Brookline Advisory Committee  
Human Services Subcommittee  
2021 Annual Town Meeting  
Warrant Article 11

Introduction

The Human Services Subcommittee of the Advisory Committee held three virtual public hearings on Warrant Article 11 on April 1, 15, and 27, 2021.

In attendance were David-Marc Goldsmith, Susan Granoff, Claire Stampfer, and Kim Smith for the subcommittee. Also in attendance for one or more meetings were: petitioners and Indigenous Peoples Celebration Committee (IPCC) members\(^1\) Maya Norton,\(^2\) Raquel Halsey, Kea van der Ziel, and Felina Silver Robinson; Barbara Brown; Caitlin Starr, Neil Gordon, Carla Benka, and John VanScoyoc. Town Counsel Joslin Murphy attended the third hearing.

Summary

WA 11 seeks to amend section 2.1.11 of the Town bylaws to add, after the National Anthem, the reading of a statement acknowledging the history of Indigenous people in Brookline by the chair or a designee of the IPCC. The article does not include or specify the words or length of the statement that would be read.

Background and Petitioners’ Perspective

On November 14, 2017, Brookline Town Meeting voted in favor of establishing that the second Monday of October would be commemorated as Indigenous Peoples Day in Brookline. Since then, the IPCC has continued to identify ways for the Town to work toward creating “a healthier and more inclusive community” for all. The “Land Acknowledgement,” as prepared by the IPCC and presented in Appendix A, grew out of those efforts. It is a formal statement that recognizes the Indigenous Massachusetts people who inhabited the land we call Brookline before colonialism and provides historical information about the devastating impact of colonialism on them, including the theft of land and lives.

According to the petitioners, the purpose of the statement is to acknowledge and inform about the history of indigenous people in Brookline. It was written to be specific to Brookline and to be read after the National Anthem to get more attention. Somewhat similar Land Acknowledgement statements have been adopted by educational institutions and a few other Massachusetts municipalities, including Great Barrington and Salem,\(^3\) but these statements are

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\(^1\) Other IPCC members, who were not present at the hearings, include Arthur Wellington Conquest, III and Larry Onie.

\(^2\) Citizen of Mandan, Hidatsa, and Arikara Nation; Executive Director, North American Indian Center of Boston (NAICOB); chair, IPCC.

\(^3\)
almost always no more than a paragraph in length and focus solely on the ownership, misappropriation, and misuse of the land (hence the title “land acknowledgement”). The statement offered by the petitioners in their explanation is five paragraphs long and covers wrongs beyond those related to the land of Brookline or Indigenous people. For those municipalities, this reading of a statement is not written into their By-Laws. The petitioners stated that the wording, which was under the purview of the North American Indian Center of Boston (NAICOB) and the IPCC, might change over time as knowledge of the history changed.

**Discussion**

Overall, the subcommittee members supported the reading of a land acknowledgment statement similar to those adopted by Great Barrington and Salem, but raised concerns about the substance of the proposed statement and its legal implications for the Town.

**Content of Statement**

At the first hearing, a draft statement, referred to as a “work in progress”, was read. Subcommittee members felt strongly that the wording was important and that it should be “locked down” so that Town Meeting Members (TMMs) would know what they were being asked to approve. They envisioned that the statement would be written into the bylaw, which was not the petitioners’ intent. Prior to the second hearing, the subcommittee received the IPCC-approved statement. We also heard that the moderator would not allow it to be part of the motion or the bylaw both as a matter of scope and appropriateness. He likened the situation to bylaws calling for prayer without referencing a specific set of words. The petitioners assured the subcommittee that the land acknowledgement would appear in the warrant article explanation, along with a paragraph stating that future changes would be made by the IPCC. We later heard from the moderator that he would allow “some version of the statement to be set forth in the bylaw, but without reference to African slavery,” which he viewed as “outside the scope of the article.” Town Counsel agreed that the statement should be in the bylaw; however, petitioners objected to having to go through the process of amending the bylaw to change the statement.

