumed that any additional parking spaces would be constructed underground. Children's Hospital in 2009 planned to build 586 below-grade parking spaces on 5 ½ below-grade levels.

Subsequently, however, there was a global financial crisis, the U.S. economy went into a severe recession, rents fell, other medical office space became available, and the cost of removing and disposing of contaminated soil increased. Even without the need for environmental remediation, underground parking spaces are far more expensive than above-ground spaces.

BPLAC asked Pamela McKinney, a real estate consultant, to assess the viability of the Brookline Place project as proposed by Children's Hospital. Ms. McKinney had access to the developer's plans, cost estimates, and revenue projections. She examined the financial impact of building above-ground parking and at least some underground parking, as well as the overall viability of the project under current market conditions. McKinney concludes: "Project Feasibility is only produced by an option in which parking is constructed above grade."

Children's Hospital is understandably sensitive to the economic impact of parking costs. From its standpoint, it is necessary not only to minimize costs but also to build sufficient parking to ensure that the project can attract major tenants and thereby ensure that financing will be available.

Are so many parking spaces actually necessary?

Discussions of parking requirements often begin with general observations, such as, "People will want to drive when they go to a medical office, particularly if they are taking a sick child," or "People are driving much less often now." These statements may be true under some circumstances, but they do not provide a basis for estimating the number of parking spaces needed.

BPLAC asked Nelson\Nygaard Consulting Associates to analyze the parking requirements of the proposed Brookline Place project. Nelson\Nygaard is regarded as a

"green" or transit-friendly transportation consultant. It was recommended by BPLAC member Linda Olson Pehlke. Jason Schrieber, who conducted Nelson\Nygaard's analysis, has previously spoken in Brookline about the need to reduce parking requirements.

Nelson\Nygaard analyzed the parking needed at Brookline Place on the basis of national data and the specific characteristics of the Brookline Place site. In an initial report, it concluded that 683 spaces would be necessary to satisfy peak demand and also recommend a 5% operational reserve, which brought the total to 717. In its final report, Nelson/Nygaard recommended a 697-space garage on the basis of a calculation of 664 for peak demand plus a 5% reserve. BPLAC did not have the final report prior to the deadline for submitting Warrant Articles. It ignored the recommended operational reserve and set the maximum at 683 spaces.

To some 683 parking spaces may seem excessive, but the following points need to be considered:

- After the construction of the parking garage and the new office space at 2 Brookline Place and 1 Brookline Place, the ratio of parking spaces to office space at Brookline Place will fall. The number of parking spaces will increase from 435 (359 in the existing garage and 76 in the surface lot) to 683, whereas the gross floor area of the buildings at Brookline Place will increase from approximately 151,000 to approximately 345,000 square feet. There is now one parking space per 347 square feet. This will increase to one space per 506 square feet.

- The 683 spaces represent a lower total than any previous estimate of necessary parking for Brookline Place. For the current proposal, Children's originally wanted 832 above-ground spaces on the site, which would have required an 8-story garage. (Children's retained its own parking consultant, who recommended 845 spaces.) In 2009, up to 963 spaces would have been allowed under the special permit granted to Children's then.
- For the first time, the Town of Brookline is imposing a parking maximum—a cap on the number of spaces allowed in a given zoning district. This was a controversial step when it was initially voted by the Zoning Bylaw Committee and BPLAC. It may set a precedent for future zoning.

- Under the terms of the Memorandum of Agreement, use of the new parking garage for satellite parking will prohibited. This will be in the terms of the special permit.

<u>Could Brookline Place have fewer parking spaces, just as the Longwood Medical Area and Kendall Square</u>?

The Longwood Medical Area (LMA) and Kendall Square are often cited as areas in which the ratio of parking spaces to the square footage of office space is very low. There are several reasons why those areas may not be comparable to Brookline Place.

First, assessing parking requirements should be based on the characteristics and uses of the site in question. The Nelson\Nygaard analysis takes into account the specific features of the Brookline Place location, including access to transit and the density of the surrounding community. (Nelson\Nygaard suggested that parking requirements could be further reduced by increasing the residential density of Brookline Village, but BPLAC did not agree with that recommendation.)

Second, the Longwood Medical Area includes a lot of gross floor area that is not devoted to medical office space. Many buildings in the area are schools and universities, which have lower parking requirements. The LMA also relies heavily on satellite parking, In addition to satellite lots, many Brookline neighborhoods unofficially serve as satellite parking for LMA commuters who park their cars in Brookline and walk to the LMA.

Third, Kendall Square has a low ratio of parking space to gross floor area, but it also has little or no medical office space. According to Kara Brewton, Brookline's economic development director, large new development in Kendall Square between 2004 and 2013 consisted of 46% office and research and development (not medical office), 27% residential, and 26% college and university. These uses all have lower parking requirements than medical office space. Cambridge's TDM officer, Stephanie Groll, reports, "if you want to build medical office, you wouldn't do it in Kendall Square." Kendall Square also is served by the MBTA Red Line, a relatively reliable high-capacity rapid transit line.

<u>Could the size of the garage be reduced by relying on on-street parking</u>?

Nelson\Nygaard's March 26 memorandum points out that the using on-street parking might provide an opportunity to reduce the size of the garage at Brookline Place. There are 57 on-street spaces on Pearl Street and another 24 on Brookline Avenue from Washington Street to the Lynch Center. Hugh Mattison, who in 2008 proposed TDM and reduced parking for the Brookline Place site, has presented a detailed analysis of the potential for reducing the size of the garage by utilizing on-street parking.

In principle, utilizing the spaces on Pearl Street and Brookline Avenue—possibly by reserving them for Brookline Place employees, patients, or visitors—could reduce the size of the garage while also meeting the parking requirements of Brookline Place, but there are several problems with this proposal.

First, the reduction in the size of the garage might be minimal. Even eliminating 81 spaces and possibly reducing the height by one story would leave a very large garage.

Second, Children's Hospital continues to believe that a 683-space garage is the minimum necessary to secure major tenants and financing for Brookline Place. If Children's concludes that a smaller garage is necessary, it could reduce the size of the garage and rely on on-street parking.

Third, existing on-street spaces may be used by local merchants and residents. Even if many of these spaces are currently used by visitors to Brookline Place, to assume that they all would be used by Brookline Place (or to reserve them for Brookline Place) would effectively preclude their use by others. At the April 30 meeting of the subcommittee Charles Weinstein of Children's Hospital declared that it would be "unneighborly" of Children's Hospital to assume that it could use all the Pearl Street and Brookline Avenue spaces.

Finally, Nelson\Nygaard ultimately recommended a garage slightly larger than the one that could be built under Article 15. Despite noting the potential availability of on-street parking, Nelson\Nygaard nonetheless concluded in its March 26 memorandum: "Our recommendations for 2-4 Brookline Place include building a garage of 697 parking spaces to accommodate the shared demand and 5% for the proposed building program." Nelson\Nygaard also emphasized the importance of a TDM: "Every effort to help offset potential vehicle trips and parking demand should be taken through providing a robust and comprehensive transportation demand management program that is tailored to the characteristics of the proposed development and context." Article 15 requires such a TDM. Building Commissioner Daniel Bennett is developing plans to enforce and monitor the Brookline Place TDM.

Why is the valet/tandem/managing parking necessary?

Children's Hospital argues that the ability to park up to 15% (reduced from 20%) more vehicles in the new Brookline Place garage by using valet, tandem, or otherwise managed parking will provide a "safety" valve. Given that Children's opposed the 683-space maximum in Article 15, this concern is not surprising. The 683-space maximum also excludes the additional reserve capacity recommended by Nelson\Nygaard. Representatives of Children's claim that the additional 15% may help to persuade tenants that parking will be adequate. Thus Children's will seek a special permit for the additional 15% at the earliest opportunity so that potential tenants and financers will be aware of the potential capacity. Whether Children's Hospital will use this capacity remains to be seen.

Is the amount of parking insufficient?

Some members of the Advisory Committee, including those with experience working and parking at Brookline Place questioned whether 683 parking spaces would be sufficient. They suggested that medical office space might require additional spaces and, at the very least, the developer should have the flexibility to add more spaces as necessary to ensure that the project would be viable. It was also noted that the Green Line is often

overcrowded and unreliable, making Brookline Place a less transit-friendly destination than, for example, Kendall Square, which is served by the Red Line. The Advisory Committee considered an amendment that would have removed the parking maximum from Article 15, thereby allowing the developer to build more than 683 parking spaces. The amendment failed by a vote of 6–13.

Summary: Weighing Costs and Benefits

Overall, the Advisory Committee recognized that Article 15 and the associated agreements offer many benefits to offset the large size of the parking garage. Some members of the Committee felt that the parking minimum in Article 15 might be too low and should be removed. A majority, however, concluded that the parking maximum is supported by sound analysis, the amount of parking in terms of absolute numbers of spaces and/or the ratio of parking spaces to office space is lower than in previous Brookline Place proposals, and only above-ground spaces are now financially viable. Article 16 raises legitimate questions about the "right" level of parking on the Brookline Place site. The BPLAC has considered these questions carefully and addressed them satisfactorily. The Memorandum of Agreement includes additional provisions that are to the Town's advantage.

RECOMMENDATION:
By a vote of 19–0, the Advisory Committee recommends FAVORABLE ACTION on Article 15.

ARTICLE 15

FIFTEENTH ARTICLE
Submitted by: Selectmen's Brookline Place Advisory Committee

To see if the Town will amend the Brookline Zoning By-Law as follows: (new language in bold; deleted language stricken):

Section 2.07—"G" DEFINITIONS, 1. GROSS FLOOR AREA, as follows:

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 **and as required in §5.06, paragraph 4, subparagraph d(1)(c)(iv) relating to the parking in the GMR-2.0 District**, 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- , two-, and three-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.

Section 5.00, Table 5.01 – Table of Dimensional Requirements, provisions applicable to GMR - 2.0 DISTRICT, as follows:

ISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI[11] NB ONLY	LOT WIDTH[4] MINIMUM (feet)	HEIGHT[9] MAXIMUM	PBI [11]		MINIMUM YARD[3] (feet)			OPEN SPACE (% of gross floor area)	
							B	NB	Front[1,6]	Side[2,7]	Rear[8]	Landsc.	Usable[13]
GMR-2.0	Any structure or principal use (dwelling-footnote 5)	none[4]	2.0 ~~4.0~~ **3.45**[17]	2.5 N/A	none	45 115[17]	60 N/A	100 N/A	none	none	10+L/10	none	none[5]

FOOTNOTES:

17. See SECTION 5.06-SPECIAL DISTRICT REGULATIONS, d. General Business and Medical Research (GMR).

Section 5.06-SPECIAL DISTRICT REGULATIONS, 4.d. General Business and Medical Research (GMR), as follows:

§5.06 – SPECIAL DISTRICT REGULATIONS

4. Special Districts

d. *General Business and Medical Research (GMR)*

1) All **major impact** applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District ~~which exceed a floor area ratio of 2.5 or a height or 100 feet shall be permitted only on a lot no less than 50,000 square feet and no greater than 65,000 square feet in area and~~ shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet ~~and the maximum gross floor area shall not exceed 4.0~~. **The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**

b) no less than ~~25%~~ **35%** of the ~~Lot Area~~ **total area of all lots within the GMR-2.0 District** shall be devoted to ~~landscaped and usable~~ open space**, consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance with trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including**

areas developed for outdoor use for recreation. Such space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.

c) ~~no less than 60% of the parking spaces required by the Board of Appeals shall be provided completely below grade.~~ **The buildings shall be subject to the following special dimensional requirements, as illustrated in the Figure at the end of §5.06(4)d:**

i) No buildings shall be constructed within the area defined by the north and west Pearl Street property lines, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area that it deems will best approximate the requirements of this subsection;

ii) Any development that has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width that is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;

iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed 65'-0"within the area defined by the Pearl Street north and east property lines, a line parallel to the north boundary line located 130'-0" from said boundary line, and a line perpendicular to the north boundary line located 115 feet from the intersection of the north and west boundary lines. It shall not exceed 55 feet within the portion of this area defined by the Pearl Street north and east property lines, and a line 30' from the east boundary line and parallel to said boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine an area that it deems will best approximate the requirements of this subsection. Only in the area in which the height of 65'-0" is permitted, substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;

iv) The gross floor area of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade

in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;

v) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.

d) no less than 25% of the provided total number of parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building ~~on a Lot~~ **within the GMR-2.0 District** (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation **and community benefit** mitigation measures. **In addition to review by the Planning Board,** a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the ~~Planning Board~~ **Director of Transportation and the Director of Parks and Open Space** or ~~its designee~~ **their designees.**

2) The parking requirements for applications in the GMR-2.0 District **shall be reviewed as a single lot without regard to lot ownership and** in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per ~~400~~ **533** g.s.f. of floor area

b) office use: one parking space per ~~600~~ **800** g.s.f of floor area

c) research laboratory use (Use 36B): one parking space per ~~1,000~~ **1,250** g.s.f. **of floor area**

d) medical office use: one parking space per ~~350~~ **467** g.s.f. **of floor area**

e) **For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement ("TAPA") that includes recognized Transportation Demand Management ("TDM") programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required.**

The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.

~~The number of parking spaces for the above uses in a GMR-2.0 District may be reduced by special permit, however, by no more than 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transportation Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily and, if not, that the plan will be changed and implemented to their satisfaction. The Board of Appeals may also approve parking facilities that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town s Director of Engineering and Transportation.~~

f) The maximum number of parking stalls within the GMR-2.0 District shall not exceed 683, excluding drop-off and loading zones. The Board of Appeals may also approve, based on the criteria set forth in §9.05, accommodation of up to 20% additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.

3) **All structures and uses in the GMR-2.0 District shall be subject to the following provisions, including both developments that constitute major impact projects and developments that do not constitute major impact projects:**

a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height that it deems will best approximate the requirements of this subsection.

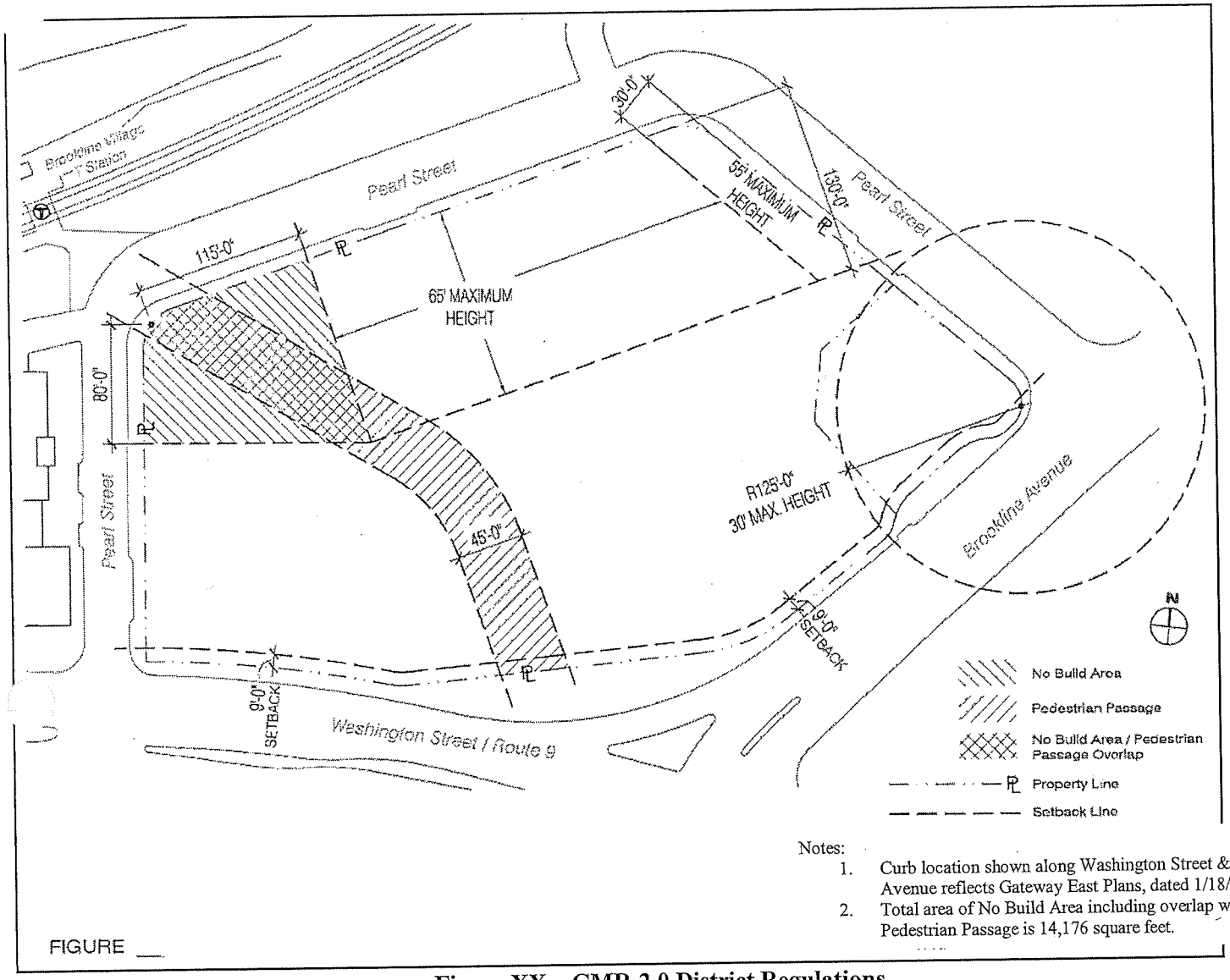
b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.

c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue property lines shall be no taller than 30 feet, as illustrated in the Figure at the end of §5.06(4)d. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area that it deems will best approximate the requirements of this subsection.

d) Prior to the issuance of any special permit for a major impact project under §5.06(4)d(1), the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact project under §5.06(4)d(1) that has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.

4) A special permit granted under this section **as well as special permits granted under other sections of the Zoning By-law that are combined in a single decision with the special permit granted under this section** shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.

5) By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.



Notes:
1. Curb location shown along Washington Street & Brookline Avenue reflects Gateway East Plans, dated 1/18/12.
2. Total area of No Build Area including overlap with Pedestrian Passage is 14,176 square feet.

Figure XX – GMR-2.0 District Regulations

Illustration of §5.06(4)d(1)c(i-iii) and §5.06(4)d(3)c.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is submitted by the members of the Brookline Place Advisory Committee (BPLAC) appointed by the Board of Selectmen, as well as a resident. The Committee was given the responsibility of reviewing and analyzing current physical and economic conditions, zoning, proposed conceptual building massing and the impacts of the proposed project by affiliates of Boston Children's Hospital (BCH), open space, and the locations, size and design of parking

facilities for the GMR-2.0 District, consisting of the entire block of parcels at 1-5 Brookline Place (the "Site") bounded by Washington Street (Route 9), Pearl Street, and Brookline Avenue. In addition, BPLAC was tasked with reviewing and analyzing the connectivity of the Site with adjacent buildings, the Brookline Village MBTA stop and the Route 9 / Brookline Avenue roadways, along with its relationship with the planned Gateway East improvements.

The BPLAC Committee and its Focus

BPLAC consisted of 14 individuals, including nearby residents and business owners, plus residents with professional backgrounds and expertise in architecture, landscape architecture, commercial development, finance, planning, and transportation planning from the Board of Selectmen, Planning Board, Economic Development Advisory Board, Zoning By-Law Committee, and Transportation Board. In addition, the Committee was staffed by Kara Brewton, the Town's Economic Development Director, and Jennifer Dopazo Gilbert, the Town's Special Counsel for Brookline Place. BPLAC also retained expert consultants to review the issues of financial feasibility and parking requirements. Environmental conditions and proposed remediation was reviewed by both the Town's Special Environmental Counsel and independent Licensed Site Professional. Given the complexity of the issues, there were 12 committee and subcommittee meetings, and countless hours of additional volunteer work by Committee members. Neighborhood representatives attended many of the meetings; they were given the opportunity to, and did, actively participate in the process.

The Committee's fundamental charge was to consider zoning amendments that would permit appropriate development while minimizing impacts on the public and adjacent neighborhoods. The proposed zoning changes utilizes several means to achieve that goal: Floor Area Ratio (FAR), varying height limitations to form a building envelope, open space requirements, no build zones, pedestrian amenity requirements, Transportation Demand Management reporting requirements, and on-site parking limits.

Specifically, the Committee focused their work on the following questions: (i) whether zoning should be changed to permit all the allowed parking to be built above-ground; (ii) if the parking is allowed to be above-ground, what counterbalancing amenities should be required; and (iii) writing zoning that applies to the entire GMR-2.0 District rather than for development on one lot of a particular size.

The 2007-2009 Scheme

If adopted by Town Meeting, this zoning amendment would modify the current GMR 2.0 District zoning adopted in 2004-2005, as amended in the spring of 2008, which was adopted after extensive meetings with a Project Review Team to facilitate the redevelopment of 2-4 Brookline Place (2 BP) by BCH. In 2007, a ground lease and environmental remediation agreement was negotiated with Winn Development Company, the Town, and BCH. A special permit for 2-4 Brookline Place was applied for by BCH in the fall of 2008 and was issued by the Zoning Board of Appeal in spring, 2009.

The 2009 special permit allowed for an 8 story office building at 2-4 Brookline Place with 252,596 square feet (SF) and 586 new parking spaces in 5 ½ below grade levels of parking. The remainder of the block consisting of the building and garage at 1 Brookline Place containing approximately 105,120 SF and 377 parking spaces and the building at 5 Brookline Place containing approximately 10,711 SF were to remain unchanged. The 2009 scheme would have had a total of 963 parking spaces to service the site.

Because the 2009 plan and associated business terms relied on the Town acquiring the 2BP property and then leasing it back to BCH, the Town was particularly interested in having contaminated soil and groundwater associated with the proposed below-ground parking garage properly removed and disposed. The prior redevelopment scheme required foundations consisting of a deep perimeter foundation wall (slurry wall) extending more than 100 feet below the ground surface to control groundwater by intercepting the bedrock. Due to the extensive costs required to construct the subsurface parking in the 2009 scheme, and the lower projected rental rates achievable in the current market, BCH has been unable to develop the 2-4 Brookline Place project under the existing 2009 special permit.

The Current Proposal

The current proposed development concept consists of less square footage than the 2009 special permit, with an 8-story office building of 182,500 SF at 2 Brookline Place and a 47,000 SF medical office space expansion of the 6-story 1 Brookline Place (1 BP). The existing 4-story parking garage would be replaced with a 6 ½-story, 683-space garage, resulting in 248 net new spaces for the overall Site. The proposed garage includes reusing the existing half story of partially below ground spaces at the 1 BP garage. The ground is unsuitable to support the proposed structures in its current condition. The current concept is to design a slab and foundation system, with footings only 4' below grade, and then drilling 2' diameter holes an additional 6' down, and reinforcing the soil with "geopier" sleeves and fill, effectively making the soil around it denser. This methodology would replace the need for deep foundations (e.g., driven piles, drilled shafts or cast-in-place piles). Since groundwater is approximately 8' below the surface, BCH proposes to design the foundation system that requires minimum excavation and dewatering, thereby reducing impacts of the removal of contaminated soils and groundwater.

Project Feasibility Financial Analysis

The Town's real estate finance consultant, Pam McKinney, was asked to review the financial projections for the development, and opine on its feasibility, working with the BPLAC Finance Subcommittee. In doing her analysis, Ms. McKinney had access to Boston Children's Hospital financial projections for three development scenarios: (i) all parking above grade in one garage; (ii) building five levels of parking below grade at 2 Brookline Place while also retaining and expanding the existing parking garage at 1 Brookline Place; and (iii) building two levels of parking below grade in a larger footprint than the building above at 2 Brookline Place while expanding the existing parking garage. Ms. McKinney also had access to detailed construction cost estimates from Suffolk Construction Company for these three scenarios, and market data regarding comparable medical office properties and rents from Frank Nelson at Cushman & Wakefield. She also has access through her other work to property and financial information of

similar properties in the Fenway and Longwood Medical Areas, as well as other industry databases. Ms. McKinney took the BCH financial models and made adjustments throughout the pro-forma, taking the point of view of an appraiser, as if the project were seeking underwriting for financing. The McKinney model showed a very similar financial outcome as BCH presented for all scenarios, and it agreed with BCH that there would be a significant loss to the developer for the two scenarios with below ground parking and a reasonable return on cost for the scenario with above-ground parking.

Following significant discussion and analysis of various below-ground options, BPLAC agreed that a proposed zoning amendment should consider removing the constraint of the 2004-2005 zoning which has made the 2009 project unfeasible, viz. the requirement that 60% of the required parking be subsurface. However, prior to agreeing to above-ground parking, BPLAC analyzed shadow and visual impacts of the proposed development to Station Street and Village Way. As a result of these studies, BPLAC agreed that the overall massing should be broken up, with the 2 BP building having a smaller footprint (and shallower north-south dimension), sited at the southernmost edge of the GMR district, in combination with an addition to the existing 1 BP building towards Washington Street. The Committee also favored the shift of the bulk of the open space towards the Brookline Village T-station.

Parking and Transportation Issues

The size of the expanded parking garage was a very important aspect of the Committee's study. BPLAC's work resulted in BCH's initial proposal of an 8-story garage to be reduced to 6 ½ stories. BPLAC also worked with the Town's parking consultant, Nelson-Nygaard, to reduce the proposed parking to a minimum while not overburdening the surrounding streets with parking overflow. BCH has agreed that the garage will not be used for satellite parking for the Longwood Medical Area. The proposed 683 stall garage reflects the minimum number of spaces recommended by Nelson-Nygaard that would need to be exclusively available for the entire GMR-2.0 District. Although Nelson-Nygaard did not recommend setting a maximum number of parking spaces, BPLAC felt that capping the overall capacity for vehicle accommodation at the site was an important component to any zoning change that allowed significant above-ground parking. In addition to the number of spaces, BPLAC also added bulk and dimensional zoning limits to the size of the parking garage: counting any above-ground parking towards the Floor Area Ratio (similar to Coolidge Corner); limiting the height of any structure at the northeast corner of the site (closest to Village Way homes) to 55', where structures would otherwise have the largest shadow impacts on surrounding properties; and creating a "no-build" zone where the proposed open space is located at the northwest corner of the site. Both Nelson-Nygaard and BCH suggested that allowing accommodation for additional vehicles via valet or tandem parking within the parking structure would be a helpful mechanism for managing peak parking demand. BPLAC agreed that by special permit, the Board of Appeals could allow accommodation of an

additional 20% of vehicles within the parking areas that are striped for 683 parking stalls via parking management should the need arise. It should be noted that as of the warrant closing, Boston Children's Hospital has agreed to significant mitigation and community benefit funding for the Gateway East and Riverway crossing areas, most of which would be paid to the Town conditional upon the Board of Appeals approving ***at least*** 683 parking stalls with the ability to accommodate and an additional 20% vehicles.

Nelson-Nygaard recommended to BPLAC that the most important tool the Town has for controlling traffic at the site is a required, robust Transportation Demand Management (TDM) plan with annual reporting and a mechanism to require on-going adjustments once the building is in full operation. Those recommended measures are now incorporated in the proposed zoning as well as an agreement from BCH to commit to such a condition for the Special Permit. Additionally, BPLAC recommended the zoning be amended to require a TDM plan for any major impact project. Finally, the 25% reduction of minimum parking requirements currently allowed under zoning conditional upon a TDM plan is now simply the new minimum parking requirement for major impact projects in the GMR-2.0 District.

Other Zoning and Site Plan Issues

The proposed amendment modifies Section 5.06(d) to facilitate integrated development of the GMR-2.0 District to include all of 1 Brookline Place, 2 Brookline Place and 5 Brookline Place. The zoning structure also facilitates the creation of potential new lot lines (1 Brookline, 2 Brookline, 5 Brookline and the garage on separate parcels) to allow marketability of new lot configurations to separate owners while retaining site-wide zoning controls. In addition to district-wide FAR and parking requirements, the proposed zoning also describes the type of open space desired for the Site, and sets a minimum open space for the entire block of 35%, up to 55% of which could be made of hard surfaces for walks and plaza areas.

As described earlier, the proposed zoning imposes a "no-build" zone at the northwest corner of the site where the bulk (but not all) of the open space is proposed, closest to the Brookline Village MBTA station. The zoning also describes a minimum 45' wide area for pedestrian passage between the 2 BP and 1 BP / garage buildings, connecting the Brookline Village MBTA Station to the intersection of Brookline Avenue and Washington Street, reinforcing the pedestrian desire line identified in the Gateway East/ Village Square master plan.

Adjacent to Washington Street (Route 9), the general sense of the Committee was that the building/street interface should be similar to the new Dana Farber building on Brookline Avenue in the Longwood Medical Area, which has approximately 18'in width of outdoor seating, sidewalks, and landscaping between the building and the street. Because the property line along Washington Street and Brookline Avenue is generally located in the middle of this proposed building-street distance, the proposed zoning includes a building setback of 9'. BPLAC felt that the specific building/street interface should be designed during the permitting process. Therefore, as currently exists with the general Zoning By-law, relief from the setback may be sought by special permit to accommodate this design process. The Gateway East / Village Square master plan proposes a double row of trees (street trees and

ornamental trees) along Washington Street to the extent feasible. BPLAC noted that this goal should be carried forward in future design refinement of both the Gateway East plans (via the MassDOT process) as well as the permitting process for Brookline Place (via the Planning Board, Design Advisory Team, Board of Appeals).

Companion Warrant Articles

Three companion non-zoning warrant articles are being filed by the Board of Selectmen, which if passed at Town Meeting, would authorize the Selectmen to: (i) accept on behalf of the Town a Pedestrian Easement that incorporates the "no-build" zone at the northwest corner of the District and the 45' wide pedestrian passage described above; (ii) accept a Restrictive Covenant to protect the tax certainty for the proposed new development at Brookline Place; and (iii) release the 2007 agreements being held in escrow related to the prior development and enter into any new agreements or amendments to carry out the terms of a Memorandum of Agreement with respect to such proposed development, including mitigation and community benefits.

What to Expect

Assuming the proposed zoning and companion warrant articles are passed by Town Meeting, Boston Children's Hospital anticipates filing a Special Permit by Fall 2014, and receiving a Special Permit in Spring 2015. Construction could then start around the end of 2015, and could be complete as early as 2019. In addition to mitigation and community benefits, the estimated new growth tax revenue if and when this Site is developed as proposed is more than $2 million per year.

PLANNING BOARD REPORT AND RECOMMENDATION

This article was submitted by the Selectmen's Brookline Place Advisory Committee (BPLAC) following two meetings with the Selectmen's Zoning By-Law Committee. The BPLAC has been working with Children's Hospital and community members to develop revised zoning for the Brookline Place properties for the past six months. In 2009, Boston Children's Hospital received approval from the Zoning Board of Appeals to construct an eight-story office building at 2-4 Brookline Place, with 586 parking spaces in an underground garage. The buildings at 1 and 5 Brookline Place and the above ground 377-space garage behind 1 Brookline Place would have remained as part of this proposal. However, with the slump in the real estate market, the cost of building such a large underground garage, and the associated disposal of the contaminated soil and groundwater treatment under 2-4 Brookline Place, Children's deemed the project economically infeasible. The special permit will lapse in June 2015.

Children's Hospital is now proposing the project in a modified form and has been working diligently with BPLAC, a Selectmen-appointed committee, on revising the zoning to allow a smaller footprint, eight-story office building at 2-4 Brookline Place, a six-story addition at One Brookline Place, and a 6 ½-story above-ground garage in place of the existing four-story

above-ground garage. The revised project, while only conceptually designed at present, would require changes in the existing zoning in order to move forward. The zoning proposed in this warrant article fosters an integrated development of the entire site, which includes One, Two and Five Brookline Place.

TOWN MEETING & PROJECT HISTORY

Town Meeting has addressed changing the zoning for this area several times. Both at the November 2003 and special March 2004 Town Meeting, a proposed zoning amendment for Brookline Place was submitted to change the zoning from G-2.0(VS) to GMR-2.0. Town Meeting voted to refer the article back to the Planning Board for further study. After further modifications, Spring 2004 Town Meeting voted to approve the zoning changes. The major change was to allow a new use – medical research laboratories – in addition to the general office, medical office and retail uses already allowed in the district. Additionally, the allowed floor area and height could be increased for a lot within the district (between 50,000 and 65,000 square feet in lot size) if certain criteria were met, such as including 25% landscaped and/or usable open space on the site. In Spring 2008, parking requirements for a lot in the GMR-2.0 district were further refined by allowing a reduction in the parking requirement by special permit but only if a Transportation Demand Management program warranted it. As previously mentioned, the Zoning Board of Appeals approved a proposal from Boston Children's Hospital in 2009, a project that has since been determined to be economically infeasible, largely due to the environmental costs on site.

CURRENT PROPOSAL

In an effort to create a project that is both economically possible and supported by the town, Boston Children's Hospital has been working with the BPLAC this past six months to modify the zoning. The current proposal is significantly different from the 2009 development; the preliminary plans include a smaller new building situated closer to Washington Street, rather than Pearl Street; an addition to One Brookline Place, and a larger garage to replace the existing garage.

Modifications to the zoning include a no-build area at the corner of the site closest to the MBTA stop and a mandatory 45-foot-wide pedestrian passage leading from the Brookline Village T stop to the intersection of Brookline Avenue and Washington Street. The capacity of the proposed above-ground garage would be set at 683 parking spaces; however, the Board of Appeals could grant a special permit to allow valet or tandem parking to expand capacity at peak times, up to a maximum of 20% more cars. The BPLAC has recommended several required community benefits through both zoning and non-zoning agreements, such as increased minimums for open space for the entire District, permission for the Town to use the open space for community events, building height reductions in some areas, no build zones, requiring a Transportation Demand Management Program for any major project in the District (whether or not the applicant seeks a parking reduction), a maximum allowed number of parking spaces, an agreement for tax certainty of new construction for the Town, and significant funding for off-site mitigation and community benefits. The goal of the zoning proposed in this warrant article is to produce an attractively-designed development, encourage foot traffic between the site and the shops and restaurants in Brookline Village, enhance the open space, and boost the vitality of the area.

The following briefly lays out the proposed zoning changes to the GMR-2.0 district:

Parking:

- 60% of parking no longer required below grade
- at- or above-grade parking counts toward FAR
- parking requirement based on the district as a whole, not individual lots
- parking requirement is lowered, no longer requiring a special permit for the lower minimums
- maximum of 683 striped parking spaces, but a special permit may allow operation to accommodate 20% more vehicles by tandem or valet parking

Floor Area Ratio (FAR)

- maximum FAR for entire district is 3.45 (existing zoning ranges from 2.0 to 4.0)
- the zoning requirements are based on the entire district, not individual lots

Setbacks/No Build Areas

- 9' setback required from Washington Street and Brookline Avenue
- no build area on part of site closest to the T stop

Height:

- Three designated areas where height may not exceed 65', 55' and 30' (see map in zoning article)

Open Space

- required open space increased to 35%, based on the entire area of the district (existing requirement ranges from 0-25%)
- open space on upper floors (terraces, green roofs) can no longer count towards the required open space
- 45-foot-wide pedestrian pathway required through site
- hard surfaces for plaza and walkway not to exceed 50% of total open space

The Planning Board applauds all of the work that has been done by the BPLAC through countless meetings and extensive discussions. These efforts have resulted in proposed zoning that supports a strong connection through the site to the MBTA station and Brookline Village, values open space, and limits height and shadow impacts on the neighborhood. The proposed regulations exemplify an elegant compromise between the allowed number of parking spaces and the size of the parking garage, so that the project can be viable, in the eyes of the developer and financiers, without adding bulk to the structure. The buildings allowed under this zoning would be lower in height, have square footage distributed more evenly across the site, and have fewer parking spaces than previously approved under prior iterations.

This zoning article, and the many meetings and discussions preceding its submittal to the warrant, set the groundwork for a financially feasible development that includes substantial community benefits. The Planning Board supports the balance the zoning establishes

between allowing for commercial development in a prime location, maintaining vital pedestrian amenities, and protecting neighboring properties.

Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 15, as submitted.

SELECTMEN'S RECOMMENDATION

Selectmen Ken Goldstein and Neil Wishinsky co-chaired the Brookline Place Advisory Committee (BPLAC), and are proud of the Committee's extensive work that led to the BPLAC submission by a 9-0-1 vote of zoning Warrant Article 15. Committee members included Debbie Anderson, John Bassett, Edie Brickman, Guus Driessen, Cynthia Gunadi, Linda Hamlin, Steve Lacker, Ken Lewis, Ali Mahajer, Arlene Mattison, Linda Olson Pehlke, and Mark Zarrillo. The Board of Selectmen heard presentations throughout BPLAC's six month process, both from Boston Children's Hospital (Children's) as well as BPLAC members and Town staff and several consultants (financial, parking and environmental). In its review of these articles the Board of Selectmen discussed the following issues:

- Is this site appropriate for the scale of development being proposed?
- Is the proposal right for Brookline?
- Will the proposal improve Brookline Village?
- Is the proposal financially feasible?
- Have the key assertions and assumptions of the developer been peer reviewed by Town hired consultants and/or BPLAC members with specific expertise?
- Have we considered the various approaches to safely dealing with the environmental conditions and high water table of the site combined with the question of financial feasibility?
- Have the impacts on neighbors (including shadows) been considered, minimized and mitigated as much as possible?
- Has the proposal considered the confluence of public transportation options available at the site including a robust Transportation Demand Management (TDM) program?
- Does the proposed zoning promote a pedestrian orientation, design congruent with the Brookline Village Green Line station and guaranteed additional open space?

- Has the proposed zoning been drafted in a way to insure, as much as possible, that the vision of the site we are being shown will be what is delivered while providing some flexibility in the design review process to respond to issues unforeseen at this time?

- Have we done all that we prudently can to draft the zoning so the pedestrian access "desire line" between the Brook House and Brookline Village is maintained?

- Will the Town receive the benefits, mitigation payments, and increases in tax payments in conjunction with tax certainty necessary to mitigate the impacts of the project?

- Will the Memorandum of Agreement (MOA) contain incentives to meet agreed upon timelines and protections against an incomplete project (We don't want a Brookline version of Filenes!)?

- Have the concerns of BPLAC members over the 6-months of deliberation been addressed as much as possible?

To all these questions, our answer is an unequivocal YES. The broad range of the questions above reflects the range of issues presented by the proposal and the complexities involved in analyzing them.

Although the above ground parking is only one of the many complex issues discussed to date, and which BPLAC concluded as necessary for project feasibility, it is the most significant difference between the current and prior proposals. With respect to the parking, we offer the following observations:

- This zoning proposal codifies a parking maximum; something that has never been done before in the Brookline Zoning Bylaw. The maximum is 29% less than what was approved in 2009. Additionally, the mass of the garage is included in the Floor to Area Ratio (FAR) calculation for the site, creating a further incentive to reduce the size of the garage.

- We estimate that the project will bring approximately 900 new employees to the Brookline Village commercial area plus visitors. The maximum of 683 striped spaces in the proposed zoning represents an additional 248 spaces to what currently exists on site. Since we are creating so few new parking spaces (1.25 spaces per thousand square feet), the only way this will work is through an aggressive TDM program. In addition to being required in zoning, TDM enforcement is addressed in the MOA and a Building Commissioner memo (all documents available at http://tinyurl.com/bplac). We will be using the structure and mechanisms of what Cambridge is doing for performance measurement and enforcement as a model.

- The allowed garage heights have been limited and positioned in such a way as to minimize shadow impacts on the abutting Village Way development. The height restrictions and open space requirement applicable to the rest of the site assure that, unlike the 2009 plan, there will be little shadow impact on Station Street. BPLAC also confirmed with the Town's financial consultant, Pam McKinney that below-ground parking would result in a financially infeasible project.

- BPLAC chose to use Nelson Nygaard as their parking consultant. Nelson Nygaard is known throughout the country for being on the leading edge of recommending less parking in lieu of other modes of transportation whenever possible. Sustainability is at the core of their corporate values.

- The 683 maximum spaces in the proposed zoning was the result of a long arduous negotiation by BPLAC taking into account the developer's ability to obtain financing. BPLAC's maximum parking of 683 spaces was the peak demand modeled by Nelson Nygaard prior to the warrant article deadline. Whether the maximum is 683 or 664 (BPLAC's parking consultant concluded 19 less peak demand spaces following the warrant article deadline), the mass of the garage is the same and this small reduction is insufficient to remove a level from the structure.

- The MOA contains an agreement by Children's that Brookline Place will not be used as satellite parking for the Longwood Medical Area (LMA.) In addition to setting pricing to discourage park-and-ride behavior, the TDM program assures that this restriction is enforceable by the Town.

- The existing surface parking outside of the parking structure will be eliminated. As a result, the surface area devoted to parking on site will actually decrease.

- BPLAC chose not to move forward with a reduced garage by utilizing some on-street parking. In order to have a significant impact on the height of the garage, all of the spaces on Pearl Street and lower Brookline Avenue would need to be primarily available to Children's before other potential parkers. In addition to increasing the burden on Village businesses and residents (such as Village Way visitors), we have been told in unequivocal terms by Children's that this is a deal breaker.

- The Town's parking consultant did not recommend accommodating additional vehicles (including valet parking) in addition to their final recommendation of a 697 space garage (664 peak demand plus a 5% buffer for operations). An allowance for valet parking overage recommended by BPLAC was insisted upon by Children's (in consultation with their lender and leasing consultants) considering the inexact nature of predicting parking demand and the fact that the exact tenant mix is unknown at this time. It is structured in such a way as to have no impact on the mass of the parking structure and will be expensive and cumbersome to implement; creating a disincentive to using it.

- The LMA comparison is not only a different scale sub-market but institutions building there do so almost exclusively for their own exempt purposes (primarily hospitals, education and research.) On the other hand, it is important to remember that the Brookline Place proposal is a speculative development which will proceed only if creditworthy tenants for general administrative and medical office space paying real estate taxes can be located.

During the vetting process leading up to Town Meeting, most who have made public statements about Article 15 have commented on how much of an improvement the proposed development is over previous proposals and have stated that they want this project to happen. The Selectmen strongly share that view.

As described in the explanation for Warrant Article 15, BPLAC's recommended zoning amendments include significant height restrictions, Floor Area Ratio calculations, open space requirements, no build zones, pedestrian connections, and overnight parking for residents. In addition, the Selectmen have negotiated a Memorandum of Agreement (MOA) with Boston Children's Hospital that has been signed and is available at the BPLAC Committee's website at http://tinyurl.com/bplac. A summary of the MOA is below:

BROOKLINE PLACE—MEMORANDUM OF AGREEMENT

EXECUTIVE SUMMARY

May 7, 2014

► ***Tax certainty that Property will not be removed from Tax Rolls:***

A Declaration of Restrictive Covenants will be recorded providing that any entity purchasing the property which could claim real estate tax exemption would enter into a PILOT (Payment in Lieu of Taxes) Agreement guaranteeing real estate taxes for 95 years on the new buildings and new garage. This will ensure that the property will remain on the tax rolls. The Restrictive Covenant will also allow for the owner to prepay the PILOT payments at any time after the 20th anniversary of the PILOT in a one-time net present value payment.

Estimated net new tax revenue for the Town $2,000,000 annually

► ***Timely Availability of Funds for Bridge Demolition and Gateway East:***

$300,000 to be paid by August 31, 2014, to be used for the bridge demolition (subject to approvals of the zoning amendment).

$750,000 additional to be paid by August 31, 2015, to be used for Gateway East (subject to approvals of the zoning amendment and of the Special Permit and other required permits for the Project).

In order to ensure that Children's will be able to have the required approvals by August 31, 2015, Children's agrees that it will use best efforts to apply for the special permit

within 120 days from Attorney General approval of the zoning amendment and diligently pursue the approvals. There is a monetary penalty if it does not do so.

►***Assurance that Children's will not build only a portion of the Project:***

Demolition of 2 Brookline Place cannot commence until a building permit for the garage is issued and the Planning Director and Town Counsel have been provided with satisfactory evidence that financing is in place for the entire Project.

►***Incentive for Children's to complete the entire Project in a timely fashion:***

$200,000 is due if substantial completion of the entire Project is not achieved by December 30, 2020, and an additional $150,000 is due if such completion is not achieved by December 30, 2021.

►***Mitigation and other Community Benefits:***

Agreement to provide a Transportation Demand Management plan based on recommendations of the Town's traffic consultant, Nelson Nygaard, including a mandatory annual monitoring program based on traffic counts and employee surveys as to vehicle, transit, pedestrian, and bicycle usage to the Proposed Project. The monitoring program will provide detailed information on the travel modes to work and overall transportation characteristics by type of traveler. Employee and visitor surveys will also be required.

Children's will pay the Town the greater of 1% of hard costs or $1,300,000 (or greater amounts if completion is not achieved by December 30, 2020, as set forth above). These funds include the $300,000 for the bridge and $750,000 for Gateway East and an additional $250,000 payment due when the Certificate of Occupancy is issued. The $250,000 may be used to further mitigate the impacts of the Project which may include, but not be limited to, improvements to bicycle and pedestrian access, landscaping and/or off-site traffic signal timing and other improvements on Pearl Street.

Children's will construct the Pearl Street Reconstruction at a cost not to exceed $335,000 as requested by the Town Engineer.

►***Easements for the Benefit of the Town:***

As long as the rights under the Special Permit are being exercised, the Town will have a pedestrian easement over a 45 foot wide pedestrian walkway from the corner of Pearl Street to Washington Street and a fan-shaped area in the northwest corner of the property, including the ability to host 3-4 community events annually.

►***Environmental Protection to the Town:***

The Town will be indemnified, by the owner of the property where construction or excavation work is taking place, against any such work that exacerbates or exposes additional persons to existing contamination. In addition, each of the property owners and their successors release the Town from liabilities arising out of the existing contamination

associated with their respective properties. The property owners also agree to use commercially reasonable efforts to extend the term of an existing environmental insurance policy from December, 2018 through December, 2023 at an additional premium cost not to exceed $100,000. Finally, the property owners will provide the Town with drafts of all MCP submittals prior to filing and reasonably consider all comments made by the Town.

►***Project Parameters:***

182,500 SF 8-story office building at 2 Brookline Place, an approximately 47,000 SF expansion of 1 Brookline Place, and a replacement of the existing garage to contain a total of 683 parking spaces (248 net new spaces) including the ability to park 15% additional vehicles through managed parking, and cannot be subject to conditions which impose burdens on the Project which are adverse to its financial or operational feasibility in the reasonable judgment of Children's. This will allow appropriate review by the Design Review Committee, the Planning Board and the Board of Appeals, but give Children's the assurance it requires that it can get the necessary lease agreements and financing to build its Project.

2 BP and the 1 BP expansion will be a LEED certifiable Silver Building or higher rating via the provision of a LEED scoring sheet and supporting documentation to the Building Commissioner.

►***Miscellaneous Provisions:***

- Children's will pay up to $150,000 for Town consultants and counsel.
- Protections for current tenants.
- Employment preference program for hiring by Children's of certain employees working at the Project.
- Right of Town to use portion of open space for community events approximately 3-4 times annually, with storage on-site for related recreational equipment.
- Responsibility for landscaping in area between Property line and back of sidewalk along Brookline Avenue and Washington Street.

We estimate that the new net taxes generated by the improvements to the site will be more than $2 million per year for at least the next 95 years. Additionally, the taxes produced by the property will rise over time in accordance with Proposition 2 ½ limits. In other words, this one project will increase the town's tax base by over 1%. How many new homes do we need to build to have a similar impact? How many teachers will that fund? This is a commercial development so there will not be added pressure on the schools. While no development should receive support solely for the tax dollars it will generate, we also can't ignore the fiscal benefits with a potentially very large Proposition 2 ½ override a year away.

