

Town of Brookline

# Special Town Meeting

November 15, 2022

**Town of Brookline 2022 Special Town Meeting**  
**November 15, 16, 17, 29, 30, and December 1, 6, 8, 9 2022**

**Night 1: November 15, 2022**

- Pledge of Allegiance conducted.
- Call to order: 7:00 PM.
- A quorum being present, the meeting was called to order by Moderator Kate Poverman.
- Acknowledgement of the properly noticed warrant by Town Clerk Ben Kaufman.
- Star Spangled Banner sung by Vena Priestly.
- Land Acknowledgement read by Felina Robinson
- **VOTED** to authorize the remote special town meeting request as submitted by the Town Moderator, Kate Poverman for the Special Town Meeting scheduled to be held on November 15, 2022, and any additional Special Town Meeting to be held concurrently, to be held through remote participation.
  - **APPROVED**
- **MOTION** to DEFER Article 2 to November 29, 2022
  - **APPROVED**
- **MOTION** to DEFER Articles 11, 12, and 13 to November 17, 2022
  - **APPROVED**
- **MOTION** to DEFER Article 15 to November 29, 2022
  - **APPROVED**
- **MOTION** to DEFER Article 23 to be heard immediately after Article 15
  - **APPROVED**
- **MOTION** to DEFER Article 39 to November 30, 2022
  - **APPROVED**
- **MOTION** to ADJOURN Special Town Meeting
  - **APPROVED**

*Adjourn Special Town Meeting*

*Begin Second Special Town Meeting*

**Second Special Town Meeting**

- Call to order: 7:31 PM
- Moderator Kate Poverman presiding

**ARTICLE 1**

*FY2023 Budget Amendment*

Submitted by: Select Board

Motioned and duly seconded.

Presented by: Heather Hamilton

Speakers: Heather Hamilton (Select Board/AL), Dennis Doughty (P3/AC), David Lescohier (P11)

**VOTED:** VOTED: That the Town:

- 1) Amend the FY2023 budget as shown below and in the attached Amended Tables I and II:

ITEM #	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
1. Select Board	\$833,631	\$15,000	\$848,631
9. Planning & Community Development	\$1,382,091	\$85,902	\$1,467,993
15. Health and Human Services	\$1,340,667	\$60,216	\$1,400,883
21. Schools	\$125,098,883	\$514,995	\$125,613,878
24. Collective Bargaining Reserve	\$3,151,633	\$263,960	\$3,415,593
33. Printing of Warrants (Town Meeting)	\$50,000	\$66,000	\$116,000

- 2) Amend Section 12 (Community Preservation Fund) of Article 8 of the 2022 Annual Town Meeting so it reads as follows:

**12.) COMMUNITY PRESERVATION FUNDS**

- a) To appropriate \$138,129 from FY2023 Community Preservation Fund revenues for committee administrative expenses:

Salaries	38,129
Contingency	100,000

- b) To appropriate \$270,000 to the Affordable Housing Reserve
- c) To appropriate \$270,000 to the Parks and Open Space Reserve
- d) To appropriate \$270,000 to the Historic Preservation Reserve

3) Appropriate \$84,060.60 to be expended under the direction of the Commissioner of Public Works to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure and to meet the appropriation transfer \$84,060.60 from the Transportation Network Company (TNC) special revenue account.

4) Appropriate, \$275,000 to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Robinson Playground and to meet the appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$275,000 under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority.

5) Appropriate, \$355,000 to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Murphy Playground and to meet the appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$355,000 under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority.

6) Raise and appropriate \$800,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for the replacement of Fire Engine #4 and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$700,000 under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority.

**Approved:**    AYE: 247                      NO: 0                      ABSTAINED: 4

Point of Personal Privilege: Harry Friedman (P12), Ben Kaufman (Town Clerk/AL)

### **ARTICLE 3**

*Budget Amendment pertaining to code enforcement activities*

Submitted by: Anthony Ishak TMM1, Sassan Zelkha TMM14, Sean Lynn-Jones TMM1, Charles Swartz TMM9, Kimberly Richardson TMM2, Kate Silbaugh TMM1, Don Weitzman TMM8, Carolyn Goodwin TMM8, John Margolis TMM7

Motioned and duly seconded.

Presented by: Michael Sandman

Speakers: Michael Sandman (Select Board/AL), Sigalle Reiss (Health Commissioner), Vena Priestly (P4), George Abbott-White (P9), Aone Wang (P8), Conor Sheehan (P10), Joslin Murphy (P16), Markus Penzel (P2), Anthony Ishak (P1), Sean Lynn-Jones (P1)

**MOTION** to Terminate Debate

**APPROVED**

**VOTED:** That the Town adopt the following resolution:

A Resolution to Urge that the Town of Brookline Devote More Resources to  
Trash Management and Rodent Control

WHEREAS reports of rat sightings in Brookline have increased over 300% since 2019, according to the Department of Public Works and the Department of Public Health and Human Services; and

WHEREAS the rat infestation has been observed in many parts of Brookline, including but not limited to commercial districts in North Brookline and nearby and abutting residential properties, areas along Beacon Street, Brookline Housing Authority properties, and parks and playgrounds; and

WHEREAS the increased level of rat infestation is the result of many factors, including but not limited to warmer winters, demolition and construction activity, the increased availability of rodent food sources due to poor trash management, and changes in behavior due to the COVID pandemic, such as an increase in outdoor and take-out dining and greater use of parks and playgrounds; and

WHEREAS rats can cause infections, property damage, and food loss; and

WHEREAS rat infestation has reduced the quality of life for Brookline residents who encounter rodents in or near their residences and have had to endure the stench of rat urine and feces, dispose of rat carcasses, and remove flowers and vegetables from their backyards to make their properties less attractive to rats; and

WHEREAS many Brookline residents have spent thousands of dollars to control rat infestation or to repair the damage inflicted by rats on their property and vehicles; and

WHEREAS addressing Brookline's rat infestation problem will require a multi-pronged, long-term program of action, including increased inspections and enforcement, hiring additional staff, procurement of equipment such as a trash compacting vehicle, installing rodent-resistant trash receptacles in parks, playgrounds, and public spaces, and enhanced public education on the best practices for managing solid waste and eliminating rodent habitats; and

WHEREAS on October 12, 2022, the Town released a proposed Rodent Control Action Plan, which the Select Board discussed and voted on at its October 18, 2022, meeting; and

WHEREAS the Rodent Control Action Plan is an important first step toward controlling the rat infestation in Brookline, but by itself is unlikely to address all dimensions of the problem; and

WHEREAS Town Meeting could amend Brookline’s fiscal year 2024 budget if that budget does not include adequate appropriations for rodent control and trash management, including but not limited to the appropriations recommended in the Rodent Control Action Plan.

NOW THEREFORE BE IT RESOLVED that Town Meeting thanks Town staff, particularly the Department of Public Works and the Department of Public Health and Human Services, for their efforts to combat Brookline’s rat infestation and for their work in preparing the Rodent Control Action Plan; and

BE IT FURTHER RESOLVED that Town Meeting urges the Town Administrator to prepare a FY-2024 Financial Plan that includes sufficient funding for fighting rat infestation, including inspections, enforcement, rodent-resistant trash receptacles, education and communication, rodent baiting, trapping, and removal, and any other best practices for rodent control; and

BE IT FURTHER RESOLVED that Town Meeting urges the Select Board to review all fees, fines, and penalties related to trash management and rodent control with the goal of increasing revenues for efforts to combat the rat infestation and providing much stronger incentives for compliance with sanitation regulations and bylaws; and

BE IT FURTHER RESOLVED that Town Meeting urges the Department of Public Health and Human Services and the Department of Public Works to revise regulations pertaining to solid waste and any other regulations related to rat infestation to ensure that there are stringent requirements that will help to reduce rodent infestation and penalties that are severe enough to ensure compliance; and

BE IT FURTHER RESOLVED that Town Meeting urges Town boards, commissions, and committees to consider the need to fight the rat infestation as they make decisions regarding the allocation of American Rescue Plan Act funds, Community Preservation Act revenues, and any other relevant available funds; and

BE IT FURTHER RESOLVED that Town Meeting urges Brookline businesses, restaurants, residents, property owners, and property managers to follow Town sanitation regulations and to take all necessary steps to minimize rat infestation.