A subcommittee member noted that recitation of the Pledge of Allegiance took less than 15 seconds, and the reading of the statement took nearly two minutes. Ms. Norton felt that two minutes was reasonable to recognize “Brookline’s racist past”. Petitioners disagreed with the subcommittee’s suggestion to shorten the statement so that people would be more likely to pay attention to it, but agreed that it would be useful to provide sources of additional information, given its educational purpose. A subcommittee member later suggested a three-minute time limit, which is the time generally allowed for speakers at Town Meeting, as a maximum for such statements read in the future.

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3 Great Barrington is a town, which plans to have its land acknowledgement read before its annual Town Meeting, and Salem is a city. Great Barrington’s land acknowledgement was approved by its Select Board and did not involve a bylaw change. Refer to Appendices B and C, respectively.
The subcommittee discussed the differences between a land acknowledgement, which recognizes indigenous people as the original stewards of the land, and a history of Indigenous people. The approved statement was seen by Town Counsel to depart significantly from a typical land acknowledgement. As written, WA11 permits the reading of a statement at Town Meeting that extends beyond land acknowledgement; and the statement that is currently proposed by the Indigenous People Celebration Committee departs significantly from the subject of the Article. Town Counsel did not believe that a traditional land acknowledgement statement would expose the Town to any liability. She noted that other types of statements issued by a Town body could be used against the Town in litigation regardless of when they are made, as has happened in the past. Thus, she opposes WA 11 as it is currently written.

**Statement as Expression of Town Meeting’s Beliefs**

A subcommittee member stated the view that if a town law passed by Town Meeting allowed a statement to be read at the start of every Town Meeting, then Town Meeting, in effect, would be endorsing the statement as representing its beliefs. It was “not simply a private statement,” but rather was “endorsed by the Town” so the wording was important to avoid potential legal issues. Another subcommittee member respectfully disagreed, noting that a statement (e.g., the Pledge of Allegiance) can be made in a group context, which every member may not accept. A third subcommittee member pointed out that the Pledge occurs before Town Meeting goes into session. A subcommittee member felt that regardless of when it occurs, Town Meeting is endorsing the Pledge by providing a platform. A petitioner referred to Nancy Heller’s comment at the Select Board’s hearing on this warrant article that it was not a call for legal action, but rather a recognition of the shameful behavior of our ancestors. Town Counsel indicated that a statement issued by a Town body could be viewed as approved by the Town and could be injurious to the Town, depending on what it said. Also, according to Town Counsel, if the wording of the statement is approved by the Town’s executive authority, it would carry greater authority and weight than a statement made by the appointed Indigenous People Celebration Committee, whose charge is to "develop and implement the Town's commemoration of Indigenous Peoples Day".

**Setting a Precedent**

A subcommittee member expressed concern that such a statement would set a precedent for other groups to seek similar statements at the start of Town Meeting, which could leave the Town open to costly discrimination lawsuits if the requests were denied. Because it is the first of its kind, it is important to spend time considering where it goes in the sequencing of Town Meeting, what it says, and how it is framed. A subcommittee member strongly felt the language of the statement should be included in the By-Law. This article inadvertently will guide future groups wanting equal time, so the subcommittee felt that rules, such as a time limit, should be added (within the scope) so future groups would not think they’re being treated differently than the IPCC.
Dr. Brown indicated that she could not think of other groups who had their land taken away and were enslaved other than Native Americans and Africans. A subcommittee member agreed that this was a “special situation” of people living here and being displaced and brutalized by our country’s founders. In her view, although other groups experienced prejudice and loss of life, all except Indigenous people came after the colonists and benefitted from them. Ms. Norton stated that the land acknowledgement refers to the enslavement of both Indigenous people and Africans and that there is no other equivalent group. In her opinion equating every historical wrong was “feeling very ‘All Lives Matter.’” A subcommittee member responded that it was not a matter of having equal weight but of dealing with other groups’ perceptions.