Finally, we must keep in mind that passing the necessary zoning is just the first step to a successful project. If the project is not financeable it will not proceed and then the Town will not reap the benefits. In order to secure financing, the Developer must have an anchor tenant who will want assurance that there will be adequate parking as well as public transportation and other transportation modes available to its employees and clients/customers prior to signing a lease.

Articles 17, 18, and 19 are supportive, and linked to, the zoning found in Article 15. Articles 17-19 deal with tax certainty, easements to the Town, and authorization of the Selectmen to enter into a new Memorandum of Agreement. The explanations of Articles 17, 18, and 19 are described under those individual Warrant Articles.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 29, 2014, on the following:

VOTED: That the Town amend the Brookline Zoning By-Law as follows: (new language in bold; deleted language stricken):

Section 2.07—"G" DEFINITIONS, 1. GROSS FLOOR AREA, as follows:

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 **and as required in §5.06, paragraph 4, subparagraph d(1)(c)(iv) relating to the parking in the GMR-2.0 District**, 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- , two-, and three-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.

May 27, 2014 Annual Town Meeting

15-22

Section 5.00, Table 5.01 – Table of Dimensional Requirements, provisions applicable to GMR - 2.0 DISTRICT, as follows:

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI[11] NB ONLY	LOT WIDTH[4] MINIMUM (feet)	HEIGHT[9] MAXIMUM	PBI[11]		MINIMUM YARD[3] (feet)			OPEN SPACE (% of gross floor area)	
							B	NB	Front[1,6]	Side[2,7]	Rear[8]	Landsc.	Usable[13]
GMR-2.0	Any structure or principal use (dwelling-footnote 5)	none[4]	2.0 ~~4.0~~ **3.45**[17]	2.5 N/A	none	45 115[17]	60 N/A	100 N/A	none	none	10+L/10	none	none[5]

FOOTNOTES:

17. See SECTION 5.06-SPECIAL DISTRICT REGULATIONS, d. General Business and Medical Research (GMR).

Section 5.06-SPECIAL DISTRICT REGULATIONS, 4.d. General Business and Medical Research (GMR), as follows:

§5.06 – SPECIAL DISTRICT REGULATIONS

4. Special Districts

d. *General Business and Medical Research (GMR)*

1) All **major impact** applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District ~~which exceed a floor area ratio of 2.5 or a height or 100 feet shall be permitted only on a lot no less than 50,000 square feet and no greater than 65,000 square feet in area and~~ shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet ~~and the maximum gross floor area shall not exceed 4.0~~. **The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**

b) no less than ~~25%~~ **35%** of the ~~Lot Area~~ **total area of all lots within the GMR-2.0 District** shall be devoted to ~~landscaped and usable~~ open space**, consisting of the part**

or parts of the lots at ground level designed and developed for pleasant appearance with trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.

c) ~~no less than 60% of the parking spaces required by the Board of Appeals shall be provided completely below grade.~~ **The buildings shall be subject to the following special dimensional requirements, as illustrated in the Figure at the end of §5.06(4)d:**

i) No buildings shall be constructed within the area defined by the north and west Pearl Street property lines, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area that it deems will best approximate the requirements of this subsection;

ii) Any development that has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width that is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;

iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed 65'-0"within the area defined by the Pearl Street north and east property lines, a line parallel to the north boundary line located 130'-0" from said boundary line, and a line perpendicular to the north boundary line located 115 feet from the intersection of the north and west boundary lines. It shall not exceed 55 feet within the portion of this area defined by the Pearl Street north and east property lines, and a line 30' from the east boundary line and parallel to said boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine an area that it deems will best approximate the requirements of this subsection. Only in the area in which the height of 65'-0" is permitted, substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;

iv) The gross floor area of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;

v) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.

d) no less than 25% of the provided total number of parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building ~~on a Lot~~ **within the GMR-2.0 District** (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation **and community benefit** mitigation measures. **In addition to review by the Planning Board,** a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the ~~Planning Board~~ **Director of Transportation and the Director of Parks and Open Space** or ~~its designee~~ **their designees**.

2) The parking requirements for applications in the GMR-2.0 District **shall be reviewed as a single lot without regard to lot ownership and** in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per ~~400~~ **533** g.s.f. of floor area

b) office use: one parking space per ~~600~~ **800** g.s.f of floor area

c) research laboratory use (Use 36B): one parking space per ~~1,000~~ **1,250** g.s.f. **of floor area**

d) medical office use: one parking space per ~~350~~ **467** g.s.f. **of floor area**

e) **For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement ("TAPA") that includes recognized Transportation Demand Management ("TDM") programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA.**

The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.

~~The number of parking spaces for the above uses in a GMR-2.0 District may be reduced by special permit, however, by no more than 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transportation Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily and, if not, that the plan will be changed and implemented to their satisfaction. The Board of Appeals may also approve parking facilities that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town s Director of Engineering and Transportation.~~

f) The maximum number of parking stalls within the GMR-2.0 District shall not exceed 683, excluding drop-off and loading zones. The Board of Appeals may also approve, based on the criteria set forth in §9.05, accommodation of up to 20% additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.

3) **All structures and uses in the GMR-2.0 District shall be subject to the following provisions, including both developments that constitute major impact projects and developments that do not constitute major impact projects:**

a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height that it deems will best approximate the requirements of this subsection.

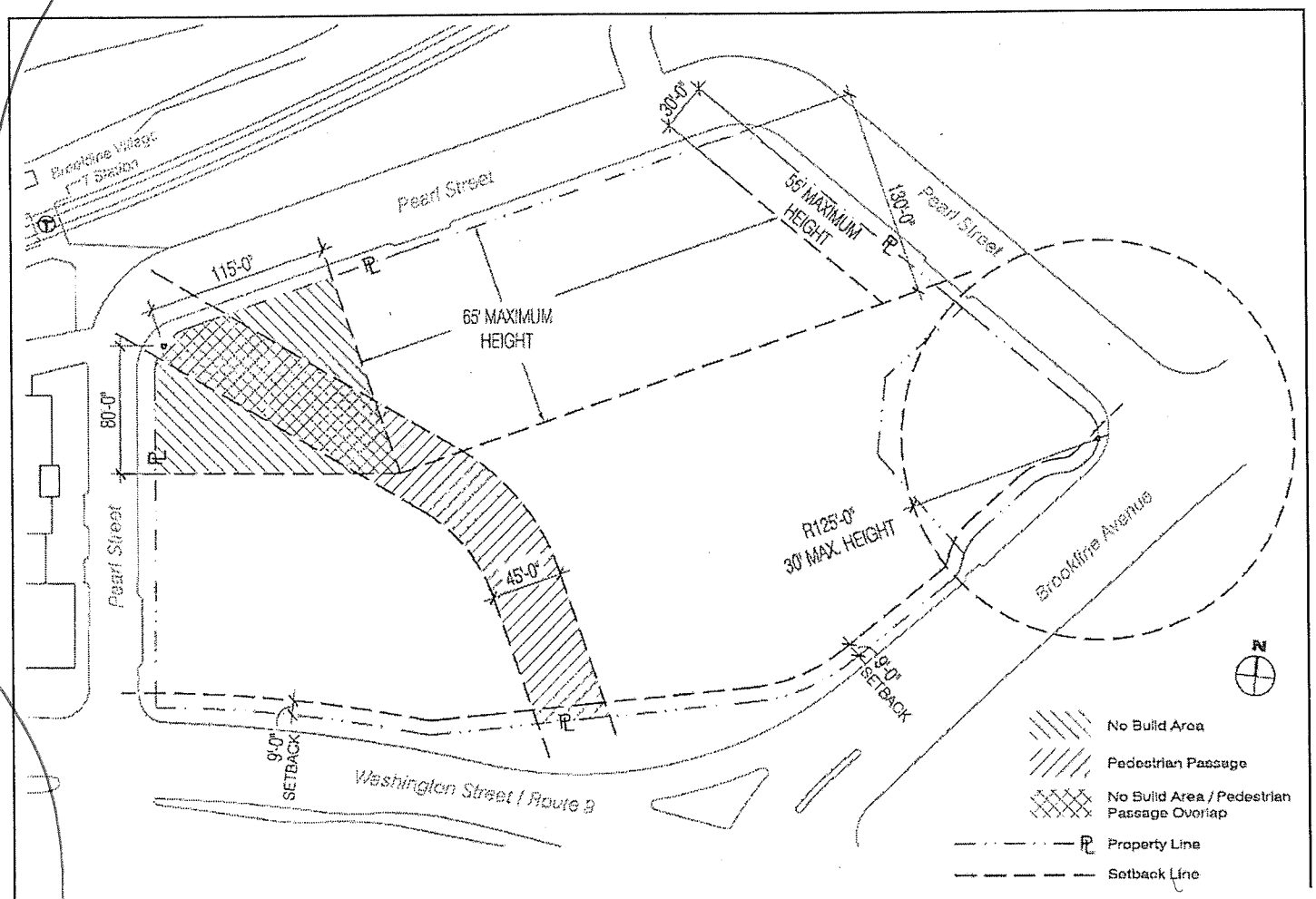
b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.

c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue property lines shall be no taller than 30 feet, as illustrated in the Figure at the end of §5.06(4)d. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area that it deems will best approximate the requirements of this subsection.

d) Prior to the issuance of any special permit for a major impact project under §5.06(4)d(1), the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact project under §5.06(4)d(1) that has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.

4) A special permit granted under this section **as well as special permits granted under other sections of the Zoning By-law that are combined in a single decision with the special permit granted under this section** shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.

5) By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.



Notes:

3. Curb location shown along Washington Street & Bro Avenue reflects Gateway East Plans, dated 1/18/12.
4. Total area of No Build Area including overlap with Pedestrian Passage is 14,176 square feet.

FIGURE

Figure XX – GMR-2.0 District Regulations

Illustration of §5.06(4)d(1)c(i-iii) and §5.06(4)d(3)c.

Passed by an Electronic Recorded Vote of 171 In Favor, 9 Opposed to Abstentions

ADVISORY COMMITTEE'S RECOMMENDATION

While the Advisory Committee's Recommendation is not available at this time and will be part of the Supplemental mailing, the Committee did vote FAVORABLE ACTION on Article 15 by a vote of 19-0.

ARTICLE 16

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

Article 16 has been submitted by citizen petition. It differs from Article 15 in that it imposes a lower maximum on the number of parking spaces and reduces from 20% to 0% the additional number of vehicles that may be parked by special permit. Instead of specifying a parking maximum, Article 16 would have the effect of limiting the number of parking spaces by restricting the size of the parking garage. The Article would limit the height of the garage to 35 feet (25 feet in the area in which Article 15 would limit the height to 55 feet). It also would reduce the floor area ratio (FAR) for the GMR zoning district from 3.45 to 2.90. The lower FAR would allow the proposed building at 2 Brookline Place and the expansion of 1 Brookline Place to be constructed, but would limit the size of the garage. The Article does not limit the number of below-grade parking spaces.

DISCUSSION:

Article 16 was offered as a means of reducing what is seen as the excessive size of the proposed 683-space parking garage and also increasing incentives to travel to and from Brookline Place by means other than private automobile. The petitioner hoped to promote further discussion and possible negotiations so that "Town Meeting has significant latitude in choosing the maximum amount of at or above ground permissible." Article 16 was based on the hope that such discussions could lead to a consensus on the "right" amount of parking. In the petitioner's view, the "right" amount lies somewhere between the approximately 380 above-ground spaces allowed by Article 16 and the 683 spaces—plus parking for up to 20% more vehicles (137 vehicles)—allowed by Article 15.

At the time of this report, the Advisory Committee had been informed that the petitioner does not intend to move Article 16.

The issues raised by Article 16 are discussed in the Advisory Committee's report on Article 15.

RECOMMENDATION:

By a vote of 19–0, the Advisory Committee recommends NO ACTION on Article 16.

ARTICLE 16

SIXTEENTH ARTICLE
Submitted by: Andrew Fischer

To see if the Town will amend the Zoning By-Law as follows: (new language in bold; deleted language stricken):

Section 2.07—"G" DEFINITIONS, 1. GROSS FLOOR AREA, as follows:

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 **and as required in §5.06, paragraph 4, subparagraph d(1)(c)(iv) relating to the parking in the GMR-2.0 District**, 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.

Section 5.00, Table 5.01 – Table of Dimensional Requirements, provisions applicable to GMR -2.0 DISTRICT (selected columns and Footnotes),

FLOOR AREA RATIO MAXIMUM	PBI[11] NB ONLY	HEIGHT[9] MAXIMUM	PBI [11]		MINIMUM YARD[3] (feet)	OPEN SPACE (% of gross floor area)	
			B	NB	Rear[8]	Landsc.	Usable[13]
2.0 ~~4.0~~ **2.90**[17]	2.5 N/A	45 115[17]	60 N/A	100 N/A	10+L/10	none	none[5]

[NOTE TO COMMITTEE: THE TABLE ABOVE WILL NEED TO EVENTUALLY BE FORMATTED TO SHOW THE ENTIRE EXISTING ROW IN THE DIMENSIONAL TABLE.]

FOOTNOTES:

17. See SECTION 5.06-SPECIAL DISTRICT REGULATIONS, d. General Business and Medical Research (GMR).

Section 5.06-SPECIAL DISTRICT REGULATIONS, **4.**d. General Business and Medical Research (GMR), as follows:

§5.06 – SPECIAL DISTRICT REGULATIONS

4. Special Districts

d. *General Business and Medical Research (GMR)*

1) All **major impact** applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District~~which exceed a floor area ratio of 2.5 or a height or 100 feet shall be permitted only on a lot no less than 50,000 square feet and no greater than 65,000 square feet in area and~~ shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet~~and the maximum gross floor area shall not exceed 4.0~~. **The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**

b) no less than ~~25%~~ **35%** of the ~~Lot Area~~ **total area of all lots within the GMR-2.0 District** shall be devoted to ~~landscaped and usable~~ open space**, consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance in trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.**

c) ~~no less than 60% of the parking spaces required by the Board of Appeals shall be provided completely below grade.~~ **The buildings shall be subject to the following special dimensional requirements:**

i) No buildings shall be constructed within the area defined by the north and west boundaries of the GMR-2.0 District on Pearl Street, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board

of Appeals may determine a no-build area which it deems will best approximate the requirements of this subsection;

ii) Any development which has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width which is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;

iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed:

35 feet within the area defined by the northwest boundary of the GMR 2.0 District on Pearl Street, and a parallel offset line 120 feet from said line; nor

25 feet within the area defined by the north and east boundaries of the GMR 2.0 District on Pearl Street, and lines perpendicular to said boundary lines, one line 20 feet from the intersection of the north and east boundary line on the north boundary line and the other line 60 feet from the intersection of the north and east boundary line on the east boundary line.

In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area which it deems will best approximate the requirements of this subsection. Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;

iv) The maximum footprint of all space intended and designed for parking of motor vehicles shall not exceed 30,000 square feet;

v) The gross floor area use of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;

vi) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.

d) no less than 25% of the provided total number of parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building ~~on a Lot~~ **within the GMR-2.0 District** (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation **and community benefit** mitigation measures. **In**

addition to review by the Planning Board, a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the ~~Planning Board~~ **Director of Transportation and the Director of Parks and Open Space** or ~~its designee~~ **their designees**.

2) The parking requirements for applications in the GMR-2.0 District shall be reviewed as a single lot without regard to lot ownership and in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per ~~400~~ **533** g.s.f. of floor area

b) office use: one parking space per ~~600~~ **800** g.s.f of floor area

c) research laboratory use (Use 36B): one parking space per ~~1,000~~ **1,250** g.s.f. **of floor area**

d) medical office use: one parking space per ~~350~~ **467** g.s.f. **of floor area**

e) **For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement ("TAPA") that includes recognized Transportation Demand Management ("TDM") programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner–objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.**

~~The number of parking spaces for the above uses in a GMR-2.0 District may be reduced by special permit, however, by no more than 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transportation Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily and, if not, that the plan will be changed and implemented to their satisfaction.~~

f) The maximum number of parking stalls within the GMR-2.0 District shall not be greater than the following ratios:

i) office use:713 g.s.f. of floor area

ii) medical office use:416 g.s.f. of floor area

iii) all other uses: maximum shall be equal to the minimum parking requirements

Where the applicant demonstrates an operational need to provide additional on-site vehicle accommodation, the Board of Appeals may also approve, **based on the criteria set forth in §9.05, accommodation of up to 0 additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within** parking ~~facilities~~ **garages** ~~that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town s Director of Engineering and Transportation~~.

3) **All structures and uses in the GMR 2.0 District shall be subject to the following provisions, including both developments which constitute major impact projects and developments which do not constitute major impact projects:**

a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height which it deems will best approximate the requirements of this subsection.

b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.

c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue shall be no taller than 30 feet. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area which it deems will best approximate the requirements of this subsection.

d) Prior to the issuance of any special permit for a major impact project under §5.06-4.d.1, maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact projects under §5.06- 4.d.1 which has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.

4) A special permit granted under this section **as well as special permits granted under other sections of the Zoning By-law which are combined in a single decision with the**

special permit granted under this section shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.

5) By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Brookline Place rezoning proposal is complex, and Town staff and citizens have worked diligently to draft zoning changes which are acceptable to both the developer and the town, to be approved by Town Meeting.

The majority of Town Meeting Members supported Warrant Article 10 in the Fall 2013 Town Meeting, a zoning change that would have reduced parking requirements for new construction. (Article 10 failed because it required a 2/3 vote, but 60% of Town Meeting Members voted in favor of reduced parking minimums for studio and one bedroom apartments). In light of this, it isn't clear that this Town Meeting is willing to support a development at Brookline Place that includes as many as 820 parking spaces, and the amount of parking needed is an issue that should be before town meeting.

It is possible, even reasonable, that Town Meeting would only approve a Brookline Place zoning scheme with fewer spaces, due to concerns about the height and mass of the parking garage, the added congestion to Brookline Avenue and Route 9, or simply the desire to not serve as satellite parking for the Longwood Medical Area. It is possible that Town Meeting would only accept a parking garage that was smaller or one that had some number of the permitted parking spaces underground, or both. Whatever the reason, it was important to ensure that Town Meeting had the option of approving a rezoning for Brookline Place with fewer parking spaces permitted, given restrictions that any amendments to the warrant article be "within the scope" of the warrant article.

This warrant article is intended to allow this debate and to allow Town Meeting to vote on a modified parking requirement suitable for the development rather than be limited to an up or down vote on a 6 story parking garage with 820 parking spaces. This warrant article is identical to the principal Brookline Place zoning article, with the following exceptions:

1. The two tiered garage height is reduced 30 feet, from 65 to 35 and from 55 to 25 (4.c.iii). This eliminates the top three floors of the otherwise 6 1/2 floor garage.

2. The footprint that the parking garage or garages occupy cannot exceed 30,000 square feet (4.c.iv). This is about 10% larger than the garage recently proposed by the developer, and is included to ensure that the garage doesn't become twice as fat should it become half as tall.

3. The FAR maximum is reduced from 3.45 to 2.90 (Section 5.00, Table 5.01). Because at-grade and garage parking contributes to the square footage calculation in FAR, the FAR reduction ensures that the maximum allowable square footage of the medical office buildings themselves remains the same.

4. The maximum amount of additional vehicles which can be parked tandem, valet, or with auto lifts, with a special permit, is reduced from an additional 20% to zero.

It is important to note that this article doesn't preclude a developer from constructing some or all of the garage below grade -- and that the below grade spaces would be in addition to the roughly 380 above ground spaces this article permits. There is soil contamination on the site, rendering underground parking technically feasible but more expensive than it might be otherwise. This article doesn't reduce the total number of parking spaces possible under the zoning; it reduces the total number of spaces at or above ground.

The intent of these changes isn't to make the Brookline Place project uneconomic. Rather, it is to ensure that Town Meeting has significant latitude in choosing the maximum amount of at or above ground parking permissible. The petitioner is hopeful that a substantial number of Town Meeting Members will speak up at hearings before the Board of Selectmen, the Advisory Committee, the Zoning Bylaw Committee, and in other forums so that consensus on the "right" amount of parking can be reached. If consensus is reached, a new number of parking spaces above ground could be determined, between the roughly 380 this article would allow and the 820 the other article would allow. This warrant article provides a few "knobs" the community can turn to arrive at that number. The maximum height of the garage can now be adjusted within the 3 story difference between the two articles, and the maximum additional vehicles than can be parked can be altered to be any value within the 0% to 20% range provided by the two articles.

The petitioner hopes that consensus will be reached, and that the Town Meeting will overwhelmingly support rezoning of the Brookline Place parcels with the "right" amount of at-grade or above ground parking.

PLANNING BOARD REPORT AND RECOMMENDATION

This warrant article was submitted by Citizen Petition as an alternative to Article 15, which was proposed for Brookline Place by the Selectmen-appointed Brookline Place Advisory Committee (BPLAC). Article 16 limits the number of parking spaces allowed on the site and the height of an above-ground garage. Specifically, it does not allow, as Article 15 does, a special permit for a 20% increase in the total number of vehicle accommodation by valet and tandem parking if Children's Hospital can demonstrate that it is needed for peak use periods. It also would reduce the allowed height of the above-ground parking garage by approximately 50% below what Children's Hospital has proposed to replace the current above-ground garage.

The Planning Board does not support this warrant article, which was proposed by petitioners who did not participate in the BPLAC meetings and were not present to hear the compromises

made, nor the rationale behind the proposed number of parking spaces or height of the above ground garage. These conversations were key to developing the proposed regulations. The petitioner has indicated the numbers presented in Article 16 are not based on any research, but were chosen simply as an alternative to Article 15. If adequate parking is not provided, the surrounding neighborhood would suffer serious impacts from cars circling and taking on-street parking, which is needed for the many businesses in Brookline Village.

To try and negotiate zoning for a Brookline Place development outside of the deliberate, inclusive, and transparent process managed by the BPLAC, which represented a range of interests, undermines the entire effort. While the Board appreciates that the petitioners are attempting to allow for some modification to the zoning proposed by Article 15, the Board is opposed to having Town Meeting as a whole negotiate directly with individual developers. Town Meeting clearly has the right to vote the proposal as submitted, up or down. Instead, having a committee with a varied membership representing multiple interests, and having that committee meet with its own consultants and with the developer over an extended period of time, as BPLAC did, allows for extensive discussion, attention to detail, and compromise for a project that works for both the town and the developer.

Therefore, the Planning Board unanimously recommends **NO ACTION** on Article 16, as submitted.

SELECTMEN'S RECOMMENDATION

Article 16 petitioners state that the purpose of their warrant article submission was to expand the discussion, or the scope, of debate regarding Brookline Place Advisory Committee's (BPLAC) Article 15. In the public hearings the petitioners did not assert that no valet parking, and/or a three-story parking garage would be an appropriate, specific amendment to Article 15. While the intent was to expand the scope of the discussion, the petitioners filed Article 16 using an earlier draft version of BPLAC's zoning amendment which had several significant structural differences from Article 15 as finally submitted. First, BPLAC's Article 15 creates a height-restricted area delineated by using property lines as a measurement point, whereas Article 16 uses the boundary of the District, which is measured from the centerline of the roadway rather than the property line. Therefore, Article 16, if passed, would restrict the height limitation to a smaller area of the property where the proposed garage and no build zones are proposed. Second, the parking maximums proposed are different in key aspects. BPLAC's Article 15 reflects a desire to use a specific number (683 spaces) as a maximum for the entire District. Since Article 16 is based on an early draft of BPLAC's work, it sets a different parking maximum based on the parking ratio for each specific use (e.g., office, medical office). Depending on the specific amount of each use proposed (e.g., a higher percentage of medical office vs. general office), Article 16, if passed, could result in a total number of parking spaces greater than the 683 maximum specified in BPLAC's Article 15.

The petitioners also noted at several public hearings that they did not intend for Article 16 to stop the proposed redevelopment nor make it financially unfeasible. As of the writing of this report, Article 16 petitioners did not have a specific amendment to offer for Article 15 nor

Article 16 and Boston Children's Hospital has stated that if Article 16 passes they will not be able to move forward with the project.

Further negotiations by the Town resulted in several favorable changes to the Town's Memorandum of Agreement (MOA) with Boston Children's Hospital (Children's). In part due to the concerns raised by the Article 16 Petitioners and others, Children's agreed to reduce their proposed valet parking from 20% to 15%. While this change is not within the scope of an amendment to BPLAC's zoning Warrant Article 15, it is reflected in the MOA. If BPLAC's Article 15 passes, the zoning would permit valet parking by special permit up to 20%. Children's has agreed in the MOA that if the Board of Appeals grants "at least 15%" valet parking and they are able to secure the anchor tenant and financing, then the protections and community mitigation payment requirements in the MOA would still be in effect. The advocacy by the Article 16 petitioners also resulted in Children's agreement in the MOA to a special permit condition requiring a design that is certifiable as a U.S. Green Building Council LEED (Leadership in Energy & Environmental Design) Silver or higher project.

If Article 16 rather than Article 15 passes, Children's cannot move forward and none of the financial and non-financial commitments and community benefits promised by Children's will be available to the Town. Therefore, by a vote of 5-0 taken on April 8, 2014, the Selectmen recommend NO ACTION on Article 16.

ADVISORY COMMITTEE'S RECOMMENDATION

While the Advisory Committee's Recommendation is not available at this time and will be part of the Supplemental mailing, the Committee did vote NO ACTION on Article 16 by a vote of 19-0.

No Action was taken under this Article

XXX

ARTICLE 17

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
Article 17 was submitted by the Board of Selectmen. As part of the proposed development at Brookline Place, Boston Children's Hospital has offered to grant an easement over its land for a pedestrian walkway through the Brookline Place site and to maintain an open space with pedestrian area in the northwest quadrant of the site along Pearl Street. Article 17, if passed by a two-thirds vote, will allow the Selectmen to execute this Easement. In addition, this easement will create an interest in land which will serve as the basis for the enforcement of a Restrictive Covenant that will provide future tax-certainty for the new development proposed by Boston Children's Hospital.

The Easement provides a safe, unobstructed pedestrian passage between the northwest corner of the site along Pearl Street to Washington Street and consists of two primary spaces totaling 23,916 SF, which area shown diagrammatically in Exhibit C "Conceptual Redevelopment Plan" in the Easement Agreement:

- a 14,176 SF landscaped area at the northwest corner of the site (closest to the Brookline Village MBTA station), and
- a 9740 SF pedestrian passage area, 45' in width, that is in addition to the above landscaped area

DISCUSSION:
The Easement is for general public use and will be available for Town-sponsored events. It will contain a combination of paved and landscaped areas. Although it is to be kept open and unobstructed at all times, the developer is allowed to construct a covered walkway over part of the easement in order to facilitate passage from the new parking garage to the new office building. According to the Easement Agreement, Children's Hospital may install and maintain utilities, landscaping, lighting and other site amenities within the easement as long as they do not interfere with the public's use of the space.

Because it is still early in the design process, the precise location of the landscaped open space and pedestrian passage are not yet fixed and may change slightly in order to respond to the final design plans, as long as the minimum area and passage width described above are met. The final "as-built" site plan of the completed project will be submitted when the Easement is ultimately recorded at the Registry of Deeds.

The Advisory Committee felt that the public space created by this Easement will be a substantial benefit to the development and to the Town.

RECOMMENDATION:
By a vote of 19-0-0, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 17.

ARTICLE 17

SEVENTEENTH ARTICLE
Submitted by: Board of Selectmen

To see if the Town will vote to accept a grant of easement from Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each of which are Massachusetts limited liability companies with an address c/o The Children's Hospital Corporation, 300 Longwood Avenue, Boston, Massachusetts 02115 over a portion of land located at 1 Brookline Place and 2-4 Brookline Place as the location of such easement is more particularly shown on that certain plan entitled "Conceptual Redevelopment Plan", prepared by Elkus Manfredi Architects, LTD., and will be further described in the Easement Agreement that will be on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town with respect to the current proposed development of the site known as Brookline Place. Said easement is situated in Norfolk County and contains approximately 23,916 square feet as shown on said Plan. Said Plan and Easement Agreement to be recorded at the Norfolk Registry of Deeds and/or if required the Norfolk Registry District of the Land Court following the granting of a Special Permit and other necessary permits associated with the proposed redevelopment of the above properties, as more particularly set forth in the Memorandum of Agreement, and shall be supplemented with the final as-built plans all as further set forth in the Easement Agreement which is incorporated herein by reference. The description of the parcels of land being burdened by the easement described as follows:

Legal Description of 2-4 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY and SOUTHERLY	by Washington Street 213.30 feet;
WESTERLY and NORTHWESTERLY	by Pearl Street 400.31 feet; and
EASTERLY	by Lot B shown on said plan by 3 courses measuring 139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:

Lot B and Lot C on Land Court Plan 687^B
Lot D and Lot E on Land Court Plan 687^C
Lot B on Land Court Plan 3182^A
Lot A-1 on Land Court Plan 3182^B
Lot A2 on Land Court Plan 3182^C

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Legal Description of 1 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY	by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;
WESTERLY	by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;
NORTHWESTERLY NORTHERLY AND NORTHEASTERLY	by Pearl Street, 393.75 feet; and
SOUTHEASTERLY EASTERLY AND SOUTHWESTERLY	by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

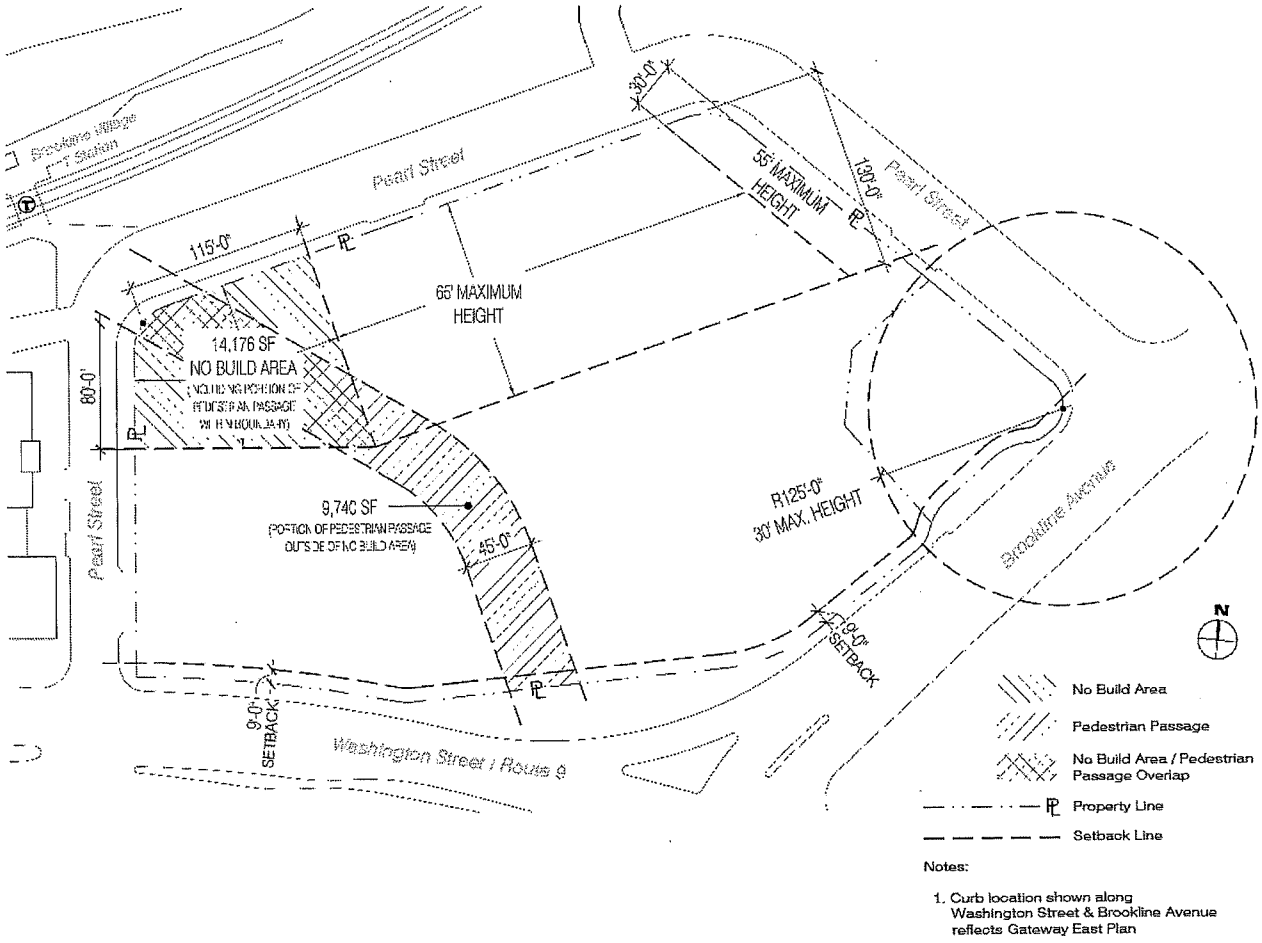
Lots 1 through 5 on Land Court Plan 24371^A and a "way" shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

As part of Boston Children's Hospital proposed development at the site known as Brookline Place, it has offered to grant an easement over its land for a pedestrian walkway through the Brookline Place site and to maintain an open space with pedestrian area along Pearl Street and situated to the north of the proposed 2-4 building and to the east of the proposed new garage. The easement area will be depicted on the Plan attached to the Easement Agreement. This Article, if passed by a two-thirds vote will allow the Selectmen to execute the necessary Easement Agreement and to record the easement at the Norfolk Registry of Deeds and/or if required the Norfolk Registry District of the Land Court following the granting of a Special Permit and other necessary permits associated with the proposed redevelopment. In addition, this easement will create an interest in land which will serve as the basis for the enforcement of a Restrictive Covenant that will provide future tax-certainty for the new development proposed by Boston Children's Hospital. The following is an illustration showing the Easement area:



SELECTMEN'S RECOMMENDATION

The subject matter of Articles 15 through 19 is the redevelopment of Brookline Place. Please see the Selectmen's Recommendation under Article 15 for a full explanation of the Board's full support of Articles 15 and 17-19. Also see the Selectmen's Recommendation under Article 16 for a full explanation of the Board's opposition to Article 16. By a vote of 5-0 taken on April 8, 2014, the Selectmen recommend FAVORABLE ACTION on the following:

VOTED: That the Town vote to accept a grant of easement from Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each of which are Massachusetts limited liability companies with an address c/o The Children's Hospital Corporation, 300 Longwood Avenue, Boston, Massachusetts 02115 over a portion of land located at 1 Brookline Place and 2-4 Brookline Place as the location of such easement is more particularly shown on that certain plan entitled "Conceptual Redevelopment Plan", prepared by Elkus Manfredi Architects, LTD., and will be further described in the Easement Agreement that will be on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town with respect to the current proposed development of the site known as Brookline Place. Said easement is situated in Norfolk County and contains approximately 23,916 square feet as shown on said Plan. Said Plan and Easement Agreement to be recorded at the Norfolk Registry of Deeds and/or if required the Norfolk Registry District of the Land Court following the granting of a Special Permit and other necessary permits associated with the proposed redevelopment of the above properties, as more particularly set forth in the Memorandum of Agreement, and shall be supplemented with the final as-built plans all as further set forth in the Easement Agreement which is incorporated herein by reference. The description of the parcels of land being burdened by the easement described as follows:

Legal Description of 2-4 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY and SOUTHERLY	by Washington Street 213.30 feet;
WESTERLY and NORTHWESTERLY	by Pearl Street 400.31 feet; and
EASTERLY	by Lot B shown on said plan by 3 courses measuring 139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:

Lot B and Lot C on Land Court Plan 687^B
Lot D and Lot E on Land Court Plan 687^C
Lot B on Land Court Plan 3182^A
Lot A-1 on Land Court Plan 3182^B
Lot A2 on Land Court Plan 3182^C

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Legal Description of 1 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY	by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;
WESTERLY	by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;
NORTHWESTERLY NORTHERLY AND NORTHEASTERLY	by Pearl Street, 393.75 feet; and
SOUTHEASTERLY EASTERLY AND SOUTHWESTERLY	by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

Lots 1 through 5 on Land Court Plan 24371^A and a "way" shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Passed by a majority Vote

ADVISORY COMMITTEE'S RECOMMENDATION

While the Advisory Committee's Recommendation is not available at this time and will be part of the Supplemental mailing, the Committee did vote FAVORABLE ACTION on Article 17 by a vote of 19-0.

XXX

ARTICLE 18

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The Restrictive Covenant referenced by Article 18 seeks to ensure the Town continues to receive revenue from the properties at 1 and 2-4 Brookline Place even if purchased by a tax-exempt organization. If accepted, the covenant would place the following restrictions on the deed for 1 and 2-4 Brookline Place (BP) for 95 years:

- The purchaser of the properties at 1 and 2-4 Brookline Place must enter into a PILOT (payment in lieu of taxes) agreement with the Town of Brookline before the sale if they are a tax-exempt organization and agree to the following conditions:
    - Voluntary real estate taxes will be paid to the Town in quarterly installments
    - The total voluntary real estate tax payments for 1 and 2-4 BP will be equal to the amount of property taxes that would have been levied by the Town.
    - The proposed 47,000 sq. ft. addition to 1 BP and the entire garage will also be subject to assessment and voluntary tax payments.
    - The property owner can contest the amount of the voluntary payments on the basis of over valuation or disproportionate valuation in comparison to similar properties.
    - After the 20th year of the PILOT agreement, the property owner can pre-pay the remaining 75 years of voluntary tax payments in a lump sum. The amount would be calculated as the sum of all remaining payments, discounted to the date at an annual rate equal to the most recent 30 year US Treasury Bond rate. The amount of each annual payment will be determined by the average increase in taxes, on a percentage basis, for the last 20 years.
    - The Town shall provide the property owner with a written statement of the amount of each payment 30 days before it is due.
    - The PILOT agreement shall have a clause relating to lien/collection remedies available to the Town in cases of nonpayment of voluntary tax payments.
    - If 1 BP is subdivided, the responsibility for voluntary tax payments on the proposed addition and the garage will be transferred to the new owner.

DISCUSSION:
The Declaration of Restrictive Covenants is a thorough document that provides for restrictions on resale, the right of the owner to contest perceived over-valuation of the property, collection of overdue PILOT payments and the subdivision of 1BP. It also lays out a provision for the owner to pre-pay 75 years of payments, in a single payment, after the 20th year of the agreement. It was noted that it is highly unlikely that Children's

Hospital will exercise its right to pre-payment and, if it does, the Town may need to adjust its fiscal policies surrounding cash.

The Town has been concerned about the tax certainty of Brookline Place since 2003 when Town Meeting first discussed zoning amendments for the site. The Town has been diligent in negotiating this agreement and it is estimated that the net increase in tax revenue will be $2M from 1 and 2-4 BP.

The Declaration of Restrictive Covenants is a thoughtful and well-structured document that will ensure that the properties at 1 Brookline Place and 2-4 Brookline Place continue to provide the Town with tax revenue for 95 years.

RECOMMENDATION:
The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 18 by a vote of 19-0-0.

ARTICLE 18

EIGHTEENTH ARTICLE
Submitted by: Board of Selectmen

To see if the Town will accept a Restrictive Covenant from Children's One Brookline Place, LLC and Children's Brookline Place, LLC, each a Massachusetts limited liability company and the owners and/or entities having the option to purchase the properties located at 1 and 2-4 Brookline Place, Brookline, Massachusetts, respectively, which will be upon such terms and conditions as the Board deems in the best interests of the Town with respect to the current development of the site known as Brookline Place, and authorize the Board of Selectmen to enter into any necessary agreement in furtherance of the purposes of the Restrictive Covenant with respect to future tax-certainty of the land and buildings at Brookline Place and as more specifically set forth in the Restrictive Covenant. The description of the parcels of land being described as follows:

Legal Description of 2-4 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY and SOUTHERLY	by Washington Street 213.30 feet;
WESTERLY and NORTHWESTERLY	by Pearl Street 400.31 feet; and
EASTERLY	by Lot B shown on said plan by 3 courses measuring 139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:

Lot B and Lot C on Land Court Plan 687^{B}
Lot D and Lot E on Land Court Plan 687^{C}
Lot B on Land Court Plan 3182^{A}
Lot A-1 on Land Court Plan 3182^{B}
Lot A2 on Land Court Plan 3182^{C}

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Legal Description of 1 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY	by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;
WESTERLY	by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;
NORTHWESTERLY NORTHERLY AND NORTHEASTERLY	by Pearl Street, 393.75 feet; and
SOUTHEASTERLY EASTERLY AND SOUTHWESTERLY	by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

Lots 1 through 5 on Land Court Plan 24371[A] and a "way" shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

As set forth in the terms of the Restrictive Covenant, this Article, if passed, will provide a Restrictive Covenant that runs with the land and provides tax-certainty for a 95-year term for the new development at 2-4 Brookline Place as well as the proposed additions to One Brookline Place and the net new parking spaces in the garage. It also, will allow the Board of Selectmen to enter into a tax equivalency agreement or other agreement(s) consistent with the terms of the Restrictive Covenant should all or a portion of the properties be conveyed to any entity that may qualify for real estate tax-exemption in the future.

SELECTMEN'S RECOMMENDATION

The subject matter of Articles 15 through 19 is the redevelopment of Brookline Place. Please see the Selectmen's Recommendation under Article 15 for a full explanation of the Board's full support of Articles 15 and 17-19. Also see the Selectmen's Recommendation under Article 16 for a full explanation of the Board's opposition to Article 16. By a vote of 5-0 taken on April 8, 2014, the Selectmen recommend FAVORABLE ACTION on the following:

VOTED: That the Town accept a Restrictive Covenant from Children's One Brookline Place, LLC and Children's Brookline Place, LLC, each a Massachusetts limited liability company and the owners and/or entities having the option to purchase the properties located at 1 and 2-4 Brookline Place, Brookline, Massachusetts, respectively, which will be upon such terms and conditions as the Board deems in the best interests of the Town with respect to the current development of the site known as Brookline Place, and authorize the Board of Selectmen to enter into any necessary agreement in furtherance of the purposes of the Restrictive Covenant with respect to future tax-certainty of the land and buildings at Brookline Place and as more specifically set forth in the Restrictive Covenant. The description of the parcels of land being described as follows:

Legal Description of 2-4 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY and SOUTHERLY	by Washington Street 213.30 feet;
WESTERLY and NORTHWESTERLY	by Pearl Street 400.31 feet; and
EASTERLY	by Lot B shown on said plan by 3 courses measuring 139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:

Lot B and Lot C on Land Court Plan 687^{B}
Lot D and Lot E on Land Court Plan 687^{C}
Lot B on Land Court Plan 3182^{A}
Lot A-1 on Land Court Plan 3182^{B}
Lot A2 on Land Court Plan 3182^{C}

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Legal Description of 1 BP Property

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY	by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;
WESTERLY	by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;
NORTHWESTERLY NORTHERLY AND NORTHEASTERLY	by Pearl Street, 393.75 feet; and
SOUTHEASTERLY EASTERLY AND SOUTHWESTERLY	by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

Lots 1 through 5 on Land Court Plan 24371[A] and a "way" shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Passed by a ---------- majority Vote

ADVISORY COMMITTEE'S RECOMMENDATION

While the Advisory Committee's Recommendation is not available at this time and will be part of the Supplemental mailing, the Committee did vote FAVORABLE ACTION on Article 18 by a vote of 19-0.

ARTICLE 19

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
This petition has been submitted by the Board of Selectmen, to see if the Town will authorize the Board of Selectmen to release the documents executed in connection with the acquisition of development rights in 2-4 Brookline Place entered into by and among the Town, Village Plaza Limited Partnership and Children's Brookline Place LLC, including, without limitation, that certain Tri-Party and Escrow Agreement recorded with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court on October 29, 2007, and the Development, Easement and Lease Agreement dated October 26, 2007, as well as the documents being held in escrow pursuant to the above-referenced Tri-Party and Escrow Agreement for the prior, so-called 2007 proposed Children's Hospital Project at Brookline Place, and to enter into any necessary agreement(s) and/or amendments to existing agreements to carry out the terms and conditions set forth in a certain Memorandum of Agreement among Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each a Massachusetts limited liability company and the entities owning and/or having the option to purchase the parcels of land and buildings thereon that make-up the so-called Brookline Place properties, and upon such further terms and conditions that the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

EXPLANATION:
This article enables the Board of Selectmen to release older documents relating to the previous Brookline Place agreements from escrow as these will no longer be part of the legal framework going forward, and further to enable the BoS to enter in to agreements, specifically the Memorandum of Agreement (MOA) of April 29th 2014, and any other agreements that are necessary to implement Article 15.

A summary of the MOA key items are as follows:

- Tax certainty that the Property will not be removed from the Tax Rolls which guaranteed real estate taxes for 95 years on new buildings and the garage. Pre-payment of the PILOT payments after 20 years by the owner would be permitted in a one-time net present value payment.
- Timely Availability of Funds for Footbridge Demolition and Gateway East amounting to $300,000 for the Bridge demolition and $750,000 for Gateway East. In addition there are penalty payments if certain dates are not met.
- Assurance that Children's Hospital will not build only a portion of the project.
- Incentive to complete the project in a timely fashion in that payments to the Town of between $200,000 and $350,000 would become due if certain dates are not met.

- Mitigation and other Community Benefits include an agreement to provide a Transportation Demand Management plan based on recommendations of the Town's traffic consultant, Nelson\Nygaard, including a mandatory annual monitoring program. An additional $250,000 is due when a certificate of occupancy is issued to be used on surrounding area improvements, such as landscaping, bike paths, etc. Also Children's will reconstruct Pearl Street at a cost not to exceed $335,000.
- Easement for the Benefit of the Town is a pedestrian easement over a 45 foot walkway from the corner of Pearl to Washington Street as well as an area which includes the ability to host 3-4 community events annually plus a small on-site storage facility.
- Environmental protection to the Town is provided through indemnification by Children's when construction or excavation work is taking place. The owners will also extend the existing environmental insurance policy through 2023 at a premium cost no greater than $100,000.
- The Project will have an 182,500 SF 8-story office at 2 Brookline Place and a 47,000 SF expansion of 1 Brookline Place and replace the existing garage to contain a total of 683 parking spaces including the ability to have 15% more additional vehicles through managed parking, such as valet parking.
- The new buildings at 2 BP and 1BP expansion will be certifiable to a LEED Silver level or higher.
- Children's will pay up to $150,000 for Town consultants and counsel.
- There will be an employment preference program for Brookline residents for certain employee positions.
- Children's will be responsible for landscaping the area between the Property line and back of the sidewalks along Brookline Avenue and Washington Street.

DISCUSSION:

The MOA provisions are largely what was anticipated but two new provisions, the reduction of the additional managed parking from 20% to 15% and the minimum silver LEED building certification were welcomed by the Committee. Since the Article cannot be amended to be more restrictive, the language in the Article still states the 20% figure but Children's Hospital has committed to the 15% additional managed parking through the MOA and will be proceeding on that basis.

The Transport Demand Management (TDM) plan provision would focus and measure the owner's efforts to reduce the employee vehicular traffic to the development. This is the Town's first TDM and the provision has been modeled on the experience of the City of Cambridge who operates dozens of such plans. TDM details will be specified in the Special Licensing process of the Planning Board. Enforcement is tied to the annual license required for the project, with the ultimate potential for non-compliance being the withdrawal of the use of the parking garage for the facility.

A concern was expressed that with the Green Line operating at capacity at this time that this option for public transportation may not provide much relief for employee vehicular

reduction. However, it was also noted that in the next few years if the MBTA approves power upgrades on the Green Line that 3 car trains could be run that would add more capacity.

There was discussion of the environmental liability. While there will be real time environmental monitoring during excavation and construction, there will be no on-going environmental monitoring of the planned building sub-slab venting system.

Any payments due under the MOA that had not been paid may be considered municipal charges or fees and could be added to the owner's real estate tax bill for easier collection.