**Approved:**    AYE: 241                      NO: 4                      ABSTAINED: 6

*Adjourn Second Special Town Meeting*

*Resume Special Town Meeting*

### **Special Town Meeting**

- Call to order: 8:26 PM
- Moderator Kate Poverman presiding





## **ARTICLE 5**

*Amend Article 2.5 of the Town's General By-Laws to reduce the requirement for recommendations on all warrant articles*

Submitted by: Select Board

Motioned and duly seconded.

Presented by: Heather Hamilton

Speakers: Heather Hamilton (Select Board/AL), Sean Lynn-Jones (P1), Kelly Hardebeck (P7/AC), Neil Gordon (P1), Martin Rosenthal (P9), Amy Hummell (P12)

Point of Order: Paul Warren (P1)

Speakers: Nancy Daly (P12), Alec Lebowitz (P8), Chas Carey (Town Administrator), Vena Priestly (P4), Mike Toffel (P8), Joe Callanan (Town Counsel), Melissa Goff (Deputy Town Administrator), Natalia Linos (P6), Heather Hamilton (Select Board/AL), Regina Frawley (P16), Jonathan Margolis (P7)

**MOTION** to Terminate Debate

**APPROVED**

**VOTED:** To refer the subject matter of Article 5 to the Committee on Town Organization and Structure with a request that the Committee consider amendments to the relevant bylaws and report on its recommendations no later than the May 2023 Annual Town Meeting.

**Approved:** AYE: 162                      NO: 79                      ABSTAINED: 11

Point of Personal Privilege: Jesse Gray (P10)

## **ARTICLE 6**

*Acceptance of an easement allowing access to 51 Bartlett Crescent*

Submitted by: Department of Public Works

Motioned and duly seconded.

Presented by: Bernard Greene

Speakers: Bernard Greene (Select Board/AL), Ben Birnbaum (AC)

**VOTED** To authorize and empower the Select Board to acquire and accept an easement from 5 Washington Square Fee Owner LLC, its successors or assigns, over property located at the corner of Bartlett Crescent and Washington Street in Brookline, with an address of 51 Bartlett

Crescent, Town of Brookline (Assessor's Parcel ID No. 93-25-01), for the right to access the property to repair and maintain the drain. The easement area is as substantially shown on the plan submitted herewith entitled "Easement Plan of Land, 5 Washington Square Owner, LLC" prepared by Gerry L. Holdright, PLS, dated December 18, 2019, as may be amended, said plan on file with the Town Clerk. Further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, to carry out this vote and other acts authorized herein.

**Approved:**    AYE: 244                      NO: 1                      ABSTAINED: 4

## **ARTICLE 7**

*Amend the Town's General By-Laws to reduce the need to publish and distribute hard copies of certain reports*

Submitted by: Aone Liyuan Wang, TMM8 and Alec Lebovitz TMM8

Motioned and duly seconded.

Presented by: Aone Wang

Speakers: Aone Wang (P8), Alec Lebovitz (P8), Tommy Vitolo (State Representative/AL), Neil Gordon (P1/AC), Amy Hummel (P12), John VanScoyoc (Select Board/AL), Nancy Daly (P12), Simon Grossman (P7), Jonathan Abbett (P12), George Abbott-White (P9), Mark Levy (P7), Dick Benka (P14), Alec Lebovitz (P8)

**MOTION** to Terminate Debate

**APPROVED**

**VOTED:** That the Town amend the Town bylaws pertaining to Town Meetings by amending section 2.1.2 ("OPENING OF THE WARRANT"), 2.1.5 ("NOTICE OF MEETINGS", 2.5.1 ("SPECIAL COMMITTEE REPORTS"), 2.5.2 ("COMBINED REPORTS"), 2.5.3 ("PERMANENT RECORD OF REPORTS"), 3.4.5 ("TOWN REPORTS"), 4.2.4 ("DISTRIBUTION OF REPORTS") as follows (new language appearing in **bold/underline**, deleted language appearing in ~~strikeout~~):

### SECTION 2.1.2 OPENING OF THE WARRANT

At least fourteen days prior to the opening of the Warrant for the Annual or a Special Town Meeting, the Select Board shall post notices of their intention to do so in at least ten places in the Town and shall notify each Town Meeting Member in writing of the opening date and closing date for submission of Articles to said Warrant and shall publish notice thereof in a newspaper of general circulation throughout Brookline. Such written notification by the Select Board shall be made by **e-mail** to the Town Meeting Member's **email** address on file with the Town Clerk's

office. No such notification shall be necessary where a Special Town Meeting has been called by a citizen's petition.

~~In lieu of the above mailing requirement,~~ The Select Board ~~may~~ **shall send mail** the required notice ~~electronically~~ **physically** to any Town Meeting Member who so requests.

#### SECTION 2.1.5 NOTICE OF MEETINGS

(A) Notification. The Select Board shall cause copies of the Warrant for each Town Meeting to be filed with the Town Clerk, and shall direct the Town Clerk to publicly post such copies of the Warrant on the principal Town Bulletin Board at least fourteen (14) days before the Annual Town Meeting and at least fourteen (14) days before any Special Town Meeting is to convene. Such posting shall be deemed to be the legal notification of such meeting and the legal service of such warrant.

(B) Distribution. The Select Board shall cause a copy of the articles in the warrant for each Town Meeting to be published in a newspaper of general circulation within the Town, to be posted on the Town website, and **a link to such articles** to be **e-mailed** ~~delivered in hand, or mailed, either separately or as a part of the Combined Reports,~~ to the Moderator and to the representative Town Meeting members, and shall cause the posting of copies of the ~~same~~

**such articles** in ten public places in the Town, at least seven (7) days before a Special Town Meeting is to convene and at least fifteen (15) days before an Annual Town Meeting is to convene. **A notice providing information on accessing the online materials shall be mailed to the Moderator and to the representative Town Meeting members.**

The requirements provided in this subsection (B) shall not be deemed to be a part of the legal notification of such meeting or the legal service of such warrant and the failure to comply with the provisions of this subsection (B) shall not serve to invalidate the proceedings of any Town Meeting.

**The Select Board shall mail a link to the articles in the warrant for each Town Meeting to any Town Meeting Member who so requests.**

#### SECTION 2.5.1 SPECIAL COMMITTEE REPORTS

All special committees created by a Town Meeting or the Moderator shall make a report of their findings and recommendations by filing a signed copy thereof with the Town Clerk. Forthwith upon the filing of any such report, the Town Clerk shall cause **a link to such report** ~~copies thereof to be~~ **emailed** ~~delivered or mailed to~~ the Moderator, the Select Board, and the Advisory Committee, and to every other elected officer, Town Meeting Member and appointed officer who requests a copy of the report.