Sequencing at Town Meeting

Neil Gordon expressed support for the warrant article, but not in its current form. He was concerned that the statement would be read after the National Anthem as part of the business of Town Meeting. The statement, which was not written into the warrant, could change over time, depending on IPCC composition, a concern shared by Town Counsel and members of the subcommittee. Unlike other matters at Town Meeting in which there is debate, Town Meeting would not have the opportunity to respond to future changes. He planned to offer a motion that would move the reading of the statement to occur after the Pledge, when a quorum would be present. A subcommittee member agreed that the reading of the land acknowledgement should come after the Pledge and before Town Meeting, not to “downgrade it,” but rather because it is a “serious statement” that deserves “serious attention” as to what it will say. The subcommittee member viewed the National Anthem as a song sung before sports events, but the Pledge was “serious stuff.” Subcommittee members felt that perhaps this sequencing would address some of its other concerns.

A subcommittee member expressed the opinion that reading it once during the Annual Town Meeting was enough, but the petitioners want it read before every Town Meeting. Also, as other groups get equal time to make their own statements, the actual start of business would get pushed farther and farther back, delaying Town Meeting’s ability to get through the warrant. It is more important that the wording be consistent, if it is part of the meeting rather than prior to the meeting. Dr. van der Ziel restated the intent of the petitioners for the statement to be part of Town Meeting. Putting it before the actual opening of Town Meeting minimized its importance, which would be unacceptable to the IPCC members. In the opinion of Town Counsel, it did not matter when the statement was made. It was a statement of the IPCC and not Town Meeting.

Who Reads the Statement at Town Meeting

A subcommittee member indicated that the statement as revised was better than the first version and suggested that it might have “more weight” if read by an elected official (i.e., Select Board chair), rather than by an appointed IPCC member. The subcommittee member was concerned about a non-elected designee speaking on behalf of the Town. Another subcommittee member had reservations about the Select Board reading the statement, given
the reference to “we dedicate ourselves to addressing them today” and expressed a desire to have the Town Counsel weigh in on the legal implications. Dr. van der Ziel indicated that the IPCC thought that it made sense to have a descendant of Indigenous people (i.e., the IPCC chair) read the statement. Since it is a statement of the IPCC, it should, in the Town Counsel’s opinion, be read by a representative of the IPCC.

Legal Opinion of Town Counsel

Although Town Counsel had informal communications with subcommittee members, the subcommittee did not receive her official opinion until after the third meeting and, thus, the subcommittee’s recommendation did not have the benefit of it when we voted. Here is her opinion:

“I believe I have been (or at least it is my intention to be) consistent in my opposition to WA11 as it is currently drafted. WA11 and the statement that currently accompanies it depart from the typical land acknowledgement statements that have been widely adopted by other communities and educational institutions which almost universally honor, acknowledge and respect the indigenous people who came before us and who continue to reside in the respective communities. The examples I provided you by email included the statements of the Town of Great Barrington and Princeton University; of course, there are many others. As written, WA11 permits the reading of a statement at Town Meeting that extends beyond land acknowledgement; and the statement that is currently proposed by the Indigenous People Celebration Committee departs significantly from subject of the Article. Without a clear understanding of what the statement will be from year to year or from Town Meeting to Town Meeting, I strongly recommend against the adoption of the WA as written. I have also consistently maintained that any statement that is made by a public body in any venue may be used against the Town in litigation. The gravity of this depends, of course, on what the statement says; and if it is approved by the Town's executive authority, it would of course carry greater authority and weight than a statement made by the Indigenous People Celebration Committee, whose charge is to "develop and implement the Town's commemoration of indigenous Peoples Day". I hope this clarifies my position on this matter.”

Conclusion

As noted previously, the subcommittee generally was supportive of the idea of having a land acknowledgement read at the outset of Town Meeting, but had a number of reservations about the warrant article as proposed. First, there was concern about asking Town Meeting to approve of something without knowing what it was and knowing that it could change over time. There was also concern that this action would open the door to other groups who might want to read their statements at the start of every Town Meeting about historical wrongs done to their group members and who might bring discrimination suits against the Town if they were denied that opportunity. There was concern that there was no time restriction written into the

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4 Joslin Murphy Email, May 2, 2021.
article to limit statements by future groups who might want to make them. There was also a question on who would vet future statements and whether the Moderator would have the authority to do so, given that the wording of the statement is absent from the bylaw. In addition, it is a statement of the IPCC and not a part of the business of Town Meeting. Whether it would be considered a statement of Town Meeting if it is read after Town Meeting convened concerned the subcommittee. Finally, the statement as approved by the IPCC goes beyond a history of Indigenous people.