RECOMMENDATION:
The Advisory Committee voted 19-0 and recommends FAVORABLE ACTION on Warrant Article 19.

ARTICLE 19

NINETEENTH ARTICLE
Submitted by: Board of Selectmen

To see if the Town will authorize the Board of Selectmen to release the documents executed in connection with the acquisition of development rights in 2-4 Brookline Place entered into by and among the Town, Village Plaza Limited Partnership and Children's Brookline Place LLC, including, without limitation, that certain Tri-Party and Escrow Agreement recorded with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court on October 29, 2007, and the Development, Easement and Lease Agreement dated October 26, 2007, as well as the documents being held in escrow pursuant to the above-referenced Tri-Party and Escrow Agreement for the prior, so-called 2007 proposed Children's Hospital Project at Brookline Place, and to enter into any necessary agreement(s) and/or amendments to existing agreements to carry out the terms and conditions set forth in a certain Memorandum of Agreement among Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each a Massachusetts limited liability company and the entities owning and/or having the option to purchase the parcels of land and buildings thereon that make-up the so-called Brookline Place properties, and upon such further terms and conditions that the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This Article, if approved by majority vote, will allow the Selectmen to release the agreements still being held in escrow for the prior 2007 project at Brookline Place and to enter into new agreements and/or amendments thereto to ensure that the Town receives the benefits and protections as set forth in the Memorandum of Agreement for the current proposed development among the Town, Children's Brookline Place, LLC and Children's One Brookline Place, LLC, upon such terms and conditions as the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

SELECTMEN'S RECOMMENDATION

The subject matter of Articles 15 through 19 is the redevelopment of Brookline Place. Please see the Selectmen's Recommendation under Article 15 for a full explanation of the Board's full support of Articles 15 and 17-19. Also see the Selectmen's Recommendation under Article 16 for a full explanation of the Board's opposition to Article 16. By a vote of 5-0 taken on April 8, 2014, the Selectmen recommend FAVORABLE ACTION on the following:

VOTED: That the Town authorize the Board of Selectmen to release the documents executed in connection with the acquisition of development rights in 2-4 Brookline Place entered into by and among the Town, Village Plaza Limited Partnership and Children's Brookline Place LLC, including, without limitation, that certain Tri-Party and Escrow Agreement recorded with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court on October 29, 2007, and the Development, Easement and Lease Agreement dated October 26, 2007, as well as the documents being held in escrow pursuant to the above-referenced Tri-Party and Escrow Agreement for the prior, so-called 2007 proposed Children's Hospital Project at Brookline Place, and to enter into any necessary agreement(s) and/or amendments to existing agreements to carry out the terms and conditions set forth in a certain Memorandum of Agreement among Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each a Massachusetts limited liability company and the entities owning and/or having the option to purchase the parcels of land and buildings thereon that make-up the so-called Brookline Place properties, and upon such further terms and conditions that the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

Passed by a unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

While the Advisory Committee's Recommendation is not available at this time and will be part of the Supplemental mailing, the Committee did vote FAVORABLE ACTION on Article 19 by a vote of 19-0.

XXX

ARTICLE 20

TWENTIETH ARTICLE
Submitted by: Daniel Simkovitz and Elena Budrene-Kac

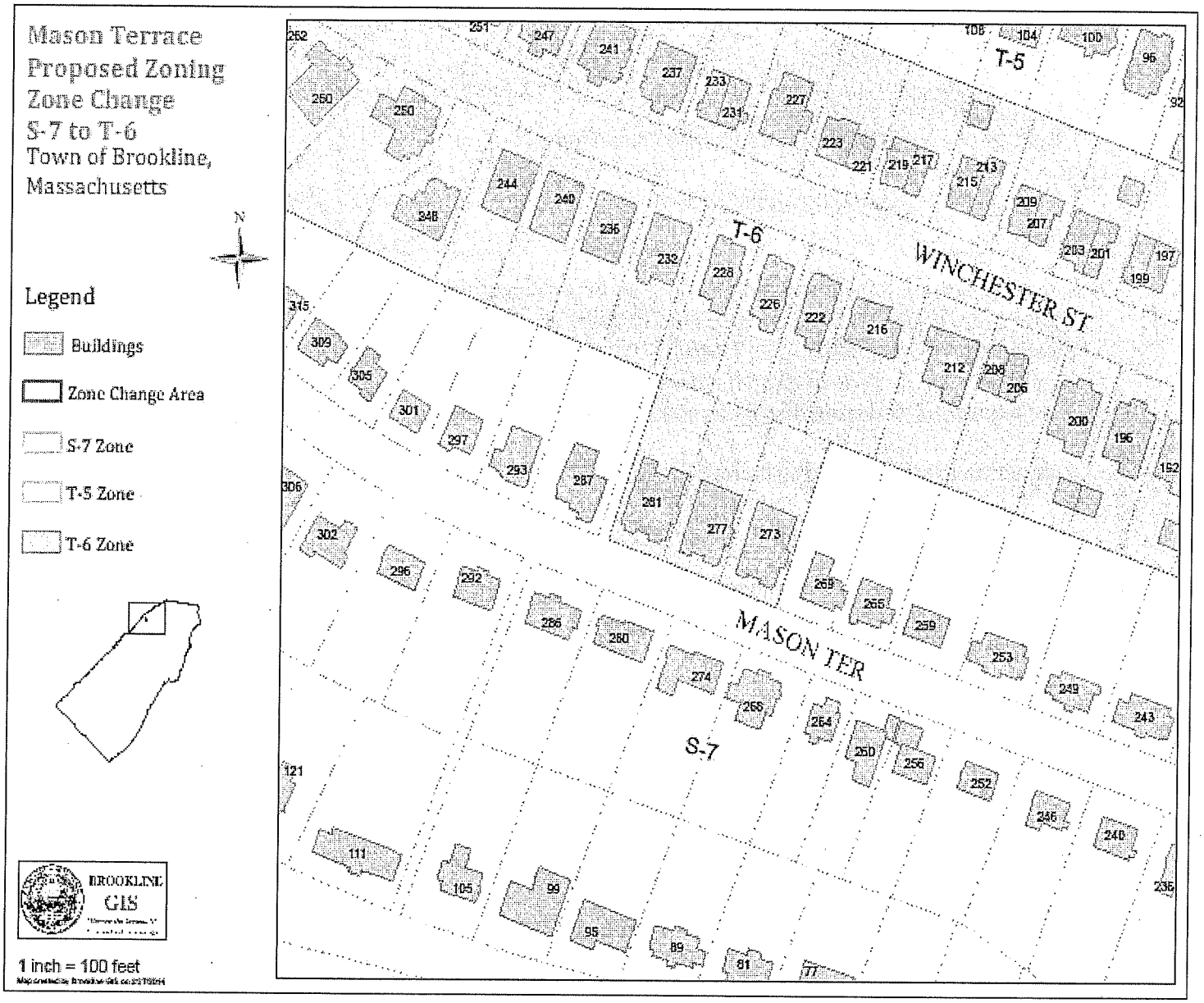
To see if the Town will amend the Brookline Zoning By-Law and the Zoning Map as follows:

By amending the current zoning and map to change the current zoning district for the following three (3) parcels of property located at 273 Mason Terrace (Town Assessor's Parcel Id. No. 085-87-00); 277 Mason Terrace (Town Assessor's Parcel Id. No. 085-88-00); and 281 Mason Terrace (Town Assessor's Parcel Id. No.085-89-00); from an S-7 district to the adjacent T-6 zoning district as shown on the attached plan.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The three properties known and numbered as 273, 277 and 281 Mason Terrace are all pre-existing non-conforming two families. All three properties were built around the 1920s and located in a single-family district north of Beacon Street, off of Summit Avenue, and southeast of Brighton. The properties are immediately adjacent to the T-6 district which covers the properties on the adjacent Winchester Street. Due to the topography and the significant slope from Mason Terrace down to Winchester Street, all three properties were built with basements with ceiling that approach 18 feet in height, however, because these properties are two families located in the single family district, they cannot seek relief to convert the basement to habitable space as would be allowed, by special permit, in a T-6, two family district.



PLANNING BOARD REPORT AND RECOMMENDATION

This article was submitted by citizen petition with the support of the Selectmen's Zoning By-Law Committee and proposes to amend the zoning map by changing the zoning of three properties – 273, 277, and 281 Mason Terrace – from S-7 (single family, 7,000 s.f. minimum lot size) to T-6 (two family, 6,000 s.f. minimum lot size for a two family). The three properties in question are pre-existing, non-conforming two-family dwellings in a district zoned for single-families. They are considerably larger than the other dwellings in the neighborhood.

Because a T-6 zoning district abuts their properties to the north, the petitioners are requesting that the lots they own be incorporated into the T-6 zoning district. This would make their

two-family dwellings conforming uses. It would also significantly increase the allowed floor area ratio (FAR) for their houses, more than doubling it from .35 to .75.

In December of 2013, the owner of 281 Mason Terrace requested variance relief from the Board of Appeals to allow a conversion of the basement to habitable space, not as a separate unit, but as additional floor space for the first floor unit. Due to the grade of this lot which slopes down towards Winchester Street, as is the case for 273 and 277 Mason Terrace, the basements of the three dwellings have 18-foot-high ceilings, allowing for the opportunity for conversion. An attic or basement in a single- or two-family dwelling may be converted by right for living space up to 150% of the allowed floor area, but under the S-7 zoning, 281 Mason Terrace's floor area already exceeded the 150%, by approximately 1,762 s.f.; therefore, variance relief was needed. Before the Board of Appeals issued a decision, the applicant withdrew his application without prejudice.

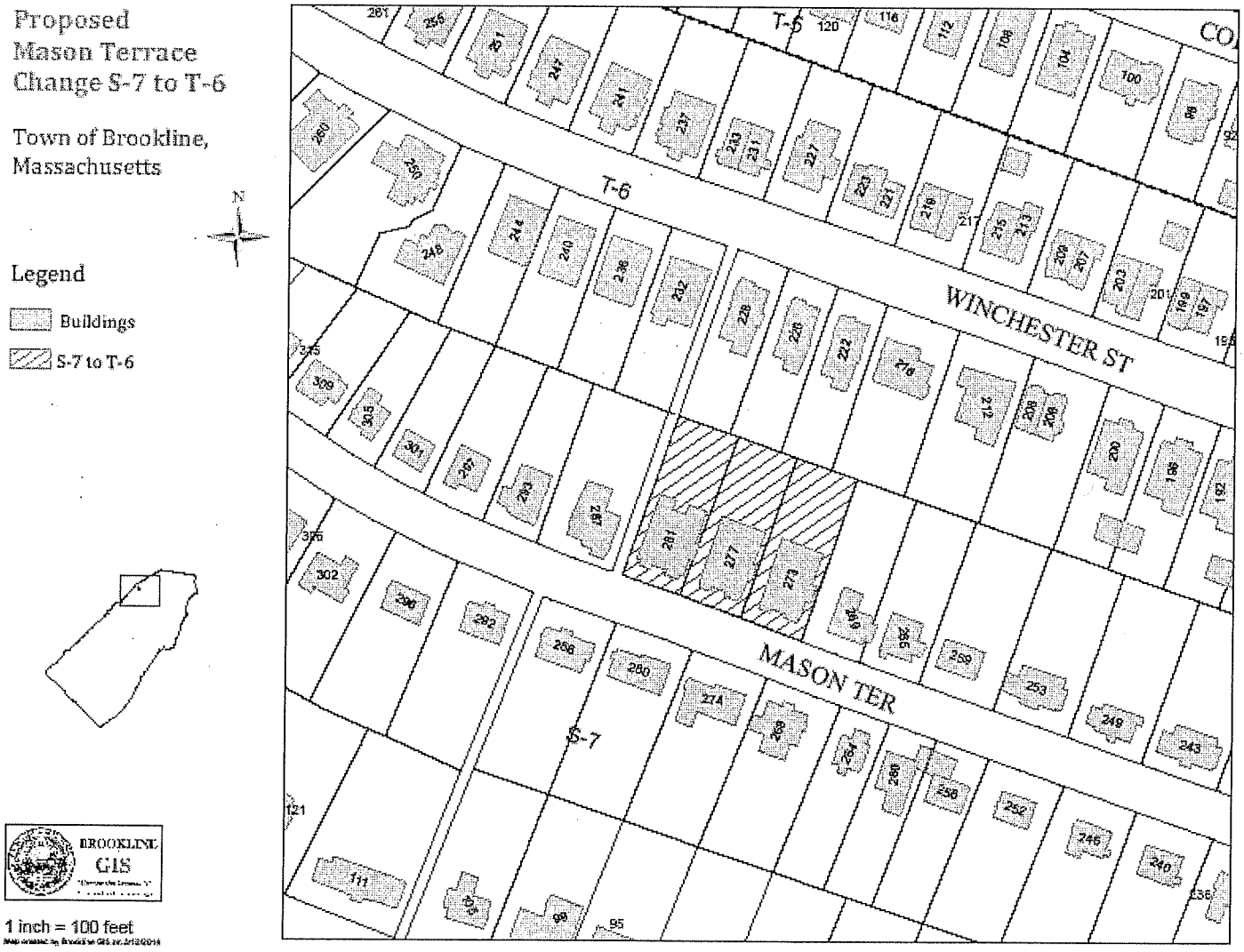
The following table displays the existing floor area for 273, 277, and 281 Mason Terrace, as well as the lot size of each property, the existing FAR, and the potential increase in floor area that would be allowed if the petitioners are granted the zoning change, both by right and by special permit. The Planning Board would like to emphasize that this table looks only at FAR regulations, and does not include other possible limits to development on the properties, specifically setback and usable open space requirements, which could likely also limit expansion. However, if all other zoning regulations are met, each property could potentially increase their overall floor area by approximately 1,000 square feet by right if they are re-zoned to a T-6 zoning district and barring other zoning requirements, over 2,000 s.f by special permit for an exterior addition, or up to 4,000 s.f. to finish a basement and/or attic.

Existing and Potentially Allowed Floor Area for Proposed Mason Terrace Re-Zoning						
	S-7 Zoning			T-6 Zoning Potential Additional Floor Area (s.f.)		
	Existing Floor Area (s.f.)*	Existing Land Area (s.f.)*	Existing FAR	By Right	By Special Permit (120%)	By Right in basement and/or attic (150%)
273 Mason Terrace	4,360	8,220	0.53	1,805	3,038	4,887
277 Mason Terrace	4,946	8,220	0.6	1,219	2,452	4,301
281 Mason Terrace	5,107	8,220	0.62	1,058	2,291	4,140
**From Assessor's Database – numbers may not be precise*						

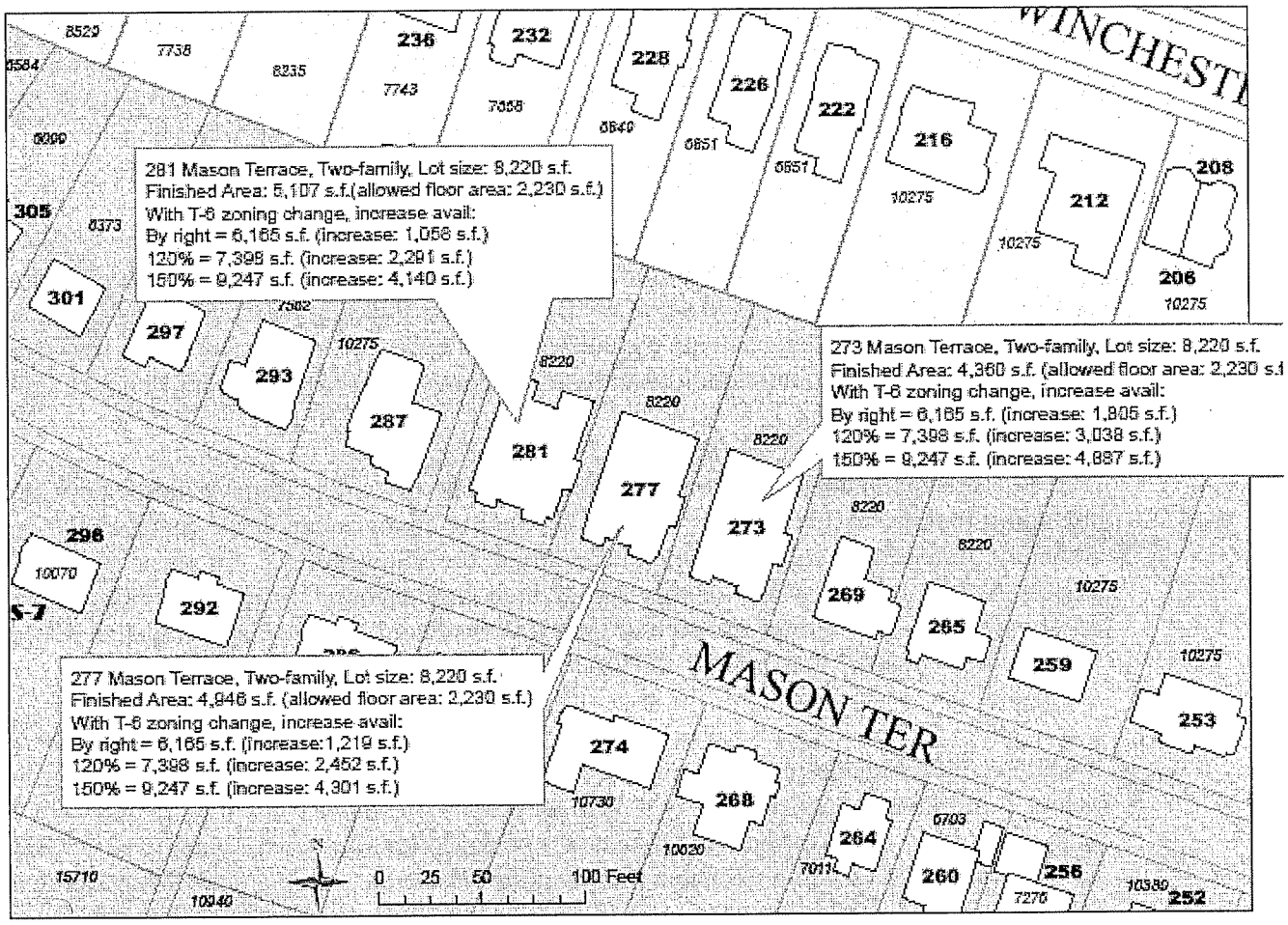
Given the fact that the dwellings are already well above the allowed FAR and significantly larger than other dwellings along Mason Terrace, changing the zoning from S-7 to T-6 for these three properties on Mason Terrace would allow not only conversion of basements but the possible construction of significant additions. This would increase the overall density

and size of these homes, which might negatively impact the smaller surrounding houses in the S-7 district.

Although the Planning Board sympathizes with the petitioners' desire to convert basement and attic space in their homes, this article is an extreme way to achieve their goal. The Planning Board sees many cases each year of homeowners maximizing their allowed FAR, and cannot separate these three lots from the years of prior experience. Although other zoning regulations serve to restrict where and how additions are constructed, Article 20 would dramatically increase the allowed FAR for these three dwellings, while neighboring dwellings are not afforded the same amenity. Additionally, the Planning Board believes there could be a future threat of demolition of the dwellings in order to construct new buildings that maximize the higher allowed FAR on site. Therefore, the Planning Board unanimously recommends **NO ACTION** on Article 20, as submitted.



273, 277, 281 Mason Terrace



Possible Allowed Floor Area Increases If Rezoned From S-7 to T-6

**All finished area calculations are estimates based on Assessor's Records*
Date: 4/3/2014

SELECTMEN'S RECOMMENDATION

Article 20 is a petitioned article that proposes to change the zoning for three properties – 273, 277 and 281 Mason Terrace – from S-7 to T-5. The current zoning of S-7 allows for a single-family dwelling, with a maximum FAR of .35, on a lot with a minimum size of 7,000 s.f. The proposed zoning of T-6 would allow a two-family dwelling, with a maximum FAR of .75, on a lot with a minimum size of 6,000 s.f. These three properties are currently two-family dwellings and are pre-existing, non-conforming uses built around the 1920s. Since they are next to the T-6 district, which covers the adjacent properties to the north, or rear, of

Winchester Street, the petitioners are requesting to change the zoning boundary line and become part of the contiguous T-6 district.

The petitioners state that this zoning amendment would enable them to convert a portion of their basements or attics by-right to habitable space for additional living space for family members. This new space would be connected to one of the two existing dwelling units to provide additional living space. The new zoning would not allow the basement to be used as a separate, or third dwelling unit, as this is not allowed in a T-6 zoning district.

Several neighbors were in opposition to the proposed zoning because the increase in allowed FAR, which is more than double what was previously allowed, would also give the owners the right to build an addition or demolish the building and replace it with a larger building. Since zoning runs with the land, and not the owner, if and when the property changes hands, a new owner could decide not to convert the basement, but rather to build an addition or new building.

The Board is sympathetic to the needs of these property owners to have more space to care for aging parents in their homes. However, zoning changes cannot be made based on the intent of individual property owners. Doubling the allowed FAR for these properties is excessive; the buildings are already larger than the surrounding single-family homes on Mason Terrace. An exterior addition of over 2,000 s.f could be allowed by special permit by the Zoning Board of Appeals (ZBA) if other dimensional requirements were met, exacerbating the relationship of the size of these homes to the surrounding dwellings.

The Selectmen feel that the appropriate process for the evaluation and determination of the owner's proposed expansion is by s special permit or variance from the ZBA, not by a change in zoning. (A previous ZBA case to convert the basement space was withdrawn without prejudice before a decision was made.) However, the Board of Selectmen cannot support this warrant article as proposed. Therefore, by a vote of 5-0 taken on April 17, 2014, the Board recommends NO ACTION on Article 20.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

The properties at 273, 277 and 281 Mason Terrace are two family homes in an S-7 zoning district. The petitioners seek to have their properties rezoned to T-6, which would allow them to undertake interior renovations to expand their living space. The zoning change was requested because the houses already exceed the 150% FAR allowed, by right, in an S-7 district under the Zoning By-law. The properties at 273, 277 and 281 Mason Terrace currently exceed the maximum allowable FAR because of their location in an S-7 district. A change to T-6 increases the maximum FAR from 0.35 to 0.75 and would allow the petitioners to expand their living area. It is a change that travels with the property, not the owner. So, future owners may avail themselves of this change in different ways than the current owners.

DISCUSSION:
On April 23, the Advisory Committee received notice from Robert Allen, the attorney representing the petitioners, that the petitioners have decided no motion will be offered under Article 20 and pursue other avenues for zoning relief.

RECOMMENDATION:
The Advisory Committee by a vote of 14-0-0 recommends NO ACTION on Article 20.

XXX

No action was taken under this Article.

ARTICLE 21

TWENTY-FIRST ARTICLE
Submitted by: Diane Gold

To see if the Town will amend the Brookline Zoning By-Law by adding to Sec. 3.01.1, Classification of Districts, a new zoning district, S-4, as follows: (new language in bold)

Section 3.01 - Classification of Districts

1. Residence Districts
    a. Single Family (S)
        1) S-40
        2) S-25
        3) S-15
        4) S-10
        5) S-7
        6) S-0.5P (Refer to Section 5.06, Special District Regulations)
        7) S-0.75P (Refer to Section 5.06, Special District Regulations)
        8) S-4

And by modifying the Brookline Zoning Map10Z as follows: by changing the following T-5 properties to the new S-4 zoning district at: 6 Meadowbrook Rd (Block 341 Lot 13), 8 Forest St. (Block 341 Lot 11), 1 Forest St.(Block 342 Lot 01-02), 26 Meadowbrook Rd. (Block 345 Lot 15), 17 Larkin Rd. (Block 343, Lot 03), 14 Whitney St.(Block 343 Lot 08), 20 Whitney St.(Block 343 Lot 07), 15 Whitney St. (Block 344 Lot 03), 17 Whitney St. (Block 344 Lot 04), 21 Whitney St.(Block 344 Lot 05), and 25 Whitney St. (Block 344 Lot 06).

And by modifying Table 5.01, Table of Dimensional Requirements, by adding a new row for the S-4 district, after the SC-10 row, as follows: (new language in bold)

Table 5.01 - Table of Dimensional Requirements

						Min Yard			Open Space	
	Use	Min Lot Size	FAR Max	Lot Width Min	Height Max	Front	Side	Rear	Landsc	Usable
S-4	**1 - family detached dwelling**	**4,000**	**1.0**	**40**	**35**	**15**	**7.5**	**30**	**10%**	**30%**
	Any other structure or principal use	**5,000**	**1.0**	**50**	**35**	**25**	**20**	**40**	**30%**	**none**
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2 family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none[2]	30	10%	30%
	Any other structure or principle use	5,000	1.0	50	35	25	20	40	30%	none

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Neighborhood of Buttonwood Village in South Brookline, until recently, consisted of modest low slung detached single family homes built mostly in the 1950's. It is one of the few neighborhoods left in Brookline where a family can afford to buy a single family home with a yard for less than a million dollars.

Over the last decade, developers have been transforming our neighborhood, demolishing the original modest homes and shoehorning into their place luxury condos and 2 family dwellings. The new construction has been completely out of character with respect to the size, scale and density that is prevalent in the rest of the neighborhood.

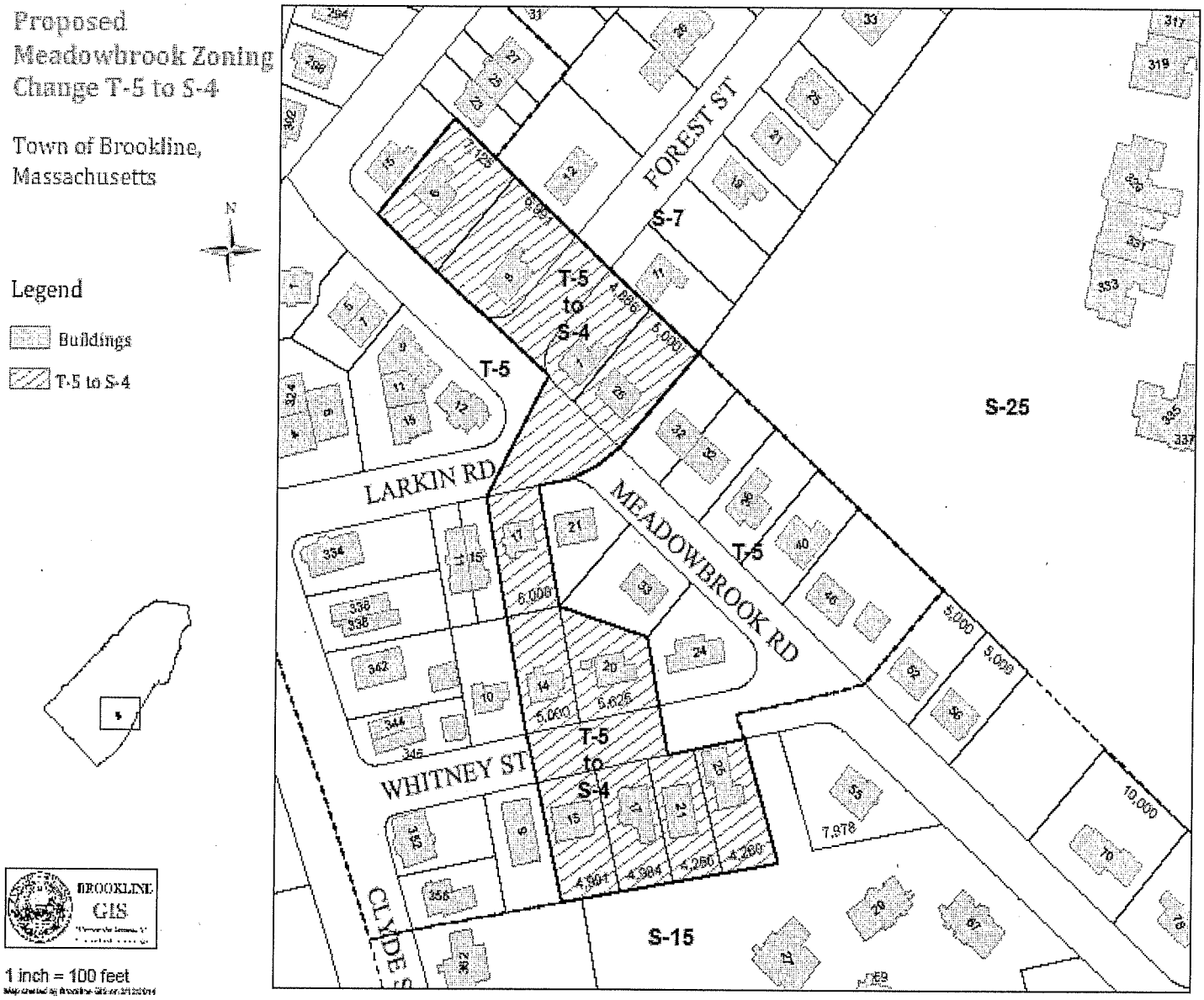
This originally started encroaching towards Meadowbrook Road contiguously from the denser housing stock along Clyde Street, but the most recent development of 4 units at 28/32 Meadowbrook resulted in 2 enormous, unsightly 2 family condos smack dab in the middle of our neighborhood, surrounded by single family houses on both sides and across the street.

Much to the dismay of the neighbors, we have learned that despite our collective dislike at what these developers are doing to the character of our neighborhood, according to the plan of the town zoning regulations, the developers can do this by right. In fact, it has been explained to us that given the economics of conversion to two family dwellings, we should expect this profit maximizing behavior of the developers to continue where allowed until every detached single family home has been eliminated.

We have been told that if we want to preserve the character of our neighborhood, we need to change the zoning. As we find that the current zoning is incongruous with the current character of the neighborhood, we plan to utilize the tools of democracy and request a zoning change at this spring's Town Meeting.

Our primary goal is to prevent the conversion of the remaining detached single family housing into two family dwellings and town houses. Unfortunately, the smallest existing single family zoning district is an S-7. Most of the lots along Meadowbrook, Larkin and Whitney are four to five thousand square feet in size, which does not fulfill the minimum lot size requirement for an S-7. The neighborhood does not wish to rezone itself into non-conforming status.

We are thus proposing to create a new single family district where the minimum lot size is 4,000 square feet, an S-4. To minimize the changes that we would impose upon these houses, we would base the dimensional requirements for the proposed S-4 zone by taking the T-5 requirements from Table 5.01 of the Zoning By-Laws, and removing the line items for a "2-family dwelling" and a "1-family attached dwelling." The remaining two line items would be for a "1-family detached dwelling" with a minimum lot size of 4,000 square feet, and "Any other structure or principal use."



PLANNING BOARD REPORT AND RECOMMENDATION

This warrant article was submitted by citizen petition. It creates a new residential zoning district, S-4, and proposes changing the zoning for eleven contiguous properties in Buttonwood Village from a T-5 district to an S-4 district. The T-5 district allows the following uses: a single-family detached dwelling with a 4,000 s.f. minimum lot size, a two-family in a single building with a minimum lot size of 5,000 s.f., or by special permit, two attached single families, with the same minimum lot size of 5,000 s.f. The S-4 district would only allow a single family, with a minimum lot size of 4,000 s.f. The eleven properties to be rezoned are near the intersection of Clyde and Newton Streets in South Brookline, have

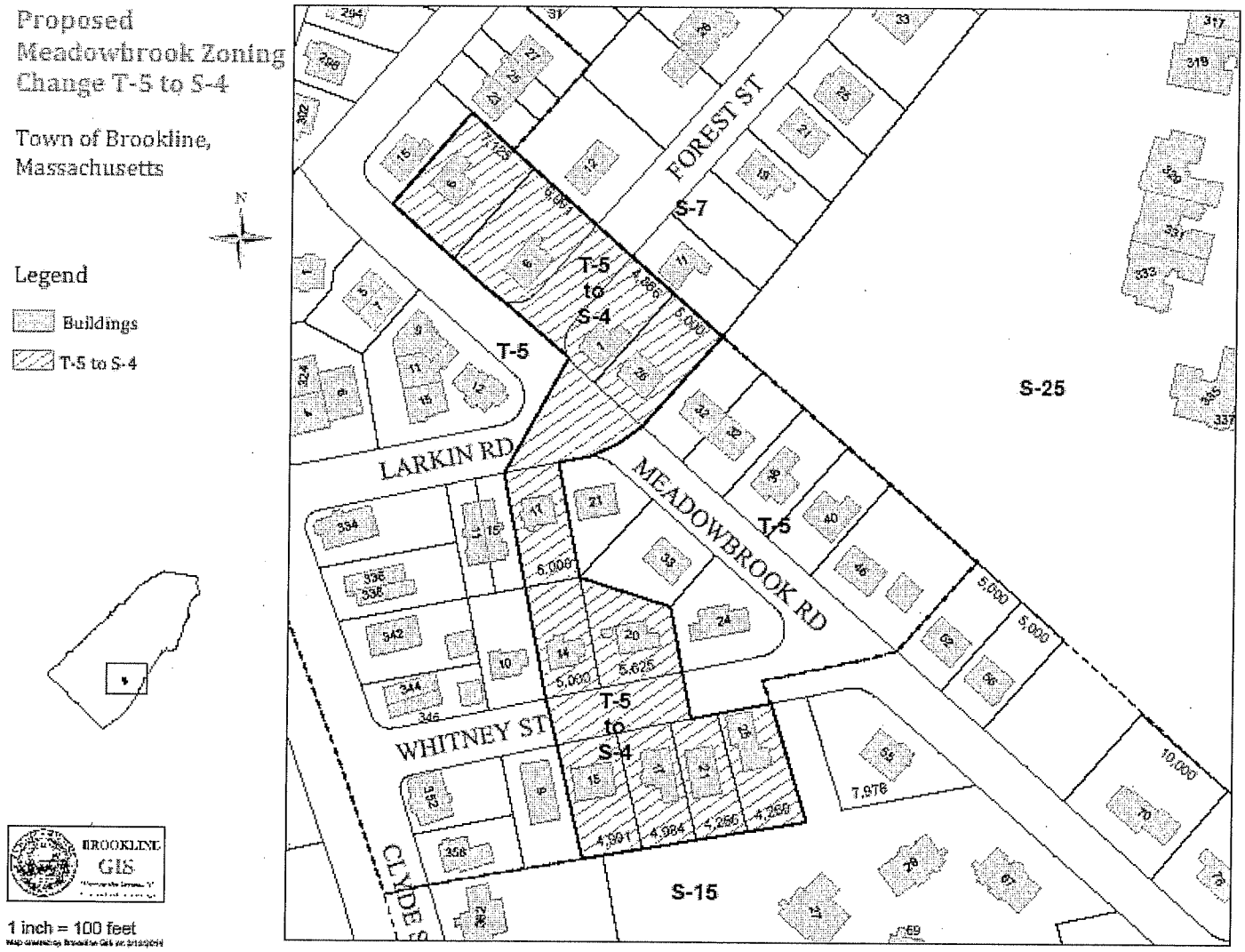
frontage on Meadowbrook Road, Larkin Road, Forest Street and Whitney Street, and are not far from Allandale Farm and Larz Anderson Park.

All of the property owners, when surveyed, expressed support for this zoning amendment that would restrict their properties to single-family use, because they have become increasingly concerned that the character of their neighborhood would change if more large attached single-families are built. In a recent case, a small single-family home was demolished, the lot subdivided, and two large attached single-family dwellings were built on each lot. Besides the negative visual impact of these new large buildings, the neighborhood worries about the impacts increased traffic will bring. The parking requirement for two attached single-family dwellings is more than double that for a single family, because each unit for an attached single family with two or more bedrooms requires 2.3 parking spaces; thus, five parking spaces are usually required for two attached single families.

Although the new zoning alters the allowed use of these eleven properties, the minimum lot size, FAR, lot width, height, yard setbacks and open space requirements all remain the same. In the Table of Dimensional Requirements, the new S-4 zoning will not have the two rows (2-family dwelling and 1-family attached dwelling) that allow two-family use, as under the T-5 district. This means that the allowed floor area on the lot stays at an FAR of 1.0, i.e. equal to whatever the lot size is, so that a very large single-family house can still be built on the lots with the new S-4 zoning designation.

The petitioners maintain that although a large house can be built, there will be fewer entrances, decks, less parking, more open space, and less traffic. In order to preserve the character of their neighborhood, the affected lot owners are willing to forfeit their future right to convert their single-family dwellings to two-family dwellings, but they would not support lowering the FAR at this time.

The Planning Board understands that this proposed zoning is a compromise in order to achieve consensus for the new district; however, the Planning Board recommends that residents give continued consideration to limiting the size of single-family homes that can be built on the small lots in the new S-4 district by lowering the allowed FAR. With such a high FAR, large single-families can still be constructed that may or may not fit well with the neighborhood. Otherwise, the Planning Board supports the initiative the residents showed to change the zoning in response to a by-right development they felt was out of character with their neighborhood. The only change is to down-zone the eleven properties to remove the allowed two-family use, a change the homeowners have agreed to willingly. Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 21, as submitted.



SELECTMEN'S RECOMMENDATION

Article 21 is a petitioned article that proposes to change the zoning for 11 contiguous properties in the Meadowbrook area of South Brookline from T-5 to a newly created S-4 zoning district. The goal of the petitioners is to preserve the character of the neighborhood by preventing the remaining detached single-family houses from being demolished and replaced with two-family dwellings. Recently, this occurred when a very modest single-family on a large lot was demolished and the lot was subdivided into two lots, with each lot having two attached single-family townhouses built on them. This resulted in a total of four dwellings, where previously there was one, and ten parking spaces, where previously only two were required. The petitioners found the scale of the townhouses out of proportion to the remaining surrounding single-families and opposed the additional traffic that would be generated.

The petitioners are cognizant that this proposed zoning is "compromise zoning" because, although it limits the number of units, it does not change the allowed FAR for a single family home, which remains at 1.0, and could allow a very large single family home to be built. However, for the sake of gaining support for the proposed zoning warrant article among those homeowners affected by it, the petitioners limited the scope of the amendment to the type of use, i.e. single family, and did not propose changing the FAR. The Board of Selectmen would recommend that the neighborhood consider in the future addressing the allowed FAR.

The Board supports this warrant article because restricting the use to single-family would reduce the parking and traffic in the neighborhood. An attached two-family typically requires five parking spaces (2.3 spaces per each unit with two or more bedrooms); a single-family would require only two parking spaces. Further, the Selectmen agree with the petitioners that single-family homes, as opposed to two-families, would keep the density the same, allow more usable open space, and better preserve the character of this neighborhood.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 8, 2014, on the following:

VOTED: That the Town amend the Brookline Zoning By-Law by adding to Sec. 3.01.1, Classification of Districts, a new zoning district, S-4, as follows: (new language in bold)

<u>Section 3.01 - Classification of Districts</u>

1. Residence Districts
    a. Single Family (S)
        1) S-40
        2) S-25
        3) S-15
        4) S-10
        5) S-7
        6) S-0.5P (Refer to Section 5.06, Special District Regulations)
        7) S-0.75P (Refer to Section 5.06, Special District Regulations)
        8) S-4

And by modifying the Brookline Zoning Map10Z as follows: by changing the following T-5 properties to the new S-4 zoning district at: 6 Meadowbrook Rd (Block 341 Lot 13), 8 Forest St. (Block 341 Lot 11), 1 Forest St.(Block 342 Lot 01-02), 26 Meadowbrook Rd. (Block 345 Lot 15), 17 Larkin Rd. (Block 343, Lot 03), 14 Whitney St.(Block 343 Lot 08), 20 Whitney St.(Block 343 Lot 07), 15 Whitney St. (Block 344 Lot 03), 17 Whitney St. (Block 344 Lot 04), 21 Whitney St.(Block 344 Lot 05), and 25 Whitney St. (Block 344 Lot 06).

And by modifying Table 5.01, Table of Dimensional Requirements, by adding a new row for the S-4 district, after the SC-10 row, as follows: (new language in bold)

Table 5.01 - Table of Dimensional Requirements

						Min Yard			Open Space	
	Use	Min Lot Size	FAR Max	Lot Width Min	Height Max	Front	Side	Rear	Landsc	Usable
S-4	**1 - family detached dwelling**	**4,000**	**1.0**	**40**	**35**	**15**	**7.5**	**30**	**10%**	**30%**
	Any other structure or principal use	**5,000**	**1.0**	**50**	**35**	**25**	**20**	**40**	**30%**	**none**
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2 family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none[2]	30	10%	30%
	Any other structure or principle use	5,000	1.0	50	35	25	20	40	30%	none

Passed by a Counted Vote of 105 for Favor and 3 Opposed

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

Button (wood) Village is a neighborhood in South Brookline near the intersections of Goddard Ave, Newton Street and Clyde Street. The district is reportedly named for the brass buttons on the uniforms of the many police officers and firefighters that settled there. The neighborhood consists of mostly single-family detached homes on 4000-5000 sq ft lots. Most of the area is in a T-5 zoning district. Recently, a single-family home was demolished, the lot subdivided and two large attached single-family houses were built. This was possible because of the multiple uses and high FAR allowed in a T-5 zone.

Brookline does not currently have a zoning designation for single-family homes on lots smaller than 7000 sq feet. The petitioner seeks to create a zoning district, S-4, specifically for detached single-family homes with a lot size minimum of 4000 sq feet. The proposed district would have the same dimensional requirements as a T-5 zone and change the use to permit single-family dwellings only.

The petitioner also seeks to down zone 11 contiguous properties currently in a T-5 zone to S-4.

DISCUSSION:
The petitioner and associated property owners seek to protect the their neighborhood from over-development by downzoning 11 properties. As noted above, T-5 zoning permits both single-family and two-family dwellings for lot sizes of 4000 and 5000 sq. feet with a maximum FAR of 1.0.

Each conversion of a single-family home to two-family generally results in larger building and further loss of open space because of increased parking requirements. According to §6.02 of the Zoning By Laws, the number of parking spaces per unit is set at 2.3 which is rounded up to 5 spaces for a two unit building. By way of example, five parking spaces, on a 4000 sq ft lot take up a minimum of 765 sq ft, thus dedicating 19% of the entire lot to parking. By contrast, two parking spaces uses only 7.6% of the same size lot. The petitioner believes this loss of open space will significantly change the character of the neighborhood.

Questions were raised about keeping the maximum allowable FAR at 1.0 in the new S-4 district. The petitioner stated that some, but not all, property owners were willing to decrease FAR and the 1.0 FAR was kept as a compromise to encourage participation in the downzoning.

Additionally, questions were raised about whether the new district will be a meaningful zoning district as the district crosses 3 streets (Meadowbrook Rd, Larkin Rd and Whitney St) and does not include all properties that meet the S-4 criteria. The Advisory Committee supports the petitioner and property owners and felt eleven properties gave enough critical mass to the zone.

The Planning Board met to consider Article 21 on April 10, encouraged the petitioners to give continued consideration to decreasing the size of allowable single family homes, and recommended favorable action.

RECOMMENDATION:
The Advisory Committee by a vote of 12-2-2 recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 22

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

As explained in the Combined Reports, the Advisory Committee and the Board of Selectmen approved different versions of Article 22. There are two differences between the motions:

1. In Section 6.08.13.d of the Advisory Committee's vote, they change "No indoor seating shall be allowed" to "No indoor seating shall be allowed**, except for gasoline service station purposes**", and

2. In Section 6.08.13.e of the Advisory Committee's vote, they adopt the Planning Board's recommendation to change "The convenience store and gas station uses shall be operated under a single business or franchise name," to "The convenience store and gas station uses shall be operated ~~under~~ **as** a single business ~~or franchise name~~."

The Board of Selectmen reconsidered their motion at their May 13, 2014 meeting and, by a vote of 5-0, recommends FAVORABLE ACTION on the motion offered by the Advisory Committee that begins on page 22-11 of the Combined Reports.

ARTICLE 22

TWENTY-SECOND ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will amend the Brookline Zoning By-law as follows:

Amending Section 4.07 – Table of Use Regulations, by modifying Use 25A (**new language in bold**):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
25. Gasoline service station	No	No	No	No	No	SP	SP	No	SP
25A. ~~Partially self-service gasoline stations.~~ **Gasoline service station with convenience store** ***See §6.08, paragraph 13, for additional regulations.**	No	No	No	No	No	SP*	SP*	No	SP*

Amending Section 6.08 – Regulations Applying to Gasoline Service Stations by modifying paragraphs 1 and 11 and adding new paragraphs 13, 14 and 15 to read as follows (**new language in bold**):

§6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS

Gasoline service stations shall be designed to conform to the following requirements:

1. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that the ~~Building Commissioner~~ **Director of Transportation/Engineering** deems that access to or egress from a gasoline services station at such a location will create hazardous conditions.

2. The minimum lot area shall be 10,000 square feet.

3. The minimum frontage on a street shall be 100 feet.

4. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet; the minimum width shall be 20 feet.

5. The minimum distance of driveways, measured at lot line, shall be as follows:
   a. From corner lot line, 20 feet;
   b. From interior side lot line, 10 feet;
   c. From other driveway on same lot, 20 feet.

6. The minimum setback of any building (including a canopy) from all street lot lines shall be 40 feet, except that the Board of Appeals by special permit may permit canopies over pump islands to have a minimum setback of 5 feet at gasoline service stations located on Boylston Street, Brookline Avenue, and Commonwealth Avenue.
   a. The minimum setback of gasoline pumps from all street lot lines shall be 12 feet.
   b. A raised curb at least six inches in height shall be constructed along all lot lines except at driveway openings.

7. Properties in residential districts which abut a gasoline service station shall be protected from headlight glare by either:
   a. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

   b. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade. Such wall, barrier, or fence must be opaque.

   c. Such screening shall be maintained in good condition at all time, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

8. All illumination on outdoor areas shall be shielded so as not to shine upon any property in a residence district.

9. All washing, lubricating, and making of repairs shall be carried on inside the building.

10. No repairs such as body work shall be performed.

11. No merchandise other than accessory, portable automotive merchandise may be displayed or sold on the premises, **unless the Board of Appeals has issued a special permit for a gasoline service station with convenience store, Use 25A of §4.07 – Table of Use Regulations.**

12. The area of the lot not landscaped and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.

13. **No special permit for a gasoline service station with convenience store (Use 25A of §4.07 – Table of Use Regulations) shall be issued unless all of the following conditions are met:**
    a. **The retail store shall have no more than 3,000 s.f. in gross floor area.**
    b. **No drive-in use shall be allowed for the convenience store.**
    c. **Parking for the gasoline service station with convenience store shall be provided in accordance with the parking requirements for Industrial uses as shown in §6.02, Paragraph 1, Table of Off-Street Parking Space Requirements. The**

parking spaces at the pumps for refueling vehicles may not be counted. If the need for fewer parking spaces can be demonstrated, a reduced parking requirement may be granted by special permit by the Board of Appeals.

d. No indoor seating shall be allowed.

e. The convenience store and gas station uses shall be operated under a single business or franchise name.

f. The convenience store shall not include the branded, franchised operations of a related or complementary business whose retail outlets are not primarily situated within convenience stores.

14. Gasoline service stations may operate either full-service or self-service pumps, or a combination of the two.

15. All gasoline service stations, regardless of self- or full-serve, shall provide customers with disabilities with refueling assistance without additional charge, and post clear signage indicating this assistance is available by signaling an employee.

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.

This article seeks to clarify the regulations and allow for completely self-serve gas stations, as well as allow for gas stations to have associated convenience stores and therefore sell merchandise other than auto-related products.

The current Zoning By-law has two gas station-related uses: #25, Gasoline service station, and #25A, Partially self-service gasoline stations. Use 25 was the first use to allow gas stations (presumably full-serve), while Use 25A was added in the early 1990s. Since 25A specifically only allows partially self-serve pumps, no completely self-serve gas station is currently allowed in Brookline. The proposed article would add language in Section 6.08, Regulations Applying to Gasoline Service Stations, allowing gas stations to operate either full-serve or self-serve pumps or a combination of the two. Additional language would require gas stations, regardless of self- or full-serve, to assist persons with disabilities with refueling their vehicles when staff is signaled, underscoring existing Americans with Disabilities Act requirements for self-serve gas stations.