In the absence of a final report, each such committee shall annually, at least thirty (30) days before the start of the Annual Town Meeting, file with the Town Clerk an interim report of its doings, and the Town Clerk shall cause ~~one copy of the same~~ **a link to such report** to be **emailed** ~~printed and mailed out~~ with the combined reports called for in Section 2.5.2 of this Article.

In lieu of the e-mailing requirement in paragraph 1 above, the Town Clerk ~~may~~ **shall**, at the request of any person listed above, ~~send~~ **mail** the report(s) ~~electronically~~.

### SECTION 2.5.2 COMBINED REPORTS

The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with article, in the combined reports. The Select Board and the Advisory Committee (or in the alternative to the full Advisory Committee a subcommittee of the Advisory Committee) each shall hold at least one duly noticed public hearing prior to a final vote of the Select Board or the Advisory Committee, as the case may be, on any article in the Warrant. The Select Board and the Advisory Committee shall prepare written reports, stating their recommendations and the reasons therefor, for all articles in the Warrant for a Town Meeting. The reports shall be included in the combined reports to be ~~delivered~~ **emailed** or mailed **upon request** as follows:

The Select Board shall cause **a link to** ~~one copy~~ of the combined reports to be ~~delivered~~ **emailed**, ~~or~~ **and a notice providing information on accessing such online materials to be** mailed not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting, to the residence of every elected officer, Town Meeting Member and member of the Advisory Committee, and to the residence of every appointed officer, resident, real estate owner and town employee who requested, in writing, a copy of that combined reports. The combined reports shall contain each article in the warrant for such Town Meeting followed by the report of the Select Board on such article and then the report of the Advisory Committee on such article and every report made, not later than the twenty-second day prior to such Town Meeting and after the twenty-second day prior to the previous Town Meeting, by a Special Committee created by a Town Meeting or the Moderator.

The Combined Reports shall include, with each recommendation of the Select Board, a roll-call showing the vote of each member; and shall include, with each recommendation of the Advisory Committee, a statement of the number of members voting for and against the recommendation and the date of the vote. When a minority report is presented, the Combined Reports shall identify the members supporting the minority report.

The report of the Select Board on the article at an Annual Town Meeting providing for termination and close-out of prior special appropriations shall include a statement from the Comptroller listing each account for such an appropriation as falls within the scope of the article, the purpose of the appropriation, and the unexpended balance as of the last day of March in the year of said Annual Town Meeting.

### SECTION 2.5.3 PERMANENT RECORD OF REPORTS

Copies of each report described in Section 2.5.1 and the combined reports described in Section 2.5.2 shall be kept permanently in the office of the Town Clerk and for at least five years, after its publication, in the Public Library and every Branch thereof, available for inspection by all interested persons.

#### SECTION 3.4.5 TOWN REPORTS

The Town Clerk shall cause **a link to** the Annual Town Report for each year to be ~~delivered~~ **emailed, or and a notice providing information on accessing the online materials to be** mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, and member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing.

copies of each Annual Town Report shall be kept permanently in the office of the Town Clerk and for at least five years in the Public Library and every Branch thereof, available for inspection by all interested persons.

the **Town clerk** ~~Select Board~~ **shall**, at the request of any person listed above **mail such** report electronically.

#### SECTION 4.2.4 DISTRIBUTION OF REPORTS

The Select Board shall cause **a link to** the Annual Town Report for each year to be **e-mailed,** ~~delivered or~~ **and a notice providing information on accessing the online materials to be** mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing. the **Town clerk** ~~Select Board~~ **shall**, at the request of any person listed above **mail such** report(s) electronically .

**Approved:**    AYE: 152                      NO: 88                      ABSTAINED: 7

**MOTION** to Adjourn, duly seconded  
**Approved**

## **Night 2: November 16, 2022**

- Call to order: 7:00P.M.
- A quorum being present, the meeting was called to order by Moderator Kate Poverman.
- Review of expected schedule by Moderator Poverman
- **MOTION** to MOVE Article 10 to first item of business on November 16, 2022
  - **APPROVED**

*Assistant Moderator John Karon Presiding*

## **ARTICLE 10**

*Create a new Article 8.39 of the Town's General By-Laws to create a Tree Preservation  
By-Law*

Submitted by: Joslin Murphy TMM16, John Harris,(TMM8); Co-Petitioners: Olivia Fischer Fox,  
Richard Murphy TMM P16, Hugh Mattison(TMM5

Motioned and duly seconded.

Presented by: Olivia Fischer Fox

Speakers: Olivia Fischer Fox (Resident), John Harris (P8), Video Presentation from  
Driscoll School Students, Harry Friedman (P12/AC), Steve Heiken (Planning Board), Linda  
Pehlke (P17), Joslin Murphy (P16), Lee Biernbaum (P9), Vena Priestly (P4), George Abbott-  
White (P9)

Point of Privilege: Regina Frawley (P16)

Point of Order: Miriam Aschkenasy (Select Board/AL)

**MOTION** to Terminate Debate

**APPROVED**

**VOTED:** That the Town will amend the General By-Laws by adding the following Article:

### ARTICLE X.XX: TREE PRESERVATION BYLAW

X.XX.1. **PURPOSE:** The intent of this Tree Preservation Bylaw is to encourage the preservation and protection of certain trees in connection with significant demolition and/or construction activity by designating areas of a lot where trees must be protected, and by requiring mitigation for trees that are removed by either the replanting of trees or the collection of fees to support the Town's tree planting and maintenance efforts.

X.XX.2. **DEFINITIONS:** For the purposes of this Tree Bylaw, the following definitions shall apply:

2.1 **Caliper:** Diameter of a tree trunk (in inches). For trees up to and including four (4) inches in diameter, the caliper is measured six (6) inches above the existing grade at the base of the tree. For trees larger than four (4) inches in diameter, the caliper is measured twelve (12) inches above the existing grade at the base of the tree.

2.2 **Certified Arborist:** A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborist Association (M.A.A.).

2.3 **Diameter at Breast Height (DBH):** The diameter of a tree trunk at four and one-half (4.5) feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.



2.4 Invasive Species: Any plant or tree listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture, or currently listed as “likely invasive” or potentially invasive” by the Massachusetts Invasive Plant Advisory Group (MIPAG).

2.5 Protected Tree: Any existing tree with a DBH of six (6) inches or greater that has any portion of its trunk within a Tree Yard at grade level. Invasive Species (as defined herein) shall not be considered Protected Trees.

2.6 Reviewing Agent: Any agent delegated in writing by the Commissioner of Public Works to administer and implement this Tree Protection Bylaw.

2.7 Tree Preservation Fund: An account established under this Bylaw pursuant to M.G.L. 44 § 53E½ for the deposit of permit application fees and contributions in lieu of tree replanting as required by this Tree Preservation Bylaw.

2.8 Tree Protection & Mitigation Plan: A plan submitted to the Reviewing Agent for approval prior to the commencement of demolition and/or construction on any property on which a Protected Tree is located.

2.9 Protected Tree Impact and Removal Permit: A permit issued by the Reviewing Agent prior to the commencement of demolition and/or construction on a property on which a Protected Tree is located.

2.10 Tree Removal: The mechanical destruction or demolition of a living tree, or any act (a) that has caused a tree to die within the previous 12 months or (b) is likely to cause significant decline or death as determined by the Reviewing Agent.

2.11 Tree Save Area: The minimum area beneath the canopy of the tree which must be left undisturbed in order to preserve a sufficient root mass to give the tree a reasonable chance at survival.

2.12 Tree Yard: The area of a lot (as “lot” is defined in Section 2.12 of the Zoning Bylaw) that is located within 20 feet of any property line.

