

ARTICLE 10

**MOTION OFFERED BY LEE L. SELWYN, TMM13**

Explanation

As submitted by the Petitioners, Section 1(e) requires, *inter alia*, that "All remote participants in a hybrid meeting shall have substantially the same access as in-person participants to the content of handouts, presentations and other material distributed or displayed, prior to or during the meeting, to in-person participants in the meeting."

With respect to traditional in-person Town Meetings – which would presumably include the types of hybrid in-person/remote meetings contemplated in this Warrant Article – the Town Meeting Handbook, 2021 Edition, at p. 29, requires that:

- "• During the voting period, the results of the vote will be displayed on the projection screen through a series of panels, by precinct (with one panel for at-large Town Meeting Members), in which the recorded votes of all Town Meeting Members who have voted will be displayed.
- The complete presentation of votes will be scrolled through at least twice during and after the voting period, so that Town Meeting Members may verify the accurate recording of their votes."

While it might be possible to display the in-person voting that is projected on the screen at the front of the auditorium on remote participants' screens, existing Zoom technology does not permit either in-person participants or remote participants to see the votes of remote participants in real time, thus creating a disparity as between the two categories of participants.

Section 1(g) of proposed WA10 provides that "All town meeting members participating in a hybrid meeting, whether attending in person or remotely, shall have the opportunity to vote on all matters put to a vote of town meeting members; such votes shall to the extent feasible be taken substantially contemporaneously; and such votes shall in the case of recorded votes be published as soon as practicable subject to the abilities of the respective voting systems used for in-person and remote votes. All votes at a hybrid meeting shall be taken by such means and in such a manner as shall be determined by the moderator to record accurately and securely the votes of those entitled to vote at the meeting." The requirement that different voting systems be used by in-person vs. remote participants results in unequal voting processes that places both categories of participants at a disadvantage. In-person voters will have the ability to immediately verify – and if necessary correct – any errors in the recording of their votes; they will also have the opportunity to see, in real time, how other in-person TMMs have voted. Remote participants will have neither of these capabilities, and in-person participants will not have the ability to see, during the voting process, how remote participants have voted. If a Town

Meeting (or Special Town Meeting within another Town Meeting) is dissolved prior to the publication by the Town Clerk of votes cast by remote participants, under existing rules as interpreted by the Moderator, such participants will be denied the opportunity to correct their votes or to have their votes inserted in the event that the Zoom voting platform failed to record their votes, as has occurred during the current STM2. This “no corrections after dissolution” rule – which has been in effect in Brookline for decades – is premised upon 100% in-person participation and is not compatible with Town Meetings wherein some (or all) participants access Town Meeting remotely, via Zoom or some other remote meeting technology platform. Without the ability to confirm their votes immediately as submitted, the rule operates to prevent remote participants from correcting errors in the recording or receipt of their votes during the final session of a regular or special Town Meeting. The proposed amendment resolves this incompatibility between Town Meetings that will accommodate remote participation and potentially avoid the adverse consequences of the “no corrections after dissolution” rule.

To address these issues, I am proposing the following amendment (shown in redline) to WA10 as recommended by the Select Board:

VOTED: To authorize and empower the Select Board to file a petition with the General Court for special legislation as set forth below:

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO HOLD HYBRID TOWN MEETINGS.

*Provided that the General Court may reasonably vary the form and substance of this requested legislation within the scope of the general public objectives of this petition, 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. Notwithstanding any general or special law, charter provision, ordinance or by-law to the contrary, the Town of Brookline may hold town meetings at which participants attend both in person and remotely (hereinafter sometimes called a “hybrid meeting”), subject to the following:

- (a) The determination of whether a town meeting shall be a hybrid meeting shall be made by the Select Board at the time that it approves the warrant for such meeting, and the warrant shall contain such provisions as shall be deemed by the moderator and Town Counsel to be necessary in order properly to notify participants in such meeting of the requirements set forth in this section.
- (b) Except as otherwise set forth in this section, town meeting members and other participants in a hybrid meeting may elect to attend such meeting either in person, at the location designated in the warrant for such meeting, or remotely by means of a video conferencing platform.