The proposed article would also allow for associated convenience stores with gas stations by replacing Use 25A with a new use, Gas Station with Convenience Store. This use would be allowed by special permit in the same business districts as currently allowed for gas stations. The article outlines a number of conditions for a gas station with convenience store in Section 6.08: a 3,000 s.f. limit for the convenience store; no drive-in use for the convenience store; no indoor seating; the gas station and convenience store must be operated under a single business or franchise name; and the convenience store cannot include the branded, franchised operations of a related or complementary business. Parking requirements for gas

stations with convenience stores would be the same as for all gas stations, one space per 800 s.f., however, you would not be able to count the spaces at the pumps toward the total provided parking.

This article would modernize the Zoning By-law's regulations regarding gas stations, recognizing that the way gas stations now operate are quite different from when the Zoning By-law was first established. Gas stations commonly have self-serve pumps and associated convenience stores, and many people find these features attractive and convenient amenities. Additionally, some local gas stations may be interested in adding a convenience store in an effort to remain competitive with other gas stations and to attract business. The proposed conditions for gas station convenience stores, such as the restriction on indoor seating and that the convenience store and gas station be operated under the same business name, are meant to limit impacts on surrounding properties and to ensure the use is still principally a gas station, rather than a fast-food restaurant or similar, which would involve additional concerns.

PLANNING BOARD REPORT AND RECOMMENDATION

This article would modify the regulations for gas stations to allow them to operate as fully self-service entities and, by special permit, have an accompanying convenience store. The article was submitted by the Department of Planning and Community Development with the recommendation of the Selectmen's Zoning By-Law Committee.

The proposed amendment would involve a number of changes, including modifying *Use #25A* in *Section 4.07, Table of Use Regulations*, to replace Partially Self-Service Gasoline Stations with a new use "Gasoline Service Station with Convenience Store." This use would be allowed in all business districts except O (Office), by special permit. Additionally, the amendment would modify *Section 6.08, Regulations Applying to Gasoline Service Stations,* with a number of changes: making the Director of Transportation/Engineering rather than the Building Commissioner the appropriate individual to determine if a driveway from a gas station would create a hazardous condition due to traffic conditions; allowing gas stations to sell merchandise other than auto-related merchandise if they are granted a special permit by the Board of Appeals; establishing specific conditions for any gas station-associated convenience store regarding its size, parking, seating, and franchise operations; clarifying that gas stations may operate either self- or full-serve pumps; and requiring that all gas stations provide refueling assistance to disabled individuals when signaled.

The amendment allows for gas stations to have only self-serve pumps, as well as modernizes the Zoning By-law's regulations to allow convenience stores with gas stations, a now common practice and business model. As currently written, the two uses for gas stations, Use #25 Gasoline Service Station and Use #25A Partially Self-Service Gasoline Station, imply that gas stations must have at least one full-serve pump. Removing this requirement would allow gas station owners to respond to market demand and operate their pumps in a manner that best suits their business. In order to ensure that people with disabilities receive refueling assistance, regardless of whether they are at a full-serve or self-serve gas station, the amendment would insert a paragraph in *Section 6.08* requiring that such assistance be available at all gas stations.

The other objective of this amendment, to allow for convenience stores at gas stations, seeks to address the concerns the community might have when it comes to allowing such a use, including size, seating and parking. The overall 3,000 s.f. size limit is near the average size of a convenience store (2,744 s.f.) and less than an average *new* convenience store (3,590 s.f.), including its storage and back-office space[i]. The proposed size limit allows for flexibility in store layout and design, as well as sufficient storage space to prevent the need for the frequent delivery of merchandise. No indoor seating would be allowed, preventing the use from acting like a restaurant, and the convenience store would not be allowed to have drive-thru access. Parking requirements would be the same as for other gas stations, although the Board of Appeals could reduce the parking requirement by special permit if it could be demonstrated that less parking was needed.

The amendment also requires the gas station and convenience store to be operated under the same business or franchise name, and to not include the franchised operations of a complementary business that isn't primarily situated in convenience stores. This limitation ensures gas station convenience stores remain accessory to the gas station, and don't become a separate restaurant or food take-out business, which would be more appropriately classified under a different use category and likely entail a different level of traffic. The Board of Selectmen at its public hearing on this amendment raised the issue that some convenience stores associated with gas stations have different names, e.g. Mobil/Mobil Express, but are operated by the same entity. Therefore, the Planning Board recommends a slight modification to the amendment under *Section 6.08.13.e* by changing "The convenience store and gas station uses shall be operated under a single business or franchise name," to "The convenience store and gas station uses shall be operated ~~under~~ **as** a single business ~~or franchise name~~."

The Planning Board supports this amendment. It allows Brookline gas stations to be more competitive with those in nearby municipalities, and enables them to diversify their business. By allowing them to be more competitive, this amendment will expand the available business opportunities on gas station properties. With both full-serve and self-serve options, gas station owners will have the ability to adjust to market demand, and the amendment ensures disabled persons will receive refueling assistance when needed. The proposed limitations on gas station convenience stores are reasonable and intended to limit the likely traffic impacts on neighboring communities, while still allowing flexibility in design and merchandise.

Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 22, with the revisions above.

SELECTMEN'S RECOMMENDATION

Article 22 was submitted by the Planning and Community Development Department with the support of the Zoning By-Law Committee. The article would modify the Zoning By-Law to allow for gas stations to operate both full-serve and self-serve pumps, as well as permit them to have associated convenience stores and sell non-auto-related merchandise, a practice that is currently not allowed.

In order to allow for these changes, the amendment would replace Use #25A, Partially Self-Service Gasoline Stations, in the Zoning By-law's *Table of Use Regulations, Section 4.07,* with a new use, Gasoline Service Station with Convenience Store. This use would be allowed by special permit in the same commercial zoning districts as Use 25, Gasoline Service Station: L, G and I Districts. Additionally, new regulations for gas stations under *Section 6.08* would be added, specifically allowing for gas stations to sell non-auto-related merchandise by special permit if they meet certain conditions: the convenience store is less than 3,000 s.f. and has no indoor seating; there is no drive-in use for the convenience store; there is no indoor seating; the convenience store and gas station are operated under a single business or franchise name; and the convenience store does not include the franchised operations of a related or complementary business. Parking requirements for the convenience store would be the same as those for gas stations in general; however, the Zoning Board of Appeals (ZBA) could grant a special permit to lower the required parking should the need for fewer spaces be demonstrated.

The Article would also provide for new regulations under *Section 6.08* to allow for gas stations to operate either full-serve or self-serve pumps, or a combination of the two, as well as require gas stations to provide refueling assistance to persons with disabilities when signaled, regardless of full- or self-serve pumps.

This Article modernizes the gas station regulations in the Town's Zoning By-Law, which have not been updated in some time. Currently, the by-law does not allow for fully self-serve gas stations, which are very common elsewhere, and it allows gas stations to sell only auto-related merchandise. This Article would enable Brookline gas stations to compete on the same level as gas stations in nearby municipalities and broaden the options available for improvement and renovation.

The Article sets some limits on gas station-associated convenience stores, specifically related to their size and operations. While it allows for gas stations to have convenience stores, it does not allow for other branded, franchised businesses, such as a Dunkin' Donuts, to operate within them. In the past, the ZBA has reviewed applications from gas station owners to add on Dunkin' Donuts restaurants, and neighborhood opposition to these applications has been high, often due to traffic concerns. Therefore, the proposed limitations seek to ensure convenience stores do not turn into separate, restaurant-like operations.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 17, 2014, on the following. There are two differences between this vote and the one offered by the Advisory Committee:

1. In Section 6.08.13.d of the Advisory Committee's vote, they change "No indoor seating shall be allowed" to "No indoor seating shall be allowed**, except for gasoline service station purposes**", and

2. In Section 6.08.13.e of the Advisory Committee's vote, they adopt the Planning Board's recommendation to change "The convenience store and gas station uses shall be operated under a single business or franchise name," to "The convenience store and gas station uses shall be operated ~~under~~ **as** a single business ~~or franchise name~~."

VOTED: That the Town amend the Brookline Zoning By-Law as follows:

Amending Section 4.07 – Table of Use Regulations, by modifying Use 25A (**new language in bold**):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
25. Gasoline service station	No	No	No	No	No	SP	SP	No	SP
25A. ~~Partially self-service gasoline stations.~~ **Gasoline service station with convenience store** ***See §6.08, paragraph 13, for additional regulations.**	No	No	No	No	No	SP*	SP*	No	SP*

Amending Section 6.08 – Regulations Applying to Gasoline Service Stations by modifying paragraphs 1 and 11 and adding new paragraphs 13, 14 and 15 to read as follows (**new language in bold**):

§6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS

Gasoline service stations shall be designed to conform to the following requirements:

1. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that the ~~Building Commissioner~~ **Director of Transportation/Engineering** deems that access to or egress from a gasoline services station at such a location will create hazardous conditions.

2. The minimum lot area shall be 10,000 square feet.

3. The minimum frontage on a street shall be 100 feet.

4. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet; the minimum width shall be 20 feet.

5. The minimum distance of driveways, measured at lot line, shall be as follows:
   a. From corner lot line, 20 feet;
   b. From interior side lot line, 10 feet;
   c. From other driveway on same lot, 20 feet.

6. The minimum setback of any building (including a canopy) from all street lot lines shall be 40 feet, except that the Board of Appeals by special permit may permit canopies over

pump islands to have a minimum setback of 5 feet at gasoline service stations located on Boylston Street, Brookline Avenue, and Commonwealth Avenue.

a. The minimum setback of gasoline pumps from all street lot lines shall be 12 feet.
b. A raised curb at least six inches in height shall be constructed along all lot lines except at driveway openings.

7. Properties in residential districts which abut a gasoline service station shall be protected from headlight glare by either:
   a. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

   b. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade. Such wall, barrier, or fence must be opaque.

   c. Such screening shall be maintained in good condition at all time, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

8. All illumination on outdoor areas shall be shielded so as not to shine upon any property in a residence district.

9. All washing, lubricating, and making of repairs shall be carried on inside the building.

10. No repairs such as body work shall be performed.

11. No merchandise other than accessory, portable automotive merchandise may be displayed or sold on the premises, **unless the Board of Appeals has issued a special permit for a gasoline service station with convenience store, Use 25A of §4.07 – Table of Use Regulations.**

12. The area of the lot not landscaped and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.

13. **No special permit for a gasoline service station with convenience store (Use 25A of §4.07 – Table of Use Regulations) shall be issued unless all of the following conditions are met:**
    a. The retail store shall have no more than 3,000 s.f. in gross floor area.
    b. No drive-in use shall be allowed for the convenience store.
    c. Parking for the gasoline service station with convenience store shall be provided in accordance with the parking requirements for Industrial uses as shown in §6.02, Paragraph 1, Table of Off-Street Parking Space Requirements. The parking spaces at the pumps for refueling vehicles may not be counted. If the need for fewer parking spaces can be demonstrated, a reduced parking requirement may be granted by special permit by the Board of Appeals.

d. **No indoor seating shall be allowed.**
e. **The convenience store and gas station uses shall be operated under a single business or franchise name.**
f. **The convenience store shall not include the branded, franchised operations of a related or complementary business whose retail outlets are not primarily situated within convenience stores.**

14. **Gasoline service stations may operate either full-service or self-service pumps, or a combination of the two.**

15. **All gasoline service stations, regardless of self- or full-serve, shall provide customers with disabilities with refueling assistance without additional charge, and post clear signage indicating this assistance is available by signaling an employee.**

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 22 was submitted by the Department of Planning and Community Development and is supported by both the Selectman's Zoning By-Law Committee and the Planning Board. The purpose of this article is to modify the regulations for gas stations to allow them to operate as fully self-service entities, and, by special permit, have an accompanying convenience store.

The current Zoning By-law has two gas station-related uses: #25, Gasoline service stations, and #25A, Partially self-service gasoline stations. Use 25 was the first use to allow gas stations (presumably full-serve), while Use 25A was added in the early 1990s. Since 25 A specifically allows only a portion of the pumps to be self-serve, no completely self-serve gas station is currently allowed in Brookline. The proposed article would add language in Section 6.08, Regulations Applying to Gasoline Service Stations, allowing gas stations to operate full-serve, self-serve, or a combination of the two. Additional language would require gas stations, regardless of self- or full-serve, to provide assistance to persons with disabilities when staff are notified, as required by the national Americans with Disabilities Act (ADA).

Article 22 proposes the following By-Law revisions:

- *Section 4.07, Table of Use Regulations, Use #25A*: replaces "Partially self-service gasoline stations" with "Gasoline service station with convenience store." This use would be allowed by special permit in all business districts except O (Office).
- *Section 6.08, Regulations Applying to Gasoline Service Stations*:
    - specifies the Director of Transportation/Engineering rather than the Building Commissioner as the appropriate individual to determine if a driveway from a gas station would create a hazardous traffic condition;
    - allows gas stations to sell merchandise other than auto-related merchandise if they are granted a special permit by the Board of Appeals;
    - establishes specific conditions for any gas station-associated convenience store regarding its size, parking, seating, and business operations;

- clarifies that gas stations may operate either self- or full-serve pumps, or a combination of the two; and
- requires that all gas stations provide refueling assistance to disabled individuals when signaled.

DISCUSSION:

Self-serve pumps:

When the gas station use was originally created in the By-law, the concept of self-service pumps did not exist. Removing the requirement to have at least one full-service pump, which is what the current By-law implies, allows gas station owners to respond to market demand and operate their pumps in a manner that best suits their business.

Article 22 also requires a call button for assistance at each self-service pump by anyone that needs it, even though ADA regulations do not specifically require this feature. The Advisory Committee considered whether this type of business would be problematic to disabled and elderly populations, and in the end agreed that the assistance call feature would be adequate. Furthermore, it was recognized that self-service pumps have become the norm in most communities, and customers that want full-service can take their business elsewhere.

Convenience stores:

While gas stations are prime candidates for development conversions to other uses, they are often only economically viable if they operate a small convenience store. One of the objectives of this amendment is to address the concerns some members of the community might have when it comes to allowing such a use, including size, seating and parking. The overall 3,000 s.f. size limit was determined by looking at the average size of a convenience store less its storage and back-office space. The proposed size limit allows for flexibility in store layout and design, as well as sufficient storage space to prevent the need for the frequent delivery of merchandise. The proposed zoning changes under Article 22 would not allow any indoor seating for service stations with convenience stores, preventing the use from acting like a restaurant, and the convenience store would not be allowed to have drive-thru window access (referred to in 13b as "drive-in use" to reflect the definition used in the By-law). Parking requirements would be the same as for other gas stations, although the Board of Appeals could reduce the parking requirement by special permit if it could be demonstrated that less parking was needed.

The prohibition of indoor seating in Section 6.08.13d was troubling, or, at least, curious to many on the Advisory Committee. Although the reason for this inclusion is to prevent convenience stores within gas stations from operating like a restaurant, most felt like this was not a likely outcome. In fact, Article 22 as written would not prevent gas stations <u>without</u> a convenience store from having indoor seating; it is only stations <u>with</u> convenience stores where this would be prohibited.

The requirement for a single business or franchise name was included in Section 13e. to ensure that convenience stores within gas stations remain accessory to the gas station and do not become a separate restaurant or food take-out business, which would be more appropriately classified under a different use category with a different parking requirements. Moreover, the By-law does not permit two primary uses on a single lot. The Advisory Committee agreed with the Planning Board's recommendation to eliminate the requirement

to operate under the same "franchise name" since there are several service station companies that use slightly different names for their convenience stores (i.e. Mobil and Mobil Express).

Finally, although the self-serve pump and convenience store changes proposed by Article 22 both concern gas station uses, the two changes are not interrelated. Members of the Advisory Committee expressed concern that the self-serve pump and convenience store issues were being linked together in the same warrant article when there is no interrelationship between the two, and for that reason considered the self-service and convenience store aspects separately prior to taking a final vote.

RECOMMENDATION:
By a vote of 14–0-2, the Advisory Committee recommends FAVORABLE ACTION on the Article 22 as filed, with two modifications:

- Section 6.08.13.d: Changes "No indoor seating shall be allowed" to "No indoor seating shall be allowed**, except for gasoline service station purposes**", and
- Section 6.08.13.e: Adopts the Planning Board's recommendation to change "The convenience store and gas station uses shall be operated under a single business or franchise name," to "The convenience store and gas station uses shall be operated ~~under~~ **as** a single business ~~or franchise name~~."

VOTED: That the Town amend the Brookline Zoning By-Law as follows:

Amending Section 4.07 – Table of Use Regulations, by modifying Use 25A (**new language in bold**):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
25. Gasoline service station	No	No	No	No	No	SP	SP	No	SP
25A. ~~Partially self-service gasoline stations.~~ **Gasoline service station with convenience store** ***See §6.08, paragraph 13, for additional regulations.**	No	No	No	No	No	SP*	SP*	No	SP*

Amending Section 6.08 – Regulations Applying to Gasoline Service Stations by modifying paragraphs 1 and 11 and adding new paragraphs 13, 14 and 15 to read as follows (**new language in bold**):

§6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS

Gasoline service stations shall be designed to conform to the following requirements:

7. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that the ~~Building Commissioner~~ **Director of Transportation/Engineering** deems that access to or egress from a gasoline services station at such a location will create hazardous conditions.

8. The minimum lot area shall be 10,000 square feet.

9. The minimum frontage on a street shall be 100 feet.

10. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet; the minimum width shall be 20 feet.

11. The minimum distance of driveways, measured at lot line, shall be as follows:
    d. From corner lot line, 20 feet;
    e. From interior side lot line, 10 feet;
    f. From other driveway on same lot, 20 feet.

12. The minimum setback of any building (including a canopy) from all street lot lines shall be 40 feet, except that the Board of Appeals by special permit may permit canopies over pump islands to have a minimum setback of 5 feet at gasoline service stations located on Boylston Street, Brookline Avenue, and Commonwealth Avenue.
    c. The minimum setback of gasoline pumps from all street lot lines shall be 12 feet.
    d. A raised curb at least six inches in height shall be constructed along all lot lines except at driveway openings.

7. Properties in residential districts which abut a gasoline service station shall be protected from headlight glare by either:
    d. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

    e. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade. Such wall, barrier, or fence must be opaque.

    f. Such screening shall be maintained in good condition at all time, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

8. All illumination on outdoor areas shall be shielded so as not to shine upon any property in a residence district.

9. All washing, lubricating, and making of repairs shall be carried on inside the building.

10. No repairs such as body work shall be performed.

11. No merchandise other than accessory, portable automotive merchandise may be displayed or sold on the premises, **unless the Board of Appeals has issued a special**

permit for a gasoline service station with convenience store, Use 25A of §4.07 – Table of Use Regulations.

12. The area of the lot not landscaped and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.

13. **No special permit for a gasoline service station with convenience store (Use 25A of §4.07 – Table of Use Regulations) shall be issued unless all of the following conditions are met:**
    a. **The retail store shall have no more than 3,000 s.f. in gross floor area.**
    b. **No drive-in use shall be allowed for the convenience store.**
    c. **Parking for the gasoline service station with convenience store shall be provided in accordance with the parking requirements for Industrial uses as shown in §6.02, Paragraph 1, Table of Off-Street Parking Space Requirements. The parking spaces at the pumps for refueling vehicles may not be counted. If the need for fewer parking spaces can be demonstrated, a reduced parking requirement may be granted by special permit by the Board of Appeals.**
    d. **No indoor seating shall be allowed <u>except for gasoline service station purposes</u>.**
    e. **The convenience store and gas station uses shall be operated under a single business ~~or franchise name~~.**
    f. **The convenience store shall not include the branded, franchised operations of a related or complementary business whose retail outlets are not primarily situated within convenience stores.**

14. **Gasoline service stations may operate either full-service or self-service pumps, or a combination of the two.**

15. **All gasoline service stations, regardless of self- or full-serve, shall provide customers with disabilities with refueling assistance without additional charge, and post clear signage indicating this assistance is available by signaling an employee.**

XXX

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[i] Source: National Association Convenience Stores (NACS), Online Fact Sheet: Convenience Stores Offer More Convenience, March 3, 2014.
http://www.nacsonline.com/Research/FactSheets/ScopeofIndustry/Pages/Convenience.aspx

failed a 2/3 RDS Vote by an ERV of 109 In favor, 62 Opposed and 11 Abstentions.

ARTICLE 23

TWENTY-THIRD ARTICLE
Submitted by: Planning and Community Development Department

To see if the Town will amend the Brookline Zoning By-law as follows:

Amend Section 4.07 – Table of Use Regulations, Use 53, by changing "SP" into "No" for S zoning districts and removing the asterisk and accompanying wording (**new language in bold**):

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees. ~~*Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.~~	~~SP*~~ **No**	No	No	No	No	No	No	No	No

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 Planning Board and the Selectmen's Zoning By-law Committee.

Use #53 of the Zoning By-law's Table of Uses allows for a separate dwelling unit for domestic employees on the same lot as a single-family dwelling, as long as the lot is at least 40,000 s.f. and is in an S-40 zoning district, and the accessory dwelling unit is no greater than 1,200 s.f. These restrictions were passed recently by Fall 2013 Town Meeting. Prior to that amendment, separate dwelling units for domestic employees were allowed by-right in any residential district and on any size lot, as long as the Floor Area Ratio was not exceeded. This warrant article would prohibit such accessory dwelling units from any single family zoning district.

As currently written, Use # 53 allows for more than one dwelling structure on a lot in a single-family zoning district based on what is essentially a temporary condition: the employment of household employees. As soon as the principal owner of the home sells the lot or decides to no longer employ domestic help, the separate dwelling unit must remain

vacant or be removed in order to comply with the Zoning By-law. In practice, this is not realistic nor would it be good for the town to have a dwelling remain vacant. It is also very difficult for the Building Department to enforce whether or not occupants are or are not domestic employees for the main house. The proposed amendment would eliminate the ability to create separate dwellings in the first place, thereby removing a zoning loophole that allows individuals to construct multiple houses on a lot without subdividing the lot.

Residents who would like live-in domestic help would still be able to house them within their homes, as long as the space was not fully separate from the rest of the house and had no full kitchen, i.e. a stove would not be allowed.

NOTE: Under Section 9.09.1.d of the current Zoning By-Law, existing carriage houses, or garages with usable space above, may be converted to a dwelling unit by use variance in a single-family zoning district. One of the standards for this relief is to preserve an architecturally or historically significant building which could not otherwise reasonably be maintained. Although the standards for a variance are high, there have been many cases in Town where carriage houses have been found historically or architecturally significant and permission for them to be converted has been granted. The proposed amendment would not change this section of the Zoning By-Law.

PLANNING BOARD REPORT AND RECOMMENDATION

This article would prohibit separate on-site accessory dwelling structures for domestic employees, Use #53 in *Section 4.07, Table of Use Regulations*, and is being submitted by the Department of Planning and Community Development at the request of the Planning Board, and with the support of the Selectmen's Zoning By-Law Committee.

Use #53 allows for a property owner to convert an existing accessory building, or construct a new one, as a residence for domestic or household employees and their families, in addition to a dwelling unit already on the lot. Last fall, Town Meeting approved a zoning amendment restricting these accessory dwellings to lots in S-40 districts, with at least 40,000 s.f., and limiting their size to 1,200 s.f. Previously, such units were allowed by right in all districts with no size restrictions. During the public hearing process last fall, the Planning Board expressed its general concern regarding these units and encouraged the Department of Planning and Community Development to submit a warrant article for a future Town Meeting prohibiting them completely.

The proposed amendment is relatively simple: it would modify Use #53, in *Section 4.07, Table of Use Regulations*, by changing the currently allowed special permit for such units in S districts to a "No," as well as deleting the restrictions that referred to them, since they would no longer be allowed.

The Planning Board strongly supports this amendment for a number of reasons. Currently, Use #53 allows for more than one dwelling unit on a lot in a single-family zoning district, contrary

to the district's intent. It allows the creation of an accessory building, which is a permanent structure, for what will most likely be a temporary use, the hiring of domestic employees. Once domestic employees are no longer employed, the accessory structure can no longer legally be used as a residence. However, enforcement of this provision is extremely difficult; the Building Department is not likely to know when residents of the building are domestic employees or when they are not. Neither does the town want a number of vacant units; they can be difficult to maintain, particularly if they cannot be used for the residential purpose for which they were created. Where there are existing accessory buildings of historical or architectural significance, such as historic carriage houses, a use variance may be granted by the Board of Appeals to allow a second dwelling unit on a single-family lot to preserve a notable structure. This second dwelling unit could be used to house domestic help and family, but if the domestic help vacated the property, the dwelling unit could legally be rented to any family; thus, avoiding the problem of having an illegal use or a vacant dwelling.

Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article 23, as submitted.

SELECTMEN'S RECOMMENDATION

Article 23 was submitted by the Planning and Community Development Department at the request of the Planning Board and with the support of the Zoning By-Law Committee. The Article would amend the Zoning By-Law's Table of Use Regulations, *Section 4.07*, Use #53, to no longer allow for separate dwelling units in accessory buildings for domestic employees and their families.

This section has been used in the past to allow for the construction of second dwelling units on lots that would normally only allow for single-family dwellings. The use allows for either the conversion of an existing accessory building, or the construction of a new one, to be used as a separate residence for the domestic employees of the property's primary residents. Previously, the use was allowed by-right, until last fall when Town Meeting modified the use to require a special permit, limit the units to S-40 zoned lots with at least 40,000 s.f., and limit the gross floor area of the accessory units to 1,200 s.f. Use #53 only allows for units in separate accessory buildings; accessory units within the principal dwelling are still not allowed.

Even with these limitations, the premise behind Use #53 is flawed, as it allows for more than one unit on a single-family lot, simply based on the employment status of the occupants who live within the unit. If the residents of the principal structure no longer have household employees, then the accessory unit needs to remain vacant in order to comply with the Zoning By-Law. This is very difficult to enforce, as the Building Department does not know if and when domestic employees are employed. Additionally, having numerous vacant accessory units is not in the best interest of the Town either, as they are usually poorly maintained. This amendment seeks to prevent the units from being created in the first place.

This Article removes the loophole created by Use #53, and ensures single-family lots remain single-family. *Section 9.09*, which allows for the conversion of historically or architecturally significant structures into dwelling units by use variance, would not be affected by this article, providing options for property owners working to retain noteworthy accessory structures. One main difference between *Section 9.09* and Use #53 is that while units created under *Section 9.09* can be used to house domestic employees, they do not need to remain vacant upon the termination of employment; another tenant can move into the unit, regardless of whether or not they are a household employee. This amendment protects the interests of single-family property owners and ensures predictability within the S districts.

Therefore, by a vote of 4-1 taken on April 8, 2014, the Board of Selectmen recommends FAVORABLE ACTION on the vote offered by the Advisory Committee.

ROLL CALL VOTE:

Favorable Action	No Action
DeWitt	Daly
Benka	
Goldstein	
Wishinsky	

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

Prior to the November 2013 Special Town Meeting, the Brookline Zoning By-Law Use #53 allowed the construction by-right of an accessory residence on the same lot as the primary residential (or other) structure, as long as the accessory structure is occupied by no more than four persons who are full-time domestic employees or family members of such employees of the occupants of the principal dwelling. The combined floor areas of the primary and accessory structures could not exceed the total Floor Area Ratio ("FAR") applicable to the property. Article 9 in the November 2013 Special Town Meeting, which had been proposed by the Planning and Community Development Department and which was adopted by a 2/3 vote at the November 2013 Special Town Meeting, modified the then-existing By-Law to prohibit such construction except in S-40 (minimum 40,000 square foot lot size) zones and set the maximum size of such accessory residences at 1,200 square feet, and even in such cases require a Special Permit in place of the existing "by right" status. Although Article 9 was adopted as proposed, during the discussions regarding Article 9, including discussion by the Planning Board, concerns were raised as to why the then-proposed prohibition was not being extended to all S-district properties, and there appeared to be support for such an outright prohibition. Specifically, "the Planning Board expressed its general concern regarding these units and encouraged the Department of Planning and Community Development to submit a warrant article for a future Town Meeting prohibiting them completely." Planning Board Report and Recommendation, April 10, 2014.

Article 23, being proposed here by the Department of Planning and Community Development, would now extend this same prohibition on such accessory residences to include those in S-40 or larger zoning districts. The proposed zoning change is shown in the following table (new language shown in **bold**):

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees. ~~*Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.~~	~~Sp*~~ **No**	No	No	No	No	No	No	No	No

DISCUSSION:
Use #53 expressly limits the use of such accessory residences to domestic employees (and their family members) of the resident of the primary dwelling. If the property is subsequently sold or transferred to a new owner who does not have domestic employees residing in the accessory residence, under current zoning regulations the building may not be lawfully occupied as a residence. The Planning Board's concern here is that if the subsequent owner does not use the accessory residence to house domestic employees, "the accessory structure can no longer legally be used as a residence. However, enforcement of this provision is extremely difficult; the Building Department is not likely to know when residents of the building are domestic employees or when they are not. Neither does the town want a number of vacant units; they can be difficult to maintain, particularly if they cannot be used for the residential purpose for which they were created." In its explanation of the November 2013 Article 9 proposal, the Planning Department cited as an example an accessory residence built at Beech Road and Kent Street in an S-10 zoning district. The lot size is 28,000 square feet, but the primary dwelling is sufficiently large relative to the total lot size that subdivision of the lot to separate out the accessory residence was not feasible. Although the accessory residence was being used in a manner apparently consistent with Use #53, should that condition change its continued use as a residence would then become unlawful.

Only one member of the public, Frank Caro, spoke in opposition to Article 23 at the April 10 public hearing. Mr. Caro is Co-Chair of the Brookline Community Aging Network ("Brookline CAN"). He explained that the availability of such accessory residences to elderly relatives of the occupants of the primary residence would contribute to their ability to "age in place," a principal goal of Brookline CAN. The Planning and Regulation Subcommittee also received a letter from Selectman Nancy Daly, who also serves as Co-

Chair of "Brookline as a World Health Organization Age-Friendly Town." Ms. Daly opposes Article 23 for essentially the same reason as Mr. Caro. She explains that "we have repeatedly heard that seniors would like to remain in a home setting, either in their own homes or with their children, if at all possible. To do so often requires that they are able to have caretakers on-site or nearby. The current zoning bylaw Section 4.07 –Table of Use Regulations, Use 53, allows a small possibility that if you have a sufficiently large lot you might, by special permit, be able to build a very small accessory dwelling for such domestic employees. … I think that eliminating this small possibility of an accessory dwelling in such situations, flies in opposition to the spirit of our Town as an Age-Friendly Town, and does not meet the needs so many seniors have expressed to us." Letter from Selectman Nancy Daly to the AC Planning and Regulation Subcommittee dated April 8, 2014.

While the subcommittee members were sympathetic to Brookline CAN's and Selectman Daly's concerns, they did not believe that the arguments offered in opposition to Article 23 had addressed the specific issue that has been raised by the Planning Department and Planning Board with respect to Article 9 in November 2013 and the current Article 23 – i.e., the status of the accessory residence once the occupancy by domestic employee(s) has ceased. As the Planning Board's Report observes, "Use #53 [allows] the creation of an accessory building, which is a permanent structure, for what will most likely be a temporary use, the hiring of domestic employees." The Subcommittee was not persuaded by Mr. Caro's or Ms. Daly's arguments, primarily because they failed to address the specific concern that motivated the Planning Department's proposed change. At such time as the property in question is sold, the accessory residence could only be legally used to house domestic employees of the new owner or resident. The concern raised by Mr. Caro and Ms. Daly cannot serve as a basis for authorizing an additional non-conforming residence on a single-family lot. Zoning policy applies with respect to and runs with the property, not to specific owners or occupants.

There is also the concern that the ability to construct an accessory residence under the conditions where there is a domestic employee or caregiver and his or her family residing in the building could create a loophole whereby multiple dwelling units could be constructed on single-family lots and, potentially, be sold or separately rented to unrelated non-domestic employee occupants. The result would be an increase in density that is inconsistent with single-family zoning districts, resulting in *de facto* subdivisions of single lots that would not otherwise be eligible to be subdivided. If an accessory residence that had originally been constructed to house domestic employees were to become vacant, it is not difficult to imagine that a petition would be made to the ZBA for some accommodation to permit the otherwise vacant building to be occupied, even if not strictly allowed in the S-zone. There have been several recent cases where a developer attempted to push the limits of FAR in subdividing a particular lot such that the preexisting house would become nonconforming. The subdivision of 81 Spooner Road, a property that has been the subject of protracted litigation for more than seven years, is such an example. Town Meeting has previously acted to close loopholes in this area, such as by eliminating the "decommissioning" of existing habitable space, and establishing a 10-year waiting period following the initial construction of a new house before "nonhabitable" space could be converted to habitable use. The restrictions that had been adopted in November 2013 were entirely consistent with those previous Town Meeting actions. No basis or explanation was offered for the "over 40,000

square feet" exception that was retained in the November 2013 Article 9, and it should now be corrected by extending the same prohibition on accessory residences to all zoning districts.

RECOMMENDATION:
By a vote of 15-0-1, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town amend the Brookline Zoning By-law as follows:

Amend Section 4.07 – Table of Use Regulations, Use 53, by changing "SP" into "No" for S zoning districts and removing the asterisk and accompanying wording (**new language in bold**):

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees. ~~*Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.~~	~~SP*~~ **No**	No	No	No	No	No	No	No	No

XXX

Failed a 2/3rds Vote by an SRV of 106 In Favor, 59 Opposed and 5 Abstentions

ARTICLE 24

TWENTY-FOURTH ARTICLE

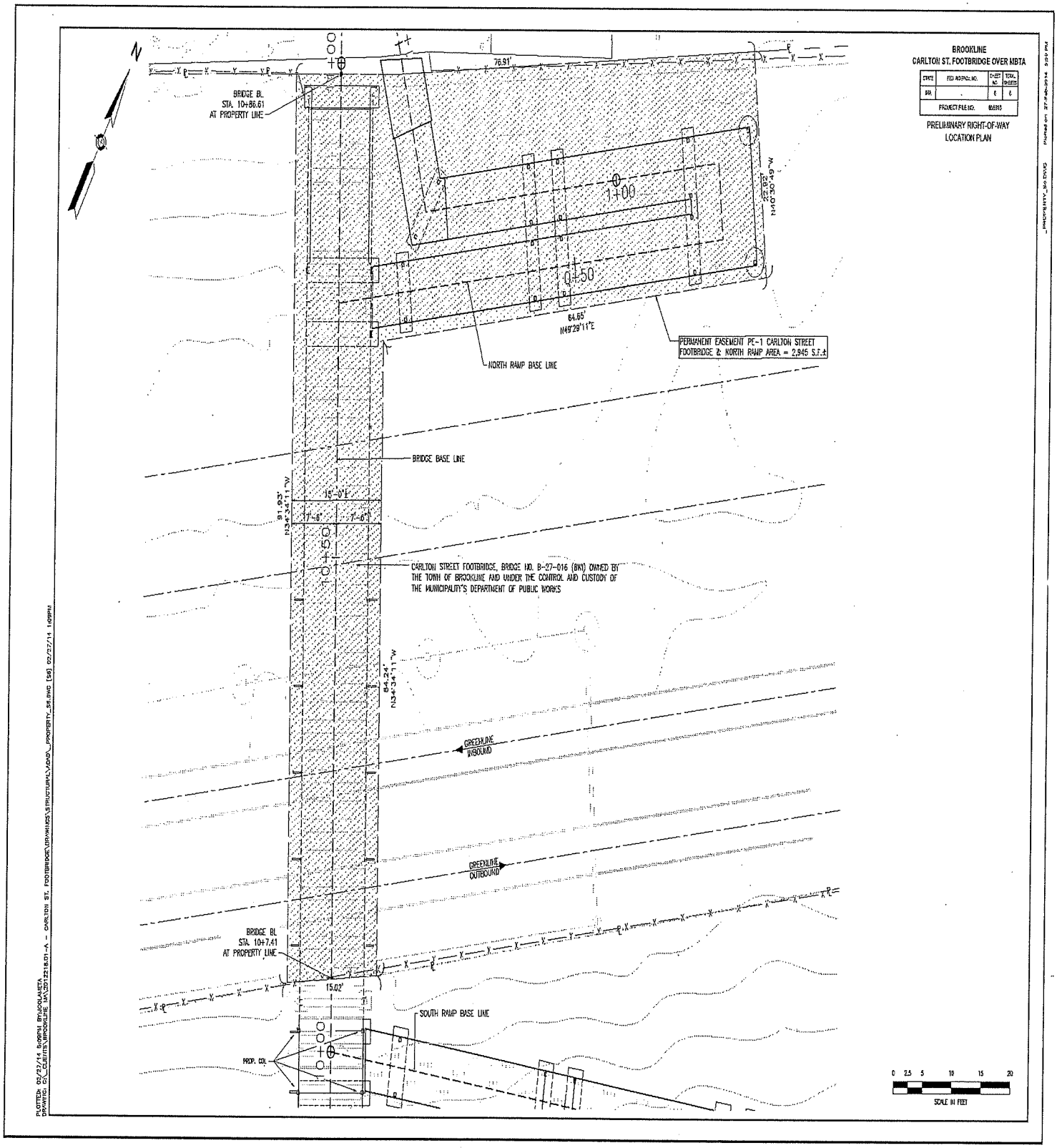
Submitted by: Department of Public Works

To see if the Town will vote to accept the grant of an easement for land and air rights for the reconstruction of the Carlton Street Footbridge, and associated structural footings and accessibility ramps, from the Massachusetts Department of Transportation, Rail and Transit Division, under which the Massachusetts Bay Transportation Authority ("MBTA") operates, a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts. Said easement is within the MBTA right of way.

Said easement shall reference, and serve to delineate and make current, the extant Release to the Town of Brookline from the Boston and Albany Railroad Company, an earlier Massachusetts corporation and predecessor to the present day MBTA, and then owner of the MBTA right of way, as contained in Book 655, pages 170-172, at the Norfolk County Registry of Deeds, and recorded on May 29, 1891.

Said easement is situated wholly within the Town of Brookline, in Norfolk County, in the Commonwealth of Massachusetts, and will be situated substantially as shown on a plan entitled "PRELIMINARY RIGHT-OF-WAY LOCATION PLAN," prepared by the Town of Brookline, Department of Public Works, Engineering/Transportation Division, and included herewith.

Or act on anything relative thereto.


BROOKLINE
CARLTON ST. FOOTBRIDGE OVER MBTA
PRELIMINARY RIGHT-OF-WAY
LOCATION PLAN
BRIDGE BL
STA. 10+86.61
AT PROPERTY LINE
76.91'
1+00
0+50
22.82'
N40°00'49"W
64.65'
N49°29'11"E
PERMANENT EASEMENT PE-1 CARLTON STREET
FOOTBRIDGE & NORTH RAMP AREA = 2,945 S.F.±
NORTH RAMP BASE LINE
BRIDGE BASE LINE
91.93'
N34°34'11"W
15'-0"±
7'-6"
7'-6"
1+50
CARLTON STREET FOOTBRIDGE, BRIDGE NO. B-07-016 (BK1) OWNED BY
THE TOWN OF BROOKLINE AND UNDER THE CONTROL AND CUSTODY OF
THE MUNICIPALITY'S DEPARTMENT OF PUBLIC WORKS
64.24'
N34°34'11"W
GREENLINE
INBOUND
GREENLINE
OUTBOUND
BRIDGE BL
STA. 10+7.41
AT PROPERTY LINE
15.02'
SOUTH RAMP BASE LINE
PROP. COL
0 2.5 5 10 15 20
SCALE IN FEET

PETITIONER'S ARTICLE DESCRIPTION

The Massachusetts Department of Transportation (MassDOT), Rail and Transit Division, operating as the Massachusetts Bay Transit Authority (M.B.T.A.), and working through their agent, Transit Realty Associates (TRA), has developed with the Town of Brookline, Department of Public Works (DPW), Engineering Division, an easement in which the M.B.T.A. grants specified land and air rights necessary for the reconstruction of the municipality's Carlton Street Footbridge.

The purpose of the easement is two-fold. Firstly, the document will update the existing permission to construct a footbridge over the tracks as a permanent means of egress to Riverway Park, originally granted to the Town of Brookline by the then Boston & Albany Railroad in the form of a Land Release. Secondly, the current Right-of-Way (ROW) plan delineates an area within M.B.T.A. property, supported by survey data, in which not only the footbridge is firmly located, but also the accessibility ramp appended at the northerly approach, which paired with that added at its southerly, park approach, together provide universal access compliant with current regulations. The "Right-of-Way Location Plan" will be referenced within the easement, and contain all legal bearing annotations for the footbridge and northerly ramp areas. Associated structural footings will also be located on the ROW plan.

At this time, the Carlton Street Footbridge Rehabilitation project is formally included on the Commonwealth's Transportation Improvement Program (TIP) for project funding starting in Federal Fiscal Year 2016, and Brookline DPW remains engaged with MassDOT, Highway Division, in their associated design development process, currently submitting plans and related documents prepared to their requirements that represent a 25% level of completion. Further submissions will then be required at 75% and 100%, prior to MassDOT bidding, funding and building the project.

A Town Meeting vote to accept the grant of this easement will successfully clear the footbridge project of any Right-of-Way encumbrances with the M.B.T.A., and in turn both accelerate the project's ability to move efficiently through the MassDOT design development process, and strengthen the project's position for outside funding on the State's TIP.

SELECTMEN'S RECOMMENDATION

Article 24 asks Town Meeting to accept the grant of an easement for land and air rights from the MBTA related to the reconstruction of the Carlton Street Footbridge, including the associated structural footings and accessibility ramps. The easement updates the existing permission to construct a footbridge over the tracks as a permanent means of egress to Riverway Park. In addition, the Right-of-Way Location Plan will be referenced within the easement and contain all legal bearing annotations for the footbridge and northerly ramp areas. Associated structural footings will also be located on the ROW plan.

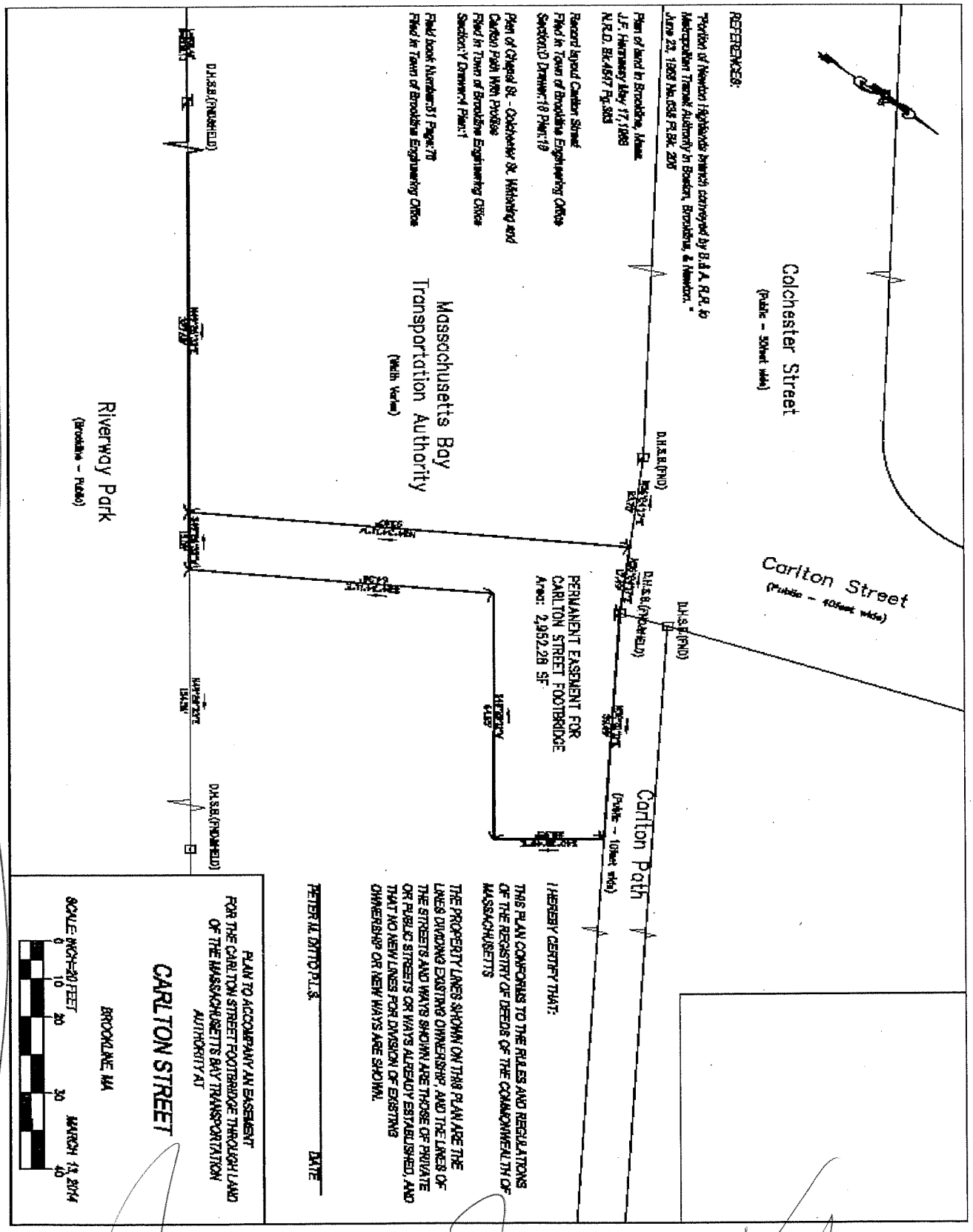
Town Meeting approval will successfully clear the footbridge project of any Right-of-Way encumbrances with the MBTA and both accelerate the project's ability to move efficiently through the MassDOT design development process and strengthen the project's position for outside funding on the State's Transportation Improvement Program (TIP). Therefore, by a vote of 3-0 taken on April 24, 2014, the Selectmen recommend FAVORABLE ACTION, on the following:

VOTED: That the Town vote to accept the grant of an easement for land and air rights for the reconstruction of the Carlton Street Footbridge, and associated structural footings and accessibility ramps, from the Massachusetts Department of Transportation, Rail and Transit Division, under which the Massachusetts Bay Transportation Authority ("MBTA") operates, a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts. Said easement is within the MBTA right of way.

Said easement shall reference, and serve to delineate and make current, the extant Release to the Town of Brookline from the Boston and Albany Railroad Company, an earlier Massachusetts corporation and predecessor to the present day MBTA, and then owner of the MBTA right of way, as contained in Book 655, pages 170-172, at the Norfolk County Registry of Deeds, and recorded on May 29, 1891.

Said easement is situated wholly within the Town of Brookline, in Norfolk County, in the Commonwealth of Massachusetts, and will be situated substantially as shown on a plan entitled "PLAN TO ACCOMPANY AN EASEMENT FOR THE CARLTON STREET FOOTBRIDGE THROUGH LAND OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY AT CARLTON STREET, BROOKLINE, MA," prepared by the Town of Brookline, Department of Public Works, Engineering/Transportation Division, dated March 13, 2014 and included herewith.

Cont. –



Passed by a Unanimous Vote

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Wishinsky

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Department of public works has submitted Article 24, asking the Town to accept an easement grant from the MBTA for land and air rights in order to reconstruct the Carlton Street Footbridge.

The Carlton Street Footbridge crosses the MBTA Green Line Riverside tracks, with one entrance located at the intersection of Carlton Street, Colchester Street, and Carlton Path, and the opposite entrance is in Riverway Park, which is part of Frederick Law Olmstead's famed "Emerald Necklace." The footbridge, which was built in 1894, has been closed since approximately 1976 due to its state of disrepair.