X.XX.3. TOWN OF BROOKLINE TREE FUND: There is hereby established a Town of Brookline Tree Preservation Fund (“Tree Fund”) pursuant to M.G.L. 44 § 53E½. Any permit application fees or contributions collected per Section X.XX.5.2(b) of this Bylaw shall be deposited in the Tree Fund, and shall be expended by the Commissioner of Public Works solely for the purpose of purchasing, planting and maintaining trees within the Town and for the implementation of this Tree Protection Bylaw.

#### X.XX.4. SCOPE AND APPLICABILITY

4.1 Within all residential districts of the Town, it is prohibited to remove a Protected Tree without a Protected Tree Impact and Removal Permit during construction or within the 12 months prior to submitting an application for a demolition or building permit for: (a) demolition of an existing structure of 250 gross square feet or greater; (b) construction of any building or structure on a vacant lot; or (c) construction of one or more structures or additions to structures on a lot that increases the Gross Floor Area (GFA) by 50% or greater, as defined by Zoning Bylaw Section 2.07.1.

4.2 The requirements of this Bylaw shall not apply to: (a) those areas of property under the jurisdiction of the Wetlands Protection Act (Chapter 131 and 310 CMR); (b) Public Shade Trees pursuant to M.G.L. Chapter 87; (c) emergency projects necessary for public safety, health and welfare, as determined by the Reviewing Agent or the Town’s Tree Warden; (d) trees severely damaged as the direct result of a natural disaster; (e) trees that are hazardous as determined and confirmed in writing by a Certified Arborist; or (f) trees

currently infected by a disease or insect infestation of a permanent nature, as determined and confirmed in writing by a Certified Arborist.

#### X.XX.5. TREE PROTECTION & MITIGATION

5.1 Protection: Each Protected Tree without a Protected Tree Impact and Removal Permit to be retained on property that is planned for demolition and/or construction activity shall be protected by the establishment of a fenced-off Tree Save Area. The Tree Save Area shall be delineated within the submitted Tree Protection & Mitigation Plan, shall be installed prior to any demolition or site work, and shall remain in place until work is completed on the property, excluding final landscaping. The applicant shall submit written documentation, prepared, dated and signed by a certified arborist, registered land surveyor, or licensed architect, to the Reviewing Agent confirming that the required Tree Save Area has been installed as identified in the Tree Protection & Mitigation Plan before work on the property begins.

5.2 Mitigation: The removal of a Protected Tree(s) from a lot in connection with one or more of the circumstances set forth in Section X.XX.4.1 shall require mitigation based upon the aggregate DBH of Protected Trees removed. Mitigation shall be achieved by satisfying one or a combination of the following provisions:

(a) Replanting of Trees: For each inch of DBH of Protected Tree(s) removed, no less than one-half inch of caliper of new tree(s) shall be replanted subject to and in accordance with the following: (1) Each new tree must have a minimum caliper of at least three (3) inches; (2) Such replanting, either on the applicant's land or on land abutting the applicant's land with the express written approval of the owner of such abutting land, shall occur prior to the issuance of a Final Certificate of Occupancy, or be otherwise assured at such time to the satisfaction of the Reviewing Agent in a manner consistent with the Rules and Regulations established under this By-law; or

(b) Contribution to the Town of Brookline Tree Preservation Fund: The Commissioner of Public Works shall establish a Tree Fund contribution schedule, subject to approval by the Select Board, assigning a value not less than \$500.00 per inch of DBH of Protected Tree(s) to be removed and not otherwise mitigated. Such Tree Fund contributions shall be received by the Town prior to the issuance of all applicable permits. Mitigation measures shall be detailed in the submitted Tree Protection and Mitigation Plan. The removal or proposed removal of a Protected Tree(s) that has been mitigated for, in conjunction with a previous applicable permit, shall not require any additional mitigation under subsequent permits, unless such mitigation has not been completed or otherwise assured to the satisfaction of the Reviewing Agent.

5.3 Unauthorized Removals: The removal of any Protected Tree without a Protected Tree Impact and Removal Permit that is not identified on the Tree Protection & Mitigation Plan shall require mitigation at the rate specified in Section X.XX.5.2. In addition, any person removing or causing to be removed any Protected Tree without a Protected Tree Impact and Removal Permit or not identified on the Tree Protection & Mitigation Plan in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in Article 10.3 of the Town's General Bylaws of \$300 per Protected Tree, per day, until the mitigation required under Section X.XX.5.2 of this By-law is complete.

#### 5.4 Plan Review and Permit Issuance:

(a) Tree Protection & Mitigation Plan Submittal: Prior to the issuance of a Protected Tree Impact and Removal Permit in connection with one or more of the circumstances set

forth in Section X.XX.4.1 on property on which a Protected Tree is located or was located within twelve (12) months prior to application, the owner of the property shall submit a Tree Protection & Mitigation Plan to the Reviewing Agent along with the required permit application and application fee.

(b) Tree Protection & Mitigation Plan Requirements: The submitted Tree Protection & Mitigation Plan shall be a to-scale survey or site plan that indicates the applicable Tree Yard, existing improvements, proposed construction, Protected Trees, Tree Save Area and preservation and maintenance procedures in accordance with the Rules and Regulations in effect at the time. It must also specify any tree removals and proposed mitigation measures per Section X.XX.5.2.

(c) Re-Submittal: If demolition or construction has not commenced within twelve (12) months of the date that a Tree Protection & Mitigation Plan was submitted for a property, or if removal of a previously unidentified Protected Tree is necessary during the course of construction, an amended Tree Protection & Mitigation Plan shall be submitted along with the applicable fee identifying any changes from the previous plan and associated mitigation measures. If demolition and/or construction is not completed within 12 months of the date of the Reviewing Agent's initial inspection, an application for a permit extension and re-inspection fee shall be submitted. Additional permit extension applications and re-inspection fees shall be submitted every 12 months thereafter until demolition and construction is completed.

(d) Reviewing Agent Action: If the Tree Protection & Mitigation Plan is consistent with the protection and mitigation requirements contained herein and any established Rules and Regulations, and applicable Tree Fund contributions have been submitted, the Reviewing Agent shall issue a Protected Tree Impact and Removal Permit and/or notify the appropriate Town Department. If the proposal does not meet or satisfy these requirements, the Reviewing Agent shall notify the applicant and withhold the Protected Tree Impact and Removal Permit until the requirements of this Bylaw are met. If the Reviewing Agent fails to act on an application within thirty (30) days after the application has been made, it shall be deemed to be approved.

#### 5.5 Maintenance of Protected and Replanted Trees:

(a) Protected Trees: Each Protected Tree retained shall be maintained in good health for a period of no less than twenty-four (24) months from the date of Final Inspection, or issuance of a Certificate of Occupancy if applicable. Should such a tree die or significantly decline in the opinion of the Reviewing Agent within this twenty-four (24) month period, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree as contained herein within nine (9) months from said determination.

(b) Replanted Trees: All new trees planted to mitigate the removal of Protected Tree(s) shall be maintained in good health for a period of no less than twenty-four (24) months from the date of planting. Should such tree die or be removed within this twenty-four (24) month period, the owner of the property shall be responsible for replacing the tree with a tree equal to or greater than the size of the original Replanted Tree at installation; such replacement tree shall be planted within nine (9) months of the death or serious decline of the original Replanted Tree. Tree planting and transplanting shall adhere to the most current American National Standards Institute (ANSI) A300 (Part 6) Tree, Shrub and other Woody Plant Management – Standard Practices (Planting and Transplanting).