- (c) All town meeting members attending a hybrid meeting, whether in person or remotely, shall be counted for purposes of determining the presence of a quorum at the meeting.
- (d) The moderator, the Town Clerk and all members of the Town's information technology staff and other persons required to operate the voting and other technical systems necessary for the proper function of a hybrid meeting in accordance with this section shall attend each session of a hybrid meeting in person. All other participants in a hybrid meeting, including town meeting members and other residents and non-residents of the Town, may attend each session of a hybrid meeting either in person or remotely. In order to attend a session of a hybrid meeting remotely, a participant shall be required to provide written or electronic notice of such participation to the moderator and Town Clerk, which notice shall be required to be received no later than 48 hours before such session. Such notices may cover such person's remote attendance at one or more sessions of a hybrid meeting. Such notice requirement may in general or in specific instances be waived for Town officials and other Town employees by the moderator, by written notice to the Town Clerk and Office of the Select Board.
- (e) The video conferencing platform shall afford all remote participants in a hybrid meeting the ability to identify and hear the moderator and each town meeting member who attends the meeting, as well as any other persons who participate in the meeting. All remote participants in a hybrid meeting shall have substantially the same access as in-person participants to the content of handouts, presentations and other material distributed or displayed, prior to or during the meeting, to in-person participants in the meeting.
- (f) All participants in a hybrid meeting, whether attending in person or remotely, shall have a substantially equal opportunity to request recognition by the moderator, make a motion or raise a point of order or question of privilege.
- (g) All town meeting members participating in a hybrid meeting, whether attending in person or remotely, shall have the opportunity to vote on all matters put to a vote of town meeting members; such votes shall to the extent feasible be taken substantially contemporaneously; and such votes shall in the case of recorded votes be published as soon as practicable subject to the abilities of the respective voting systems used for in-person and remote votes. All votes at a hybrid meeting shall be taken by such means and in such a manner as shall be determined by the moderator to record accurately and securely the votes of those entitled to vote at the meeting. Notwithstanding any other provisions of this Section, remote participation will not be permitted unless the voting process is capable of assuring that (a) all in-person and remote votes are displayed contemporaneously during the period of time during which voting is permitted, that this information is displayed on the projection screen through a series of panels, by precinct (with one panel for at-large Town Meeting Members), in which the recorded votes of all Town Meeting Members who have voted will be displayed, that the complete presentation of votes will be scrolled through at least twice during and after

the voting period, so that all in-person and remote Town Meeting Members may verify the accurate recording of their votes, and that this same information and ability to verify be contemporaneously available to remote participants.

- (h) Town meeting members who do not have access to the video or other conferencing system used for remote participants in a hybrid meeting may participate in the meeting via telephone conference call. The requirements of sub-sections (e) and (f) of this section shall to the extent that they cannot be complied with through telephone conferencing not apply to such town meeting members. No persons other than town meeting members shall be permitted to participate in a hybrid meeting via telephone conference call.

SECTION 2. All actions taken during a hybrid meeting held pursuant to section 1 are hereby ratified, validated and confirmed to the same extent as if the hybrid meeting had been conducted entirely in person, and such actions shall be deemed to comply in all respect with all other applicable laws, charter provisions, ordinances and by-laws.

SECTION 3. This act shall take effect upon its passage.

ARTICLE 10

**AMENDMENT OFFERED BY PAUL WARREN, TMM1**

VOTED: To authorize and empower the Select Board to file a petition with the General Court for special legislation as set forth below:

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO HOLD HYBRID TOWN MEETINGS.

*Provided that the General Court may reasonably vary the form and substance of this requested legislation within the scope of the general public objectives of this petition, 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. Notwithstanding any general or special law, charter provision, ordinance or by-law to the contrary, the Town of Brookline may hold town meetings at which participants attend both in person and remotely (hereinafter sometimes called a “hybrid meeting”), subject to the following:

- (a) The determination of whether a town meeting shall be a hybrid meeting shall be made by the Select Board at the time that it approves the warrant for such meeting, and the warrant shall contain such provisions as shall be deemed by the moderator and Town Counsel to be necessary in order properly to notify participants in such meeting of the requirements set forth in this section.
- (b) Except as otherwise set forth in this section, town meeting members and other participants in a hybrid meeting may elect to attend such meeting either in person, at the location designated in the warrant for such meeting, or remotely by means of a video conferencing platform.
- (c) All town meeting members attending a hybrid meeting, whether in person or remotely, shall be counted for purposes of determining the presence of a quorum at the meeting.
- (d) The moderator, the Town Clerk and all members of the Town’s information technology staff and other persons required to operate the voting and other technical systems necessary for the proper function of a hybrid meeting in accordance with this section shall attend each session of a hybrid meeting in person. All other participants in a hybrid

meeting, including town meeting members and other residents and non-residents of the Town, may attend each session of a hybrid meeting either in person or remotely. In order to attend a session of a hybrid meeting remotely, a participant shall be required to provide written or electronic notice of such participation to the moderator and Town Clerk, which notice shall be required to be received no later than 48 hours before such session. Such notices may cover such person's remote attendance at one or more sessions of a hybrid meeting. Such notice requirement may in general or in specific instances be waived for Town officials and other Town employees by the moderator, by written notice to the Town Clerk and Office of the Select Board.

- (e) The video conferencing platform shall afford all remote participants in a hybrid meeting the ability to identify and hear the moderator and each town meeting member who attends the meeting, as well as any other persons who participate in the meeting. All remote participants in a hybrid meeting shall have substantially the same access as in-person participants to the content of handouts, presentations and other material distributed or displayed, prior to or during the meeting, to in-person participants in the meeting.
- (f) All participants in a hybrid meeting, whether attending in person or remotely, shall have a substantially equal opportunity to request recognition by the moderator, make a motion or raise a point of order or question of privilege.
- (g) All town meeting members participating in a hybrid meeting, whether attending in person or remotely, shall have the opportunity to vote on all matters put to a vote of town meeting members; such votes shall to the extent feasible be taken substantially contemporaneously; and such votes shall in the case of recorded votes be published as soon as practicable subject to the abilities of the respective voting systems used for in-person and remote votes. All votes at a hybrid meeting shall be taken by such means and in such a manner as shall be determined by the moderator to record accurately and securely the votes of those entitled to vote at the meeting.
- (h) Town meeting members who do not have access to the video or other conferencing system used for remote participants in a hybrid meeting may participate in the meeting via telephone conference call. The requirements of sub-sections (e) and (f) of this section shall to the extent that they cannot be complied with through telephone conferencing not apply to such town meeting members. No persons other than town meeting members shall be permitted to participate in a hybrid meeting via telephone conference call.