In 2009 Town Meeting voted to fund reconstruction of the Carlton Street Footbridge. The anticipated reconstruction of the bridge will enable Brookline to continue to meet its obligations to the Muddy River Restoration and Flood Control Project. The project is a multi-year, multi-phased project coordinated among federal, state, Boston and Brookline officials, with much interest and input from residents and neighbors.

DISCUSSION:
Accepting the proposed easement will update and clarify rights originally granted to the Town by the (former) Boston & Albany Railroad in the form of a Land Lease. The proposed easement facilitates access to Commonwealth's Transportation Improvement Program (TIP) funds, since the Town's existing rights to the area are insufficient both for purposes of the Massachusetts Department of Transportation's (MassDOT) design development process, as well as TIP funding requirements.

In addition, the proposed easement's Right-of-Way plan provides for an accessibility ramp which did not previously exist, and which will meet current accessibility standards.

To fund the footbridge reconstruction, the 2009 Town Meeting voted to raise and appropriate $1.4 million dollars for footbridge reconstruction; however, should Town Meeting accept the proposed easement, the anticipated TIP funding the Town receives as a result will cover 90% of the total project cost. The Town will likely pay only the remaining 10%. As of this writing, revised estimates for the project costs are forthcoming, however, the current estimate for the project is $1.8 million dollars.

The Town has encumbered $204,207.00 for design services with the Town's consultant, Klienfelder Northeast, Inc. This funding will provide the Town 100% Plans, Specifications and Estimate (P. S. & E). To date the Town has spent $92,245 of that allocation, which is 25% P.S. & E. These funds count towards the Town's 10% share of the project costs and are a condition of the grant.

The Carlton Street Footbridge Rehabilitation project is already included in the Commonwealth's Transportation Improvement (TIP) project funding beginning in Federal Fiscal Year 2016 (October, 2015.) Accepting the proposed easement will enable the town to access these funds, which represent the majority of the funding required for reconstruction project. In addition, the town will continue to move forward, completing the work it has committed to do.

RECOMMENDATION:
By a vote of 17-0-1 the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

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ARTICLE 25

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The original recommendation of the Selectmen was one of No Action by virtue of a 2-2 vote. At the Board's May 20, 2014 meeting, Article 25 was reconsidered and, by a vote of 3-2, the Board recommends a $3,000 stipend for the members of the Retirement Board. A majority of the Board believes that such a stipend is warranted because of two unique factors the Retirement Board have that distinguish them from other boards and commissions:

1. they have a fiduciary responsibility
2. they have mandatory training requirements

The two dissenting members believe that the Town has numerous boards and commissions whose members work tremendously hard but do not get compensated, and that reflects Brookline's volunteer-based form of government. In the interest of fairness, they do not recommend singling out the volunteer members of one particular board.

Therefore, the Board recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town accept the provisions of Section 20(6) Retirement Board Members Compensation of Massachusetts General Laws Chapter 32, as amended by Section 34 of Chapter 176 of the Acts of 2011 An Act Providing for Pension Reform and Benefit Modernization ("the Act"), and set the stipend to be received by members of the retirement board at $3,000.00 per year.

Defeated by an ERV of 47 in favor, 100 opposed and 10 abstentions

ROLL CALL VOTE:

Favorable Action	No Action
Goldstein	DeWitt
Daly	Wishinsky
Franco	

ARTICLE 25

TWENTY-FIFTH ARTICLE
Submitted by: Retirement Board

To see if the Town will accept the provisions of Section 20(6) *Retirement Board Members Compensation* of Massachusetts General Laws Chapter 32, as amended by Section 34 of Chapter 176 of the Acts of 2011, *An Act Providing for Pension Reform and Benefit Modernization* ("the Act.")

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Act substantively changes the retirement plan for public employees in Massachusetts by adjusting retirement benefits and by providing significant enhancements to the governance and operations of the Commonwealth's retirement boards.

This article is inserted in the warrant at the request of the Brookline Retirement Board, which voted on January 15, 2014 to adopt this section by a unanimous vote by the board.

Section 34 of the Act re-wrote G.L. c. 32, § 20(6) allowing a new local option provision that replaces the current $3,000 local option stipend and allows for an increase in the stipend paid to members of retirement boards. Currently, stipends for members of approximately two-thirds of retirement boards in the Commonwealth have been approved.

The section becomes effective on July 1, 2014. With reference to governance of retirement boards, the Act requires that retirement board members follow enhanced procurement requirements and apply increased fiduciary oversight of the retirement system's $245,000,000 investments. In addition, retirement board members must now undergo mandatory education and training, and must file annual statements of financial interests and acknowledgements of compliance with the conflict of interest and retirement laws. Penalties for non-compliance are substantial, and non-compliance may be considered a breach of fiduciary obligations for which a Board Member would be personally liable.

In recognition of the increased responsibilities and accountability of retirement board members, the Legislature has provided this local option.[1]

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[1] Section 34 of Chapter 176 of the Acts of 2011 provides as follows:

"Said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out subdivision (6) and inserting in place thereof the following subdivision:-

(6) *Retirement Board Members Compensation*.-The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than $3,000 per year and not more than $4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as

Payment of the stipend is made from "funds under the control of the board," and would be funded from the system's return on investments. The Board Members' stipend is dependent upon acceptance of the law by a vote of the legislative body.

Although action by the local retirement board is not required in this process, the Brookline Retirement Board supports this increase, and respectfully requests that Town Meeting recognize the increased responsibilities of members of the Brookline Retirement Board by voting to accept this local option so as to provide a stipend to its members in the amount of not more than $4,500 per year.

SELECTMEN'S RECOMMENDATION

Article 25 was filed by the Retirement Board and would allow its members to be paid an annual stipend of not more $4,500, with a recommendation of $3,000 from the Retirement Board. The stipend would be paid from the assets under the control of the Retirement Board, not from the Town's General fund. According to information provided by the Retirement Board, approximately 2/3's of the 104 local retirement boards have adopted this provision of state law and provide their members with an annual stipend.

The argument for opposing this article lies in the fact that just four of the nearly 30 boards and commissions in Brookline receive stipends: Board of Assessors ($6,000 per year for the two resident members), Board of Appeals ($50 per meeting for each member, with the Chair receiving $140 per meeting) Board of Examiners ($30 per meeting for each member), and Board of Selectmen ($3,500 per year for each member, with the Chair receiving $4,500). The stipends for these boards are set by the Selectmen under the authority of MGL Ch. 41, Section 108. The Town has numerous boards and commissions whose members work tremendously hard but do not get compensated. That reflects Brookline's volunteer-based form of government, where residents volunteer their valuable time to help make this community what it is.

The argument in favor of the stipend centers on the fact that the pension reform bills that were approved by the State a few years ago included the requirement that retirement board members follow enhanced procurement requirements and apply increased fiduciary oversight of the retirement system's $245 million of investments. In addition, retirement board members must now undergo mandatory education and training and must file annual statements of financial interests and acknowledgements of compliance with the conflict of interest and retirement laws. Penalties for non-compliance are substantial, and non-

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shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than $4,500 per year in the aggregate for services rendered in the active administration of the retirement system."

compliance may be considered a breach of fiduciary obligations for which a Board Member would be personally liable.

At the Board's April 29, 2014 meeting, a motion of Favorable Action failed to get a majority vote (2-2).

ROLL CALL VOTE:

Favorable Action	No Action
Daly	DeWitt
Goldstein	Benka

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article submitted by the Brookline Retirement Board is to see if the Town will accept the provisions of Massachusetts General Laws Chapter 32 Section 20(6) Retirement Board Members Compensation, as amended by Section 34 of Chapter 176 of the Acts of 2011, An Act Providing for Pension Reform and Benefit Modernization.

This legislation is a local option that must be accepted by Town Meeting. The provisions of the law allow retirement board members to each receive a stipend of not less than $3,000 a year and not more than $4,500 a year. Payment is made from the retirement fund's earnings on its invested assets ($250 million for Brookline), similar to other costs borne by the fund.

The substance of this article was last heard, and not accepted, at May 2012's Town Meeting. In the interim, there have been some changes that increase the disclosure requirements of personal finances and conflict of interest, and the effort to prepare such. Since 2012, there has been no change in the number (approximately two thirds) of retirement boards in the Commonwealth that receive stipends.

DISCUSSION:
The five member board consists of three salaried town employees and two unpaid volunteers, although one is a pensioner. Two members are appointed by the Selectmen, two are elected by the unions, and one is a "neutral" appointed member. All five members would be entitled to receive the stipend, although not all members are interested in receiving it. The board is required by statute to meet monthly, but it meets more frequently, as needed. There are 850 retirees receiving benefits. The board holds benefit and disability hearings, as well as overseeing the invested assets. Specific investment decisions are made by investment professionals, chosen by the board, which establishes the fundamental asset allocation. Also, members complete eighteen hours of mandatory training over a three year period.

Similar to its considerations in 2012, the principal focus of the Advisory Committee in 2014 was on (i) the equity of paying stipends to Retirement Board members, while the vast

majority of members of Brookline's other numerous boards and commissions receive no or little compensation and (ii) there being no demonstration that the Retirement Board's efforts are measurably greater or present more difficult personal commitments than those of other boards and commissions. The Advisory Committee concluded that there was no compelling reason for change.

RECOMMENDATION:
By a vote of 5 in favor, 11 opposed and no abstentions, the Advisory Committee recommends NO ACTION on Article 25.

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ARTICLE 26

Amendment Offered by Robert Volk, TMM Precinct 4

Voted:

~~Moved:~~ that Article 26, which would establish a medallion system for taxis in Brookline, be referred to a Moderator's Committee to study the implication of such a change more thoroughly. Their Report to be submitted in time for the fall Town Meeting.

Explanation:
Petitioner believes that the proposed medallion system raises many complex issues regarding taxi service on Brookline, as well as its impact on taxi drivers. For that reason, Petitioner believes that the entire issue needs further study before any action is considered by Town Meeting.

Passed by a Counted Vote of 96 In Favor, 91 Opposed and 4 Abstentions.

ARTICLE 26

Amendment Offered by David Lescohier, TMM Precinct 11

Moved: to amend the main motion as follows:

Strike Section 2 of the main motion in its entirety and add substitute language for Section 2:

"This act shall take effect upon the later of (A) December 1, 2014 or (B) the date of its passage."

Explanation:
The goal of this amendment is to allow for an additional period of time for the study of the proposed taxi medallion program, which, once implemented, will be extremely difficult to reverse. Many town meeting members have misgivings, questions, and concerns about the proposed taxi medallion program and are currently feeling conflicted about how to vote, believing that they need more current, up-to-date information and an opportunity revisit the issue.

The current licensing system can continue to function while additional study is underway.

Town meeting can vote favorably on this amendment without jeopardizing the possible, eventual realization for the town of the promised revenue from the sale of taxi medallions if, in the future, with sufficient information, town meeting finds that the medallion program will work and should be implemented.

In this case, the expectation is that a subsequent warrant article may be offered at the next town meeting that rescinds this act and thereby allows the medallion program to commence having been supported by reports from the board of selectmen and the advisory committee that address the currently expressed questions, concerns, and misgivings.

The transportation board, during this period, can continue to work on the draft regulations. (The availability of the final regulations before the next town meeting will also allow for a better informed final determination about a possible switch to a taxi medallion system.)

The very robust discussion about warrant article 26 on the Town Meeting Member Association group discussion forum is a strong indication that more time is needed and that town meeting needs and is interested in more information, in view of the changing circumstances since approximately 2000 when the taxi medallion concept started on its journey through so many meetings and so much effort.

ARTICLE 26

TWENTY-SIXTH ARTICLE
Submitted by: John Harris

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 TO REPEAL THE BOARD OF SELECTMEN'S AUTHORITY TO SELL TAXI MEDALLIONS

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

Section 1. Strike IN ITS ENTIRETY sec. 4a of the 1974 Mass. Acts ch. 317, as amended by 2010 Mass. Acts ch. 51 sec. 4a, authorizing the Board of Selectmen to have exclusive authority to sell taxi licenses [MEDALLIONS] by public auction, public sale, sealed bid or other competitive process established by regulations promulgated by the board; and as amended by 2012 Mass. Acts ch. 52 sec. 3, which established a separate Taxi Medallion Fund.

Section 2: This act shall take effect IMMEDIATELY upon its passage.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This is intended to repeal the authorization of a Brookline Taxi Medallion program enacted as Article 21 in the Fall 2008 Town Meeting (also referred to as Chapter 51), and amended thereafter by Article 15 in the Fall 2010 Town Meeting and by Article 10 in the Fall 2011 Town Meeting–in each case, I am told, with very little debate.

At the time of writing, Brookline has a system of open licensing of taxis. Anyone who meets certain relevant requirements: is of age, meets regulatory standards regarding driver training licensing, vehicle features, upkeep and safety, etc., and pays a modest registration fee, can enter the field and become a taxi owner and/or driver in Brookline. In this the taxi business is like the dozens of other legitimate businesses–restaurants, supermarkets, pharmacies, doctors' offices, daycare services, etc.–serving the residents of Brookline, part of an open system where any hardworking person can attempt to build a business and make a living. Within weeks, unless this warrant article passes, this free and open system will change into one built around quotas, prohibitively high costs, and significant barriers to entry. This change would be deleterious to the citizens of the town, and once implemented, would be extremely difficult, if not impossible, to undo.

In its Fall 2008 session, Brookline Town Meeting authorized the Board of Selectmen to seek approval from the Massachusetts legislature to sell a limited number of "Medallions" that would henceforth be required to be placed on each taxi. The precise number of medallions will apparently to be determined by the Transportation Board and approved by the Board of Selectmen. The Transportation Department is currently finalizing regulations to introduce the taxi medallion system in Brookline.

The town is seeking to move from open licenses to medallions because it sees the sale of the medallions as a quick source of revenue to the town. But it is important to point out that the town would only benefit in the initial sale of the medallions. The purchaser of a medallion will acquire ownership rights to it, so the proceeds of any subsequent sale accrue to the owner, not to the town. And obviously such ownership rights, like those to any other form of property, may continue–quite literally–for centuries. Once established, a medallion system is extremely difficult to repeal, because it would require buying back all of the outstanding medallions, and the owners will not easily relinquish their investment. And because only a finite number of medallions will be issued, a medallion system replaces an open market-based system with an oligopoly, which may last well beyond the lifetime of those of us now considering this matter. For a single, relatively small influx of cash for newly-issued medallions, the town is considering relinquishing an important part of its control over the taxi industry for decades or centuries to come. This will have substantial deleterious effects on the people of Brookline.

In a medallion system, a government agency decides how many taxis are allowed to operate. As well-meaning as they might be, the administrators of the system can never ascertain the optimum number of cabs on the street as well as the market.

The inevitable result is scarcity by design, since operators will only purchase medallions if they guarantee competitors will be restricted. The problem compounds over time, as existing medallion holders, and the banks who loaned them the money to purchase the medallions, put constant pressure on administrators to delay issuing further medallions. The inevitable result: significantly higher fares.

In addition to their legitimate operating expenses, including of course the cost of the taxicabs, medallion owners must amortize the price of the medallion itself. Like any scarce good, the price would increase over time, sometimes astronomically. The price of medallions in New York City, for example, has risen faster than that of housing or gold. The owners have no choice but to charge higher fares. The result: higher fares. And as mentioned earlier, to add insult to injury, while the town benefits financially from the initial issuance, if a medallion is later sold, the increased value accrues to its owner, not to the town.

MEDALLIONS INEVITABLY LEAD TO INEFFICIENCIES IN SERVICE due to arcane rules of enforcement. We have all hailed empty taxis and watched them drive by: they often are in a jurisdiction where they are allowed to drop off, but not pick up, passengers. When this happens, passengers are delayed, drivers are deprived of income, gas is wasted, and carbon is exhausted into the atmosphere. This is economically and environmentally irresponsible.

A ROBUST TAXI INDUSTRY WOULD GREATLY EASE BROOKLINE'S PARKING PROBLEM. There has been much discussion of the inconvenience of public transportation, but little regarding how a healthy taxi system can supplement its services. Public transportation can never be so complete that it can carry people to their final destination down every last street in town–what transportation planners call the "last mile"–but a healthy taxi system, with modest fares, can. A low-cost taxi system makes living without a car possible, and greatly mitigates the need for parking spaces.

MEDALLIONS ARE A SOCIAL EQUITY ISSUE. Taxi ownership has conventionally been a stepping-stone to the middle class for ambitious people of limited means. Locally, I especially notice recently-arrived Haitian drivers who, in addition to paying their living expenses, are trying to save for their children's educations *and* send a portion of their earnings to their families back home. In Boston, medallions are currently selling for over $600,000. If Brookline requires medallions, it is doubtful these drivers could ever qualify for the substantial loan they would need to purchase one. Drivers would be caught in a noose, paying through the nose for a taxi they cannot reasonably be expected to one day own. They would in effect be forced to remain low-paid daily contract workers for their entire careers.

The drivers' financial straits are compounded because MEDALLION SYSTEMS MAKE CORRUPTION INEVITABLE. Since only a few increasingly-wealthy medallion holders would own taxis, there would be many more drivers than vehicles with medallions. An investigative series in the Boston Globe last spring revealed that drivers often must bribe dispatchers to be issued keys for a 12 hour shift, in addition to their formal daily "rent" for the cabs.

One wonders why taxis, which provide the public with a useful service, should be subject to a regulatory regime similar to that imposed on the liquor industry. We have wisely decided to regulate the number and location of establishments selling alcohol in our communities. With rare exceptions, a new restaurant or bar can only obtain a liquor license by purchasing an existing one. In this instance, society is better served by restricting trade. In contrast, there is no reason to limit the number of taxis, and every reason not to.

The taxi industry would be more appropriately regulated with a system like the one governing private drivers' licenses or automobile registrations. The state issues a license to anyone who is of age and passes written and driving tests, and issues a registration to any vehicle that is ensured and that passes an inspection (and in both cases, pays the fee). Placing a quota on the number of drivers' licenses or registrations would impose undue hardship on those prohibited from driving, and would have a devastating impact on the economy.

So too with taxi medallions. We can and should establish rigorous regulations regarding the vehicles (construction quality, size, safety features, accessibility, etc.) and the training and licensing of drivers, but we should not limit the number of cabs.

Finally, a robust taxi system would encourage more residents to forego car ownership, and save the expense of a car loan, insurance, fuel, parking, and upkeep, for vehicles that spend most of their lives parked and idle. Given Brookline's density, many citizens would be better

served by walking, cycling, taking a bus or subway, renting a car hourly, daily or weekly for the occasional errand or long-distance trip–and when appropriate taking a taxi.

MOTION TO BE OFFERED BY THE PETITIONER

Moved: That Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT TO REPEAL THE BOARD OF SELECTMEN'S AUTHORITY TO SELL TAXI MEDALLIONS

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

Section 1. Strike IN ITS ENTIRETY sec. 4a of the 1974 Mass. Acts ch. 317, as amended by 2010 Mass. Acts ch. 51 sec. 4a, authorizing the Board of Selectmen to have exclusive authority to sell taxi licenses [MEDALLIONS] by public auction, public sale, sealed bid or other competitive process established by regulations promulgated by the board; and as amended by 2012 Mass. Acts ch. 52 sec. 3, which established a separate Taxi Medallion Fund.

Section 2: This act shall take effect IMMEDIATELY upon its passage.

EXPLANATION:
A medallion system establishes a **QUOTA** on the number of taxis allowed to operate in Brookline. As well-meaning as they might be, the administrators of a medallion system can never ascertain the optimum number of cabs on the street as well as the market. The **INEVITABLE result is SCARCITY BY DESIGN,** since operators will only purchase medallions if they include a guarantee competitors will be restricted. The problem compounds over time, as existing medallion holders, and the banks who loaned them the money to purchase the medallions, put constant pressure on administrators to delay issuing further medallions.

Taxi Medallions INCREASE FARES by 11% [1] to 25%[2] over open-access markets.

TAXICAB UPGRADES leading to improved fuel efficiency and accessibility can be and have been accomplished completely independently of medallions

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[1]J. Kramer and W. Mellor, Opening Boston's Taxicab Market, Pioneer Institute for Public Policy Research, Institute for Justice of the Pioneer Institute, 1999.

[2]Kennedy School of Government Case Study, "Boston's Taxicab Problems, 1970," 1982, p. 3.

In 1986, Boston pulled the licenses of 10% of cabs due to safety violations and poor physical condition, leading to rapid improvement in the vehicles. All the cabs had medallions before and after this campaign.

In 1999, Brookline opened its state-of-the art inspection facility on Hammond Street, leading to a remarkable improvement in safety features and physical condition. No cabs had medallions either before or afterwards.

In 2007, Boston began its CleanAir Cabs program[3] (and in 2008 Cambridge began its CleanAirCab program), beginning the city's transition to hybrid cabs. All the cabs had medallions before and after this campaign.

The essential element is RIGOROUS ENFORCEMENT of RIGOROUS REGULATIONS.

In 2011, the Office of the Chief Financial Officer of the District of Columbia wrote: **"Introduction of a medallion system institutes ENTRY BARRIERS TO THE TAXICAB MARKET by restricting the supply of taxicabs.** There is broad consensus among economists that **such restrictions allow a small group of private citizens—those who are among the first round of recipients of medallions—to earn WINDFALL PROFITS at the expense of consumers and taxicab drivers who don't receive medallions in the first round. Evidence...suggests that limiting entry into a taxicab market leads to a decline in overall service: consumers pay higher fares, wait longer for an available taxicab, face more service refusals, and receive less service than they would otherwise.** Service to the outlying areas of the city becomes poorer....**This system also discourages many from entering the taxicab industry since drivers who lease taxicab medallions earn very little after paying lease dues. High lease amounts for medallions wipe out any above-normal earnings for drivers who lease medallions, and deprive them of the chance of accumulating long term wealth through ownership."**

...."the literature on the taxicab medallions suggests that **gains from such restrictions are one-time: Future taxicab owners have to pay very high prices to obtain a medallion, which virtually eliminates any possible above-market profits. Since all the revenue in the restricted taxicab market, even after years of demographic and economic growth, remain concentrated in a limited number of hands, medallion owners fiercely resist any possible threat that may challenge their advantage. So the market becomes less responsive to consumer needs in the long run."**[4]

Taxi Medallions are a SOCIAL JUSTICE issue. The high cost of medallions prevents ambitious drivers from buying their own cabs, and forces them to remain daily or weekly

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[3]"Climate Change & Clean Air Cabs." Boston Public Health Commission. http://www.bphc.org/whatwedo/healthy-homes-environment/climate-change-clean-air-cabs/Pages/Climate-Change-Clean-Air-Cabs.aspx. Accessed 050814.

[4]Government of the District of Columbia, Office of the Chief Financial Officer: "Taxicab Medallions—A Review of Experiences in Other Cities," Anna Barlett and Yesim Yilmaz, May 31, 2011. http://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/ocfo_taxicab_briefing_note.pdf. Accessed 050814.

contract workers with no job security and no benefits (health insurance, sick time, etc.) for their entire careers.[5] Medallions prevent taxi drivers from entering the middle class.

A medallion system creates an ideal environment in which CORRUPTION can thrive. In 1986 the Chairman of the FEDERAL TRADE COMMISSION wrote to Mayor Koch of NYC that by restricting taxi medallions, the city was effectively granting "AN ENGRAVED INVITATION TO CORRUPTION" because"those with a financial interest in regulatory decisions" are "strongly motivated to influence the deliberative process."[6]

This corruption can occur at the political or managerial level, as for example, in the early 1930s Mayor Jimmy Walker of New York City was forced to resign after being accused of accepting bribes from the Checker Cab company. Corruption can also occur at the daily level. An investigative series in the Boston Globe in spring 2013 revealed in devastating detail how drivers, who lease their vehicles daily, were obligated to slip money under the table to the dispatcher to be issued a cab for a 12-hour shift.

The taxi industry is currently under severe threat from Uber, Lyft and the other "APP SERVICES." This is not a time to force the industry to shoulder yet another financial burden.

It is unfair and unconscionable to single out one for-profit industry for unique treatment. Taxi Medallions present a DANGEROUS PRECEDENT in Brookline. If we expect taxi companies to medallionize, why stop there? In the era of the Override, under the severe financial pressure exerted by the need for school expansion, any private business that is regulated by the town might be subject to "financialization."

A HEALTHY TAXI INDUSTRY IS an important element of a MULTI-MODAL TRANSPORTATION system that includes walking, cycling, public transportation, car rentals, car ownership, and taxi usage. David King, professor of urban planning at Columbia University, wrote that "If we want to have transit-oriented cities we have to plan for high-quality door to door services that allow spontaneous one-way travel....The one-way travel of taxis allows people to use transit, share rides and otherwise travel without a car. In this way taxis act as a complement to these other modes" (Atlantic Cities 2014).

PARKING is a major issue in Brookline. According to David Shoup, professor of urban planning at UCLA and author of "The High Cost of Free Parking," PRIVATE CARS ARE PARKED 95% OF THE TIME,[7] many of them creating congestion on the streets. A healthy taxi industry can reduce Brookline's parking problem, by providing residents with one more alternative to car ownership.

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[5]"$1 Million Medallions Stifling the Dreams of Cabdrivers." New York Times. Matt Flegenheimer. November 14, 2013. http://www.nytimes.com/2013/11/15/nyregion/1-million-medallions-stifling-the-dreams-of-cabdrivers.html. Accessed 050814.

[6]Qtd. in *The New York Times,* 12/19/86.

[7]"Pay As You Park: UCLA Professor Donald Shoup Inspires a Passion for Parking," by Ruth Eckdish Knack, AICP. Planning Magazine. May 2005. http://shoup.bol.ucla.edu/PayAsYouPark.htm. Accessed 050814.

AUTO POLLUTION AND GLOBAL CLIMATE CHANGE
Most importantly, passenger cars and light trucks produce almost ONE-FIFTH OF THE NATION'S TOTAL GLOBAL WARMING POLLUTION, according to the Union of Concerned Scientists.[8] A healthy taxi industry can encourage people to own and use private cars only when that is the most appropriate method of getting from place to place. In a densely-settled place like (most of) Brookline, with its multiplicity of transportation options, this is extremely important.

Because a medallion system creates a new class of PROPERTY RIGHTS (in the medallion itself), the implications may, without exaggeration, last for DECADES OR CENTURIES. This is not a decision to be taken lightly.

I urge Town Meeting Members to vote against taxi medallions, and IN FAVOR OF WARRANT ARTICLE 26.

SELECTMEN'S RECOMMENDATION

Article 26 is a petitioned article that would, if passed by Town Meeting and approved by the State Legislature, repeal the Selectmen's authority to transition to a taxi medallion system. The Town began looking into the possibility of converting from a license-based taxicab system to a medallion-based system in October, 2006 when the Transportation Board issued an RFQ for a consultant to identify and evaluate alternative taxi licensing systems. The contract was issued to Bruce Schaller, a leading consultant in the taxi and transportation community who had consulted extensively for local governments, transit and airport authorities, university and non-profit organizations, for-profit companies and federal agencies on identifying transportation needs, developing effective transit programs, taxicab regulation, transit fare policy, road pricing, transportation finance, customer communications and bus rapid transit.

Between November, 2006 and June, 2007 Mr. Schaller studied the financial and organizational structure of the Brookline taxi system and met with taxicab drivers, affiliate taxi business license holders (1 to 5 taxi cabs), taxi business license holders, stakeholders including the Brookline Council on Aging, and the Transportation Board. Following two public meetings before the Transportation Board, Mr. Schaller issued his "Final Report: Brookline Taxi Study" which included the conclusion that:

> *"The Town can tap the economic value created by the Town's limitation on the number of cabs by selling medallion licenses to companies and drivers and through higher fees on Hackney Licenses held by cab companies."*

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[8]Union of Concerned Scientists. "Clean Vehicles: Car Emissions and Global Warming." http://www.ucsusa.org/clean_vehicles/why-clean-cars/global-warming/cars-and-trucks-and-global.html. Accessed 050814.

The issue was taken up by the Override Study Committee (OSC) starting in April 2007. As part of their task to develop ways in which the Town could capture new revenue to help sustain the level of services currently provided by Town government, the OSC examined the current revenue generated by the license system and recommended that the Board of Selectmen, in the short term, raise the current per license fee to a level that fully reimbursed the Town for the expense it incurred to regulate the industry. In the long term it recommended the Selectmen move to convert the industry to medallion-based system in order to realize the value created by the Town through limitation and support of the taxi industry.

Following the submission of the final report to the Board of Selectmen, and combined with the recommendations by Mr. Schaller, then-Town Administrator Richard Kelliher appointed a Taxi Medallion Working Group to advise him on the best way for the Town to move forward with this process. This working group included staff members from Town Counsel's Office, Public Works, Police Department, Purchasing, and Treasurer's Office as well as representatives from the Board of Selectmen, Transportation Board, and Advisory Committee. Based on meetings held with industry stakeholders and the advice of the working group, in September, 2008 Mr. Kelliher recommended to the Board of Selectmen a modification to the enabling legislation of the Transportation Board that would grant the Board of Selectmen the authority to sell a property, commonly known as medallions, for the purpose of providing public transportation for hire within the Town of Brookline.

As explained in the Combined Reports for the November, 2008 Special Town Meeting, the goal was to organize the sales process in a manner that balanced the Town's interest to maximize revenue against the interest of residents in maintaining the continuity of existing taxi services, the interest of the Town in augmenting the portion of the taxi fleet serving the Town that meets the needs of its elderly and disabled residents, and the interest of the Town in promoting a taxi fleet that minimizes the fleet's detrimental impact on the town's air quality and on the level of the town's carbon emissions as a whole, such as by mandating that all vehicles being placed on the road meet a certain fuel efficiency standard. This warrant article ultimately passed, following the normal public hearings and public meetings before the Board of Selectmen, Advisory Committee subcommittees, Advisory Committee, and a discussion at Town Meeting, which focused on enforcement, benefits to the Town citizens, and protection of drivers.

The Town issued a request for proposals to study the industry and generate a report which identified the legal, regulatory, economic, governmental/administrative, and other industry-related issues that must be addressed if the Town was to successfully transition from its existing taxi license system to a medallion system similar to that of the City of Boston and work with the Town's Taxi Medallion Working Group, Transportation Board, and Board of Selectmen to develop a timetable to overcome the issues raised and oversee the implementation of the agreed upon process for the sale of the medallions. Based on experience in similar taxi markets, the Town selected Richard LaCapra as its consultant. Mr. LaCapra has over 30 years of experience consulting in the taxi industry and oversaw at least two medallion releases for the City of Boston.

From 2010 to 2012 Mr. LaCapra met with elected and appointed officials, Town staff, taxi owners, drivers, and members of the public to understand the needs of each interest group. He also conducted an in-depth analysis of the financial state of both the companies and the taxi drivers. In April of 2013 he released to the Board of Selectmen and the Transportation Board, at public hearings, his Phase 1 Report that detailed his findings and offered his recommendations on the manner in which the Town could convert from a license system to a medallion-based system. His proposed tiered system would allow for the steady capitalization of the industry so the Town could realize the value it created by limiting and regulating the industry; the owners could obtain property rights that they could borrow against to modernize the fleet; the drivers and others could obtain entry into the market place; and the customers could achieve the service improvements that are obtained via the modernization. While the Selectmen were favorable to the tier system, they requested staff to work with current owners to develop a more favorable distribution in the three tiers that allow the smaller companies (1-5 taxicabs) to maintain their market share. Following several meetings between staff and the current owners, the results were approved by both the Transportation Board and the Board of Selectmen (October, 2013) following public meetings.

CURRENT LICENSE SYSTEM

One of the main arguments that the petitioner uses in favor of the current license system and against the medallion system is his belief that the current license system offers entry into the market by "anyone who meets certain relevant requirements: is of age, meets regulatory standards regarding driver training licensing, vehicle features, upkeep and safety, etc., and pays a modest registration fee". This is not an accurate assertion. The current license system has operated, since its inception in the 1950's, as a closed license system where the Town licensed a limited amount of companies to operate taxicabs to provide service to residents. In fact, this closed license system limited entry into the market and from its inception to 2003 the same two companies were the only ones to be licensed to operate. In 2003 the Transportation Board, in an effort to meet an increase in the peak time demand for taxicabs as well as to improve service conditions through more competition in the market place, issued three new dispatch permits and 12 new Taxi Business Licenses with the right to operate 70 new taxicabs. The Town, like most municipalities, has implemented regulatory control over the industry to ensure the quality and safety of the service provided by Brookline licensed taxicabs.

A MISUNDERSTANDING OF THE INDUSTRY LED TO FEAR AND A BACKLASH AGAINST THE MEDALLION SYSTEM

When the Boston Globe recently ran their Spotlight report on the conditions of the Boston Taxi Industry, focusing mostly on the conditions within one company, many people blamed the medallion system and feared that this will occur in Brookline. However, those familiar with the taxi industry in and around Boston took a different view. While it is easy to scapegoat the medallion system, when the violations which were reported by the Boston Globe are compared to the regulations in place for the taxi industry in the City of Boston, it becomes clear that what occurred was not the fault of a medallion system but the fault of

regulators who failed to enforce the regulations equally and without prejudice throughout the entire industry. This viewpoint was supported by the recent report submitted by Nelson Nygaard of the Boston industry following the Boston Globe spotlight report. One of the largest changes recommended is that the current oversight authority, the Boston Police Department, be given two years to make institutional changes in its management and oversight of the industry and, if they fail to do so, authority should be transferred to a different regulatory authority.

While the petitioner and others may wish to paint all medallion systems with a broad brush, the fact is that regardless of the regulatory system, the staff and the members of the Transportation Board have been actively enforcing the regulations to ensure the quality and safety of the service in Brookline and plan to continue this under the medallion system as well. Since 2003, the Transportation Board has suspended and/or revoked the license to operate for several companies and many drivers when they have been found to not meet the regulatory standards of Brookline. Under the medallion system, this strict enforcement will continue and be enhanced.

Ultimately, the Town will need to increase its level of regulation under a medallion system. This increase, however, has many benefits over a purely license system. For example, the Town along with its operational regulations will also require approval for medallions sales and financing. This offers a unique ability for the Town to improve both the physical and service areas of the industry since its approval of medallion transfers can be conditioned on reasonable regulatory mandates such as new vehicles. Essentially, the Town can, through regulation, capture some of the medallion appreciation for public good. A new car or handicapped assessable car being more costly than a now typically used older vehicle will reduce the medallion value somewhat. In this way, the Town captures some of the medallion appreciation for newer cars or better equipped cars. Additionally, the Town will fund its expanded regulatory costs through transfer fees which will pay for the additional salary and expense for a broader regulatory structure. The benefits to enhanced regulation are fairly self-evident: -the ability to analyze and monitor the industry, provide for increased safety for drivers and riders, advance testing and training of drivers, greater oversight of radio and dispatch procedures, and address industry issues on a timely and regular basis.

RATIONALE FOR A MEDALLION SYSTEM

There have been a number of criticisms of a medallion system but few pertain to Brookline's conversion plan. Among these criticisms are that the medallion system adds costs to the industry, creates private wealth with a public grant, stifles the entrepreneurial approach to the taxi business, and institutionalizes various claimed inefficiencies.

These criticisms, however, have little relevance to the specific Brookline conversion plan. First, while medallions will have value, it is value that will remain largely within the industry and as productive assets tend to increase in value over time, the taxi companies' balance sheet equity will grow, allowing for more investment.

Next, the criticism of a public grant creating private wealth is similarly not relevant to the Brookline plan since the sale of the medallions will have the opposite effect, i.e., the Town is transferring a public right and requiring the private sector to return to the public a fair value for that right. Further, rather than stifling entrepreneurial vigor, the Brookline plan will introduce it. Currently there is little opportunity for new market entries, but the conversion plan will open the door for many new owners and entrepreneurs with at least 34 new medallions available. Lastly, the Brookline medallion conversion plan is focused on upgrading service, introducing new vehicles, wheelchair assessable service, GPS tracking and computerized dispatch. Rather than institutionalizing inefficiencies, the conversion plan is aimed at rooting out the industry inertia that has taken hold under the closed licensing system.

The planned conversion to medallion will also provide a broader regulatory structure that will be able to more closely monitor the industry, promote increased safety, mandate improved testing and training of drivers, and facilitate a more competitive approach to emerging auto transportation alternatives such as Uber and Halo.

THE AFFECTS OF AN OPEN MARKET LICENSE SYSTEM ON TAXI INDUSTRIES SIMILAR TO BROOKLINE

While the theory that a free market and open entry license system with minimum qualifications as envisioned by the petitioner may sound appealing, the effects on service conditions experienced by the citizens of Brookline who rely on taxicabs will be detrimental. Bruce Schaller, the Town's first consultant, authored a report in 2007 titled "Entry Controls in Taxi Regulation: Implications of US and Canadian experience for taxi regulation and deregulation". According to Mr. Schaller

> "open entry shows negative effects on dispatch service where it has been applied in both dispatch and walk-up markets. This was the case in most of the cities that deregulated approximately a quarter century ago. Cities such as San Diego and Seattle experienced a decline in the quality of dispatch service as new entrants focused on airport and downtown taxi stands. (Teal and Berglund 1987)."

He continued "[P]rior to the city's closing entry in 2003, the main dispatch company in Sacramento reported an average response time of 30 minutes. (Nelson/Nygaard 2004)." Not only did service decline in open-entry markets, so did the quality of life for the taxicab drivers. Mr. Schaller reported that "[I]n San Diego, the real earnings of drivers in the largest company in the city have fallen 30 percent since deregulation (Teal and Berglund 1987 p 46)."

In terms of entry into the market of new businesses, Mr. Schaller again reported that "[P]roponents of deregulation hoped that open entry would lead to creation of new cab companies that provided better service and offered innovative services. Entry of new fleets in deregulated cities was uncommon, however. Only one new company with more than 25 taxis entered the industry in Seattle, San Diego and Kansas City (Teal and Berglund 1987)." He

continued to state that "ironically, in cities such as San Diego that deregulated and later re-regulated, new radio services were created after entry limits were reestablished." Mr. Schaller concluded the report with several recommendations. The one most important to the dispatch reliant, with a "street hail" business like the Town of Brookline, was to create a system of entry controls (i.e., regulations) that include company-level standards with limitations on the number of cabs, reviewed regularly. This is the opposite approach advocated by the petitioner and is actually the approach the Town has done to-date with the closed license system and will continue with the medallion-based system.

THE MEDALLION BASED SYSTEM THE TOWN IS MOVING TOWARD WILL ACHIEVE THE ADDITIONAL ENTRIES INTO THE MARKET PLACE FOR NEW BUSINESSES THAT THE PETITIONER WANTS

As explained in the Phase 1 Report, the current taxi system in Brookline provides limited opportunity for new entrepreneurial activity. Presently, there are only four single license holders among the 185 licenses and these are largely tied to a single company. Further, 165 of the 185 licenses are held by dispatch companies and there is no easy way for industry entry other than petitioning the Town, which is already at a reasonable maximum of licenses granted, or convince an existing license holder to agree to petition the Town to transfer a license. Further, there is little incentive to become a single owner.

Converting the current license system to medallions provides both opportunity and incentive for new entrepreneurial business. First, at least 37 and as many as 83 medallions will be open for purchase. These medallions will be auctioned off in lots of 1 to 3 medallions by the Town with preference to single medallion bids. That is a potential for up to 37 new owner-operator or small business owners to enter the market. As the current license holders, who receive medallions in three Tiers, start to sell their medallions, it will also lead to possible entry into the marketplace for additional owner-operators or small business owners. This entry into the market, via the purchase of a medallion, is one that does not exist today in our license system.

Second, a market value will be established once the medallions have been sold, thereby allowing for private financing. Third, the acquisition of the medallion allows the (new) owner to gain business and personal equity over time. In a purely license system, a single or small owner builds no equity over his/her working years. Medallion systems provide a strong incentive for experienced drivers to enter the business since, in performing the same function, the driver is now building a transferable wealth. Finally, a fourth entry into the market place for owner-operators, which is common in medallion-based systems, is through medallion leasing. The regulatory framework allows an entrepreneurial spirit to lease a medallion, at a reduced rate, and place it on the vehicle that he or she owns. They operate the vehicle for 50% of the time and are allowed to lease it to another driver for 50% of the time. This provides them the incentive to provide a better service for customers since they effectively own the business they work for.

THE MEDALLION SYSTEM WILL RETURN THE WEALTH CREATED BY THE TOWN TO THE TOWN'S RESIDENTS

Another justification that the petitioner uses for halting the medallion process is that the medallion is a one-time benefit to the Town and that the Town relinquishes its control over the taxi industry for decades or centuries to come. Also explained in the Phase 1 Report and discussed in Bruce Schaller's report, in implementing the three tier phase-in of medallions, it will actually produce the opposite effect. The Town is transferring a public right and requiring the private sector to return fair value for that right to the public (essentially the grantee). At current valuation, the public value of the rights being transferred to the private sector is roughly $12 million and the conversion plan requires a full reimbursement of this amount to the public. This transfer can be analogized to the payment for a franchise - which is not considered an enrichment of one side at the expense of the other. From a public sector view, this transfer can be analogized to a public payment for private sector rights such as cable TV rights. The distinction here is that the medallion conversion is a public award of a license to operate a for-profit enterprise and for that the public will be compensated.

Along with this sale, the Town maintains, through its regulatory powers under Massachusetts General Laws and the enabling legislation of the Transportation Board, the authority to regulate the industry, including the ability to increase the number of medallions when the demand may require it. The petitioner cited a 1989 study by the FTC that concluded the number of taxicabs servicing the City of Boston had not increased since its inception in 1934 and resulting in an inadequate supply. As explained by the Town's consultant, the Department of Public Utilities requested that report in response to the City of Boston's request for authorization to sell 300 additional medallions to meet the market demand. Recent increases in the number of medallions to meet market demands include increases in New York City as well. A medallion system does not limit or prevent the ability of the municipal government from increasing the number of taxicabs when demand requires it, it simply allows both the citizens and the company owners to realize the wealth that they create providing this service.

OTHER THAN MONEY, WHAT DOES THE TOWN RECEIVE FROM A MEDALLION BASED SYSTEM

The Town and its citizens will receive better service under the proposed medallion system. A large focus of both the Schaller and the LaCapra reports was the fact that the economics of the current industry prevent companies from modernizing the fleet and investing in digital dispatch and other technologies that lead to a higher quality of service for Brookline residents. The petitioner argued that the owners can obtain this modernization and improvement by leveraging their only asset, their taxicab. However, it was pointed out that vehicles are a depreciating asset and the current license is non-transferable and has no value, so what he was arguing could be achieved under the current system in fact was unachievable.

As outlined in the Phase 1 Report, there is little argument that the current taxi industry is very under-capitalized. A main purpose of the conversion to a medallion system is to eliminate this condition. Most systems that do not have a residual asset value in their operation struggle

with modernizing dispatch, having late model vehicles on the road and adapting to new innovations, e.g., GPS, Hybrid, credit card payment, etc. A simple observation of the US cab industry indicates that medallion systems have incorporated these types of improvements most easily. The reason is fundamentally that the medallion value creates a bankable enterprise. Particularly, since productive assets tend to appreciate over time, the companies' balance sheet equity grows and allows for more leverage with changing debt/equity ratios.

Specifically, the lack of capitalization in the existing license-based Brookline cab industry has resulted in less than state-of-the-art dispatch, older cab vehicles, un-even inspection results, and lesser than ideal amounts of garage equipment. The industry has relied, unevenly, on the resources of the owners of the cab companies, which vary over time, are subject to other demands, and face particular uncertainty in the current Brookline system. Replacing the owners' largesse with an actual corporate balance sheet will both stabilize the industry and provide a secure basis for capitalization. Any undercapitalized industry will have continuing challenges meeting its public service or customer service needs.

In return for this capitalization, beyond the initial one-time monies and on-going fees required to regulate the industry, the Town will be able to achieve stated goals in the taxi industry including a newer fleet of taxicabs that meet the transportation demands of our public, integration of handicap accessible vehicles to meet the transportation needs of our elderly and disabled community, and integration of GPS, digital dispatch, e-hail technology, and other improvements that will result in a higher quality service for the citizens of Brookline.

EVALUATION OF THE MERITS OF ARTICLE 26

Article 26 proposes to repeal the Board of Selectmen's authority to sell taxi medallions. The rationale for this proposal rests on several conclusions which are, at best, questionable. An essential assumption of this article is that medallion systems are inefficient because they limit the number of cabs on the road. While this is true for a medallion system it is also true of a licensing system. This limitation is essential to providing a safe and regulated system of cab service regardless of the how the vehicles are authorized for service. An open entry system would be virtually impossible to regulate and certainly lead to a rush of hackney vehicles attempting to capture a relatively small service area. There are many obvious dangers to flooding a market with cabs, most of which would be only marginally sustainable.

The inefficiency argument posited in the article continues to explain how medallion systems have not kept pace with taxi demands. Further expansion of this point indicated that all the examples demonstrating this were in high growth, dynamic commercial cities (i.e., New York, Boston, Seattle, etc.). This has no bearing on the Brookline environment which is residential, stable and clearly not the economic engine of its region.

The article further suggests that medallions are a social equity issue because they would preclude entry to the market. Actually, the planned Brookline system will open the business of taxi ownership to many new single entries, something that the licensing system was not

able to accomplish. If a goal is to create a new level of ownership in Brookline, then a medallion system is the answer.

Within the social equity issue, the article suggests that the medallion system creates the ability of large owners to force drivers to "...pay through the nose for a taxi..." and to "...remain low-paid daily contract workers...". This completely misses the point that the rates and charges are set by the Town, which has the ultimate say on how the total pie is allocated among owners and drivers. On further expansion of this point, the author of the article noted that the rising cost of a medallion would lead to higher and higher prices. This is inaccurate since the medallion price does not enter into the regulated price for leasing a cab nor the meter fare paid by the customer.

The article also makes the sweeping and unfortunate assertion that "medallion systems make corruption inevitable". This broad indictment of regulated systems with relatively few large publically-licensed players would necessarily include gas, electric and water utilities, airlines, many communication companies and media networks.

In short, the article is less a criticism of a medallion system than it is a lament against any type of franchised system, favoring instead an open access to all. Franchised regulated systems, medallions among them, were developed because of the public dangers and price instability of allowing open access to every entry in particular services. A literal acceptance of this article would require scraping the current licensing system as well.

Therefore, by a vote of 4-0 taken on April 29, 2014, the Board recommends NO ACTION on Article 26.

ROLL CALL VOTE:
No Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This is a citizen petition that would rescind the Selectmen's (and therefore the Town's) ability to sell taxi medallions.

Specifically, this would be accomplished by the filing of this proposed act with the State:

AN ACT TO REPEAL THE BOARD OF SELECTMEN'S AUTHORITY TO SELL TAXI MEDALLIONS

May 27, 2014 Annual Town Meeting

26-16

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

Section 1. Strike IN ITS ENTIRETY sec. 4a of the 1974 Mass. Acts ch. 317, as amended by 2010 Mass. Acts ch. 51 sec. 4a, authorizing the Board of Selectmen to have exclusive authority to sell taxi licenses [MEDALLIONS] by public auction, public sale, sealed bid or other competitive process established by regulations promulgated by the board; and as amended by 2012 Mass. Acts ch. 52 sec. 3, which established a separate Taxi Medallion Fund.

Section 2.: This Act shall take effect IMMEDIATELY upon its passage.

Or act on anything relative thereto.

DISCUSSION:

While we appreciate the petitioner's earnest concern that selling taxi medallions would be a mistake of historic proportions, the Advisory Committee unanimously feels his concern is misplaced. We believe it is based on a misunderstanding of the way the taxi industry works now and would work under a medallion system.

The current system provides taxi operators with one-year licenses, which are not transferable and which have no asset value. As a result, operators have no substantive assets to pledge in order to capitalize their businesses. Thus we have a taxi fleet that is largely made up of gas-guzzling, deteriorating, used police cruisers.