X.XX.6. ADMINISTRATION

6.1 Enforcement: The Commissioner of Public Works or their designee is hereby authorized to enforce the provisions of this Tree Preservation Bylaw.

6.2 Appeals: Any person who is aggrieved by refusal, order, or decision of the Reviewing Agent or Commissioner of Public Works under this Bylaw may appeal to the Select Board or its designee within 20 days from the date of such refusal, order, or decision.

X.XX.7 RULES AND REGULATIONS

The Commissioner of Public Works in consultation with Town Counsel may promulgate or amend Rules and Regulations which pertain to the administration of this Tree Bylaw, and shall file a copy of said Rules and Regulations in the office of the Town Clerk. Such Rules and Regulations may prescribe the Protected Tree Impact and Removal Permit application fee, along with the size, form, contents, style, and number of copies of plans and specifications, the procedure for the submission and approval of such plans, and the procedure for determining final compliance with these regulations. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

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**And also voted**, to amend Article 10.3 of the Town's Non-Criminal Disposition Bylaw by adding the following: Table of Specific Penalties under Article 10.3:

Article X.XX Tree Preservation By-law:

For each violation: \$300.00 per Protected Tree, per day, until mitigation required under Article X.XX is complete.

**Approved:**    AYE: 237                      NO: 7                      ABSTAINED: 2

*Moderator Poverman Presiding*

**ARTICLE 8**

*Amend the Town's General By-Laws to provide an alternative to publishing in a newspaper of general circulation*

Submitted by: Select Board

Motioned and Duly Seconded

Presented by: John VanScoyoc

Speakers: John VanScoyoc (Select Board/AL), Fred Perry (Resident), Kelly Hardebeck (P7/AC), Regina Frawley (P16), Richard Snyder (P2), Rebecca Stone (P3), Mike Sandman (Select Board/AL), Ben Kaufman (Town Clerk/AL), Alec Lebovitz (P8), Jonathan Simpson (Associate Town Counsel), Fred Perry (Resident), Scott Gladstone (P16), Tommy Vitolo (State Representative/AL), Melissa Goff (Deputy Town Administrator)

Point of Order: Mike Toffel (P8)

**MOTION** to Terminate Debate

**APPROVED**

Point of Order: Paul Warren (P1)

Point of Order: Marty Rosenthal (P9)

**MOTION** to Amend offered by Mike Sandman

**Approved:** AYE: 130 NO: 99 ABSTAINED: 15

**MOVED:** That the Town will vote to amend its General By-laws, by removing references to publishing materials in “a newspaper of general circulation throughout Brookline” and making other such changes as will clarify the intent of the By-laws, as follows (deletions in ~~strike through~~; additions in **bold underline**):

**SECTION 2.1.2 OPENING OF THE WARRANT:**

At least fourteen days prior to the opening of the Warrant for the Annual or a Special Town Meeting, the Select Board shall post notices of their intention to do so in at least ten places in the Town and shall notify each Town Meeting Member in writing of the opening date and closing date for submission of Articles to said Warrant and shall publish thereof ~~in a newspaper of general circulation throughout Brookline~~ **in a newspaper specializing in news of Brookline with circulation not less than 3000 copies weekly throughout Brookline. Should there be no such newspaper, notice shall be published in compliance with the Select Board’s policy on public communication.** Such written notification by the Select Board shall be made by mail to the Town Meeting Member's address on file with the Town Clerk's office. No such notification shall be necessary where a Special Town Meeting has been called by a citizen's petition. In lieu of the above mailing requirement, the Select Board may send the required notice electronically to any Town Meeting Member who so requests.

**SECTION 2.1.5 NOTICE OF MEETINGS**

(B) Distribution. The Select Board shall cause a copy of the articles in the warrant for each Town Meeting thereof ~~in a newspaper of general circulation throughout Brookline~~ **in a newspaper specializing in news of Brookline with circulation not less than 3000 copies weekly throughout Brookline. Should there be no such newspaper, notice shall be published in compliance with the Select Board’s policy on public communication,** to be posted on the Town website, and to be delivered in hand, or mailed, either separately or as a part of the Combined Reports, to the Moderator and to the representative Town Meeting members, and shall cause the posting of copies of the same in ten public places in the Town, at least seven (7) days before a Special Town Meeting is to convene and at least fifteen (15) days before an Annual Town Meeting is to convene. The requirements provided in this subsection (B) shall not be deemed to be a part of the legal notification of such meeting or the legal service of such warrant and the failure to comply with the provisions of this subsection (B) shall not serve to invalidate the proceedings of any Town Meeting.

### SECTION 3.16.1 PARK AND RECREATION AREA PROGRAMS

The Park and Recreation Commission shall, at least annually, (a) promulgate a proposed Program for such substantial construction, alteration or repair of the parks and recreation areas in the Town over the following six years as it may consider appropriate, including estimates of expected costs; (b) advertise thereof ~~in a newspaper of general circulation throughout Brookline~~ **in a newspaper specializing in news of Brookline with circulation not less than 3000 copies weekly throughout Brookline. Should there be no such newspaper, notice shall be published in compliance with the Select Board's policy on public communication.** (c) conduct a public hearing concerning such proposed program at a time and place specified in such advertisement; and (d) after such public hearing and such further revision as it may consider necessary, submit such proposed program for approval to the Select Board.

### SECTION 7.8.1 REMOVING VEHICLES

The Commissioner of Public Works or their designee, for the purpose of removing or plowing snow, or, removing ice from any street or way may remove or cause to be removed to some convenient place, including a public garage, any vehicle interfering with such work. They shall keep or cause to be kept records of the registration number of each vehicle so removed and the place to which it is removed, and shall within forty-eight hours after the removal of any such vehicle send notice by mail to the owner of such vehicle, at their address as recorded at the Registry of Motor Vehicles, of the place to which such vehicle has been removed. If the owner of the vehicle be unknown or be not on record at the Registry of Motor Vehicles for this Commonwealth, the Commissioner of Public Works or their designee shall on the business day following the day of removal publish, thereof ~~in a newspaper of general circulation throughout Brookline~~ **in a newspaper specializing in news of Brookline with circulation not less than 3000 copies weekly throughout Brookline. Should there be no such newspaper, notice shall be published in compliance with the Select Board's policy on public communication,** notice of the removal, the registration number, if any, the type of vehicle and the place to which the same was removed.

## Article 8.16 Collection and Recycling of Waste Materials SECTION

### 8.16.3 RULES AND REGULATIONS

The Select Board may adopt regulations governing the collection, storage, transportation and removal of solid waste and shall adopt regulations to implement a recycling program in the Town. The regulations adopted by the Board may be amended, from time to time, and may add other categories of waste materials to be separated and recycled, as the Town develops programs and the capacity to collect and recycle new categories of waste materials. Regulations may also include temporary waiver provisions for cause.\* Prior to the adoption or amendment of any such regulations the Select Board shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing such notice thereof ~~in a newspaper of general circulation throughout Brookline~~ **in a newspaper specializing in news of Brookline with circulation not less than 3000 copies weekly throughout Brookline. Should there be no such newspaper, notice shall be published in compliance with the Select Board's policy on public communication** once in each of two successive weeks the first publication to be not less than fourteen days prior to the date set for such hearing or by the posting of such notice on the town's bulletin board in the Town Hall not less than fourteen days prior to the date set for such hearing.