4.(i) All deliberations among voting members during a hybrid Town Meeting shall be visible to Town Meeting Members and the Public.

SECTION 2. All actions taken during a hybrid meeting held pursuant to section 1 are hereby ratified, validated and confirmed to the same extent as if the hybrid meeting had been conducted entirely in person, and such actions shall be deemed to comply in all respect with all other applicable laws, charter provisions, ordinances and by-laws.

SECTION 3. This act shall take effect upon its passage.

#### Explanation

This Amendment ensures that, in our transition to a hybrid format, we do not promote, enable, or condone an overall reduction in public access and understanding of the content and output of deliberations, or in the expectation of a single public conversation among the voting Town Meeting body during proceedings.

A series of speakers at Town Meeting form a common public discussion that influences the voting decision of Town Meeting members on matters ranging from motions to terminate debate to amendments to underlying votes. Broad views of each warrant article are shaped over the course of the months ahead of Town Meeting, but they are amended, adjusted, and finalized out of the public deliberations at the Town Meeting itself.

This Amendment aims to maintain a core characteristic of in-person Town Meeting, which is the expectation of a single, common deliberation, transparent to the public and to each Town Meeting member during Town Meeting proceedings. The amendment seeks to reinforce the transparency and accountability of the in-person environment in the hybrid Town Meeting.

In an in-person Town Meeting, small gatherings of Town Meeting Members who may engage in a side conversation are visible to other Town Meeting members. In addition, those side conversations are kept small by the physical circumstances of the space and the prerogative of the Moderator to re-focus individuals on the debate. The Moderator has discouraged the use of cell phones during Town Meeting unless they are being used to consult the printed Town Meeting materials. Therefore, larger-scale private communications channels have been effectively disallowed during in-person Town Meeting.

This is not the case with remote Town Meeting. Large, private, secondary channels of deliberation during town meeting are facilitated by group chat programs offered by Apple and Google. These large, secondary deliberations are a significant departure from in-

person Town Meeting. In a remote Town Meeting, a substantial portion of the Town Meeting body can deliberate on motions and in response to individual speakers in separate, group, private channels that are not transparent to the body and that do not create a good record of deliberations for the public.

Large-scale private conversations during Town Meeting that influence voting decisions are not good democratic practice, undermining accountability. In a remote Town Meeting, members cannot see when there are multiple deliberations occurring at greater scale than could be achieved in the auditorium of in-person Town Meeting.

The Town Meeting deliberation is designed to enable public reasoning and analysis, with Town Meeting members elected to assess the common debate and vote accordingly. Members of the public whose lives, property, health, and well-being are directly impacted by the decisions of Town Meeting may rely in a court proceeding on discussions occurring during the public deliberations at Town Meeting, but do not have awareness of or access to deliberations that occurred concurrently in private channels that influenced member voting choices.

While Town Meeting is not subject to the Open Meeting Law, we do not ignore the values that inform it. Our constituents deserve a visible Town Meeting process that serves as a complete account of the discussion of voting members.

ARTICLE 25

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

At the Select Board meeting on 11/17 a unanimous Select Board voted FAVORABLE ACTION on the referral motion offered by the Advisory Committee.

ARTICLE 27

**POSSIBLE MOTION TO BE OFFERED BY THE ADVISORY COMMITTEE**

Submitted by: John Doggett (TMM P13) and Neil Gordon (TMM P1)

MOVED: That the Town amend Article 2.1.4 of the General By-laws as follows (additions in **bold underline**) By-law 2.1.4 as follows:

SECTION 2.1.4 WARRANT REPORTS FOR ARTICLES

There shall be filed with each Article intended for the Warrant a brief statement or explanation by the proponent **that shall include, to the extent practicable, the financial impact on the Town of implementing the proposed change, though failing to include the explanation or this information will not prevent the Article from appearing on the Warrant.**

Clear Text:

SECTION 2.1.4 WARRANT REPORTS FOR ARTICLES

There shall be filed with each Article intended for the Warrant a brief statement or explanation by the proponent that shall include, to the extent practicable, the financial impact on the Town of implementing the proposed change, though failing to include the explanation or this information will not prevent the Article from appearing on the Warrant.

**EXPLANATION**

A concern was expressed regarding an article being excluded from the Warrant due to the explanation or financial impact information's omission. Since State law explicitly rules this out as a possibility, language has been added to make clear in the By-law that an article submitted cannot be excluded for any reason related to the Explanation or financial impact statement omission. In addition, minor grammar and word order changes are made for greater clarity