In contrast, taxi medallions are property that can be sold, or pledged as security. In effect, the difference between an annual license and a medallion is the same as the difference between renting and owning. Medallion owners would have the ability to borrow enough to buy new vehicles, and indeed they would be required to buy new taxis by the regulations Brookline plans to implement.

The issue of taxicab medallions is not new to Brookline.

The Transportation Board, which licenses taxicabs, has been studying this issue since pre-2000. In 2006, the Transportation Board searched for and hired Bruce Shaller, a transportation consultant to a number of municipal governments. Mr. Shaller was tasked with studying the taxicab industry in Brookline to determine if a change from a licensed based system to a medallion-based system would be beneficial to the Town. Mr. Shaller spent many months reviewing our taxicab companies' logs, reading cab meters to determine the numbers of trips and average lengths of trips, etc. He spoke with drivers and owners, both major and affiliates and appeared in front of various Town Boards and Commissions. Mr. Shaller's conclusions were that the Town could capture some of the value created by the change to medallions and at the same time the change would benefit the patrons with better vehicles and more efficient dispatch operations.

In 2007, with budgetary pressures mounting, the Override Study Committee for the 2008 override looked at this issue and determined that it would be beneficial to increase taxi-licensing fees and move towards a medallion based system.

A taxi medallion-working group was created by then Town Administrator Richard Kelliher. This group consisted of the Town Administrator, the Deputy Town Administrator Sean Cronin, a number Town Department Heads, the Police Chief, Town Council and staff and the Town's Procurement Officer. This was a Selectmen run working group, led first by Selectman Robert Allen and then by Selectman Ken Goldstein. This group met for a number of years working on the issue of medallionization.

In 2008, Town Administrator Kelliher asked and the Board of Selectmen put forward to Town Meeting the Home Rule Petition allowing the sale of medallions. Ultimately, Town Meeting and then both the Senate and House of Representatives, approved this petition. The bill was signed into Law and grants the Selectmen the authority to transfer all rights associated with the sales of taxicab medallions. Only a few other communities have been successful in obtaining such authority. Article 26 seeks to overturn that authority.

Following passage of the Home Rule petition, the Town, through the Transportation Board, hired a well know transportation consultant, Richard LaCapra. Mr. LaCapra who had previously assisted the City of Boston with the sales of additional taxicab medallions, was hired to develop a methodology to proceed with the sales of medallions in Brookline.

Mr. LaCapra spent at least two full years meeting with all of the concerned parties with respect to medallions. Many meetings were also held with the taxicab medallion-working group who met regularly. The taxicab owners provided Mr. LaCapra with operating expenses and income statements and other necessary accounting records. Medallions were requested by the taxicab industry so that they could have a tangible asset that might gain in value as opposed to a one-year paper license. Under our current licensing system, owners are unable to afford new taxicabs and improvements. The Transportation Board has created restrictions on the age and conditions of the cabs. Twice yearly, the Town performs rigorous taxicab inspections on each cab in service. The safety of the public is paramount. The Transportation Board has been pushing the cab industry to move to new hybrid vehicles but due to the lack of available financing, this goal has yet to be accomplished.

After a number of years studying the issue, Mr. LaCapra created and proposed a unique three-tiered approach to capitalize the industry. This system gives some medallions to current cab companies in phase 1, auctioning off some medallions to the taxi industry allowing the three-tiered approach to accomplishing the desired capitalization and growth of the industry.

Last Spring, Mr. LaCapra's report was presented and favorably viewed by the Selectmen. The Board of Selectmen directed the Town Administrator and staff to continue the working group and asked them to hold meetings with representatives of the taxi industry to try to build consensus.

The Transportation Board and Selectmen have held numerous public hearings taking public comment on the proposed change from licenses to medallions. These meetings and public hearings resulted in minor changes in the final plan with respect to pricing and time frames of the three-tiered system originally presented by Mr. LaCapra. The end product of these meetings was approved by votes of both the Transportation Board and the Board of Selectmen.

The conclusion reached by Mr. LaCapra, the Town Administrator's working group, the Transportation Board and the Board of Selectmen is that Brookline's issuance and sale of medallions to the taxi industry by use of Mr. LaCapra's plan will be of solid benefit to the Town, to our residents and to the cab industry. We believe Town Meeting's vote for Home Rule Petition to allow the sale of medallions indicated Town Meeting's approval of the plan to medallionize.

The Petitioner has explained that he believes in the current free and open system of licensing taxicabs. He indicated he would like an even more open system. He spoke of a system similar to one obtaining a drivers' license whereby, anyone who wishes to drive would register and be allowed to do so.

However, Brookline's taxi licensing system does not work that way now, and the new medallion system will open it up to all persons who wish to purchase a medallion. The Advisory Committee does not believe Brookline would benefit from such an open and unregulated system of taxicab licensure as proposed by the petitioner.

The Petitioner states that Brookline's change to medallions will have a number of long lasting detrimental effects on the Town and its citizens. The petitioner uses the example illustrated in a Boston Globe story last year of corruption and payoffs apparently commonplace in at least one Boston company. The petitioner presented to the Advisory Committee a number of Articles, but their relevance was not clear. These documents included a Summary of Findings of the effects of taxi medallion systems prepared by the District of Columbia (2011), a Federal Trade Commission review of the City of Boston's issuance of medallions (1989), a New York Times article from November 2014 about One Million Dollar Medallions in NYC stifling the dreams of cab drivers, Mr. Harris's own column from the TAB (2/13/2014) and a one page sheet on Medallion Statistics of five major US cities. He cites mid-six-figure costs for medallions in Boston and says that sort of price will put medallions beyond the reach of small business people.

However, Boston medallion prices are so high because of the much higher income that can be generated by Boston cabs, which have a monopoly on rides from Logan Airport. This is not the case for Brookline cabs. Our consultants expect high five-figure prices in Brookline. And after looking at their data, Brookline Bank stated that it would finance taxi medallions in Brookline.

The Petitioner's data was for the most part outdated and irrelevant to the issue. We believe he used incorrect historical data. The problems he cited were unique to regulator's failures in Boston, not to an inherent flaw in medallion systems per se. We believe that the Petitioner's

concerns are legitimate for some forms of taxi medallion systems. However, his concerns have no real bearing on the system Brookline is about to implement.

The issuance and sales of medallions will capitalize the taxi industry, creating a tangible asset that will allow medallion owners to purchase and put into use energy saving hybrid taxicabs, GPS monitoring dispatch systems, and place into service a number of handicapped equipped taxicabs. Each of these items will benefit the citizens and riding public, many of who are elderly citizens. We also have a BETS program in Brookline that allows for discounted rides for seniors. Our Transportation Board will continue to set taxi fares and rates for Brookline's taxis.

As noted above, the change from licenses to medallions allows for the capitalization of the industry. Through a three-tiered system, created especially for Brookline, we create hereto before unrealized value, allowing needed improvements to be paid for by the medallion purchasers. The Town expects to receive 10-15 Million Dollars with the sales of the medallions, and it will continue to capture a percentage of the future value medallions will have through transfer fees.

Questions were raised about long-term fare costs as medallions increase in value. Wouldn't that cause an increase in the cost of the taxicab ride? We believe not, as our Transportation Board sets the rates taxicabs may charge. The amount a person may have paid for a taxicab medallion has no bearing on the setting of rates, and in fact Boston taxi rates and weekly lease rates for drivers are comparable to Brookline's, despite high medallion prices in Boston.

The petitioner points to Uber as the wave of the future. But unlike Uber drivers, the Brookline Police Dept. vets Brookline taxi drivers, and Brookline taxi drivers have to accept all rides, and take persons wherever they want to go, including a senior citizen who wants to go three blocks to the supermarket. That's not true for Uber drivers. Uber will take some market share from taxis, particularly in downtown Boston, but there will always be a place in the market for taxis, in both Brookline and Boston.

Brookline's process for the change to medallions was extremely well thought out. Large numbers of citizens took part in the open process that has taken over eight years to date. The Petitioner would have Town Meeting place an immediate stop to this process without sound reasoning. This has been a multi-year, multi-deliberative body process that deserves conclusion.

RECOMMENDATION:
The Advisory Committee believes a medallion system in Brookline will benefit the Town, the drivers and the citizens who expect clean, safe and reliable cabs. By a unanimous vote (18-0-0) the Advisory Committee recommends a vote of NO ACTION on Article 26.

XXX

ARTICLE 27

TWENTY-SEVENTH ARTICLE
Submitted by: Neil Gordon

To see if the Town will adopt the following resolution:

WHERAS: The Town of Brookline owes a debt of gratitude to every resident who has honorably served in the Armed Forces of the United States (individually, a "Veteran"); and

WHEREAS: The Town of Brookline desires, in a modest way, to honor the memory of each such Veteran for his or her service; and

WHEREAS: The United States Department of Veterans Affairs provides, at no cost, a United States flag ("Burial Flag") to drape the casket or accompany the urn of a deceased Veteran who has honorably served in the U.S. Armed Forces; and

WHEREAS: If a Burial Flag is not available then a suitable substitute can be made available by the Town at modest cost;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen, upon the reasonable request by a Veteran's family or by any other appropriate party, to authorize, by specific resolution of the Board of Selectmen, the flying of a Burial Flag or suitable substitute provided by the Town, in memory of any deceased Veteran who was, at any time, a resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: such flag shall be flown at such place, for such time and with such ceremony as the Board of Selectman shall determine in their sole discretion; and

BE IT FURTHER RESOLVED THAT: in the case of a Burial Flag provided by a Veteran's family or other appropriate party, such flag shall thereafter be promptly returned to the family or other appropriate party; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen shall promptly thereafter send a letter or certificate to the family or other interested party, such letter to include the text of the resolution of the Board of Selectmen authorizing the flying of a flag in memory of the honorable service in the U.S. Armed Forces of such former resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen use reasonable means to publicize the modest but meaningful memorial to Brookline's Veterans described above;

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This Resolution recommends that the Board of Selectmen and by extension the Town of Brookline, in modest fashion but in a meaningful way, honor the memory of deceased veterans who were residents of the Town of Brookline. Equally modest is the imposition on the Board of Selectmen's time and the cost of administering this simple program.

Requests are likely to be few and it is unlikely that requests will be received from the families of veterans with only a casual connection to Brookline.

Individual resolutions of the Board of Selectmen, recorded in their minutes, will permanently memorialize, by name, the honorable service, of our friends, family and neighbors in the Armed Forces of the United States.

SELECTMEN'S RECOMMENDATION

Article 27 is a petitioned resolution that asks the Board of Selectmen to honor the memory of deceased veterans who were residents of Brookline. The Selectmen fully support the resolution and will follow the process outlined in the resolution:

- upon the request of a Veteran's family or by any other appropriate party, the Town will fly a Burial Flag or suitable substitute provided by the Town, in memory of any deceased Veteran who was, at any time, a resident of the Town of Brookline.

- in the case of a Burial Flag provided by a Veteran's family or other appropriate party, the flag will be promptly returned to the family or other appropriate party.

- send a letter or certificate to the family or other interested party that includes the text of the resolution of the Board of Selectmen authorizing the flying of the flag.

As called for in the last Whereas clause, the Board will publicize this new memorial to Brookline's Veterans. We will ask the Town's dedicated Veterans Director, William McGroarty, to develop a plan to publicize this fitting memorial that will be available to honor all Brookline veterans. The Board recommends FAVORABLE ACTION, by a vote of 3-0 taken on April 24, 2014, on the following:

VOTED: That the Town adopt the following resolution:

WHERAS: The Town of Brookline owes a debt of gratitude to every resident who has honorably served in the Armed Forces of the United States (individually, a "Veteran"); and

WHEREAS: The Town of Brookline desires, in a modest way, to honor the memory of each such Veteran for his or her service; and

WHEREAS: The United States Department of Veterans Affairs provides, at no cost, a United States flag ("Burial Flag") to drape the casket or accompany the urn of a deceased Veteran who has honorably served in the U.S. Armed Forces; and

WHEREAS: If a Burial Flag is not available then a suitable substitute can be made available by the Town at modest cost;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen, upon the reasonable request by a Veteran's family or by any other appropriate party, to authorize, by specific resolution of the Board of Selectmen, the flying of a Burial Flag or suitable substitute provided by the Town, in memory of any deceased Veteran who was, at any time, a resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: such flag shall be flown at such place, for such time and with such ceremony as the Board of Selectman shall determine in their sole discretion; and

BE IT FURTHER RESOLVED THAT: in the case of a Burial Flag provided by a Veteran's family or other appropriate party, such flag shall thereafter be promptly returned to the family or other appropriate party; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen shall promptly thereafter send a letter or certificate to the family or other interested party, such letter to include the text of the resolution of the Board of Selectmen authorizing the flying of a flag in memory of the honorable service in the U.S. Armed Forces of such former resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen use reasonable means to publicize the modest but meaningful memorial to Brookline's Veterans described above.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Wishinsky

Carried by a Unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 27, a resolution concerning the flying of a flag for deceased Brookline veterans, was submitted by TMM Neil Gordon. He asks that the Town honor the memory of each veteran in a very simple way – by flying a United States Flag, usually the one which is given to the veteran's family, and noting that honor by issuing a resolution from the Board of Selectmen.

DISCUSSION:
Article 27 requests that Town Meeting urge the Board of Selectmen to adopt a program with the following components:

1. Upon the reasonable request of a veteran's family or friend, the Board of Selectmen would authorize the flying of a Burial Flag in memory of any deceased veteran who was, at any time, a resident of the Town, and who served honorably in any branch of the United States Armed Forces.
2. The Board would determine where the flag would be flown, for how long and what, if any, ceremony would accompany it.
3. The Burial Flag would usually be the one provided to the veteran's family by the Veterans Administration, so the Town would not incur a cost. After the flag is flown, it would be returned to the family. However, if a suitable flag from the family is not available, the Town would loan a flag at little or no cost for use in the flag- raising and ceremony.
4. As part of this program, the Board of Selectmen would provide a letter or certificate to the family, with the text of the resolution by the Board to fly the flag in memory of the veteran and his/her honorable service.
5. The Board of Selectmen would also use reasonable means to publicize this program.

The Petitioner acknowledged that the program, as set out in Article 27, gave general direction to the Board of Selectmen, but left many details to the Board to adopt. There are many different situations for the family and friends of veterans who had a nexus to the Town. The program would encompass any veteran who was born here or lived in Brookline at any point in his/her life, even if the veteran did not die while a resident of the Town.

The Veterans Director estimates that veterans comprise approximately 5 to 10 % of the Town's population, and many of the families will not avail themselves of this program. He is comfortable with general details and is willing to organize the flag flying ceremony at any time that is convenient for the veteran's family.

The Veterans Director has stated that he would recommend some guidelines to the Board:

1. The first step, after identification of the veteran, is to obtain a copy of the discharge to certify that he/she is legitimately a veteran, and has had an honorable discharge. Furthermore, the Veterans Director would look for documentation that the veteran has or has had a nexus to Brookline.
2. Next, the Town would obtain a death certificate.
3. The Veterans Director would work with the family to set a time and place for a ceremony, if any, and this would be communicated to the Board of Selectmen.
4. The Board of Selectmen would authorize the flag flying and a ceremony, and issue a resolution to honor the Veteran. The flag flying and ceremony, if any, could be done before the resolution is issued.
5. The flag flown would preferably be the one provided by the Veterans Administration to the veteran and would be returned to the family after the flag flying and ceremony. (The VA only provides a flag if the veteran was honorable discharged) About 75 to 80% of the

families of honorably discharged veterans receive the flag, although in certain circumstances, the flag may not be available, especially if the ceremony is held very soon after death.

6. If the family does not have a flag, the Veterans Director would loan one at a little cost to the Town, and the loaned flag would be retained by the Town.

7. If there is enough time, there could be notice in the local paper of the flag-raising and ceremony.

The Advisory Committee members agreed with Petitioner that this program is very modest, but would be a meaningful way to recognize a veteran's honorable service.

RECOMMENDATION:
By a unanimous vote, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

XXX

ARTICLE 28

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Revised Motion:

VOTED: That Town Meeting request the Board of Selectmen to refer Article 28 to the Town Administrator to form a working committee to study the subject matter of the article and report back to the November 2014 Town Meeting and Selectmen; with the expectation that some enforcement measures will be implemented for the 2014-2015 snow season.

ARTICLE 28

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The recommendations of the Selectmen and the Advisory Committee as contained in the Combined Reports have slightly different referral language. In order to address the most substantive difference, the Board revised their language. By a vote of 5-0 taken on May 13, 2014 meeting, the Board recommends FAVORABLE ACTION on the following motion:

VOTED: To refer Article 28 to the Town Administrator to evaluate the issue and offer suggestions for implementing changes to the current enforcement system and present them to the Board of Selectmen in time for a report to Fall Town Meeting; with the expectation that some enforcement measures will be implemented for the 2014-2015 snow season.

ARTICLE 28

TWENTY-EIGHTH ARTICLE
Submitted by: Frank Caro

Proposed resolution on Slippery Sidewalks in Business Districts

Whereas: Section 7.7.1 of the Town's bylaws requires that in a business district, the owner of land adjacent to a sidewalk maintain the sidewalk, in a non-slippery condition suitable for pedestrian travel within the first 3 daytime hours after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary,

Whereas: Section 7.7 of the bylaws requires owners of land adjacent to sidewalks to maintain the sidewalk in a non-slippery condition as necessary,

Whereas: A significant number of sidewalks in business districts are regularly in a slippery conditions after snow falls,

Whereas: The Town's complaint-driven system for enforcing its sidewalk snow-maintenance bylaw allows delays in enforcement of the bylaw,

Whereas: Delayed removal of snow and ice puts the safety of pedestrians at risk,

Whereas: The Town enforces some other bylaws by deploying enforcement officers with a mandate to identify violators,

Therefore be it resolved that the Town proactively deploy enforcement officers on foot in business districts beginning in the fourth daylight hour after snowfalls to enforce Section 7.7.1. of the Town's bylaws. These enforcement officers shall issue warnings and tickets on the basis of their own observations without waiting for complaints to be submitted to the Town.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Section 7.7 of Brookline's bylaws specifies the obligations of property owners to maintain sidewalks adjacent to their property in a non-slippery condition after snow and ice storms. Section 7.7.1 states that "...In a business district, the owner of land adjacent to a sidewalk..." is responsible for maintaining "... the sidewalk, in a non-slippery condition suitable for pedestrian travel" within the first 3 daytime hours "after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary."

Although safe sidewalks in the winter are a concern throughout Brookline, sidewalk conditions are particularly important in business districts because of the high volume of pedestrian traffic there. While most property owners in business districts do a good job of

maintaining their sidewalks in the winter, a substantial minority do not. Sidewalk safety requires that all sidewalks be cleared. Because we regularly have prolonged periods of cold weather after snow storms, we often have extended periods in which some sidewalks are hazardous because snow was not cleared promptly. Falls on icy sidewalks can cause serious injuries. Further, fear of ice on sidewalks causes some older people to be home bound.

Brookline has a complaint-driven system for enforcing its winter sidewalk maintenance bylaw. Inspectors are sent out after complaints are received by the Department of Public Works. On Mondays through Fridays, complaints that have been received within the prior 24 hours are assigned at 8:30 AM to inspectors employed by the four departments that are involved in enforcement. Even if complaints are made promptly, a lag of at least 24 hours is likely between the time a citizen observes the problem and the time when an inspector visits the site of the complaint. During that period, pedestrians are at risk. When storms occur on Fridays or Saturdays, no enforcement occurs before Mondays. Consequently, weekends extend the period when pedestrians are at risk.

For the past three winters, the Brookline Community Aging Network has organized a small team of volunteers who walk the business after snow storms to observe the condition of sidewalks. Team members regularly submit reports of hazardous sidewalks to the Department of Public Works. The team covers Coolidge Corner, Washington Square, Brookline Village, St. Mary's, and JFK Crossing. The fact that a team of volunteers is able to walk the sidewalks in business districts to monitor conditions after snow storms demonstrates that proactive observation of sidewalk conditions by pedestrians is feasible.

The consequences of the reports submitted by the team are uncertain. In some cases, sidewalks are better maintained after a report has been submitted. No information is available on follow through by Town inspectors on the complaints that have been submitted.

The monitoring done by the volunteers has not been sufficient to assure that sidewalks in the business districts are universally well maintained. Stronger action is needed. Proactive enforcement would inform property owners that the Town is serious about the obligation of property owners to maintain sidewalks in a safe condition.

Parking meter enforcement in Brookline's business areas provides precedent for the proposed winter sidewalk maintenance enforcement. Brookline's parking meter enforcement is proactive. Further in business districts, enforcement officers patrol on foot.

MOTION TO BE OFFERED BY THE PETITIONER

Voted:

~~Moved~~: that the Town adopt the following Resolution:

Whereas: Section 7.7.1 of the Town's bylaws requires that in a business district, the owner of land adjacent to a sidewalk maintain the sidewalk, in a non-slippery condition suitable for pedestrian travel within the first 3 daytime hours after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary,

Whereas: Section 7.7 of the bylaws requires owners of land adjacent to sidewalks to maintain the sidewalk in a non-slippery condition as necessary,

Whereas: A significant number of sidewalks in business districts are regularly in a slippery condition after snowfalls,

Whereas: The Town's complaint-driven system for enforcing its sidewalk snow-maintenance bylaw allows delays in enforcement of the bylaw,

Whereas: Delayed removal of snow and ice puts the safety of pedestrians at risk,

Whereas: The Town enforces some other bylaws by deploying enforcement officers with a mandate to identify violators,

Therefore be it resolved that the Town proactively deploy enforcement officers on foot in business districts beginning in the fourth daylight hour after snowfalls to enforce Section 7.7.1. of the Town's bylaws. These enforcement officers shall issue warnings and tickets on the basis of their own observations without waiting for complaints to be submitted to the Town.

Passed by an Overwhelming Majority

SELECTMEN'S RECOMMENDATION

Article 28 is a petitioned resolution that calls for the deployment of enforcement officers in business districts beginning in the fourth daylight hour after snowfalls to enforce the Town's snow removal by-law. The specific portion of that by-law is Section 7.7.1, which requires owners of commercial property make sidewalks non-slippery suitable for pedestrian travel within the first three hours between sunrise and sunset after the snow and ice has come upon such sidewalk.

Currently, the Department of Public Works (DPW) utilizes a complaint driven system of enforcement using personnel from the Police, Building, Public Health and Public Works Departments with assigned geographic areas. Complaints are generally received through the BrookOnLine mobile application, telephone and seasonal hotlines and email. During this past harsh winter season, the DPW made a significant improvement in its efforts to enforce the by-law. The Department received 1,151 complaints regarding sidewalk snow clearing and issued 529 citations. Because of the time lag between complaint and inspection, many situations are resolved prior to the arrival of the enforcement officer.

Regarding business districts, DPW has generally found that many business owners, who are often tenants and not property owners, are not aware of the by-law requirement and because the Town initially plows the commercial sidewalks during the storm, the businesses are not aware that it is their responsibility to keep the walkways clear. When informed of their responsibilities, business owners are generally cooperative going forward.

While the Board agrees with the intent of the Article, it must be noted that the Town does not have the resources to provide complete enforcement of the by-law. Passing a resolution to ensure enforcement of a by-law without the resources to accomplish the job seems impractical at best. We would rather explore other ideas to force the compliance of business owners by working with the Brookline Chamber of Commerce to "get the word out". Specifically, providing winter regulation information directly to business owners in addition to the property owner may induce a greater response and solution to the problem.

The Board wants the Town Administrator to work with the Department Heads and representatives of the business community to address this issue, as it is a serious one, and one that puts the safety of our residents, especially our elderly, in jeopardy. Therefore, by a vote of 4-0 taken on April 29, 2014, recommends FAVORABLE ACTION on the following:

VOTED: To refer Article 28 to the Town Administrator to evaluate the issue and offer suggestions for implementing changes to the current enforcement system and present them to the Board of Selectmen in time for the Fall Town Meeting.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 28 is a citizen-petitioned resolution aimed at enforcing snow removal and proper sidewalk maintenance in the town's business districts. The resolution's "therefore" clause specifies the proposed manner of enforcement:

"Therefore be it resolved that the Town proactively deploy enforcement officers on foot in business districts beginning in the fourth daylight hour after snowfalls to enforce Section 7.7.1 of the Town's bylaws. These enforcement offices shall issue warnings and tickets on the basis of their own observations without waiting for complaints to be submitted to the Town."

DISCUSSION:
The petitioner, Frank Caro, is an advocate for the Brookline Community Aging Network (BCAN) and is concerned with the conditions of Brookline's sidewalks in our business

districts and the apparent lack of snow and ice removal after snowstorms. The petitioner believes this is a health and safety concern for elderly persons who are at a greater risk from falls. (The Advisory Committee recognizes that this is an issue that affects people.)

This difficult past winter and prolonged cold after snowstorms has resulted in a number of periods of freeze and thaw cycles, resulting in sidewalk ice for an extended times after storms. BCAN had members monitoring conditions of our sidewalks and the commercial areas throughout last winter and believe that the enforcement actions by the DPW were insufficient. As an example, a February 17, 2014 report by this group stated that volunteers on Harvard Street south of Beacon Street found thirty sidewalk locations that required immediate attention. BCAN members believe that the town would benefit from better compliance and proactive patrols of our sidewalks.

Currently, the town handles enforcement that is complaint driven and not proactively. BCAN members would like to see a system of prompt proactive enforcement and fines to encourage more prompt snow and ice removal.

The DPW plows by means of sidewalk plows sidewalks within the commercial districts as quickly after a snowstorm as is possible. Section 7.70 Brookline bylaw specifies the obligations of property owners to maintain sidewalks adjacent to the property in a non-slippery condition after snow and ice storms. Section 7.7.1 states that "... In a business district, the owner of land adjacent to a sidewalk..." is responsible for maintaining "... the sidewalk, in a non-slippery condition suitable for pedestrian travel" within the first three daytime hours " after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary."

Brookline's complaint driven system for enforcing its winter sidewalk maintenance bylaw has inspectors from DPW and the Health and Building departments sent out after complaints are received by the DPW. Inspections occur the following day after complaints are received and an unfortunate lag of at least 24 hours is likely between the time a citizen observes the problem and the time when inspector visits the site of complaint. During this lag time pedestrians and especially elderly pedestrians are at great risk. No enforcement occurs on Fridays (for Friday complaints) and Saturdays and Sundays, therefore making weekends especially dangerous without sidewalk enforcement.

During public comment, residents suggested increasing fines so that it would be cheaper to hire someone to shovel than to pay the penalty. While supporting the underlying principle, the Chamber of Commerce would prefer working with the Town on ways to enforce the policy in "a manner that is reasonable for both business owners and residents." Others suggested robo-calls in advance of a snow event, reminding business district property owners of their obligation to remove snow and ice. It was also suggested that BCAN monitors carry copies of the by-law to distribute during their volunteer inspections, and that greater use of the reporting capacity of BrookOnLine be encouraged.

The Commissioner of Public Works explained that the Town received 1151 complaints this past winter and issued 529 tickets (these numbers include both commercial and residential complaints and tickets). The Commissioner stated that this proposed resolution is a noble

idea, however there is currently no mechanism or funding to provide resources to accomplish these wishes. The DPW publishes a Business Guide Book for Chamber members and commercial businesses explaining the requirements of our snow removal bylaw.

The Advisory Committee recognizes that this is an issue of importance and acknowledges that the issue has been studied by at least three past Moderators' committees, with much improvement but without total success.

The Advisory Committee discussed changes to increase fines to a maximum of $300.00 daily, bylaw changes to mandate shoveled cut-through's of snow banks for pedestrians, and to resolve cross-jurisdictional issues as enforcement is split between Police, DPW, and Health and Building personnel among other approaches.

It was proposed that sidewalk snow and ice enforcement be done by our parking meter enforcement officers as they are walking our sidewalks in the commercial districts every day but Sundays. And, the proposed resolution does specify that the Town "proactively deploy enforcement officers on foot". Aside from the questions of staffing and cost, we believe that such a change would require collective bargaining. It is an approach, though, that we believe should be more thoroughly examined.

Snow removal can be a daunting task at times for all of us. The current methods of enforcement are limited. Improvements (including enforcements) should be multi-faceted and coordinated. Given that this requires the efforts of various departments within the Town, and given that new enforcement approaches may involve collective bargaining issues, we believe it is an issue best coordinated under the auspices of the Town Administrator's office. Therefore, the Advisory Committee is recommending that Town Meeting request the BOS to establish a Town Administrator's taskforce to address this issue. The Town Administrator's authority and organizational insight allows for a more practical approach to enacting solutions.

RECOMMENDATION:
The Advisory Committee recommends favorable action (22-0-1) on the following vote:

VOTED: That Town Meeting request the Board of Selectmen to create a Town Administrator's Taskforce to study the subject matter of Article 28 and report back to the November 2014 Town Meeting; with the expectation that some enforcement measures will be implemented for the 2014-2015 snow season.

XXX

ARTICLE 29

Motion to be Offered by the Petitioner

VOTED: that the Town adopt the following Resolution:

WHEREAS
The Town of Brookline has long been at the forefront of innovation~~ ideas~~, creativity and most importantly action; and

WHEREAS
The most ~~critical~~ action any town can take to diminish the effects of national economic crisis and assist its residents is to do everything possible to strengthen its local economy; and

WHEREAS
Research has shown that $2 of every $3 spent at independent, locally owned businesses stays in the local economy; however, only $1 of every $3 spent at chain stores or public companies stays in the local economy; and

WHEREAS
The money spent at ~~local independently owned~~independent, locally owned businesses has given residents a more healthy, vibrant and sustainable community; and

WHEREAS
Brookline is most fortunate to have many ~~locally owned and independent~~independent, locally owned businesses that are critical components to its local economy. However these ~~locally owned~~ businesses have had a difficult time in this economy; and

WHEREAS
These difficulties necessitate a much more proactive approach by town government to support the local economic development for citizens to realize a positive impact, and now therefore be it

RESOLVED
That the Town of Brookline declare itself a "Local Economy Community" welcoming, and encouraging local entrepreneurship; and

RESOLVED
That the Town Administrator, School Department the Selectmen, and all departments:

1. Determine how the Town can increase procurement from Independent, Locally Owned Independent Businesses.
2. Ensure that locally or regionally owned banks participate and are given whatever preference is lawfully allowed when bids for town banking services are requested.

3. Support whatever efforts are made by the school committee to increase the percentage of locally grown and produced food served to students and staff; and

RESOLVED
That the Selectmen, Town Administrator, School Department, Department heads and members of ~~locally owned~~ independent local businesses form a Task Force to identify and develop policies that directly support the growth and development of ~~locally owned and independent~~independent, locally owned businesses in Brookline,

RESOLVED
That the Town of Brookline declare an annual "Brookline Local Economy Week" that coincides with "Brookline Day", and that the Town Administrator, School Department and Town Department Heads confer to promote the steps all can take to contribute to fostering our local economic development during that week.

ARTICLE 29

TWENTY-NINTH ARTICLE
Submitted by: Brookline Local First

To see if the Town will adopt the following Resolution

WHEREAS
The Town of Brookline has long been at the forefront of innovation ideas, creativity and most importantly action; and

WHEREAS
The most critical action any town can take to diminish the effects of national economic crisis and assist its residents is to do everything possible to strengthen its local economy; and

WHEREAS
Research has shown that $2 of every $3 spent at locally owned businesses stays in the local economy; however, only $1 of every $3 spent at chain stores or public companies stays in the local economy; and

WHEREAS
The money spent at local independently owned businesses has given residents a more healthy, vibrant and sustainable community; and

WHEREAS
Brookline is most fortunate to have many locally owned and independent businesses that are critical components to its local economy. However these locally owned businesses have had a difficult time in this economy; and

WHEREAS
These difficulties necessitate a much more proactive approach by town government to support the local economic development for citizens to realize a positive impact, and now therefore be it

RESOLVED
That the Town of Brookline declare itself a "Local Economy Community" welcoming, and encouraging local entrepreneurship; and

RESOLVED
That the Town Administrator, School Department the Selectmen, and all departments:

1. Determine how the Town can increase procurement from Locally Owned Independent Businesses.
2. Ensure that locally or regionally owned banks participate and are given whatever preference is lawfully allowed when bids for town banking services are requested.
3. Support whatever efforts are made by the school committee to increase the percentage of locally grown and produced food served to students and staff; and

RESOLVED
That the Selectmen, Town Administrator, School Department, Department heads and members of locally owned independent businesses form a Task Force to identify and develop policies that directly support the growth and development of locally owned and independent businesses in Brookline,

RESOLVED
That the Town of Brookline declare an annual "Brookline Local Economy Week" that coincides with "Brookline Day", and that the Town Administrator, School Department and Town Department Heads confer to promote the steps all can take to contribute to fostering our local economic development during that week.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Formed in March 2012, Brookline Local First is a network of locally-owned, independent businesses. Our mission is to build a strong local economy and vibrant community by educating residents and local government leaders about the significant environmental, economic and cultural benefits of doing business with locally-owned, independent businesses.

The benefits of shopping locally have been proven through several studies about local economies. Purchasing from locally owned and independent businesses strengthens our local economy, and our community. Keeping our money locally also supports locally-owned and independent businesses that help maintain the distinctive flavor that Brookline offers citizens. When we shop locally we decrease our negative impact on the earth's environment by reducing the distance between the origin and destination of products as well as the distance required to purchase the products

Locally-owned, independent businesses enhance the identity of our community, and are an important part of creating a sense of place. Brookline Local First is sponsoring the following Town Meeting Resolution to focus our community's resources where they can make the biggest impact on our community and local economy.

SELECTMEN'S RECOMMENDATION

Article 29 is a petitioned resolution that asks the Town to declare itself a local economy community and to increase procurement from locally-owned independent businesses through different initiatives and events, including the formation of a task force, and the creation of a local economy week. The creation of a Shop Brookline Task Force and the declaration of a Brookline Economy Week are both steps the Town can take to support businesses. We applaud Brookline Local First for their efforts to draw attention to the need to support local

businesses. However, the Board's definition of what qualifies as a local business is broader than the limited definition used by the Petitioner. The Task Force should represent all stakeholders within the Brookline business community and should focus their efforts on developing policies and practices that support all businesses. The subject matter of Article 29 should be referred to the Economic Development Advisory Board (EDAB) and the scope should be expanded to include support for businesses located in Brookline more generally.

Therefore, by a vote of 4-0 taken on April 29, 2014, the Selectmen recommend the following:

VOTED: To refer the subject matter of Article 29 to the Economic Development Advisory Board (EDAB) and include how we support businesses located in Brookline more generally.

Passed by a Counted Vote of 99 In Favor, 76 Opposed and 3 abstentions

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This non-binding resolution asks the Town to declare itself a "Local Economy Community," and specifies several concrete steps to welcome, support and encourage the growth and development of locally owned and independent businesses. The Article asks the Town to increase procurement from locally owned independent businesses, to give locally or regionally owned banks whatever preference is legally allowed when bids for banking services are requested, and to declare an annual "Brookline Local Economy Week." It also asks the Public Schools of Brookline to increase the percentage of locally grown and produced food served to students and staff. Finally, it asks key Town Hall personnel to form a Task Force to identify and develop policies that directly support the growth of locally owned and independent businesses in the Town.

Article 29 is intended to offer an opportunity to the Town and to local residents to show their support for our local independents in a practical and positive manner. These efforts are part of a wider movement, SBN Sustainable Business Network of Massachusetts. Some of the local networks that were launched with support from SBN in addition to Brookline include Cambridge, Belmont/Watertown, Somerville, Jamaica Plain, and Worcester.

Brookline Local First has at the core of its mission to encourage residents, businesses and government agencies to "first" make every effort to buy locally. It's "Local First," not "Local

Only." The Brookline Local First Movement encourages community members to shop locally and support the independently owned and operated small business. The Brookline Local First tagline "Shop The Sticker" encourages consumers to seek out storefronts boasting the BLF logo in their windows and to shop at locally owned and operated businesses that make Brookline so vibrant. They believe that helping our local businesses to thrive will be a boost for all businesses in Brookline, our entire town's economy, all of our beloved town nonprofits, and every resident. (Although Local First supporters stated that national studies have shown that locally owned businesses contribute 350%, as a percentage of their revenue, or more to local nonprofits than do non-locally owned businesses.)

Brookline Local First has 70 members; it is estimated that there are approximately 2000 businesses in Brookline (including home businesses.)

DISCUSSION:
Although members of the Advisory Committee are very supportive of local and independently-owned businesses, they had concerns with several aspects of the resolution.

First, it excludes franchises and chains, and although there might not be much public sympathy for chain stores, nevertheless they are part of the local business community, they provides needed goods, and they play a role in contributing to the vibrant business environment for which we all strive. Franchises, too, are vital to the business community.

Second, "Town Hall" is unable to purchase some of the goods and services it needs from businesses within Brookline's borders, and given open procurement laws, there are questions about the practical application of the provisions of the resolution. In addition, there is no locally–owned bank in the town.

Lastly, Article 29 is felt by some local business owners to be divisive, with all the negative outcomes that such a measure would bring, yet no clear benefit to the business community as a whole or to the Town.

The Advisory Committee, while sympathetic to the ideas presented by Local First, believes that whatever we can do to boost local business aids all businesses because when our town's commercial districts are healthier, all businesses benefit from increased traffic and commerce. The Advisory Committee believes it is counterproductive to support the efforts of Local First, which are likely to create division. We applaud the article's intent to support local businesses but urge a more inclusive approach and note that should Article 29 fail to receive the support of a majority of Town Meeting members, the Chamber of Commerce is considering drafting a similar resolution for the Fall Town meeting that would address this issue and include support for the entire Brookline business community.

RECOMMENDATION:
By a vote of 18-0-1, the Advisory Committee recommends NO ACTION.

XXX

ARTICLE 30

THIRTIETH ARTICLE
Submitted by: Sarah Gladstone

To see if the Town will adopt the following Resolution:

WHEREAS obstetric fistula occurs when a girl or woman has a baby when they are too young or small and have no help from a birth attendant while in labor.

WHEREAS obstetric fistula is a medical condition that occurs from a prolonged obstructed labor where the baby gets stuck in the birth canal, compressing the tissue so no blood gets to it, causing it to die. This leaves a hole between the vagina and rectum, vagina and bladder or both, making the girl or woman unable to control her urine and/or feces.

WHEREAS a girl with obstetric fistula is forced to live on the outskirts of her village where she may be attacked by wild animals, die of starvation, and/or suffer from crippling psychological issues. She becomes an outcast and believes she is cursed by G-d.

WHEREAS obstetric fistula is preventable through medical interventions such as skilled midwives, providing access to family planning, as well as delaying early marriage and educating and empowering young women.

WHEREAS obstetric fistula can be surgically repaired, with success rates higher than 90 percent and at a cost of less than $450, including post-surgical care.

WHEREAS, according to the State Department, "the health of women enhances their productivity and social and economic participation and also acts as a positive multiplier, benefitting social and economic development through the health of future generations."

WHEREAS House Resolution 2888 the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013 was introduced into the 113th Congress to authorize the President to provide assistance, including through international organizations, national governments, and international and local non-governmental organizations to address the social and health issues that lead to obstetric fistula and support treatment of obstetric fistula and to report to Congress on those efforts on an annual basis.

RESOLVED, that the Town Meeting of Brookline Massachusetts urges the members of its congressional delegation and other Massachusetts Congressmen to support the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013, and vote for passage of the Act.

RESOLVED, that the Town Meeting of Brookline urges Massachusetts Congressmen William Keating and Joseph Kennedy III, members of the House Foreign Affairs Committee, which is the Committee to which the Obstetric Fistula Prevention, Treatment, Hope and

Dignity Restoration Act of 2013 has been assigned, to push for passage of the Act out of committee, and for a vote of the Act by the full House of Representatives.

RESOLVED, that the Selectmen promptly transmit this resolution to Congressmen Keating and Kennedy as well as to Senators Edward Markey and Elizabeth Warren.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Starfish Club is a student run organization at Brookline High School that started in 2012. The club raises money and awareness for women and girls with obstetric fistula. The club takes pride in its name, which is a symbol for making a difference. The following story is taken from the book, Half the Sky: Turning Oppression into Opportunity for Women Worldwide by Nicholas D. Kristof and Sheryl WuDunn:

> A man goes out on the beach and sees that it is covered with starfish that have washed up in the tide. A little boy is walking along, picking them up and throwing them back into the water. "What are you doing, son?" the man asks. "You see how many starfish there are? You'll never make a difference." The boy paused thoughtfully, and picked up another starfish and threw it into the ocean. "It sure made a difference to that one," he said.

Just as the boy is making a difference helping one starfish at a time, the Starfish Club is making a difference one girl at a time. To raise money and awareness, the club purchases beads, made by women in Cambodia, through a fair trade organization, to help microfinance those women. The club then uses the beads to make bracelets that it sells for $20 each. As the Resolution states, the surgery to repair a fistula costs only $450 and the success rate is above 90%. With only a small sum of money, the club can give a girl her life back. Each bracelet also has a tag on it in order to educate people about the problem of obstetric fistula.

Last year the Starfish Club held a fundraiser at the BATV studio where it raised $1,500 for the Fistula Foundation, to which all of the club's fundraising proceeds are forwarded. Two speakers came to the fundraiser to talk about obstetric fistula and their work in trying to eradicate it: Jessica Love, on behalf of Kate Grant who is the Executive Director of the Fistula Foundation and Jennifer Scott, a gynecologist at the Brigham who has performed fistula correction surgeries in rural Africa. The club's goal for this year continues to be to raise money and awareness to help save these girls. The Starfish Club brings forward this Resolution in order to continue its mission to educate as many people as possible about this issue.

SELECTMEN'S RECOMMENDATION

Article 30 is a petitioned resolution that raises the issue of obstetric fistula, a medical condition that occurs from a prolonged obstructed labor where the baby gets stuck in the birth canal, compressing the tissue so no blood gets to it, causing it to die. According to the World Health Organization (WHO), each year between 50,000 to 100,000 women worldwide are affected by obstetric fistula, a hole in the birth canal. The development of obstetric fistula is directly linked to one of the major causes of maternal mortality: obstructed labor. WHO also notes that women who experience obstetric fistula suffer constant incontinence, shame, social segregation and health problems. It is estimated that more than 2 million young women live with untreated obstetric fistula in Asia and sub-Saharan Africa.

The Starfish Club is a student run organization at Brookline High School that started in 2012. The club raises money and awareness for women and girls with obstetric fistula. To raise money and awareness, the Club purchases beads, made by women in Cambodia, through a fair trade organization, to help microfinance those women. The Club then uses the beads to make bracelets that it sells for $20 each. The proceeds are used to finance the surgery to repair a fistula, which costs only $450.

Just as we congratulated the students who filed Articles 13 and 14 regarding tobacco use, we congratulate the petitioner and the entire Starfish Club at the High School. This is another example of the quality of the students that the Brookline Public Schools produce. Everyone should be proud of these students and support their efforts to help improve the lives of potentially millions of young women around the globe. By a vote of 3-0 taken on April 24, 2014, the Selectmen recommend FAVORABLE ACTION on the vote offered by the Advisory Committee.

ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Wishinsky

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 30 is a resolution to support House Resolution 2888. Town Meeting is asked to urge Congressmen William Keating and Joseph Kennedy III to undertake the following: first, to push HR 2888 (the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013) out of Committee and to a full vote by the House of Representatives; and second, to vote for passage of the act. Article 30 also requests the Selectmen to "promptly submit this resolution to Congressmen Keating and Kennedy as well as to Senators Edward Markey and Elizabeth Warren."

DISCUSSION:
Obstetric Fistula is a medical condition, caused by prolonged or obstructed labor resulting in a girl or woman's inability to control urine and/or feces. Sufferers are ostracized and develop crippling psychological issues.

Obstetric Fistula was common throughout the world in the past, but during the last century has been eliminated in Europe, North America, and other developed regions. The first treatment hospital in the world stood where the current Waldorf-Astoria Hotel in NY is located. The United Nations Population Fund (UNPF) is active in fistula prevention in 45 countries in Asia, Africa and the Middle East. The UNPF supports medical training, intervention and rehabilitative care after treatment.

HR 2888 was filed on July 31, 2013. The bill states that, according to the World Health Organization's estimates, more than 2,000,000 women are living with fistula and that there are 50,000-100,000 new cases each year. USAID currently supports fistula treatment services on 34 sites. The ceiling for various treatment and prevention projects is $70,000,000 for five years. The United States, through its Global Health Initiative, seeks to make progress in Goals 4 (reduce child mortality), 5 (improve maternal health) and 6 (eradicate many preventable diseases and conditions) of the United Nations Millennium Goals.

The Global Health Initiative also seeks to reduce by 30% maternal mortality, by 20% the number of first births by women under 18 and to prevent 54,000,000 unintended pregnancies by reaching a 35% rate of family planning. These three targets will result in a great reduction of obstetric fistula, as well.

The Advisory Committee commends the petitioner on raising the profile of this problem and her continued commitment to changing the lives of young women.

RECOMMENDATION:
The Advisory Committee unanimously recommends FAVORABLE ACTION on the following:

VOTED: That the Town adopt the following Resolution:

WHEREAS obstetric fistula occurs when a girl or woman has a baby when they are too young or small and have no help from a birth attendant while in labor.

WHEREAS obstetric fistula is a medical condition that occurs from a prolonged obstructed labor where the baby gets stuck in the birth canal, compressing the tissue so no blood gets to it, causing it to die. This leaves a hole between the vagina and rectum, vagina and bladder or both, making the girl or woman unable to control her urine and/or feces.

WHEREAS a girl with obstetric fistula is forced to live on the outskirts of her village where she may be attacked by wild animals, die of starvation, and/or suffer from crippling psychological issues. She becomes an outcast and believes she is cursed by G-d.

WHEREAS obstetric fistula is preventable through medical interventions such as skilled midwives, providing access to family planning, as well as delaying early marriage and educating and empowering young women.

WHEREAS obstetric fistula can be surgically repaired, with success rates higher than 90 percent and at a cost of less than $450, including post-surgical care.

WHEREAS, according to the State Department, "the health of women enhances their productivity and social and economic participation and also acts as a positive multiplier, benefitting social and economic development through the health of future generations."

WHEREAS House Resolution 2888 the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013 was introduced into the 113th Congress to authorize the President to provide assistance, including through international organizations, national governments, and international and local non-governmental organizations to address the social and health issues that lead to obstetric fistula and support treatment of obstetric fistula and to report to Congress on those efforts on an annual basis.

RESOLVED, that the Town Meeting of Brookline Massachusetts urges the members of its congressional delegation and other Massachusetts Congressmen to support the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013, and vote for passage of the Act.

RESOLVED, that the Town Meeting of Brookline urges Massachusetts Congressmen William Keating and Joseph Kennedy III, members of the House Foreign Affairs Committee, which is the Committee to which the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013 has been assigned, to push for passage of the Act out of committee, and for a vote of the Act by the full House of Representatives.

RESOLVED, that the Selectmen promptly transmit this resolution to Congressmen Keating and Kennedy as well as to Senators Edward Markey and Elizabeth Warren.

Passed by A XXX Unanimous Vote

ARTICLE 31

THIRTY-FIRST ARTICLE
Submitted by: Alex Coleman

To see if the Town of Brookline will adopt the following Resolution:

WHEREAS, the Town of Brookline, with its strong commitment to diversity and inclusion, promotes an environment that is free of discrimination and harassment for all its employees, residents, customers, and clients, and

WHEREAS, the Town of Brookline recognizes that everyone has the right to live free from discrimination and harassment, and

WHEREAS, the town of Brookline finds that no individual should be denied equal treatment or opportunity due to discrimination, and

WHEREAS, the Town of Brookline finds that no individual should suffer harassment due to bias, and

WHEREAS, current local, state and federal government laws, regulations and ordinances are not fully inclusive in their protections for gender identity and expression, and

WHEREAS, transgender people suffer pervasive discrimination on the basis of gender identity and expression in employment, housing, public accommodations, education and credit and lending, and

BE IT RESOLVED that the Town of Brookline consistent with its strong commitment to diversity and inclusion affirms its support for the prohibition of discrimination or harassment on the basis of gender identity and expression in employment, housing, public accommodations, credit and lending, and public education.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Town of Brookline has a strong commitment to diversity and inclusion and promotes an environment that is free of discrimination and harassment for all its employees, residents, visitors, and clients, and

The Town of Brookline recognizes that everyone has the right to live free from discrimination and harassment, and believes that no individual should be denied equal treatment or opportunity due to discrimination, and that no individual should suffer harassment due to bias.