Article 8.24 Water Supply Emergencies

**SECTION 8.24.5 APPLICABILITY** The following shall apply to all water users supplied by the Town. (A) Following notification by the Town, of the existence of a state of water supply emergency, no person shall violate any provision, condition, requirement or restriction included in the Drought Contingency Plan for the Town which has as its purpose the abatement of a water supply emergency. (B) Notification of any provision, restriction, requirement or condition with which users of water supplied by the Town are required to comply to abate a water supply emergency shall be sufficient for purposes of this By-Law, ~~thereof in a newspaper of general circulation throughout Brookline~~ **in a newspaper specializing in news of Brookline with circulation not less than 3000 copies weekly throughout Brookline. Should there be no such newspaper, notice shall be published in compliance with the Select Board's policy on public communication so long as said** notice as is reasonably calculated to reach and inform all users of the Town water supply.

**Approved:**    AYE: 219                      NO: 8                      ABSTAINED: 18

8:21 Recess  
8:28 Resume

**ARTICLE 9**

*Amend Article 7.7 of the Town's General By-Laws to strengthen and increase enforcement of by-law providing for removal of snow and ice*

Submitted by: Abby Swaine, Marissa Vogt TMMP6, Kerri Ann Tester

Motioned and Duly Seconded

Presented by: Marissa Vogt

Speakers: Marissa Vogt (P6), Alisa Jonas (P16/AC), Abigail Swaine (Resident), Michael Sandman (Select Board/AL), David Trevvet (P2), Janice Khan (P15), John Shreffler (P7), Susan Granoff (P7), Chris Dempsey (P4), Neil Gordon (P1), Jesse Hefter (P14)

**MOTION** to Terminate Debate  
**APPROVED**

**MOTION** to Amend offered by Susan Granoff

**Approved:**    AYE: 159                      NO: 75                      ABSTAINED: 15

**MOTION** to Substitute Language offered by the Advisory Committee

**Approved:**    AYE: 140                      NO: 104                      ABSTAINED: 7

**VOTED:** That the Town amend the Towns General By-Laws, Article 7.7 “Removal of Snow and Ice From Sidewalks”, as follows:

(Words in **bold** are the petitioners’ additions that are part of the Advisory Committee motion; those in **bold and underlined** are the Advisory Committee additional language.)

## ARTICLE 7.7

### REMOVAL OF SNOW AND ICE FROM SIDEWALKS

#### SECTION 7.7.1 BUSINESS AND INDUSTRIAL DISTRICTS

In all Business and Industrial Districts, as defined and delineated in the Zoning By-Law, the owner, or their agent, of any land abutting upon or contiguous to a sidewalk of a street shall cause said sidewalk to be maintained in a non-slippery condition suitable for pedestrian travel by clearing all snow and ice from a pathway at least thirty-six (36) inches in width along the length of said sidewalk within the first three (3) hours between sunrise and sunset after **the cessation of each storm that results in the accumulation of snow and/or ice on such sidewalk** and shall maintain said portion of sidewalk in a non-slippery condition by application(s) of sand and/or melting agents as may be necessary for this purpose. **Corner and mid-block curb ramps, and portions of driveways crossing sidewalks, are part of the sidewalk system, and shall likewise be maintained in a clear and non-slippery condition. The Commissioner of Public Works, or their designee, may grant a waiver from the terms of this Section 7.7.1 for good cause.**

#### SECTION 7.7.2 MULTI-FAMILY DWELLINGS

The owner, or their agent, of any building designed or occupied as a residence by more than four families or which contains more than four dwelling units, as defined in the Zoning By-Law, shall cause all sidewalks of a street which are contiguous to the land upon which the building is situated to be maintained in a non-slippery condition suitable for pedestrian travel by clearing all snow and ice from a pathway at least thirty-six (36) inches in width along the length of said sidewalk within the first three (3) hours between sunrise and sunset **the cessation of each storm that results in the accumulation of snow and/or ice on such sidewalk**, and shall maintain said portion of sidewalk in a non-slippery condition by application(s) of sand and/or melting agents as may be necessary for this purpose.

**Corner and mid-block curb ramps, and portions of driveways crossing sidewalks, are part of the sidewalk system, and shall likewise be maintained in a clear and non-slippery condition. The Commissioner of Public Works, or their designee, may grant a waiver from the terms of this Section 7.7.2 for good cause. When subsequent street plowing by the DPW that fills in previously cleared corners, property owners will have an additional 6 hours to re-clear corners.**

#### SECTION 7.7.3 GENERAL REQUIREMENT

Except as set forth in Subsections (a) and (b) above, the owner, or their agent, of any land abutting upon or contiguous to a sidewalk of a street shall cause said sidewalk to be maintained in a non-slippery condition suitable for pedestrian travel by clearing all snow and ice from a pathway at least thirty-six (36) inches in width along the length of said



sidewalk within **twenty-four (24)** hours of the cessation of each storm that results in the accumulation of snow and/or ice on such sidewalk, and shall maintain said portion of sidewalk in a non-slippery condition by application(s) of sand and or melting agents as may be necessary for this purpose. **Corner and mid- block curb ramps, and portions of driveways crossing sidewalks, are part of the sidewalk system, and shall likewise be maintained in a clear and non-slippery condition. Notwithstanding any other provisions in Section 7.7.3, for any storm that ends between the hours of 4 pm on Friday and 12 noon on Saturday, any owner to whom Section 7.7.3 applies, or their agent, shall have thirty (30) hours after the cessation of the storm within which to comply with the requirements of Section 7.7.3.** The Commissioner of Public Works, or their designee, may grant a waiver from the terms of this Section 7.7.3 for good cause.

#### SECTION 7.7.4 NO ICE AND SNOW TO BE PLACED ON STREET

No person, unless authorized by the Commissioner of Public Works, shall place, or cause to be placed, ice or snow upon any street of the Town. Without limiting the generality of the foregoing, no person, unless authorized by the Commissioner of Public Works, shall place, or cause to be placed, ice or snow upon any sidewalk of the Town.

#### SECTION 7.7.5 PENALTIES

The violation of any provision of Sections 7.7.1 and 7.7.2 of this Article 7.7 shall **at the discretion of the DPW Commissioner** be subject to a fine of \$100.00 for the first violation, \$150.00 for the second violation, and \$200.00 for the third and subsequent violations in any fiscal year. The violation of any provision of Section 7.7.3 of this Article 7.7 shall be subject to a fine of \$50.00 for the first violation, and \$100.00 for the second violation and subsequent violations in any fiscal year. **The Commissioner of Public Works, or other authorized agent of the Town, shall have the discretion to impose fines for second, third, and subsequent violations on successive periods of at least 24 hours' duration within the same snow event, and/or for subsequent snow events within the same season.-One or more violations of any provision of Section 7.7.4 of this Article 7.7 shall be subject to a fine of \$250.00 for each violation.**

#### SECTION 7.7.6 COMPLIANCE DELAY

Depending upon the severity of a storm and other factors, the Commissioner of Public Works may delay the period for compliance with Sections 7.7.1, 7.7.2, or 7.7.3 of this by-law. In the event of initiating a compliance delay, the Commissioner of Public Works shall post a notice prominently on the Town of Brookline's Internet home page and make other good faith efforts to notify the public, including, but not limited to, social media outlets, the cable access television station, email list serves, and the emergency telephone notification system.

#### SECTION 7.7.7 ANNUAL REPORT

The Select Board shall include in the Annual Report of the Town a summary of the Town's efforts and results during the past year in implementing Sections 7.7.1, 7.7.2, or 7.7.3, including, but not limited to, public education, enforcement and assistance to owners.

