

Ad-Hoc Subcommittee on Budget Review Practices Report

Hearing Held September 19, 2022 via Zoom
Warrant Articles 14 and 36 both of which relate to PILOTs

Attending the Meeting were: Petitioners Alec Lebovitz and Michael Toffel; Subcommittee members Harry Bohrs, Katherine Florio, Neil Gordon, Susan Granoff, Amy Hummel, Stephen Reeders. Absent, Lee Selwyn. The Interim Director of Finance, Stephen Cirillo, The Town Assessor, Rachid Belhocine, Select Board Member John VanScoyoc, TMM (16) Joslin Murphy, and TMM (6) Marissa Vogt.

Warrant Article 14: Amend Article 4.2.7 of the Town’s General By-Law to require annual reporting on the Town’s Payment in Lieu of Tax (PILOT) program

Warrant Article 36: Resolution regarding the Town’s Payment in Lieu of Tax (PILOT)

Recommendation:

WA14: Favorable Action on Warrant Article 14 as amended by a vote of 6-0 with 0 abstentions.

WA36: The Sub-Committee did not vote.

Executive Summary:	<p>Article 14 proposes amending the Town’s General By-Laws to include a reporting requirement of the assessed value of tax-exempt properties in town, (excluding government owned properties). The reporting requirement would include public information that is already collected by the Town such as: the proposed or applied tax rate for that property; the amount the Town has requested that entity pay; the amount, if any, those entities have agreed to the pay the town (in lieu of taxes); when and what portion of those amounts have been paid; and the date of the latest agreement between the Town and the tax-exempt entity. The stated purpose of the article is to improve reporting and transparency as they relate to PILOTs, without overburdening Town staff. The hope is that such reporting will incentivize tax-exempt entities who do not have these agreements to do so.</p> <p>Article 36 is a resolution that proposes the creation of a Moderator’s committee to review the Town’s PILOT policies and suggest improvements. Said committee would report to the Select Board, Advisory Committee and Town Meeting by August 1, 2023 – early enough to prepare possible warrant articles for Special Town Meeting in the fall. The goal of the article is to encourage the Town to actively and effectively pursue PILOTs and in doing so, increase Town revenue.</p>
Voting Yes will...	<p>WA 14 Obligates the Town Assessor to collaborate with the Director of Finance and report information, which is specified in the language of the proposed by-law, on the Town website no less than annually.</p>

	WA 36 Encourage the Town Moderator to create a sub-committee charged with evaluating the current PILOT policy, ways to invigorate and expand the Town’s PILOT program, and report findings and make recommendations no later than August 1, 2023
Voting No will...	<p>WA 14 – There will be no additional mandated public reporting of information related to PILOTS, however, the information which is public will remain available to those who ask, although the Assessor, in collaboration with the Director of Finance could take it upon themselves to disclose the information publicly.</p> <p>WA 36 – The Town will continue as it has, with the Director of Finance free and encouraged to follow the established PILOT policy and pursue negotiations (new and existing) with non-religious tax-exempt entities.</p>
Financial impact [if any]	<p>WA 14 – The costs are ostensibly low in terms of staff time since the Town already collects the data the Assessor’s office would report.</p> <p>WA 36 – The costs are low to nothing, though the proposed Moderator’s committee may require staff time and resources in the course of its work. While there may be costs that flow from the work of the Moderator’s committee those potential costs are not currently measurable.</p>
Legal implications [if any]	None identified.

Introduction

Warrant articles 14 and 36 dovetail in-so-far-as they both relate to payment in lieu of taxes (PILOTS), which are voluntary, negotiated payments made by institutions which have been deemed by the state legislature to be tax exempt because of their non-profit status. These institutions include but are not limited to universities, private schools, religious institutions, and non-profit hospitals. These institutions benefit from Town services and all the community has to offer.

Brookline has been a leader with its PILOT program, benefitting from the experience of a past Finance Director who, prior to coming to Brookline, had negotiated PILOTs and created best practices training for the state as early as 1993. Brookline first adopted a PILOT program in 2007 recognizing that meaningful negotiations between some tax-exempt entities in Town would be fair and beneficial. A citizen study committee, commissioned in 2008 in anticipation of the 2010 override, reviewed the Town’s PILOT policy then. And the Town last revisited and amended the PILOT policy in 2011. The [policy](https://www.brooklinema.gov/DocumentCenter/View/677/PILOT-Policy-Revised-2011) is available on the Town website.¹

Warrant Article 14 seeks to amend the Town By-Laws so that the Town Assessor must include a prescriptive list of information related to PILOTs, so that the public can more readily identify

¹ <https://www.brooklinema.gov/DocumentCenter/View/677/PILOT-Policy-Revised-2011>

which tax-exempt institutions are participating and which are not, while article 36 asks for creation of a Moderator's committee to study and pursue means of increasing PILOT in Brookline, reporting findings and recommendations by August 1, 2023. It may be that if both articles pass, the Moderator's committee may recommend amending or removing the information published should WA14 pass, either for relevance, ease of use or some other strategic purpose.