Transgender people suffer pervasive discrimination on the basis of gender identity and expression in employment, housing, public accommodations, education and credit and lending.

However, local, state and federal government laws, regulations and ordinances are not fully inclusive in their protections for gender identity and expression.

The Town of Brookline, consistent with its strong commitment to diversity and inclusion, can explicitly adopt the prohibition against discrimination or harassment based on gender identity and expression in employment, housing, public accommodations, credit and lending, and public education.

SELECTMEN'S RECOMMENDATION

Article 31 is a petitioned resolution that calls on the Town to affirm its support for the prohibition of discrimination or harassment on the basis of gender identity and gender expression in employment, housing, public accommodations, credit and lending, and public education. As stated in the Petitioner's article description, the Town has a strong commitment to diversity and inclusion and promotes an environment that is free of discrimination and harassment for all its employees, residents, visitors, and clients. This is one of the traits that make Brookline such a special place to live, work, and visit. This Board joins the Petitioner in the cause to eradicate discrimination or harassment based on gender identity and expression, as discrimination or harassment of any form against any group is indefensible and unconscionable.

The Board recommends FAVORABLE ACTION, by a vote of 3-0 taken on April 24, 2014, on the vote offered by the Advisory Committee, which includes additional language asking Town Counsel's office to review the Town's By-Laws and propose appropriate changes that are consistent with the purpose of this article.

ROLL CALL VOTE
Favorable Action:
DeWitt
Daly
Wishnisky

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 31 as submitted by the petitioner is a resolution requesting that the Town affirm its support for the prohibition of discrimination or harassment based on gender

identity and expression in employment, housing, public accommodations, credit and lending, and public education. Notwithstanding this wording, it was the petitioner's intent that the Town should adopt a stronger and binding position. This was also the sense of the Advisory Committee, which amended the submission to request that the Legal Services Department make appropriate changes to the Town's by-laws. The petitioner is fully-supportive of the amendment.

DISCUSSION:

Transgender individuals are those who know themselves to be of a gender different than the one to which they were assigned at birth. "Gender Identity" refers to how people perceive of themselves related to their gender, their sense of being male or female. "Gender Expression" means how people express their gender, how they choose to dress, act, walk, or engage in activities usually ascribed to another gender – "How you show the world who you are."

Brookline's By-Laws refer to "sex" and "sexual orientation" but do not currently include any specific mention of transgender individuals in their affirmative action guidelines. Other Massachusetts municipalities currently offering local laws and ordinances specifically protecting transgender people are Boston, Cambridge, Amherst, Northampton, and Salem. While Massachusetts enacted "An Act Relative to Gender Identity" in 2011 which added gender identity to some non-discrimination protections, it does not include protection in places of public accommodations (hospitals, nursing homes, public transportation, restaurants, hotels, libraries, etc.)

The Petitioner recounted his difficulties first as a woman at Boston University Law School, where he found it very hard to fit in and later, to find a position of employment in legal services. On a child abuse team appointment at Children's Hospital, he was rejected because he "didn't meet the image they needed". At the Cambridge Health Alliance, he was asked not to tell any but the senior staff about his identity; when he later disclosed to his graduate students that he was a transsexual, the Director harassed him, and then told him not to come back. In written testimony, the Petitioner stated that he was "ostracized, vilified, threatened, and harassed" during his gender transition while his son was at the Runkle elementary school. Other testimony in support of the article was given by the Freedman-Gurspans, whose child, a transgender woman of color, has faced much harassment. ("That's a man, let's go beat her up"), as well as a letter from Virginia Greenzang about her niece whose transition to a man has been accompanied by a constant fear for his safety.

Throughout the hearing and in the literature provided, there was much information about the emotional and physical burdens of being transgender persons. The suicide rate among transgender individuals is high (41 % of 6,450 transgender and gender non-conforming participants from all 50 states in a 2011 study by the National Gay & Lesbian Task Force and the National Center for Transgender Equality, reported attempting suicide, compared to 1.6% of the general population).

RECOMMENDATION:
By a vote of 18 in favor and none opposed or abstaining, the Advisory Committee recommends FAVORABLE ACTION on Article 31 as amended (see underlined language):

VOTED: That the Town of Brookline adopt the following Resolution:

WHEREAS, the Town of Brookline, with its strong commitment to diversity and inclusion, promotes an environment that is free of discrimination and harassment for all its employees, residents, customers, and clients, and

WHEREAS, the Town of Brookline recognizes that everyone has the right to live free from discrimination and harassment, and

WHEREAS, the town of Brookline finds that no individual should be denied equal treatment or opportunity due to discrimination, and

WHEREAS, the Town of Brookline finds that no individual should suffer harassment due to bias, and

WHEREAS, current local, state and federal government laws, regulations and ordinances are not fully inclusive in their protections for gender identity and expression, and

WHEREAS, transgender people suffer pervasive discrimination on the basis of gender identity and expression in employment, housing, public accommodations, education and credit and lending, and

BE IT RESOLVED that the Town of Brookline consistent with its strong commitment to diversity and inclusion affirms its support for the prohibition of discrimination or harassment on the basis of gender identity and gender expression in employment, housing, public accommodations, credit and lending, and public education, and hereby requests that the Legal Services Department propose appropriate changes that are consistent with this purpose to all relevant Town By-Laws and that such changes be included in the Warrant for the November 2014 Town Meeting, or as soon thereafter as is reasonably feasible.

Passed by a Unanimous Vote

XXX

ARTICLE 32

Motion to be Offered by the Petitioners

Votes

To see if the Town will adopt the following resolution:

WHEREAS the promotion of public health and preservation of the environment are guiding principles for individuals, organizations and the government of Brookline, most recently reflected in the establishment of Climate Action Brookline and the Selectmen's Climate Action Committee;

WHEREAS the scientific community, including the National Aeronautics and Space Administration (NASA), the National Academy of Sciences, the Environmental Protection Agency (EPA) and the World Meteorological Organization, has concluded that global warming, caused primarily by atmospheric carbon dioxide (CO_2) produced by the burning of fossil fuels (coal, petroleum, and natural gas), is a serious threat to current and future generations, already producing extreme weather events leading to extensive flooding, severe drought, major hurricanes and a rise in sea levels due to the rapid melting of arctic sea ice;

WHEREAS in 2009, government officials from 167 countries responsible for more than 87 percent of the world's CO_2 emissions signed the Copenhagen Accord, adopting the scientific view that increases in global temperature should be kept below 2 degrees Celsius (3.6 degrees Fahrenheit);

WHEREAS scientists estimated in 2012 that in order to avoid exceeding this 2-degree limit, future emissions of CO_2 must be limited to a total of 565 gigatons, and financial analysts and environmentalists have calculated that fossil fuel companies and petro-states that operate like fossil fuel companies currently control fossil fuel reserves of 2,795 gigatons – five times the Copenhagen Accord limit;

WHEREAS fossil fuel companies, operating for maximum short-term profit at the expense of long-term sustainability, spend great sums of money to influence government ~~in order to avoid paying the true cost of the environmental damage they cause,~~ and continue to explore for even more fossil fuel deposits that could not be burned without drastic acceleration of climate change; and

WHEREAS Senate Bill 1225 would require the Commonwealth's Pension Reserves Investment Management Board to fully divest its direct holdings in fossil fuel companies over a five-year period, although divestment could be terminated if the Board presents clear and convincing evidence that the total value of the divested portfolio has fallen beneath a specified percentage of the hypothetical value of the portfolio if it had not been

divested; now, therefore, be it

RESOLVED, that the Brookline Town Meeting urges the Massachusetts legislature to enact Senate Bill 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content; and be it further

RESOLVED, that the Brookline Town Meeting requests the Town Clerk to promptly send notice of the passage of this resolution to the Governor of the Commonwealth, the members of Brookline's congressional delegation, the President of the Massachusetts Senate and the Speaker of the House, the co-chairs of the Joint Committee on Public Service, the chairs of the Senate and House Ways and Means Committees, and the members of Brookline's state legislative delegation.

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 13, 2014, on the amended motion offered by the Petitioners.

Passed by an FRV of 126
In Favor, 20 Opposed and
7 Abstentions

ARTICLE 32

THIRTY-SECOND ARTICLE
Submitted by: Frank Farlow and Byron Hinebaugh

To see if the Town will adopt the following resolution:

WHEREAS the promotion of public health and preservation of the environment are guiding principles for individuals, organizations and the government of Brookline, most recently reflected in the establishment of Climate Action Brookline and the Selectmen's Climate Action Committee;

WHEREAS the scientific community, including the National Aeronautics and Space Administration (NASA), the National Academy of Sciences, the Environmental Protection Agency (EPA) and the World Meteorological Organization, has concluded that global warming, caused primarily by atmospheric carbon dioxide (CO_2) produced by the burning of fossil fuels (coal, petroleum, and natural gas), is a serious threat to current and future generations, already producing extreme weather events leading to extensive flooding, severe drought, major hurricanes and a rise in sea levels due to the rapid melting of arctic sea ice;

WHEREAS in 2009, government officials from 167 countries responsible for more than 87 percent of the world's CO_2 emissions signed the Copenhagen Accord, adopting the scientific view that increases in global temperature should be kept below 2 degrees Celsius (3.6 degrees Fahrenheit);

WHEREAS scientists estimated in 2012 that in order to avoid exceeding this 2-degree limit, future emissions of CO_2 must be limited to 565 gigatons, and financial analysts and environmentalists have calculated that fossil fuel companies and petro-states that operate like fossil fuel companies currently control fossil fuel reserves of 2,795 gigatons – five times the Copenhagen Accord limit;

WHEREAS fossil fuel companies, operating for maximum short-term profit at the expense of long-term sustainability, spend great sums of money to influence government in order to avoid paying the true cost of the environmental damage they cause, and continue to explore for even more fossil fuel deposits that could not be burned without drastic acceleration of climate change; and

WHEREAS Senate Bill 1225 would require the Commonwealth's Pension Reserves Investment Management Board to fully divest its direct holdings in fossil fuel companies over a five-year period, although divestment could be terminated if the Board presents clear and convincing evidence that the total value of the divested portfolio has fallen beneath a specified percentage of the hypothetical value of the portfolio if it had not been divested; now, therefore, be it

RESOLVED, that the Brookline Town Meeting urges the Massachusetts legislature to enact Senate Bill 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content; and be it further

RESOLVED, that the Brookline Town Meeting requests the Town Clerk to promptly send notice of the passage of this resolution to the Governor of the Commonwealth, the members of Brookline's congressional delegation, the President of the Massachusetts Senate and the Speaker of the House, the co-chairs of the Joint Committee on Public Service, the chairs of the Senate and House Ways and Means Committees, and the members of Brookline's state legislative delegation.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Dr. James Hansen, director of NASA's Goddard Institute for Space Studies, told Congress, "The global warming is now large enough that we can ascribe with a high degree of confidence a cause-and-effect relationship to the greenhouse effect." The year was 1988. But in the 25 years since, Congress has done considerably more to increase that greenhouse effect than to reduce it. Indeed, with rampant hydrofracking, President Obama's directing his administration "to open more than 75 percent of our offshore oil and gas resources" to drilling, and high-tech accessing of oil in the Canadian tar sands, a new day of plentiful fossil fuels is being widely celebrated in DC and in the media.

Meanwhile, Germany's goals are very different: at least 35 percent of electric power is to be generated by renewables by 2020 and total energy consumption reduced by 20 percent with a million electric cars on the road. By 2050 it plans to obtain 80 percent of the power for its factories and most of the heat for its homes from wind, solar, geothermal, tidal power and other renewable sources. Already about 20 percent of its electricity comes from renewables.

Hanson, who is one of the most respected climatologists in the world, has remained at the forefront of the climate change movement. Five years ago he and several colleagues wrote that "if humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted," we need to return to CO_2 levels of 350 parts per million from our current level of nearly 400 ppm and rising. That led Bill McKibben to found the group 350.org. Many scientists, climate experts, and progressive national governments agree with Dr. Hansen that 350 ppm is the "safe" level of carbon dioxide.

Almost every government in the world has come to agree that any warming above a 2° Celsius (3.6° Fahrenheit) rise would be unsafe. We have already seen a rise of 0.8°C, and that has caused far more damage than most scientists expected. A third of summer sea ice in the Arctic is gone, and since warm air holds more water vapor than cold, the likelihood has risen substantially for both devastating floods and drought. Computer models calculate that even if CO_2 levels stopped increasing now, the temperature would still rise another 0.8 degrees above the 0.8 we've already seen, which means that we're already 4/5 of the way to the 2°C limit.

Perhaps worst of all, very few in the general public are aware of the degree to which the inertia of the planet's climate system carries its current condition into the far distant future. The world is already locked into at least a 2°C global temperature increase that will last for ***thousands of years***, according to a recent report released by the National Research Council: "Previously the

conversation has been about the next generation or two, but now we're looking at millennia." To prevent the global average temperature from increasing more than 2°C, carbon dioxide emissions would have to be reduced by *80 percent—now*, the report said. The sooner emissions are reduced, the authors wrote, the sooner the temperature climb will level off, or stabilize. "Stabilization," however, doesn't mean the world will cool back down; it will just stop getting hotter.

The divestment movement

The Brookline Climate Action Plan states that "Brookline has a choice. We can take positive steps to reduce our greenhouse gas (GHG) emissions, or we can continue to wait for some other entity to come up with a universal 'fix.' "

During the past year a fossil fuel divestment movement has surged into existence, led by 350.org. More than 300 colleges and universities nationwide, having decided not to continue waiting for some other entity to take action, are developing or have submitted resolutions to their governing bodies urging divestment of fossil fuel companies from their endowments. Nine of those schools have already committed to divestment. The same process has been occurring in cities, and 21 in the U.S.—with Massachusetts disproportionately represented—have committed to divest their pension and/or healthcare funds or urge their investment boards to do so (http://gofossilfree.org/commitments/):

Amherst MA	Cambridge MA	Portland OR	Santa Fe NM
Ann Arbor MI	Ithaca NY	Providence RI	Santa Monica CA
Bayfield WI	Madison WI	Provincetown MA	Seattle WA
Berkeley CA	New London CT	Richmond CA	State College PA
Boulder CO	Northampton MA	San Francisco CA	Truro MA

Resolutions on municipal fossil fuel divestment will also be on the warrant for the upcoming Concord, Framingham and Sudbury town meetings. And finally, Senate Bill 1225, the subject of this warrant article is in committee on Beacon Hill. It's a rapidly growing movement, and one of the most promising ways currently available to begin to break through the gridlock in Congress.

Global warming can't be stopped by protesting one pipeline, coal plant or fracking well at a time—the numbers simply don't add up. At the same time that some are working to stop these destructive projects, many more of us need to take effective action to loosen the financial and lobbying grip that coal, oil and gas companies have on our government and financial markets so that we, our children and grandchildren have a chance of living on a planet that looks something like the one we live on today. We need to go the root of the problem, the fossil fuel companies themselves, and make sure they hear us in terms they might understand—like their share price.

Transitioning to safer energy will take concerted effort over many years. We need to begin that process in earnest right now.

Divestment precedents

There have been several successful divestment campaigns in recent history, including Darfur, tobacco and others, but the largest and arguably most important was launched to cripple South

African apartheid. By the mid-1980's, 155 U.S. campuses, including some of the most famous in the country, had divested from companies doing business in South Africa. Twenty-six state governments, 22 counties and 90 cities, including some of the nation's largest, removed their money from the stocks of multinationals that did business in the country. The South African divestment campaign helped break the back of the apartheid government and usher in an era of democracy and greater equality.

Can divesting funds from universities, pension funds and churches make a significant impact?

Divestment isn't primarily an economic strategy, but a moral and political one. Just as in the struggle for Civil Rights here in America or the fight to end Apartheid in South Africa, the more we can make climate change a deeply moral issue, the more we will push society towards action. We need to make it clear that if it's wrong to wreck the planet, then it's also wrong to profit from that wreckage. At the same time, divestment builds political power by forcing our nation's most prominent institutions and individuals (many of whom sit on college boards) to choose which side of the issue they are on. Divestment sparks a big discussion and gets prominent media attention, moving the case for action forward.

At the same time, there *are* certain economic impacts. The top 500 or so college and university endowments hold about $400 billion. That's a large number—and getting a major percentage of that money out of coal, oil and gas will make a large splash. Add in the big state pension funds, and church, synagogue and mosque investments, and we'll be well on our way to making ExxonMobil, Shell and Peabody Coal recognize the realities of the planet's future.

To keep warming below 2°C, a target that the United States and nearly every other country on Earth has agreed to, the International Energy Agency calculates that the fossil fuel industry will need to refrain from burning approximately 80% of their current reserves of coal, oil, and gas. Those reserves may be below ground physically, but they're already factored into the share price of every fossil fuel company. Globally, the value of those reserves is around $20 trillion, money that will have to be written off when governments finally decide to regulate carbon dioxide as a pollutant.

The Carbon Tracker Initiative, a team of London financial analysts, estimates that proven coal, oil, and gas reserves of the fossil-fuel companies and the countries (such as Venezuela and Kuwait) that act like fossil-fuel companies total about 2,795 gigatons of CO_2, or five times the amount we can release to maintain 2 degrees of warming.

Can we still make a desirable return?

Firstly, the percentage of fossil fuel companies in the state pension fund is less than 3%. So when we consider, say, a 1% difference in returns between a portfolio containing fossil fuel companies and a portfolio containing no such companies, we're not looking at 1% of the value of the entire portfolio, but only 3% of 1%—or 0.03% of the value of the entire portfolio. So if returns from the state's pension fund were to suffer from divestment, this percentage consideration would make the result much less painful that it might at first appear. Since the value of the pension fund is currently about $58 billion, 0.03% of its value would be $17.4 million.

While it's true that fossil fuel companies are currently extremely profitable, they're also risky investments[1] that are only going to become more risky. Their business models rest on emitting five times as much CO_2 into the atmosphere than civilization can handle, which makes their current share prices substantially higher than they should be in reality. In addition, disasters like the Exxon Valdez and the BP Deepwater Horizon oil spill, along with massive fluctuations in supply and demand of coal, oil and gas, make energy markets particularly volatile, and therefore risky.

Report after report has shown that investing in clean energy, efficiency and other sustainable technologies can be even more profitable than investing in fossil fuels[2]. It's a growing market, with over $260 billion invested globally last year, and a safe place to invest.[3] "Socially responsible investing," which covers a broader area, is an even larger market. The fact that these markets are have been growing for years is a good indication that investor confidence in them is continuing to increase.

The Sierra Club is an example of a large organization that has adopted a clear policy against investing in, or taking money from, fossil fuel companies. Executive director Michael Brune stated recently: "[W]e are fully confident that we can get as good if not better returns from the emerging clean energy economy than we can from investing in the dirty fuels from the past.

S. 1225 legislative supporters

Sen. Mike Barrett	Sen. Daniel Wolf	Rep. Sean Garballey	Rep. James Miceli
Sen. Will Brownsberger	Rep. Denise Andrews	Rep. Ken Gordon	Rep. Kevin Murphy
Sen. Katherine Clark	Rep. Cory Atkins	Rep. Jonathan Hecht	Rep. Denise Provost
Sen. Cynthia Creem	Rep. Jennifer Benson	Rep. Jay Kauffman	Rep. David Rogers
Sen. Sal DiDomenico	Rep. Tom Conroy	Rep. Mary Keefe	Rep. John Scibak
Sen. Kenneth Donnelly	Rep. Dan Cullinane	Rep. Kay Khan	Rep. Carl Sciortino
Sen. Jamie Eldridge	Rep. Marjorie Decker	Rep. Peter Kocot	Rep. Frank Smizik
Sen. Barry Finegold	Rep. Carolyn Dykema	Rep. Stephen Kulik	Rep. Ellen Story
Sen. Pat Jehlen	Rep. Lori Ehrlich	Rep. Jason Lewis	Rep. Benjamin Swan
Sen. Karen Spilka	Rep. John Fernandes	Rep. Liz Malia	Rep. Aaron Vega
Sen. Marc Pacheco	Rep. Gloria Fox	Rep. Paul Mark	Rep. Chris Walsh

S.1225 organizational endorsers

350MA	City of Cambridge
350.Org	City of Northampton
Massachusetts Climate Action Network	Town of Amherst
Better Future Project	Town of Provincetown

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[1] http://www.ceres.org/resources/reports/sustainable-extraction-an-analysis-of-sec-disclosure-by-major-oil-gas-companies-on-climate-risk-and-deepwater-drilling-risk/view

[2] http://www.forbes.com/sites/mindylubber/2012/03/20/investors-are-making-money-on-renewable-energy/

[3] http://www.reuters.com/article/2012/01/12/us-clean-tech-investment-idUSTRE80B1NX20120112

Students For a Just and Stable Future
Mothers Out Front
MoveOn.Org
SEIU Local 509
Climate Action Liaison Coalition
Conservation Law Foundation
Environmental League of MA
Environment MA
Clean Water Action
Toxics Action Center
Massachusetts Climate Action Network
Boston Climate Action Network
Concord Climate Action Network
Coop Power
Climate Action Now, Massachusetts
Mass. Teachers and Public Employees for Fossil Fuel Divestment
Neighbor to Neighbor, Holyoke
Pioneer Valley PhotoVoltaics
Planet Southie
First Parish Unitarian Universalist of Cambridge
Unitarian Universalist Society of Amherst

Town of Truro

Divest Amherst College
Divest Boston College
Divest Boston University
Divest Brandeis University
Divest Emerson College
Divest Harvard University
Divest Lesley College
Divest MIT
Divest Mt. Holyoke College
Divest Northeastern University
Divest Smith College
Divest Stonehill College
Divest School of the Museum of Fine Arts
Divest Suffolk University
Divest Wheaton College
Divest Worcester Polytechnic Institute
Divest Williams College
Divest Worcester State University
Hampshire College Climate Justice League

Text of S.1225

Note: It is the intent of Sen. Downing's office, where this bill originated, to amend the language of Section 1 below by adding the following definition:

> "Fossil fuel company", *a company identified by a Global Industry Classification System code in one of the following sectors: (1) coal and consumable fuels; (2) integrated oil and gas; (3) oil and gas exploration and production.*

SENATE . . . . . No. 1225

The Commonwealth of Massachusetts

PRESENTED BY:
Benjamin B. Downing

An Act relative to public investment in fossil fuels.

1 SECTION 1. As used in this act the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:—

3 "Board", the pension reserves investment management board established in section 23 of
4 chapter 32 of the General Laws.

5 "Company", a sole proprietorship, organization, association, corporation, partnership,
6 joint venture, limited partnership, limited liability partnership, limited liability company or other
7 entity or business association, including all wholly-owned subsidiaries, majority-owned
8 subsidiaries, parent companies or affiliates of such entities or business associations that exist for
9 profit-making purposes.

10 "Direct holdings", all securities of a company held directly by the public fund or in an
11 account or fund in which the public fund owns all shares or interests.

12 "Indirect holdings", all securities of a company held in an account or fund, such as a
13 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
14 public fund owns shares or interests together with other investors not subject to this act.

15 "Public fund", the Pension Reserves Investment Trust or the Pension Reserves
16 Investment Management Board charged with managing the pooled investment fund consisting of
17 the assets of the State Employees' and Teachers' Retirement Systems as well as the assets of
18 local retirement systems under the control of the board.

19 SECTION 2. Notwithstanding any general or special law to the contrary, within 30 days
20 of the effective date of this act, the public fund shall facilitate the identification of all fossil fuel
21 companies in which the fund owns direct or indirect holdings.

22 SECTION 3. Notwithstanding any general or special law to the contrary, the public fund
23 shall take the following actions in relation to fossil fuel companies in which the fund owns direct
24 or indirect holdings.

25 (a) The public fund shall sell, redeem, divest or withdraw all publicly-traded securities of
26 each company identified in section 2 according to the following schedule: (i) at least 20 per cent
27 of such assets shall be removed from the public fund's assets under management within 1 year of
28 the effective date of this act; (ii) 40 per cent of such assets shall be removed from the public
29 fund's assets under management within 2 years of the effective date of this act; (iii) 60 per cent
30 of such assets shall be removed from the public fund's assets under management within 3 years
31 of the effective date of this act; (iv) 80 per cent of such assets shall be removed from the public
32 fund's assets under management within 4 years of the effective date of this act and (v) 100 per
33 cent of such assets shall be removed from the public fund's assets under management within 5
34 years of the effective date of this act.

35 (b) At no time shall the public fund acquire new assets or securities of fossil fuel
36 companies.

37 (c) Notwithstanding anything in this act to the contrary, subsections (a) and (b) shall not
38 apply to indirect holdings in actively managed investment funds; provided, however, that the
39 public fund shall submit letters to the managers of such investment funds containing fossil fuel
40 companies requesting that they consider removing such companies from the investment fund or
41 create a similar actively managed fund with indirect holdings devoid of such companies. If the
42 manager creates a similar fund, the public fund shall replace all applicable investments with
43 investments in the similar fund in an expedited timeframe consistent with prudent investing
44 standards. For the purposes of this section, private equity funds shall be deemed to be actively
45 managed investment funds.

46 SECTION 4. Notwithstanding any general or special law to the contrary, with respect to
47 actions taken in compliance with this act, the public fund shall be exempt from any conflicting
48 statutory or common law obligations, including any such obligations with respect to choice of
49 asset managers, investment funds or investments for the public fund's securities portfolios and
50 all good faith determinations regarding companies as required by this act.

51 SECTION 5. Notwithstanding any general or special law to the contrary, the public fund
52 shall be permitted to cease divesting from companies under subsection (a) of section 3, reinvest
53 in companies from which it divested under said subsection (a) of said section 3 or continue to
54 invest in companies from which it has not yet divested upon clear and convincing evidence
55 showing that the total and aggregate value of all assets under management by, or on behalf of,
56 the public fund becomes: (i) equal to or less than 99.5 per cent; or (ii) 100 per cent less 50 basis
57 points of the hypothetical value of all assets under management by, or on behalf of, the public
58 fund assuming no divestment for any company had occurred under said subsection (a) of said
59 section 3. Cessation of divestment, reinvestment or any subsequent ongoing investment
60 authorized by this section shall be strictly limited to the minimum steps necessary to avoid the
61 contingency set forth in the preceding sentence.

62 For any cessation of divestment, and in advance of such cessation, authorized by this
63 subsection, the public fund shall provide a written report to the attorney general, the senate and
64 house committees on ways and means and the joint committee on public service, updated semi-
65 annually thereafter as applicable, setting forth the reasons and justification, supported by clear
66 and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested
67 in fossil fuel companies.

68 SECTION 6. The public fund shall file a copy of the list of fossil fuel companies in
69 which the fund owns direct or indirect interests with the clerks of the senate and the house of
70 representatives and the attorney general within 30 days after the list is created. Annually
71 thereafter, the public fund shall file a report with the clerks of the senate and the house of
72 representatives and the attorney general that includes: (1) all investments sold, redeemed,
73 divested or withdrawn in compliance with subsection (a) of section 3 and (2) all prohibited
74 investments from which the public fund has not yet divested under subsection (a) of said
75 section 3.

MOTION TO BE OFFERED BY THE PETITIONERS

Moved: That the Town adopt the following resolution:

WHEREAS the promotion of public health and preservation of the environment are guiding principles for individuals, organizations and the government of Brookline, most recently reflected in the establishment of Climate Action Brookline and the Selectmen's Climate Action Committee;

WHEREAS the scientific community, including the National Aeronautics and Space Administration (NASA), the National Academy of Sciences, the Environmental Protection Agency (EPA) and the World Meteorological Organization, has concluded that global warming, caused primarily by atmospheric carbon dioxide (CO_2) produced by the burning of fossil fuels (coal, petroleum, and natural gas), is a serious threat to current and future generations, already producing extreme weather events leading to extensive flooding, severe drought, major hurricanes and a rise in sea levels due to the rapid melting of arctic sea ice;

WHEREAS in 2009, government officials from 167 countries responsible for more than 87 percent of the world's CO_2 emissions signed the Copenhagen Accord, adopting the scientific view that increases in global temperature should be kept below 2 degrees Celsius (3.6 degrees Fahrenheit);

WHEREAS scientists estimated in 2012 that in order to avoid exceeding this 2-degree limit, future emissions of CO_2 must be limited to a total of 565 gigatons, and financial analysts and environmentalists have calculated that fossil fuel companies and petro-states that operate like fossil fuel companies currently control fossil fuel reserves of 2,795 gigatons – five times the Copenhagen Accord limit;

WHEREAS fossil fuel companies, operating for maximum short-term profit at the expense of long-term sustainability, spend great sums of money to influence government ~~in order to avoid paying the true cost of the environmental damage they cause,~~ and continue to explore for even more fossil fuel deposits that could not be burned without drastic acceleration of climate change; and

WHEREAS Senate Bill 1225 would require the Commonwealth's Pension Reserves Investment Management Board to fully divest its direct holdings in fossil fuel companies over a five-year period, although divestment could be terminated if the Board presents clear and convincing evidence that the total value of the divested portfolio has fallen beneath a specified percentage of the hypothetical value of the portfolio if it had not been divested; now, therefore, be it

RESOLVED, that the Brookline Town Meeting urges the Massachusetts legislature to enact Senate Bill 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content; and be it further

RESOLVED, that the Brookline Town Meeting requests the Town Clerk to promptly send notice of the passage of this resolution to the Governor of the Commonwealth, the members of Brookline's congressional delegation, the President of the Massachusetts Senate and the Speaker of the House, the co-chairs of the Joint Committee on Public Service, the chairs of the Senate and House Ways and Means Committees, and the members of Brookline's state legislative delegation.

RECOMMENDATION OF THE SELECTMEN'S CLIMATE ACTION COMMITTEE

The Selectmen's Climate Action Committee unanimously recommends favorable action on Article 32. This article, submitted by Frank Farlow and Byron Hinebaugh, is a resolution urging the Massachusetts legislature to enact Senate Bill 1225, an Act Relative to Public Investment in Fossil Fuels, or a similar successor bill.

The proposed Senate Bill 1225 would require the Massachusetts State Employees' and Teachers' Retirement Systems to divest its direct and indirect holdings of publicly-traded securities of fossil fuel companies. The intent of the bill is to place pressure on those companies that contribute heavily to climate change and do not otherwise have a financial incentive to limit their impact on the world's natural resources.

The Climate Action Committee supports Article 32 and the motivation behind it. As currently invested, only a minor portion of the town's retirement holdings, approximately 10 percent, is invested in the Pension Reserves Investment Trust (PRIT), and therefore would be affected by the proposed state Senate Bill. Only approximately 3 percent of PRIT is invested in fossil fuel companies. Therefore, the risk to the town's retirement system generated by divesting PRIT from fossil fuel holdings is quite small. However, by adopting the resolution in Article 32, Brookline would be a part of the collective effort to create a financial penalty for fossil fuel companies, joining other municipalities, universities and organizations actively divesting their fossil fuel holdings. The Climate Action Committee believes this effort is valid, and though the divestment movement is just beginning, over time it may have an impact, either to the bottom lines of fossil fuel companies or in the media. At present, fossil fuel companies have not indicated a willingness to limit the consumption of fossil fuels, despite climate change, and the divestment movement seeks to establish a financial penalty for their disregard of the environmental consequences of their economic behavior.

Therefore, the Selectmen's Climate Action Committee unanimously recommends favorable action on Article 32.

SELECTMEN'S RECOMMENDATION

Article 32 is a petitioned article that asks the Town to urge the Massachusetts Legislature to enact Senate Bill (SB) 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content. SB1225 would require the Commonwealth's Pension Reserves Investment Management (PRIM) Board to fully divest its direct holdings in fossil fuel companies over a five-year period. The push to have PRIM divest from fossil fuel companies is driven by a desire to reduce the level of carbon dioxide produced by the burning of fossil fuels. This would be accomplished by divesting in fossil fuel companies, brining financial hardship to those businesses. History has shown that

divestment campaigns have made a difference, perhaps the most notable being the divestment movement against apartheid in South Africa.

During the past year, the fossil fuel divestment movement has come into existence, led by 350.org. More than 300 colleges and universities nationwide are developing or have submitted resolutions to their governing bodies urging divestment of fossil fuel companies from their endowments. Nine of those schools have already committed to divestment. The same process has been occurring in cities, and 21 in the U.S. have committed to divest their pension and/or healthcare funds or urge their investment boards to do so. A majority of the Selectmen believe in this movement and support the Petitioners. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 3-1 taken on April 29, 2014, on the following:

VOTED: That the Town adopt the following resolution:

WHEREAS the promotion of public health and preservation of the environment are guiding principles for individuals, organizations and the government of Brookline, most recently reflected in the establishment of Climate Action Brookline and the Selectmen's Climate Action Committee;

WHEREAS the scientific community, including the National Aeronautics and Space Administration (NASA), the National Academy of Sciences, the Environmental Protection Agency (EPA) and the World Meteorological Organization, has concluded that global warming, caused primarily by atmospheric carbon dioxide (CO_2) produced by the burning of fossil fuels (coal, petroleum, and natural gas), is a serious threat to current and future generations, already producing extreme weather events leading to extensive flooding, severe drought, major hurricanes and a rise in sea levels due to the rapid melting of arctic sea ice;

WHEREAS in 2009, government officials from 167 countries responsible for more than 87 percent of the world's CO_2 emissions signed the Copenhagen Accord, adopting the scientific view that increases in global temperature should be kept below 2 degrees Celsius (3.6 degrees Fahrenheit);

WHEREAS scientists estimated in 2012 that in order to avoid exceeding this 2-degree limit, future emissions of CO_2 must be limited to 565 gigatons, and financial analysts and environmentalists have calculated that fossil fuel companies and petro-states that operate like fossil fuel companies currently control fossil fuel reserves of 2,795 gigatons – five times the Copenhagen Accord limit;

WHEREAS fossil fuel companies, operating for maximum short-term profit at the expense of long-term sustainability, spend great sums of money to influence government in order to avoid paying the true cost of the environmental damage they cause, and continue to explore for even more fossil fuel deposits that could not be burned without drastic acceleration of climate change; and

WHEREAS Senate Bill 1225 would require the Commonwealth's Pension Reserves Investment Management Board to fully divest its direct holdings in fossil fuel companies over a five-year period, although divestment could be terminated if the Board presents clear and convincing evidence that the total value of the divested portfolio has fallen beneath a specified percentage of the hypothetical value of the portfolio if it had not been divested; now, therefore, be it

RESOLVED, that the Brookline Town Meeting urges the Massachusetts legislature to enact Senate Bill 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content; and be it further

RESOLVED, that the Brookline Town Meeting requests the Town Clerk to promptly send notice of the passage of this resolution to the Governor of the Commonwealth, the members of Brookline's congressional delegation, the President of the Massachusetts Senate and the Speaker of the House, the co-chairs of the Joint Committee on Public Service, the chairs of the Senate and House Ways and Means Committees, and the members of Brookline's state legislative delegation.

ROLL CALL VOTE:

Favorable Action	No Action
DeWitt	Benka
Daly	
Goldstein	

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Senate Bill S.1225, currently under consideration by the Joint Committee on Public Service, requires divestment of fossil fuel holdings by the State pension fund. This could be relevant to Brookline because the Town is a participant in the plan. Should this divesture cause us to incur a shortfall, we would need to find the resources to cover such a loss. The key provisions are the following:

1. Divestment would be mandated for securities held directly by the State pension fund of companies in the coal, oil, and gas sectors.
2. Divestment would not be mandated for securities held indirectly by the State pension fund, that is, securities held by a fund that is not managed by the pension fund, such as mutual funds or hedge funds.
3. Divestment would be accomplished on an incremental basis, with 20% of the fund's fossil fuel industry securities to be removed each year over a 5 year period.
4. The pension fund can reinvest in the fossil fuel industry if an analysis of the fund performance shows that investment returns have resulted in the value of the fund becoming 99.5% less than if the fund had not divested from the fossil fuel industry.

Warrant Article 32 is a resolution to urge the Massachusetts legislature to enact the bill.

DISCUSSION:
The Advisory Committee had a variety of concerns, and a variety of views, on this warrant article, addressing both (1) the substantive merits of divestment as a tool to curtail climate change, and (2) the impact of the proposed State law on the investment performance of the Town and State pension funds.

With regard to the merits of divestment, many concerns were raised:

- Lacking alternatives to fossil fuels, we continue to be dependent on them and divestment, if successful in lowering stock prices, could increase the costs to consumers including the Town.
- The Town should address the demand side of the equation by increasing our renewable energy usage.
- It is hypocritical to demand that the Town divest from fossil fuels when we, as individuals, use them.
- By divesting from fossil fuels, the Town loses out on the opportunity to apply pressure as a shareholder to encourage investment in alternative energy sources.
- The proposed divestment law applies to a whole industry without acknowledging corporations in the industry that are investing in alternative energy and those that are not.
- It is not clear that divestment will result in a conversion to alternative energy sources.
- Defining a "fossil fuel company" is complicated and misleading. Many companies have large and diverse product portfolios with a single but significant business unit participating the industry while others are "pure plays" in fossil fuels.

At the same time, some of the reasons to support the proposed resolution are:

- Divestment has been a successful tool for raising public awareness (e.g. campaigns to discontinue apartheid, control tobacco advertising, and identify companies manufacturing products in sweatshops).
- The impact of climate change is potentially catastrophic and, while we as individuals may have no alternative to the use of fossil fuels, divestment is a tool to demonstrate the public interest in developing alternatives to fossil fuels.
- Investing in a company is making a statement that you support that company's current business practices. Divestment is a tool to express disapproval of a company's – or an industry's – business practices.
- Public fossil fuel companies spend shareholders' money to lobby the government and the public to ignore climate science and to defeat efforts to diversify our energy resources. Divestment is a means for the public to lobby for actions in the public interest.

Hindering the discussion on the second issue was the lack of clarity on the extent to which the law would apply to the Town's pension fund investments. Stephen Cirrillo, the Town's Finance Director, obtained guidance from advisors at three investment companies, including Russell Investments, the Town's primary investment management company, regarding the potential impact of the removal of fossil fuels from the Town's portfolio in general. Russell Investments' advisor estimated that divestment could produce a 1% reduction in the rate of

return with our current investment mix. The other two advisors estimated somewhat larger potential reductions (up to 2.5%). With $ 245 million in assets, a 1% reduction could result in $2.45 million annually. We do not know the precise method of the analysis they used, over what time-frame it was applied or any assumptions around reinvesting. And given that the legislation would apply only to assets in the State fund, these assumptions risk being misleading.

This analysis, also, assumed that both direct and indirect investments (e.g. mutual funds) would be covered by the divestment requirement. Yet, since the law excludes indirect investments from the divestment requirement, and the Town's portfolio currently holds only indirect investments, it is possible that our pension funds wouldn't be affected at all. The analysis also did not consider the provision of the law that permits reinvestment in fossil fuel securities if the rate of return without them is 0.5% lower than if the fund had not divested. Nor did it consider that the divestment is to be phased in over a five year period. Moreover, numerous studies of rates of returns of funds with and without fossil fuels demonstrated negligible differences in rates of return over multiple year timeframes. One study by the Appario Group, an asset management firm, compared the rate of return for the Russell 3000 portfolio with a hypothetical portfolio of the Russell 3000 portfolio without the fossil fuel stocks over a fifteen year period. It found that the Russell 3000 without fossil fuel stocks had a .08% higher average annualized 10 year rate of return.

These divergent analyses and complex factors made the Advisory Committee uncomfortable supporting the resolution without further analysis of the financial data; even if there had been consensus that divestment would be a useful approach to address the problem of climate change, which there was not.

While the State legislation might affect only a small subset of the Brookline Pension Fund holdings, the petitioner was clear as to the desire that the Town would one day follow suit. Although disparate views were expressed, a two/thirds majority of the Advisory Committee decided that the arguments against the resolution outweighed the merits, particularly in light of the confusion surrounding the impact on the Town's finances.

Most members were not convinced that divesting holdings in fossil fuel companies will somehow lead to a reduction in the use of fossil fuels.

There is, to be sure, mounting evidence that continued use of fossil fuels contributes to global warming and various other adverse climate change impacts. However, divestment of the type being proposed here will not likely reduce fossil fuel consumption because its focus is on curtailing supply rather than on suppressing demand. Implicit in the sponsors' theory is that by limiting investment in fossil fuel companies, the supply of such products will be curtailed, forcing increased use of alternative forms of energy, but this has not been clearly demonstrated.

The sponsors concede that "Divestment isn't primarily an economic strategy, but a moral and political one." And for some it is important to make this statement of principal and raise awareness.

Brookline has made great strides toward becoming a "green" community by expressly focusing on demand, not supply. The Town adopted numerous energy conservation measures in all of its new buildings and is in the process of converting all street lights to LEDs. These measures are effective precisely because they address the demand for energy and because they make economic sense. Funds should invest in energy-saving alternative and in renewables, in mass transit, and should leverage their holdings in fossil fuel companies to insist they pursue alternatives to the continued use of fossil fuels.

Moreover, even if divestiture did somehow affect the actions of companies in the fossil fuel industry, Senate 1225 is a blunt instrument being presented in the guise of a scalpel. Not all fossil fuel companies are equal, and proponents of reducing CO2 emissions might actually want to encourage some of them.

Different companies in the fossil fuel industry have vastly different strategies, and some have strategies that advocates for climate action would support. For example, Shell develops its long-term strategy based on a belief that the Carbon Age will end in the coming decades. Shell executives quote Sheikh Yamani of Saudi Arabia, who said, "The Stone Age didn't end because we ran out of stones..." -- it ended because we found something better. He predicted an analogous fate for the use of oil, gas, and coal.

Shell agrees, so it invests in the development of hydrogen, geothermal energy, and fuel cell technology to position itself as a supplier of energy in whatever form that energy takes, decades into the future. In contrast, Exxon Mobil believes that it maximizes shareholder value by investing primarily in exploration for new sources of oil and gas.

Having a blanket policy of divestment misses the opportunity to encourage companies like Shell. (But make no mistake about it -- Shell also invests heavily in oil and gas exploration, and it's the leader in deep water drilling technology.)

And, there a great many companies that we don't think of as energy companies that are deeply involved in fossil fuels. For example, GE Oil & Gas is a $2.2 billion segment of General Electric. It produces equipment used to drill wells. GE also owns a wind turbine business. And its Power and Water segment has made substantial investments in CO2 sequestration technology to mitigate the emissions of coal-fired power plants. Are GE's efforts across so many sectors of the energy industry helpful or harmful with regard to CO2 emissions? If you buy GE stock, you cannot separate the oil well drill business from the wind turbine business, or the energy business from home appliances.

Ultimately, Warrant Article 21 is not about our pension fund returns - the effects of the proposed State legislation are likely negligible. It's really a way of making a principled statement. But Senate Bill 1225, while having laudable intentions with regards to raising awareness around the imminent threat of over reliance on fossil fuels, does not practically support its goals. The bill does not distinguish qualitatively between different companies. And, it applies only to direct holdings and not to funds that contain fossil fuel holdings. It's a loophole one can drive a large truck through.

RECOMMENDATION:
By a vote of 12-7-2, the Advisory Committee recommends NO ACTION on Article 32.

XXX

ARTICLE 33

THIRTY-THIRD ARTICLE

Reports of Town Officers and Committees

HOUSING ADVISORY BOARD

Roger F. Blood, Chair
Steven A. Heikin
Michael H. Jacobs
Rita K. McNally
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Town of Brookline
Massachusetts

AFFORDABLE HOUSING UPDATE

May 2014
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 2013 Annual Town Meeting, the Housing Advisory Board (seven citizen appointees) and Housing Division staff have undertaken the following actions to achieve these objectives:

1. **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 $3.7 million in funding from its affordable housing sources, including $1.7 in Federal HOME funds and approximately $2 million from the Town's Affordable Housing Trust. In

addition, $600,000 in federal CDBG funds were advanced for a long-term ground lease in 2012. The project has received zoning approval; new legal entities have been set up to own and operate the project; architectural and engineering work is complete; awards for the required funding have been received from the Federal Home Loan Bank's Affordable Housing Program, from the Commonwealth of Massachusetts and private lenders; and the BHA has been awarded tax credits and gap financing from the Commonwealth. The BHA has signed a contract with its Construction Manager, Coloantonio Inc., and construction is expected to start in June 2014.

2. **Assisted Pine Street Inn with the purchase and preservation of two lodging houses on Beals Street that it has operated under contract with the owner for nearly a decade.** Since last spring, Pine Street completed the acquisition of the properties with over $1.2 million in support from the Town's Affordable Housing Trust and CDBG funding. 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. These new "enhanced lodging house" units will include kitchenettes to better meet the needs of today's residents, including senior citizens.

3. **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:**

   - Completed the marketing and sale of four affordable condominium units at 321 Hammond Pond Parkway. The project received designation by the State under its Local Initiatives Program, for count on the Commonwealth's Chapter 40B Subsidized Housing Inventory. Three of the four units will be included in the count, while one unit was sold to a household earning up to 100% of area median income.

   - Completed the marketing and tenant selection for three affordable rental units at Englewood Residences. Two of the three affordable rental units will be included on Brookline's Subsidized Housing Inventory. The final affordable unit will serve a household earning up to 100% of area median income.

4. **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 four affordable condominiums at 321 Hammond Pond Parkway, as they were working with lenders to close on their units.

   - Worked with owners of several deed-restricted units seeking to reduce ownership costs through refinancing.

   - Initiated the resale of three deed-restricted units to new income-eligible purchasers.

5. **Worked with nonprofit property owners to preserve existing affordable housing through capital improvements funded by the federal Community Development Block Grant (CDBG):**

   - Monitored contracts with the Brookline Housing Authority totaling over $850,000 resulting in much-needed capital improvements to four public housing developments.

6. **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.**

7. **Worked with the Director of Human Relations to promote Fair Housing Month in April.** Activities included informational display in Town Hall and training of Real Estate Brokers. Updated the Town's Analysis of Impediments to Fair Housing Choice.

The Housing Advisory Board extends its thanks and good wishes to Fran Price, who retired in 2013, for her many years of work in advancing the Town's affordable housing goals and opportunities as the Planning Department's Housing Development Officer.

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.

BROOKLINE POLICE DEPARTMENT

CITIZEN COMPLAINT PROCESS REVIEW

DANIEL C. O'LEARY
CHIEF OF POLICE

APRIL 2014

FORWARD

As a Police Department, we must be willing to constantly look at our work to ensure we are performing in the best manner possible. We must also be willing to accept input from our residents in order to determine their expectations of us as a Police Department. It is this type of critical review of many issues we face that allows us to have the support we need to effectively deliver police services to our residents. This report outlines the citizen complaint process and the manner in which we have processed these complaints.

The Police Department has had a very robust citizen complaint process in place since the late 1980's. Over the years, this process has been reviewed and updated to keep pace with our changing society. In 2009, a major revision of this process took place and became an integral part of our police procedures. It is essential to keep in mind when judging our Police Department that our officers are constantly in the public eye and interact with thousands of people on a daily basis. Furthermore, in any given situation, our officers may have handled a matter in the most effective and legal way possible. However, even though this occurred, a citizen may not agree with the actions taken by the officer and may choose to file a complaint. Additionally, there are occasions when an officer may have acted inappropriately. In these cases, it is extremely important to us that we are made aware of this type of behavior so that we can take steps to eliminate it.