**Approved:** AYE: 242

NO: 3

ABSTAINED: 3

## **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*

Submitted by: Alec Lebovitz TMM8 and Mike Toffel TMM8

Motioned and Duly Seconded

Presented by: Alec Lebovitz

Speakers: Alec Lebovitz (P8), John VanScoyoc (Select Board/AL), Amy Hummel (P12/AC), Chas Carey (Town Administrator), Mike Toffel (P8), Kelly Hardebeck (P7), John VanScoyoc (Select Board/AL)

**VOTED:** that the Town adopt the following amendment of the General Bylaws (language to be added appearing in underline):

ARTICLE 4.2 ANNUAL REPORTS

SECTION 4.2.7 ASSESSORS' REPORT

The Assessors shall append to their annual report a table of the valuation, real, personal and total, the rate of taxation, and the amount of money raised.

The Assessors shall publish on the Town website, no less than annually, a table listing all real property that is not required to pay property tax and is not government-owned, and for each such property, the amount that would be assessed if the property were required to pay property tax, whether (and when) the Town has requested from the property owner a Payment in Lieu of Tax (PILOT) Agreement or other agreement, the payment amount the Town requested, the proposed or applied tax rate and annual index rate specified in that request or agreement, the payment amount received from the property owner, the percent of the payment requested that was received, the remaining amount requested that was not paid, the most recent date the agreement was issued or amended, and other related information.

**Approved:**    AYE: 154                      NO: 72                      ABSTAINED: 21

## **ARTICLE 23**

*Petition for a special act regarding Community Choice Aggregation*

Submitted by: Zero Emissions Advisory Board, Chair Jesse Gray, TMM10

Motioned and Duly Seconded

Presented by: Lisa Cunningham

Speakers: Lisa Cunningham (Resident), Tommy Vitolo (State Representative/AL), Wendy Stahl (Resident), Kelly Hardebeck (P7), Paul Warren (P1), Jesse Gray (P10), Kathleen Scanlon (P3), Scott Englander (P6), Linda Pehlke (P17), John Doggett (P13), Werner Lohe (P13), Susan Roberts (P17), Lee Selwyn (P13)

**MOTION** to Adjourn, duly seconded  
**Approved**

### **Night 3: November 17, 2022**

- Call to order: 7:00 P.M.
- A quorum being present, the meeting was called to order by Moderator Kate Poverman.
- Question of Privilege: Bernard Green (Select Board/AL)
- **MOTION** to DEFER Article 11 to November 29.

## **ARTICLE 23 (Continued)**

*Petition for a special act regarding Community Choice Aggregation*

Submitted by: Zero Emissions Advisory Board, Chair Jesse Gray, TMM10

Motioned and Duly Seconded

Presented by: Lisa Cunningham

Speakers: Lee Selwyn (P13), Jesse Gray (P10), Paul Warren (P1)

Point of Order: Jesse Gray (P10)

Speakers: Markus Penzel (P2), Jesse Gray (P10), Werner Lohe (P13), Susan Helms Daley (P1), Jesse Gray (P10), John VanScoyoc (Select Board/AL), John Harris (P8), Tommy Vitolo (State Representative/AL), Jesse Gray (P10), Aone Wang (P8), Jesse Gray (P10), Perry Grossman (P5), Nathan Shpritz (P16), Jesse Gray (P10), Chi Chi Wu (P7), Jesse Gray (P10), Michael Sandman (Select Board/AL), Jeffrey Benson (P3), Jesse Gray (P10), Linde Pehlke (P17), Jesse Gray (P10), Susan Roberts (P17), Nancy Heller (P8), Jesse Gray (P10)

**MOTION** to Terminate Debate

**APPROVED**

**MOVED:** That Brookline Town Meeting vote to authorize the Brookline Select Board to petition the Massachusetts General Court for special legislation, as set forth below, to modify its Community Choice Aggregation Plan with certain features designed to reduce the net carbon emissions created by residents of the Town; provided, however, 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.

**An Act authorizing the Town of Brookline to amend its Community Choice Aggregation Plan.**

*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. (a) Notwithstanding the provisions of any general or special law to the contrary, the Town of Brookline may amend the municipal load aggregation plan previously approved by the Massachusetts Department of Public Utilities pursuant to chapter 164, section 134 of the Massachusetts General Laws. Following authorization by a majority vote of town meeting, such amendments shall be filed with the Department of Public Utilities for its final review and approval. Prior to its decision, the Department shall conduct a public hearing. The Department shall not review any section of the Town's load aggregation plan which has not been altered from the Town's load aggregation plan last approved by the Department, except to the extent that proposed amendments to the plan change the meaning or operation of such unaltered section.

The Department of Public Utilities shall approve the amendments set forth in this section. The amended load aggregation plan may authorize the aggregated entity, Brookline's Community Choice Aggregation program, known as Brookline Green Electricity, to charge all participating ratepayers an excise of up to \$0.02 per kWh to fund:

- (i) programs to build in the Town solar energy generation facilities or energy storage systems, and
- (ii) programs to accelerate the adoption of electric energy infrastructure in new buildings and in existing buildings with fossil fuel infrastructure.

The amended load aggregation plan may authorize the aggregated entity to charge all participating ratepayers an excise of up to \$0.13 per kWh to fund or enable:

- (i) demand-response programs that enable program participants to reduce their electricity costs by taking advantage of time-varying rates; and
- (ii) investments in renewable energy or energy storage infrastructure that would reduce net rates for program participants over the lifetime of the installed infrastructure.

The aggregation plan may authorize the aggregated entity to offer ratepayers a reduced rate in exchange for agreement to pay an early termination fee. The aggregation plan may require that participating ratepayers install or permit the installation of advanced meter infrastructure for the purpose of providing the aggregated entity with time-varying use data, and may provide for a discounted rate for participating ratepayers' electric vehicle charging or other electrical consumption costs during off-peak or other hours or demand response periods.

The aggregated entity is authorized to access the time-varying data from advanced meter infrastructure to the same extent that such data is made available to local electricity distribution companies.

Participation by any retail customer in the amended load aggregation program shall be voluntary. An amended aggregation plan shall take effect 30 days following its approval by the Department of Public Utilities. Ratepayers participating in the existing load aggregation program shall be automatically enrolled in the amended plan. Once enrolled in an amended plan, any ratepayer choosing to opt out within 180 days shall be entitled to receive basic service. Nothing in this section shall be construed as authorizing the Town to restrict the ability of retail electric customers to obtain or receive service from any authorized provider of electricity supply.

It shall be the duty of the aggregated entity to fully inform participating ratepayers in advance of automatic enrollment that they are to be automatically enrolled and that they have the right to opt-out of the aggregated entity plan. In addition, such disclosure by the aggregated entity shall prominently state all charges to be made and shall include full disclosure of the basic service rate and how to access it.

SECTION 2. This act shall take effect immediately upon its passage.