Relevant Links

- *Brookline's [PILOT policy](#)*

Abbreviated Background of PILOTs in Brookline

The sub-committee learned that the current PILOT policy reflects past negotiations and community sentiment that the Town not pursue PILOTs with religious institutions, and that larger institutions required that all institutions be treated equally, or they would not enter into PILOT agreements at all. As a result, when formulating current policy, the Town chose not to use the term religious and instead created a smaller category of PILOTS. It also determined the proper level of payment and lieu of tax would be twenty five percent of the assessed value of tax-exempt entities property or properties; the calculation was based on the cost of services (police, fire, DPW maintenance and snow removal etc.) the entities benefit from.

Currently Boston University and Children's Hospital have entered into PILOTs with Brookline. The sub-committee also learned that some properties come in and out of tax-exempt status depending on their use. For example, if a building or a portion of a building is used for educational or administrative purposes, it is exempt. If it is later used as commercial space, it is not. The Interim Finance Director also noted that some tax-exempt entities are in Town owned buildings, like the auto museum. Those entities are generally given the option to pay rent rather than enter into a PILOT.

Unlike Boston, Newton and surrounding communities, Brookline's practice has been to enter into contracts with PILOT participants in order to ensure the fruits of the negotiations bear out. These contracts are usually re-negotiated every four to five years. Without a contract, PILOTs are more difficult if not impossible to enforce if the tax-exempt entity fails to pay as promised; the Interim Director of Finance provided an example of a large institution doing just that in a neighboring city.

Notably, in-kind services, such as discreet payments from a non-profit for a particular purpose (such as erecting a statue or supporting an event) are not considered PILOT and do not impact the Town's revenue stream, they may however, undermine PILOT agreements.

Discussion

There was a significant discussion about PILOTs in Brookline generally, some of the key takeaways are noted above.

Petitioners advocated for both articles citing opportunities for increased revenue if Brookline's PILOT program is re-energized with the help of a Moderator's committee (the subject of WA

36), and if publishing PILOT participants and the level of their participation encourages greater participation among those clearly absent (the subject of WA 14).

WA 14

The committee questioned whether the very prescriptive language in WA14 was necessary. The petitioner's agreed to amend the first line of their proposed language so that rather than requiring the Assessor to publish the prescribed information in the Town's Annual Report, the Assessor will post the information on the Town website (less prescriptive) at least annually. The Assessor indicated that it may actually be accomplished twice a year, but that is not required. The committee also noted that information the Assessor is required to post per the warrant article may not be the most helpful or illuminating to the public. If the purpose is to increase transparency and provide clarity, perhaps other choices would be better. For example, aggregating the property owned by specific entities would be useful. The petitioners answered that their goal of transparency was balanced against the sentiment that Town employees' time is valued and often over-stretched, and opted to ask for readily available data that could logically fit into existing tables rather than asking the Assessor to create something from whole-cloth.

The committee also inquired whether or not WA14 was premature. Perhaps the Moderator's committee would recommend another tack entirely. Perhaps publishing the data would in-fact prove to be problematic and decrease PILOT participation. The petitioners reiterated their goal of making public information easier for the public to find, independent of any work done by a Moderator's committee. If the reporting requirements called for in WA14 are imperfect, they may be amended in the future.

The committee heard from the petitioners about the strides Boston has made in raising revenue with their PILOT program, and attributed some of their success to publication of PILOT participation.

WA 36

The discussion around WA36 focused on the tone of the article. Brookline has been a leader regarding PILOTs and has a sound PILOT policy, yet the tone in the article suggests otherwise. Additionally, in WHEREAS clause seven article refers to statements the Town Administrator made without acknowledging that we have a new Town Administrator. Such language could create confusion and lead to misunderstanding. Although that language was a quote pulled from the Moderator's committee reporting on the progress of BFAC recommendations, the sub-committee suggested possible wording changes to increase clarity.

Subcommittee members were supportive of the petitioner's goals and the warrant article. The hour was late and the meeting was continued to give the petitioner's time agree on amended language after hearing suggestions for friendly amendments.

Recommendation

By a vote of 6-0-0, the subcommittee recommends FAVORABLE ACTION on warrant article 14.

The committee did not vote on WA 36.

[Roll call vote will be appended when the report is edited for the Combined Reports/]