Subcommittee Recommendation

By a vote of 4-0, with no abstentions, the subcommittee recommends favorable action on warrant article 11, as amended:

To see if the Town will amend section 2.1.11 of the Town by-laws by adding a new fourth paragraph to read as follows:
“Following the signing of the National Anthem, an acknowledgement of the history of Indigenous people in Brookline, not to exceed three minutes in length, shall be read by the chair or a designee of the Indigenous People Celebration Committee.”
Or act on anything relative thereto.

The rationale for our motion is as follows: 1) based on Town Counsel's opinion, it did not seem to matter when the statement was read so we opted for the petitioners' version; 2) we included a time limit of "not to exceed three minutes", which is the amount of time allowed to speakers at Town Meeting and which was longer than the petitioners' approved statement, as a framework for possible future statements; and 3) we retained the reference to "statement acknowledging the history of Indigenous people" instead of "land acknowledgement" because the approved statement went beyond the scope of the latter. According to Moderator Gadsby, the approved statement also exceeds the scope of the warrant article, which once again raises the issue of vetting of statements read as part of Town Meeting.

It should be noted that the subcommittee’s vote preceded the receipt of Town Counsel’s formal legal opinion and that our vote did not fully reflect it. Some of her comments at the third public hearing seemed ambiguous and led to some confusion about her position.

Appendix A
Indigenous People’s Land Acknowledgement

As we gather today as Town Meeting Members, let us take a moment to acknowledge the history of the land we call Brookline.

This is the unceded land of the Massachusett people, whose traditions, language and stewardship continue today through their lineal descendants, the Massachusett Tribe of Ponkapoag. Today, we are living on land that was taken by force. By 1641, the colonists in “Brookline” had allocated to themselves almost all of the land that had been inhabited by Indigenous people.

Land was not the only form of theft that occurred. Lives were also stolen. Historical records state that in 1675, during King Philip’s War, seven Indigenous men were sold into slavery in the Caribbean by residents of the area we now call Brookline. The seven men represent part of the early slave trade.

Slavery in Brookline continued and grew but those enslaved were African or of African descent. By 1746, enslavers claimed ownership of over half of all Brookline land. We acknowledge the theft of land, culture, and lives and the ensuing enslavement of Indigenous and African peoples that occurred here. These early policies set the stage for centuries of systemic racism.

As we remember these atrocities, Town Meeting Members and the larger Town must commit ourselves to address the ongoing inequities that are the result of our history of colonialism and racism. Although we as individuals were not perpetrators of these atrocities, we benefit from these systems. Thus, we dedicate ourselves to addressing them today.

Appendix B

Approved by the Indigenous Peoples Celebration Committee, April 13, 2021.
Land Acknowledgement: Great Barrington

As we gather this evening for our annual town meeting, where we will decide upon the future direction of our community, it is important that we also look to, and learn from, the lessons of the past. We want to acknowledge that we are gathered on the traditional lands of the Mohican People, and honor with gratitude the land itself and the people who have stewarded it throughout the generations. We commit to continuing to learn how to become better caretakers of the land we inhabit, to understand the history and traditions of those who cared for it before us, and to learn from the successes and failures of preceding generations, in the pursuit of a more just, equal Great Barrington.

Appendix C
Indigenous Acknowledgement: Salem

The land we recognize today as Salem is Naumkeag, or fishing place, where generations of Indigenous Peoples lived and passed through for centuries. From the village upon the Naumkeag River (now known as the North River) to Sachem Nanepashemet’s fortification (now known as Castle Hill), the people of Naumkeag farmed, fished, traded, raised families, discovered, invented, created art, and above all else, honored the lands upon which you stand today. We acknowledge that this is Indigenous land and acknowledge the Massachusett tribe who continue to honor and hold this land into the present.