As part of the 2009 policy revision, our Citizen Complaint process has become more transparent. This transparency is made clear throughout our procedures. For instance, it is now a requirement that a review take place by the Chief of Police along with the assistance of two Brookline residents on a regular basis. Brookline residents Ruth Ellen Fitch and Doug Louison were appointed by the Board of Selectmen to assist in this current review. Both of these individuals were among the residents who participated in the 2009 revision. This review covers a three-year period – 2010, 2011 and 2012. Both Ruth Ellen Fitch and Doug Louison were provided case files of all formal citizen complaints that were made against the Police Department and its members during this three year period. The results of this review are set out in the following pages. Also included as part of this report is a section where our current policy was reviewed to determine if the recommendations made by the 2009 committee were, in fact, adopted.

I wish to extend my gratitude to both Ruth Ellen Fitch and Doug Louison for donating their time and expertise to this review. It is only through the efforts of residents like them that the Police Department can provide a high level of police services to our citizens while doing all we can to constantly improve. Thank you.

Daniel C. O'Leary
Chief of Police

INTRODUCTION

In 2009 the Brookline Police Department Policy for Discipline and Selectmen Review underwent a significant update and rewrite. There were numerous meetings held, and a panel of experts was assembled to review the policy and make recommendations for revisions to the policy. This review process was extensive and lasted months. There were open meetings held, and all those who were interested in speaking on the subject were given an opportunity to be heard. As a result of this review, a new and updated process was implemented as General Order 34.1, "Process for Police Department Discipline and Selectmen's Review." This General Order became effective July 28, 2009. Since that time, citizen complaints filed with the Department have been addressed pursuant to the new policy.

As part of the new policy, a provision was included for a "periodic assessment" to be conducted. This section of the policy (Section III, part 17) calls for a biennial review of the functioning of the complaint process. The review is to be conducted by the Police Chief and two civilian citizens. Once the review is conducted, a report is to be generated and provided to the Board of Selectmen, Town Meeting and the public. Part 17 of Section III reads as follows:

> The Police Chief assisted by two civilian citizens, appointed by the Board of Selectmen, shall biennially provide the Board of Selectmen, Town Meeting, and the public with a report on the functioning of the police complaint procedures. To the extent practicable, the civilian citizens should be individuals with experience in the issues raised by civilian complaints against police officers, including, but not limited to experience working with persons of diverse backgrounds and viewpoints. The report shall include an assessment of the investigations of citizen complaints, an assessment of the Board of Selectmen's role in the complaint process, relevant statistics, comparisons with comparable communities, citizen survey results, and recommendations for any changes.

Two civilians have been appointed to assist in the review of the complaint procedure, Ruth Ellen Fitch and Doug Louison. Both Mr. Louison and Ms. Fitch are Brookline residents who were on the original panel that conducted the 2009 overhaul of the Citizen Complaint Policy. As members of the original panel, both have a background in working with the policy, as well as, an understanding of the spirit of what was intended in the review process.

Since the updated policy has been in effect, there have only been two employees in the Office of Professional Responsibility. Lieutenant Stephen Burke was in charge of the Office until June of 2011. At the end of June 2011, Lieutenant Burke transferred to a new position within the Department and Lieutenant Paul Campbell transferred in as his replacement. From 2010 – 2012, all citizen complaints were handled by one of these two Lieutenants. Complaints were investigated and at the conclusion of the investigation, findings were made.

Most departments have a citizen complaint policy and process by which complaints are investigated. Because there is no uniform standard for taking or resolving citizen complaints, it is difficult to compare Brookline results with other Departments. There is no consistency regarding what constitutes an "official" complaint and in fact some departments tend resolve complaints informally and without a uniform procedure. There is also no way to know if there is consistency in the conclusions being reached by each department; some cases where one investigator feels a matter has not been sustained might result in a finding of sustained by another investigator. Some of these issues might depend on an atmosphere or philosophy within a department, and abstract matters such as this are difficult to measure. For this reason it makes sense to review the citizen complaint policy itself, and the Police Department and Town Governments compliance with this policy as opposed to making comparisons to other Police Departments.

PROCESS AND IMPLEMENTATION

All citizen complaints filed either at Town Hall or with the Department are investigated. The process begins with the Lieutenant in the Office of Professional Responsibility making contact with the complainant. An attempt is made to schedule an in person interview, however if the complainant chooses, this interview may be conducted over the telephone as well. Complainants are asked to submit a complaint form in writing, and are able to send this in via email/fax/USPS or simply dropping it off at the Police Station or Town Hall. After interviewing the complainant, witnesses are also contacted so that their statements may be taken and included in the record. The subject officer(s) are contacted and interviewed regarding the allegations. Evidence is sought (reports, surveillance video, documents) where applicable. At the conclusion of the investigation, a preliminary finding is reached. A report documenting the investigation is submitted to the Chief of Police for review. The case is discussed and consideration is given to whether more investigation needs to be done or if the factual findings are complete.

One of the elements of the Brookline citizen complaint policy that is different from other departments is the way citizen complaints are handled once the investigation reaches this point. Most Departments simply reach a decision and notify the complainant of the result. Some do not even do this. However pursuant to the Brookline Police policy, upon the completion of an investigation, a copy of the preliminary investigative report is sent out to the citizen via certified mail. Attached with this investigative report (personal or private information is redacted) is a letter from the Chief of Police outlining that the citizen is receiving a copy of the completed report as well as the investigating Lieutenant's recommended finding on the allegation of misconduct. The complainant may review the report and if there is evidence that they believe was not investigated, may notify the Department of this for further review. The complainant also has the option of making comments on the case, and these comments are then included in the record. The complainant has 10-days for this phase, and only after the complainant has had this opportunity to review the report is the case ready for a final resolution. This detailed level of process and transparency allows for participation in the

process beyond what has been found in all other departments surveyed. Upon examining the investigative case files provided for our review, we found that in the majority of investigations, the complainant chose not to include any additional information during the 10-day response period. This would indicate to us that the investigations were completed in a thorough and satisfactory manner.

At the conclusion of a citizen complaint investigation, a final disposition is reached by the Chief of Police. The Chief then submits a written report to the Town Administrator. A copy of this report, along with a notice of final disposition, is then sent to the complainant for notification. The Citizen Complaint Procedure then allows the citizen an automatic right of appeal of the decision reached by the Chief of Police. Attached with Chief of Police's final decision and report, is information explaining that the citizen has a right to appeal the decision to the Board of Selectmen within 21 days. A copy of the appeal form is included with every final disposition notice. Included with the appeal form is a detailed letter explaining how the appeals process works, how the appeal may be filed, as well as where the complainant can go to find more information about the appeals process. The complainant's right of appeal is absolute, and any complainant who wishes to be heard by the Board of Selectmen will be granted such opportunity. After hearing an appeal, the Board of Selectmen have the option of entering discipline, upholding the Chief's decision, sending the case back for further investigation, or appointing an independent investigator to conduct an investigation on their behalf.

Board of Selectmen Role

Since the policy was implemented, there have been a handful of appeals to the Board of Selectmen. These appeals usually are heard in executive session of the Board of Selectmen meetings, due to privacy requests by either party or where the issue involves medical information. During these appeals the entire Board of Selectmen are typically present, as is the Chief of Police, the Internal Affairs Lieutenant, the officers involved in the complaint along with any union or legal representatives they may have. The complainant is also typically present, however the rules do not require this and a hearing could be held even without the appellant being present. The appellant may be represented by counsel if they desire. At the hearing the appellant or counsel is given an opportunity to present their case to the Board, and there is a question and answer period so that the Board members may get more information where needed. These questions by Board members may be directed to either the appellant or the officers. Once the Selectmen have gathered all of the information they need, the matter is voted on.

In 2010 the Board of Selectmen received four requests for appeals. Of those 4, three were heard and in the fourth case the complainant never followed through with the process. Of the three cases where the Board had a hearing, they voted to accept the findings of the Chief of Police in all three cases. In 2011 the Board of Selectmen received one appeal, and that matter was dismissed by the Board. In 2012 the Board received two appeals, however only one of the

appellants followed through with the process. This appeal was heard by the Board, who then voted to accept the findings of the Chief and dismiss the complaint. In total there were five hearings before the Board of Selectmen from 2010-2012, and all five complaints were subsequently dismissed at the conclusion of their respective hearings. It is our opinion that the thoroughness of the review process, together with the level of information provided to the complainant, has minimized the impact of appeals on the work of the Board of Selectmen.

Year	Total # Citizen Complaints	# of Appeals to BOS	Appeal Rate
2010	25	4	16%
2011	15	1	7%
2012	4	2	50%

Complaint Data

Below is a breakdown of the citizen complaints filed and their findings. Note that some of the complaints below refer to multiple officers or multiple allegations of misconduct related to the same complaint.

Complaints by Year

Year	Total # Citizen Complaints	# of Alleged Offenses
2010	25	29
2011	15	21
2012	4	4

There are a number of options for how these cases are resolved. Below are some of the more common case resolutions:

Unfounded: Conduct did not occur or no violation

Exonerated: Conduct did occur but was reasonable and proper

Not-Sustained: Allegations cannot be proven or disproved

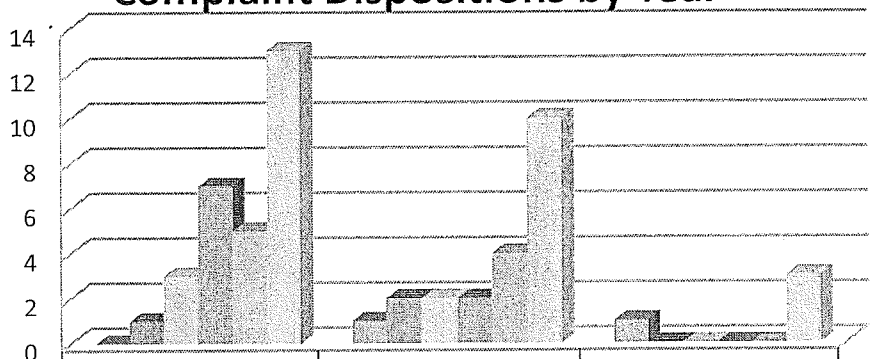
Sustained: Sufficient evidence to support the allegation

Mediated: Parties agree to a proposed disposition

Filed: No action necessary or possible

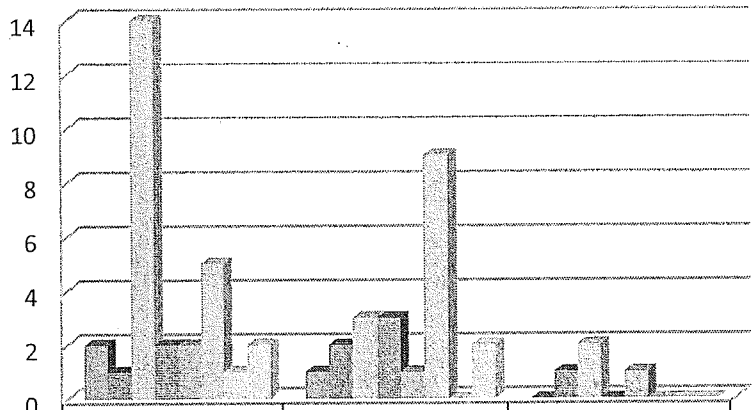
Complaints that are filed and investigated are tracked by the Department, and data from these complaints are broken down in reports which are submitted to the Board of Selectmen yearly. Data from 2010-2012 citizen complaints are contained in the graphs below:

Complaint Dispositions by Year



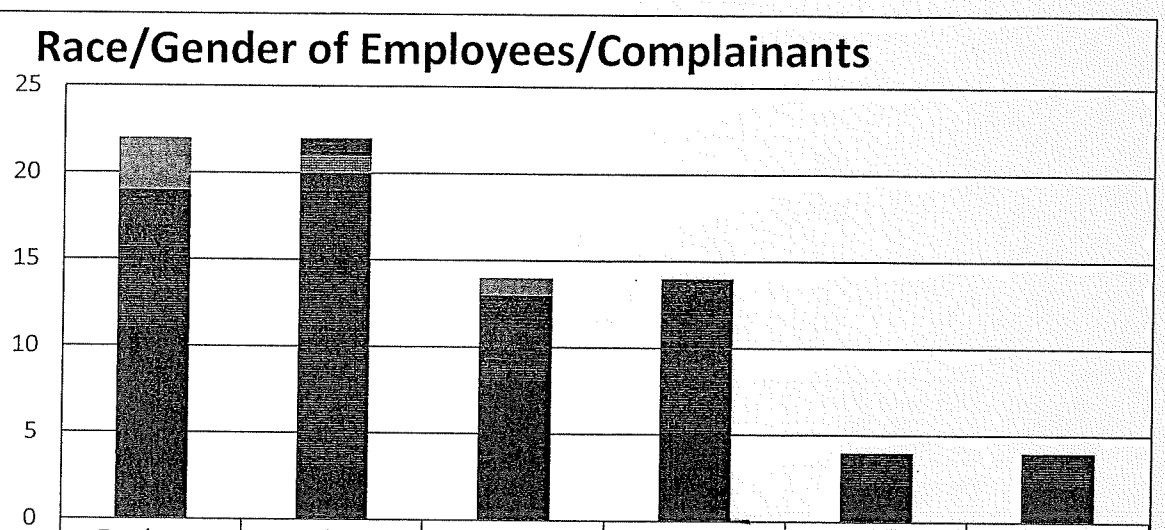
	2010	2011	2012
Exonerated	0	1	1
Filed	1	2	0
Mediated	3	2	0
Not Sustained	7	2	0
Sustained	5	4	0
Unfounded	13	10	3

Complaints by Type



	2010	2011	2012
Conduct Unbecoming	2	1	0
Criminal Conduct	1	2	1
Discourtesy/Rudeness	14	3	2
Excessive Force	2	3	0
General Misconduct	2	1	1
Improper Procedure	5	9	0
Neglect of Duty	1	0	0
Racial Profiling	2	2	0

In addition to maintaining data about the complaints filed, the department also keeps track of race and gender of both citizen complainants and the officers who are the subject of these complaints. This information is also provided to the Board of Selectmen on a yearly basis. The 2010-2012 data is contained in the below graph.



	2010 Employee	2010 Complainant	2011 Employee	2011 Complainant	2012 Employee	2012 Complainant
Brookline Police Dept	3		1			
Middle Eastern Female						
Middle Eastern Male		1		1		
Hispanc Female		1				
Hispanic Male	1		2			
Asian Female						
Asian Male	1	1	1			
Black Female	1		1	1		
Black Male	5	2	1	2	1	
Unknown Female				1		
White Female		14		4	1	2
White Male	11	3	8	5	2	2

CITIZEN FEEDBACK

The Brookline Police Department has not done a specific citizen survey related to the Complaint Policy; however the Department was included in a national survey that is ongoing. In addition, the Town of Brookline conducted their own public survey that included police and community interactions. This survey covered a wide range of topics, and included satisfaction with the Police Department (overall feeling of safety, crime, traffic and rating of police services). This survey was completed at the end of 2013.

In February 2014, the Town of Brookline released the results of its survey, entitled "The National Citizen Survey, Brookline MA Community Livability Report – 2014." As part of this survey residents were asked to rate certain town characteristics as well as the services provided by certain Departments, including the Police. Overall, residents felt that safety and the economy were priorities for the Brookline Community in the coming two years. Some of the findings in this survey are as follows:

1. Citizens responses for the following categories were rated above the national average for comparison communities:

    a. When asked about the Police Department there was a 90% positive response.

    b. When asked to describe their overall feeling of safety 97% of the respondents responded positively.

    c. When asked about crime prevention there was an 89% positive response.

2. Citizen responses for the following categories were rated similar to that of comparison communities:

    a. When asked if people felt safe in their neighborhood there was a 99% response.

    b. When asked if people felt safe in the downtown/commercial area there was a 99% positive response.

The authors of this survey were able to identify several conclusions for our community. One of the survey conclusions is as follows:

Safety, an important facet to maintaining residents overall quality of life, received high ratings.

The company conducting the survey went on to note that safety was identified by residents as one of the most important facets for Brookline to focus on in the coming two years. Nearly all survey respondents felt aspects of Safety within Community Characteristics were "excellent" or "good". Safety services were rated favorable by at least 8 in 10 respondents with many ratings higher than other communities in the U.S. When asked to rate their overall feeling of safety in Brookline, 97% of residents gave ratings of "excellent" or "good".

Please note that this entire survey can be accessed from the Town of Brookline website.

The survey's high rating relating to quality of life and safety indicates strong positive support for the police department and its interactions with citizens and the public.

RECOMMENDATIONS

The final aspect of the assessment to be made relates to any changes to the policy that the assessors believe should be implemented. One item that is worth considering in this area would be to provide for an option to administratively close a case when the person filing the complaint declines to participate in the process. In a number of cases, citizens have filed a complaint and then ceased all further contact with the Department. In one situation, copies of all documents sent to the complainant were returned to the department by the post office, and in another situation a person refused to answer or respond to phone calls, emails or certified letters. In the second instance, the complaint was deemed unfounded, after which the complainant then requested an appeal to the Board of Selectmen. The Board attempted to schedule this appeal, however the complainant claimed to be unavailable and then had no further contact with the Board of Selectmen. The complainant never contacted the Board again, and because the policy places no time limit or requirement for even some minimal participation in the process, there is no mechanism for closing such a case. In fact there is nothing in the policy that would prohibit this complainant from coming forward ten years from now, claiming that he would like his appeal to be heard.

Recommendation: We recommend amending the policy to include language allowing for a case to be administratively closed in situations where the complainant fails or declines to continue to participate in the complaint process. Documentation of the lack of continuation in the process must be included in the department's written decision to exercise this option.

As part of the 2009 Citizen Complaint Review Committee's final report, the Committee identified a list of recommendations for the Police Department and the Town of Brookline to consider adopting. In this process we have identified those recommendations and reviewed the manner in which they were implemented. We also took comments from the Police Department regarding these recommendations, and what steps they took to follow through on the 2009 Committee's proposals. Some of those comments from the Police Department are included in our review below.

The below language and recommendations are taken directly from the 2009 Committee's final report. Current responses from the Brookline Police Department are identified by the heading "**BPD Response.**" Additional recommendations are identified as "**current recommendations**." As part of the process we compared the recommendations made by the 2009 review committee to the current policy the Police Department is working with. As you will see in the following pages, almost all of the recommendations have been accepted by the Selectmen and made part of the policy. An explanation setting out the reason why no formal adoption of two recommended policy changes has been provided in their relevant sections. These two sections deal with no trespass orders and conflict of interest.

Recommendations from the 2009 Committee Report

The following recommendations are presented sequentially to correspond generally with the Policy, that is, Section 34 "Process for Police Department Discipline and Selectmen's Review." Each recommendation is annotated to cross reference the specific paragraphs of Section 34 to be amended. The committee identified in the italicized parentheticals below which sections the recommendations were meant to be applied.

A. Purpose of Process

Add as a new last paragraph to the introductory Purpose of the Process as follows:

> All investigations of complaints shall strictly follow the guidelines in this policy unless there is a good reason to deviate from these guidelines that does not compromise the fairness, completeness, and reliability of the investigation. If there is a deviation from these guidelines, the reason for such deviation should be stated in the investigation report.

BPD Response: The recommended language has been added to the policy (Section I), and the policy is strictly adhered to. It has also become apparent that certain timing deadlines are impossible to adhere to because of limitations with U.S. Mail, despite conscientious efforts by the Department. In a number of circumstances notices have been sent out and never been picked up by the complainant, or there has been a lengthy delay prior to the complainant picking up certain documents.

Current Recommendation: We believe the language in the final sentence of the "purpose of the process" paragraph should be amended to state, "if there is a deviation from these guidelines, the reason for such deviation **must** be stated in the investigative report" (substituting the word "must" for "should").

B. Improving Complaint Process

Allow citizens to submit complaints in writing and on-line via the Town's web site.

Require that complainants be given, within five business days of the filing of the complaint, a copy of the completed Citizen Complaint Form and a brochure explaining the steps that will be followed in the complaint process. All informational materials are to be approved by the Board of Selectmen

(These recommendations are proposed to amend sub-section 1.A. and 1 D.4. of the Procedures Section.)

BPD Response: The recommendation has been adopted in the policy (See Section III.1 Receiving Complaints). The policy now requires "the complainant shall immediately be given a copy of the completed Citizen Complaint Form and a brochure explaining the steps that will be followed in the complaint process." In addition, complainants who visit the department website have the option of submitting an online letter directly to us, which is then forwarded to the IAO for follow-up. All complaint materials including the complaint form, brochure and an outline of the complaint procedures are on our website for download or review by anyone at any time.

C. Clarifying Class Definitions

Amend Class A definition to include the language in bold italics as follows:

> Class A: allegations against an officer which, if true, could be construed as "serious", including excessive use of force, malicious and illegal arrest; unreasonable deprivation of individual rights, ***biased conduct or behavior based on a person's, ethnic origin, disability, gender, race, religion, or sexual orientation;*** corruption untruthfulness; criminal activity which could be as...

Amend Class B definition to include the word "discourteous," before the word "conduct"

Amend Class D language to read: "Allegations that are clearly frivolous or for other reasons do not merit disciplinary action."

(These recommendations are proposed to amend subsections 3.A. 3.B., and 3.D of the section on Classes of Complaints and Confidentiality.)

BPD Response: The current policy adopts the recommendations for Class A complaints, and provides a more expansive definition of what constitutes a Class A serious complaint (See Section III.3). The current policy also includes bias that is based on "age, economic status, cultural group, gender identity or any other identifiable group."

The recommendations to amend Class B and D definitions have been adopted and are reflected in the current policy.

D. IAO Training

That there be further training of IAO concerning requirements of the Process.

BPD Response: Training of the IAO is ongoing. The IAO has recently been to trainings covering topics such as internal investigative process, discipline of subordinates, and statement analysis. Comments on credibility of statements and witnesses are frequently included in investigative reports. A concerted effort has been made to make a determination one way or the other

regarding the merits of complaints filed, and to reduce the number of cases that are resolved with a finding of "not sustained."

Current Evaluator Comment: A specific concern of the 2009 review panel was to reduce "not sustained" findings and have investigator make a concerted effort to make a determination on cases. Our review indicated that the 2010, 2011 and 2012 investigations were done in a thorough manner. At the time of the 2009 Review Committee's final report, the rate of "not sustained" findings was approximately 25%. During the years 2010-2012 this number has dropped to 16.6%.

E. Mediation of Class A Complaints

IAO should be permitted to mediate Class A complaints if both the complainants and the police officer agree.

(This recommendation is proposed to amend subsection 4.L. of Section 4 Internal Affairs/Staff Inspection Officer & Procedures.)

BPD Response: The recommended changes to the policy have been made (Section III.4.R). Mediation is permitted in cases of Class A complaints where both parties are agreeable.

F. Witness Assistance and Support

Witnesses who are interviewed by the investigator are entitled to have a representative present
with them during their interview.

(This recommendation is proposed to add a new subsection to Section 4 Internal Affairs/ Staff Inspection Officer & Procedures.)

BPD Response: The recommended addition to the policy has been made (Section III.4.J). Witnesses are permitted to have someone with them during the interview process if they desire. This person does not need to be an attorney and can be any person of the witnesses choosing. The only exclusion would be in an instance where the other person is also a witness, as witness statements must be taken independently to preserve the integrity of the investigation (Section III.4.M).

G. Investigative Techniques

The accuracy of an IAO report should be assured by requiring the investigator to take all reasonable efforts to obtain witness statements by one or more of the following methods:

- Taped (audio or video) statements with consent of witness;

- Witness's own signed statement;

- Witness's verbal statement given to the IAO investigator and reduced to writing by the investigator; and reviewed for accuracy and signed by the witness, affirming that the statement is accurate.

Witnesses who do not wish to sign statements they submit or statements reduced to writing by the investigator shall not be required to do so. If the witness disagrees with the investigator's version of the witness's statement and the investigator declines to change the statement in conformity with the witness's wishes, the witness shall be asked to submit their separate version of what they said and asked to sign it. All such statements shall be furnished to the Selectmen by the Police Chief upon the approval of the final report by the Police Chief.

(This recommendations is proposed to add new provisions to Section 4.0. of Section 4 Internal Affairs/Staff Inspection Officer and Procedures.)

BPD Response: The recommended language above is now part of the Citizen Complaint Policy (Section III.U.2). In addition all complainants are encouraged to submit their statements in writing and sign such document. To avoid the possibility of misstatement of the allegation, most investigative reports by the IAO include a direct quote of the complaint, taken directly from the written statement. Because the language is directly quoted, the potential for an inaccurate reporting of a statement is eliminated. Further, the Board of Selectmen are provided with the investigative file, including witness statements in unredacted form (Section III.5.C).

H. Notification of Results of IAO Investigation and Opportunity to Comment

The complainant and the police officer who is the subject of the complaint shall be furnished with a copy of the IAO report within seven days of its completion provided that the Police Chief may redact any information relating to similar prior complaints against the police officer made more than two years prior to the date of the incident that is the subject of the complaint, the name and other identifying information of any private citizen who requests that their identity not be disclosed, and any information in the report that comes within the "personnel and medical files or information" exemption to the Public Records Statute. The complainant and the police officer shall also be notified that any comments concerning the IAO report may be submitted to the Police Chief within 10 days of receipt of IAO report. Should the complainant or the police officer submit any comments concerning the IAO report, the Police Chief shall take any action he/she deems appropriate but the Police Chief is not expected to negotiate with anyone concerning the content of the final report he submits to the Board of Selectmen.

(This recommendation is proposed to amend subsections5.B of Section 5 Disposition and Notification by Police Chief, along with Section 6. Public Release of Documents and Section 8.B Review by Town Administrator.)

BPD Response: The recommended notification process has been adopted in the Citizen Complaint Policy (Section III.5.A). All complainants are sent a copy of the IAO investigative report for review prior to any findings being determined. This investigative report includes the recommended finding by the IAO. Included with the investigative report is a letter from the Chief of Police explaining that complainant may, within ten days, provide comments or identify any additional witnesses that they believe should be interviewed. The letter from the Chief also directs where the response from the citizen should be sent, and advises that in the event they do not have comments or additional information then the complaint process will proceed toward a final disposition. The letter also advises the complainant that they will have a right to appeal the final disposition when it is entered.

I. Disposition and Notification by Police Chief

After completion of his/her report, the Police Chief shall promptly send to the complainant and the police officer subject of the complaint a copy of the documents submitted to the Board of Selectmen provided that the Police Chief may redact any information relating to similar prior complaints against the police officer made more than two years prior to the date of the incident that is the subject of the complaint, the name and other identifying information of any private citizen who requests that their identity not be disclosed, and any information in the report that comes within the "personnel and medical files or information" exemption to the Public Records Statute.

(This recommendation proposes to amend Section 5.B of Section 5 Disposition and Notification by Police Chief.)

BPD Response: The recommendation has been incorporated into the policy (Section III.5.C.2). At the conclusion of each citizen complaint, the complainant receives a letter from the Chief explaining the final disposition of each item of their complaint. This letter also explains the complainant's right of appeal and an appeal form is included with the letter. Additionally the complainant is provided with a copy of the Chief's final report for review. The Selectmen receive a copy of this final report by the Chief of Police, in addition to a copy of the unredacted file.

J. Appeals to Board of Selectmen

The procedural protections of G.L. c.31§ 41should be limited to appeals by police officers. Where the appellant is a civilian, the appellant should be entitled to make an informal presentation before the Selectmen at a public hearing. After having the opportunity to read all reports the Selectmen, with the vote of at least three members, shall:

1. Decide to hold a public hearing on the merits of the appeal. After a hearing on the merits of the appeal the Selectmen can take whatever action is appropriate including, but not limited to, referring the matter back to the Police Chief for further

action or scheduling a disciplinary hearing in conformity with the requirements of G.L. c31,§ 41; or

2. Decline to schedule a hearing on the merits of the appeal and notify the complainant that his/her appeal has been denied; or

3. Appoint one or more independent persons to conduct an investigation and write a report for the Selectmen concerning the facts relating to the complainant's allegations. The person(s) selected to conduct the investigation should, depending on the nature of the complaint, be experienced in working with persons of diverse backgrounds, including racial, ethnic and cultural groups, and people of different genders, sexual orientation, and mental and physical abilities. After receipt of that report, the Selectmen can take any of the steps forth above in paragraph 1 or 2; or

4. Refer the matter back to the Police Chief for further action.

(These recommendations are proposed to amend Section 9.A, 9.B, 9.C and 9.D of Section 9 Hearings and Actions by the Board of Selectmen.)

BPD Response: The recommended procedures have been incorporated into the policy (Section III.7).

K. Training for Town Officials, Employees and Citizens on Public Boards and Committees

Provide Town officials, employees, and citizens participating on public boards and committees with appropriate training designed:

1. To train them to respond respectfully and effectively to persons of diverse backgrounds, including racial, ethnic, and cultural groups, and people of different genders, sexual orientation, mental and physical abilities, and minority points of view, in a manner that recognizes, affirms, and values the worth of individuals and communities, and protects and preserves the dignity of each in the Town's policies, procedures and practices;
2. To incorporate such awareness, understanding, and responsiveness to the everyday encounters in Brookline; and

3. To help them to think in advance of possible emergency or stressful situations that could occur and help them to pre-plan ways to diffuse emotion, conflict, and escalation during public meetings or other public events.

(This recommendation is to the Selectmen, and outside of the Police Manual. However, the Town has been very active in the above areas.)

1. **Town's Response: To Train Town Officials, Employees, and Citizens to respond respectfully and effectively to person of diverse backgrounds ....**

2010 Training

During the 2010 calendar year, the Town of Brookline undertook a number of initiatives to advance its Diversity and Inclusion efforts, including the development of a new Anti-discrimination policy, supervisor training on Discrimination Law and joining the Commonwealth Compact.

Development of Anti-Discrimination Policy

During the Fall of 2010, the Town adopted a new "Policy against Discrimination, Sexual Harassment and Retaliation" which provides supervisors and employees straightforward processes and procedures to address any allegation of discrimination. The policy makes clear that the Town has zero tolerance toward discrimination, sexual harassment, as well as for retaliation for reporting such conduct or assisting with an investigation. The policy was widely distributed and all supervisors were trained on both appropriate and inappropriate conduct , identifying such conduct and handling a complaint.

MCAD Supervisor Training

Likewise, the Town of Brookline trained over 175 Supervisors on the Massachusetts's law prohibiting discrimination, sexual harassment and retaliation. The training was conducted by the Massachusetts Commission against Discrimination's (MCAD) Training Division, covering both the state law and the Town's newly adopted Policy against Discrimination, Sexual Harassment and Retaliation.

2011 Training

In June of 2011, the Town sponsored a 12-hour training entitled, *Navigating Workplace Conflict: Developing Communication Skills* to augment the MCAD training Senior Managers took in 2010. The primary focus of the training was to craft a consistent, Town-wide response to conflict.
The goal of pairing conflict resolution and anti-discrimination training is to ensure that disputes, actions or conduct that could escalate to unlawful acts will be identified early and promptly corrected.

Finally, in 2011, the Human Resources Department sent two of its staff to the state Mass. Commission Against Discrimination Train the Trainer trainings. Those trained staff members trained nearly one hundred firefighters on the Massachusetts law against discrimination in 2011. Such training will continue with other employee groups on a rotating basis in the future.

The Brookline Police Department regularly requires its police officers to participate in mandatory in-service training. In 2011, a number of those trainings focused on how to deal with diverse populations including:

- March 2011 - All officers took part in a class, "Handling Emotional Disturbed Persons"

- May 2011 - All officers took part in "Victims with Disabilities" and "Victims Voices," trainings sponsored by the Municipal Police Institute.

- August 2011 - Officers watched a compelling video called "Minds on the Edge," a multi-platform media project that explores severe mental illness in America, on the internet at www.mindsontheedge.org.

- Between May 2011 and December 2011, police officers took part in four different trainings on Racial Profiling sponsored by the Municipal Police Institute.

- November - December 2011 - the Brookline Police supervisors participated in an innovative training, *Unconscious Biases*, which described unconscious biases that all individuals harbor and how they affect split second decision making. Supervisors are trained on not only how to analyze data on a monthly basis but also on how to constructively counsel officers who have stats that are out of the norm so that potential biases are identified and dealt with. Supervisors are required to report their findings quarterly and the factors for both supervisors and police officers are a part of the performance review. Police officers are currently being trained in the same program.

2012 Training

In 2012, the Town of Brookline Fire Academy added a course on the Massachusetts anti-discrimination law and this training was delivered to the Fire. This training of Fire recruits included those individuals who attended from other municipalities.

The Town of Brookline also trained 30 Supervisors in a Supervisory Leadership Development Program, *Managing Self-Others-the Work-the System.* This training emphasized the need to understand different perspectives, the need for a respectful workplace, team building and dealing with conflict in the workplace. Such training should minimize conflict in the workplace but, as conflict inevitably arises, the training also included coaching and performance management. These skills help managers and employees focus on performance deficits and successes and engenders a collaborative and respectful work relationship, rather than on a confrontational one.

Policy Development and Training

Policies are important tools for educating both the leadership and the employees on the parameters in which the workforce is expected to function by establishing both rights and responsibilities of its personnel. Policies also provide important processes and procedures to ensure all personnel are treated consistently and by the same rules.

In 2012, the Town Administrator with the Human Resources Department mailed out the following policies to all current employees:

- Policy against Discrimination, Sexual Harassment and Retaliation (revised in 2012)
- Policy Against Fraudulent Conduct (new in 2012)

In 2012, both the Policy Against Discrimination, Sexual Harassment and retaliation and the Workplace Safety policy were distributed and reviewed with several Boards and Commission to ensure these public actors understand the policies apply to them, as well as Town employees.

During 2012, the Brookline Police Department continued to provide in-service training for all of their officers. Training was geared toward addressing the specific needs and concerns of the special populations that the Police Officers serve, such as citizens with autism, Alzheimer's, etc. Furthermore, officers continue to be trained in the concept of "unconscious bias" including specific steps, for both supervisors and the officers, to deal with such unconscious biases. Although this trait resides in all human beings, Brookline officers are challenged to examine their own biases that may affect their work. As officers are often placed in stressful and unsafe situations, it is critical that they be trained to be thoughtful and self-reflective. Supervisors were likewise trained to analyze data and circumstances to assess these unconscious biases, with specific methods to intercede in a constructive and corrective manner to reduce or eliminate unconscious biases.

The Department also initiated a program called "Homesafe" which is offered to families who are dealing with a loved one who suffers from autism or Alzheimer's. This program uses a GPS system in order to find a loved one who wanders off and becomes disoriented. The Department was able to obtain a grant and partner with the Brookline Mental Health Center in order to provide this service to families who cannot afford it.

Employee Survey on Diversity and Inclusion, *April 2012*

During the spring of 2012, the Town of Brookline conducted a voluntary, anonymous survey of employees to explore and understand their views and opinions on inclusion and diversity in the Town of Brookline's workforce. The confidential survey was analyzed by race/ethnicity, gender and age of the respondents. Additionally, this information was gathered to help the Town to develop and adopt effective workforce diversity and inclusion initiatives, prioritizing scarce resources. In distributing the survey results, Department Heads, supervisors and other Town leaders also learned about how employees felt about Diversity and Inclusion efforts in general and how the Town deals with real or perceived discrimination in the workplace.

Specifically, the survey sought to:

- Identify employees current views and opinions on diversity and inclusion
- Identify areas for immediate action and additional areas of exploration and intervention
- Raise awareness of diversity and inclusion goals and efforts, generally

The survey explored how employees felt about their own treatment in the workplace as well as the treatment of their co-workers. Views regarding treatment of employees in specific

protected classes, e.g., age, gender, race, disability and sexual orientation were surveyed, as well as questions regarding inclusion, diversity and discrimination were explored. The number of employees participating in this first-ever employee survey was excellent in that 23% of the employee population participated.

2. Incorporate awareness, understanding, and responsiveness to the everyday encounters in Brookline

Commonwealth Compact

In October, 2010, the Town of Brookline joined the Commonwealth Compact, a collaboration of higher education institutions and for-profit and non-profit organizations that are committed to ensure the Greater Boston area is a desired destination to work and live for people of color and women, with the belief that their contributions in the workforce will be vital to the region's social and economic future.

A significant project of the Commonwealth Compact is its annual survey that seeks to measure the organization's commitment to diversity, primarily on race and gender measures. During 2011, the Town of Brookline revised the survey to explore diversity among sexual orientation and age, not just race and gender. The Town then interviewed every Department Head, the Chairman of the Board of Selectmen and the Town Administrator to query the current attitudes and initiatives toward inclusion and diversity. This exercise provided information data on employee diversity, but it also queried the Town's diversity efforts in the area of board leadership and governance. The collection of data is intended to be probative and reflective, as well as evaluative. Most Department Heads detailed diversity and inclusion efforts in their daily operations among both employees and with the citizenry. The majority of the department heads relayed specific instances where they responded with consideration and sensitivity to the needs of the citizens in the community their specific department serves. This discussion among department heads and the Board of Selectmen was the first step in getting greater leadership buy-in and awareness of the Town's Diversity and Inclusion initiatives. The data was collected during the fall of 2011 and reported to the Commonwealth Compact during the Spring/Summer of 2012.

Inclusion and Diversity Efforts

When collecting survey data we found many Departments reported a host of initiatives that they have developed over time to respond to citizens' diverse needs. These efforts are inclusion by their nature but they also serve to make the community aware of the diversity of the Town's population. The following are examples of the Town's current efforts to reach those needs.

Most Departments have important materials or information printed in multiple languages.

- Chinese, Spanish, Portuguese, Russian (Health)
- Mandarin, Cantonese, Russian, Spanish (Council on Aging)

- Housing material in Spanish. Have had Russian and Chinese in the past as well (Planning)
- In nearly every language (Police)

The Library has collections of books, videos and other materials that are specific to various languages. For example, there are collections in Chinese, Russian, Korean and Spanish. These collections are not mere translations of popular American materials but rather the collections are culturally relevant.

Aside from written materials, translation services are available for those departments who regularly deal with the full range of languages often in emergency circumstances, such as the Police and Public Health department. Further, employees who speak languages other than English have been called upon to help assist a citizen with a particular language. Employees have provided informal translation services in Chinese, Spanish and Russian, often crossing department lines. The ability to provide informal translations by employees underscores one simple benefit of nurturing a diverse workplace.

Diverse people are represented in advertisements and printed materials and departments work to ensure their programming, literature and signage reflects the citizens that they service. In addition, Departments regularly respond in a variety of ways to their citizens' needs:

- Flu clinic for visually impaired people (Health)
- Disaster preparedness to be appropriate and sensitive for all groups and communities of people (Health)
- Wheelchair friendly van, services for 6 months old babies to seniors (Recreation)
- Social activities for teenagers with intellectual disabilities (Recreation) community
- Hiring a Therapeutic Specialist for programming (Recreation)

The Council on Aging has focused on its Lesbian, Gay, Bi-Sexual, Transgender (LGBT) population by hosting a training for area social workers that addressed issues faced by LGBT Elders. A viewing of the award winning documentary "Gen Silent" hosted by the Council on Aging, the Goddard House in Brookline, and the LGBT Aging Project co-sponsoring awareness with Coolidge Corner Theater. The Council on Aging also has adopted friendlier signage and forms that are gender-blind. The Council on Aging has also established a policy of not addressing gender with Mr. or Mrs., which implies a specific gender.

The Recreation Department hired a Therapeutic Specialist in 2011 to specifically ensure that programming is accessible to individuals across the spectrum and that such programming is accessible and adaptable to a variety of abilities and needs.

The Housing Division of the Department of Planning and Community Development continues to address fair housing issues in Brookline. Due to its close proximity to Boston and its excellent community services and public schools Brookline has higher housing costs, both rental and ownership, which is out of reach of most low and moderate-income families and individuals

protected by fair house laws, e.g., seniors on limited income, persons with disabilities, households receiving public assistance, immigrants and minorities. And although the Town of Brookline historically prides itself as being welcoming to diverse populations, it is believed that people eligible for such housing may self-select out of Brookline because they believe they will not be able to afford to live in Brookline.

The Housing staff's stated mission is to maintain Brookline's diversity by helping to create housing that is affordable to households within a range of incomes. The staff uses a multi-prong approach ranging from preservation of existing and the development of new affordable housing for renters and home buyers. In 2011, the Division worked with the Brookline Housing Authority to advance its proposal to add 32 low-income rental units on the existing new Trustman Apartments, advancing the efforts of several private developers to include affordable units in market rate projects.

The Housing staff also does extensive outreach to market new homeownership opportunities, including advertising in newspapers with large and a diverse readership, and noticing metropolitan wide agencies, institutions, and websites which serve a diverse populations. As a result, minority interest in purchasing these affordable units in Brookline is strong, and success in completing a purchase is high. These affordable fair housing initiatives are also available for employees allowing a more diverse pool of employees to live and work in Brookline.

Other regular programming includes homelessness prevention. The staff continued to administer a three-year grant for Homelessness Prevention and Rapid Re-Housing program in collaboration with the Brookline Mental Health Center. This program assisted in some 100 households, preventing them from becoming homeless.

The Housing Division has also collaborated with the Human Relations-Youth Resources staff and with the West Metro HOME Consortium on public information and training on fair housing issues, including a Cable Access Television (CATV) series entitled "Fair Housing Conversations", produced and hosted by Steve Bressler, the director of Human Relations-Youth Resources.

Likewise, the Human Relations-Youth Resources department's Hidden Brookline Committee continues its efforts to educate the public about the role of Brookline residents involved with or benefiting by trading in African-American slaves during the early history of the Town. The committee continues its walking tours and put together an exhibit "From Slavery to Freedom" at the Main and Coolidge Corner libraries.

The Human Relations-Youth Resources Commission met with Police Chief Daniel O'Leary to discuss Police Department Racial/Gender Breakdown of Police/Community Interactions July-December 2010 and Brookline Police Part A Crimes, where he discussed in part, police officer interactions with women and members of minority groups.

Surveys and Feedback

The Departments also seek feedback from their customers in a number of ways. Some Departments use various social networks such as Facebook which provides feedback. Others regularly survey participants in their programming, while others will look to internet-based rating sites such as Yelp to garner feedback. This is another area that could be explored to provide regular feedback from the public regarding the Town's inclusion and diversity efforts.

3. **To help Town Officials, Employees and Citizens on Public Boards think in advance of possible emergency or stressful situations that could occur and help them to pre-plan ways to diffuse emotion, conflict and escalation during public meetings or other public events.**

In June of 2011, the Town sponsored a 12-hour training entitled, *Navigating Workplace Conflict: Developing Communication Skills* to augment the MCAD training these Senior Managers took in 2010. The primary focus of the training was to craft a consistent, Town-wide response to conflict. Approximately 40 Department Heads and Division Heads took this conflict training, with the expectation that they would lead by example and train their senior managers in conflict management techniques. The training set the standard to which Executive Managers would be measured and also provided role playing wherein the participants could exercise new skills to address workplace conflict. The Human Resources Department continues to work hand in hand with several departments who are dealing with difficult issues.

All new members of Boards and Commission are required to attend trainings on both the state's Open Meeting laws and to complete an on-line ethics course. These materials provide guidance on how the public meetings are to be conducted and help ensure such meetings are handled professionally, minimizing the escalation of emotion and conflict that can occur in some divisive public meetings.

L. Public Education

That the Board of Selectmen work with the Brookline Police Community Service Division and the Human Relations/Youth Resources Commission to create a plan, subject to periodic review, for educating the public about the complaint process, including on the Town Website.
(This recommendation is proposed to add a new section to Section 34 of the Police Manual. The Selectmen should also extend this education program beyond the Police Department.)

BPD Response: The Police Department has developed, and the Board of Selectmen authorized, a brochure, a letter that explains the complaint process and what one can expect from the Department, a complaint form and an appeal form. These items are all available for anyone to view when looking at the Police Department's website, at the Selectmen's office or at the Police Department. The current policy is also posted on the website for public viewing. In addition, the Police Chief has provided a mid-year and an annual report to the Board of Selectmen, as well as

the Human Relations Youth Commission and the media for several years. Further, the Chief has appeared at a televised Selectmen's meeting and HR/YC twice a year to discuss the report. This report provides information on Citizen Complaints and can be accessed from the website.

M. No Trespass Orders

Issue guidelines and procedures for when civilian Town officials and employees can issue "no trespass" orders relating to public buildings and procedures that a citizen can follow to remove "no trespass" orders.

(This recommendation is proposed to add a new section to the Police Manual concerning the Issuance of No-Trespass Orders in Town Facilities.)

BPD Response: The Town of Brookline has considered issuing a policy on trespass orders in public buildings. As of this time a town wide policy has not been instituted. Brookline Police Officers do not issue no trespass orders, rather they document and enforce such orders in accordance with Massachusetts General Law C. 266 S. 120. The law requires trespass orders be issued by the property owner or person with lawful control of the property, and Officers are directed to follow the law. Officers receive training in the law on a periodic basis.

N. Periodic Assessment

The Police Chief assisted by two civilian citizens, one appointed by the Board of Selectmen and one appointed by the Moderator of the Town Meeting, shall biannually provide the Board of Selectmen, Town Meeting, and the public with a report on the functioning of the police complaint procedures. The report shall include an assessment of the investigations of citizen complaints, an assessment of the Board of Selectmen's role in the complaint process, relevant statistics, comparisons with comparable communities, citizen survey results, and recommendations for any changes.

(This recommendation is proposed to add a new section to Section 34 of the Police Manual.)

BPD Response: The recommended addition has been incorporated into the policy (Section III.17). There has been one modification to the recommendation in that both civilians are to be appointed by the Board of Selectmen.

O. Conflict of Interest

Adopt a policy for procedures to be followed by and as to police officers who objectivity could reasonably be called into question in conflict of interest situations including when a responding officer is in some way related to a principal involved in an incident to which police are responding.

BPD Response: There has been no adoption of a formal policy to deal directly with this issue. However, through training and supervision, this issue has been addressed within the Department. All officers are trained and expected to perform in a professional manner. Our officers are also hired from the Community and are expected to form a variety of professional relationships with various members of the community. Because of this, it is next to impossible to expect an officer will never interact with a person he/she is familiar with. It is stressed to all of our members that the Department expects its officers to perform at a high level and to make appropriate decisions when required to. Furthermore, Police Supervisors are tasked with the responsibility to ensure this type of work performance takes place. As part of this responsibility, Supervisors have the authority to remove an officer from a situation, if appropriate, and assign another officer to handle the task.

CONCLUSION

It is the nature of law enforcement that police officers encounter difficult and complex situations. They often interact with citizens during stressful times, and frequently in contentious circumstances. Even the best and most professional of departments will have instances where citizens are left feeling as though their police department did not deliver services in the manner they expected. Citizen complaints can range from relatively minor allegations of rudeness to more serious charges of flagrant and intentional misconduct. In either situation, it is important that the police department conduct a fair and thorough investigation to ensure that law enforcement services are delivered effectively and professionally. Furthermore, it is important that there be a level of transparency in the citizen complaint process, so that the citizens know that when complaints are filed they are investigated fully and fairly, and that corrective action is taken where necessary. It is important for residents to have trust and confidence in their police department, and a fair and effective citizen complaint process plays a strong role in providing both of these.

This examination of the Brookline Police Citizen Complaint Process has been extensive. It has involved the reviewing of hundreds of pages of documents, multiple meetings, and a study of policies from surrounding cities and towns for comparative data. We have found that complaints are investigated thoroughly, and in compliance with the process that resulted from the 2009 Citizen Complaint Review Committee. Moreover, the Department appears to have taken the 2009 review seriously, as they have incorporated almost all of the recommended changes into what now comprises the current policy.

Based on our examination of the data it is our opinion that the citizen complaint process is operating effectively, and in compliance with the department policy.

BOARD OF SELECTMEN

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