**Approved:**    AYE: 180                      NO: 55                      ABSTAINED: 13

Point of Order: John Hebert (P7)

## **ARTICLE 21**

*Petition for a special act regarding betterment loans for residential electrification*

Submitted by: Zero Emissions Advisory Board, Chair Jesse Gray, TMM10

Motioned and Duly Seconded

Presented by: Wendy Stahl

Speakers: Wendy Stahl (Resident), Ariel Soiffer (P2), Jonathan Simpson (Town Counsel), John Moreschi (Town Counsel), Kelly Hardebeck (P7/AC), Jonathan Margolis (P7), John Moreschi (Town Counsel), Jonathan Simpson (Town Counsel), Neil Gordon (P1), John Harris (P8), Tommy Vitolo (State Representative/AL), Jonathan Simpson (Town Counsel), Davide Mendels (Resident), Gideon Coltof (P6), Melissa Goff (Deputy Town Administrator), Lincoln Heineman (Finance Director), Kathleen Scanlon (P3), John Hebert (P7), Kelly Hardebeck (P7), Jesse Gray (P10), Melissa Goff (Deputy Town Administrator), Brenda Hochberg (P2), Mark Levy (P7), Jesse Gray (P10)

**MOTION** to Terminate Debate

**APPROVED**

**VOTED:** That the Town authorize the Select Board to petition the Massachusetts General Court for special legislation, as set forth below, to create a betterment loan program for the funding of residential electrification in the Town of Brookline; provided, however, 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.

**An Act authorizing the establishment of a betterment loan program for the funding of electrification initiatives in the Town of Brookline**

*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. This legislation authorizes the Town of Brookline to achieve this objective through the creation and administration of a loan program, using municipal betterments, to provide low-interest loans to qualifying households for the electrification of residential households.

SECTION 2. To achieve the purposes and objectives stated in section 1 of this act, this act's provisions are enacted by the General Court notwithstanding any general or special laws to the contrary.

SECTION 3. As used in this act, the term "electrification" shall mean the installation or removal of structures or equipment for the purpose of powering a residential home or structure by means of electricity or removing a fossil-fuel energy system, including but not limited to energy

efficiency measures, the installation of solar panels or electric appliances, the removal of fossil fuel heating equipment or appliances, and the related equipment, structures, and labor and other costs associated with such activities.

SECTION 4. The Town of Brookline is hereby authorized to enter into a written agreement with any property owner to finance the payment of expenses for the installation or removal of equipment or structures, including related labor and other costs and expenses, for the electrification of a residential structure. A property owner who enters into such an agreement with the Town shall be responsible for all expenses incurred by the Town for such installation.

SECTION 5. A notice of an agreement entered into pursuant to this act shall be recorded as a betterment and be subject to the provisions of MGL ch. 80 relative to the apportionment, division, reassessment, abatement and collections of assessments, and to interest; provided, however, that for purposes of this section, **a lien** shall take effect by operation of law on the day immediately following the due date of such assessment or apportioned part of such assessment and such assessment may bear interest at a rate determined by the Brookline treasurer by agreement with the owner at the time such agreement is entered into between the Town of Brookline and the property owner. In addition to remedies available under MGL ch. 80, the property owner shall be personally liable for the repayment of the total costs incurred by the Town of Brookline under this section, provided that upon the conveyance of such property, the obligations of this Act shall be assumed by the transferee, and the owner shall be relieved of such personal liability. However, the owner remains responsible for any unpaid obligations that accrued prior to the transfer of the property.

SECTION 6. Any costs incurred under the provisions of this act may be funded by an appropriation or issuance of debt by the Town of Brookline, provided that any debt incurred shall be subject to the provisions of MGL ch. 44 and shall not exceed twenty years. Any appropriation or borrowing by the Town for purposes contained within this section shall not be included in the computation of the levy or borrowing limits otherwise imposed upon the Town by the general laws.

SECTION 7. An agreement between a property owner and the Town pursuant to this act shall not be considered a breach of limitation or prohibition contained in a note, mortgage, or contract on the transfer of an interest in property.

SECTION 8. The Town shall implement said program through the adoption of regulations by the Town of Brookline Select Board, following a public hearing

SECTION 9. Decisions by the Town to extend or deny a loan pursuant to a program established under this act shall be discretionary. Legislative determinations by the Town are final and conclusive and shall not be reviewable in any court.

**Approved:**    AYE: 190                      NO: 38                      ABSTAINED: 9



## **ARTICLE 25**

### *Petition for a special act regarding Green Zoning*

Motioned and Duly Seconded

Presented by: Lisa Cunningham

Speakers: Lisa Cunningham (Resident), Patty Correa (AC), Natalia Linos (P6), Linda Pehlke (P17), Jonathan Klein (Resident), Lee Selwyn (P13), Jonathan Margolis (P7), Ira Krepchin (P15), Lisa Cunningham (Resident)

**MOTION** to Terminate Debate

**Failed**

Speakers: Tina Li (Resident), Amy Hummel (P12), Carlos Tamayo (P2), Marty Rosenthal (P9), Markus Penzel (P2), Alexander Lebovitz (P8)

**MOTION** to Terminate Debate

**Approved**

**VOTED:** that the Town authorize the Select Board to petition the Massachusetts General Court for special legislation, as set forth below, to allow the Town of Brookline to adopt zoning bylaws pursuant to *M.G.L. c.40A, §5* that may require land use and development standards intended to reduce greenhouse gas emissions, and that may impose more progressive requirements than are articulated in the State Building Code or elsewhere; provided, however, 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:

**An Act authorizing the Town of Brookline to adopt green zoning bylaws and regulations.**

*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. Green Zoning. Notwithstanding the provisions of section 3 of chapter 40A, section 95 of chapter 143, those further statutes and regulations relating to the State Building Code and its incorporated specialty codes, chapter 164, or any other general or special law to the contrary, the Town of Brookline is authorized to adopt zoning bylaws and regulations for the purpose of reducing greenhouse gas emissions, increasing energy efficiency, and otherwise addressing specific harms stemming from or contributing to the climate crisis.

SECTION 2. Building Standards. Zoning bylaws and regulations, the adoption of which is authorized by this chapter, shall not be deemed invalid or unenforceable, or have their approval withheld by the Office of the Attorney General on the basis that they regulate any of the following:

- (a) the use of materials or methods of construction of buildings, whether or not otherwise regulated by the State Building Code; or

- (b) the use, inclusion, or prohibition of certain design elements, components, equipment, or infrastructure for the construction of buildings, including without limitation heating and cooling systems, solar energy systems, and electric vehicle charging systems.

SECTION 3. Emissions Standards. Zoning bylaws and regulations, the adoption of which is authorized by this chapter, shall not be deemed invalid or unenforceable, or have their approval withheld by the Office of the Attorney General on the basis that they regulate any of the following:

- (a) air emissions regulated by the Massachusetts Department of Environmental Protection;
- (b) seasonal, annual or lifetime greenhouse gas emissions of structures; or
- (c) greenhouse gas emissions attributable to construction, including those attributable to the production and transportation of building materials.

SECTION 4. Utility Connection Standards. Zoning bylaws and regulations, the adoption of which is authorized by this chapter, shall not be deemed invalid or unenforceable, or have their approval withheld by the Office of the Attorney General on the basis that they regulate any of the following:

- (a) the installation or prohibition of appliances or equipment, whether for residential or commercial purposes, that consume a utility product regulated under chapter 164 or otherwise by the Massachusetts Department of Public Utilities;
- (b) new connections to a transmission or distribution system for consumer utility products that may impact directly or indirectly the sale or distribution of such utility products, including without limitation natural gas, fuel oil, electricity, renewable natural gas, hydrogen, steam, or hot or chilled water; or
- (c) greenhouse gas emissions attributable to the production, transmission, distribution, or consumption of such utility products.

SECTION 5. Severability. If any provision of this chapter or the application thereof to any person or circumstance shall be found to be invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the chapter shall be deemed to be affected to the minimum extent necessary, so as to secure the purposes thereof.

SECTION 4. This act shall take effect upon its passage.

**Approved:**    AYE: 161                      NO: 72                      ABSTAINED: 8

**MOTION** to Adjourn, duly seconded  
**Approved**

### **Night 4: November 29, 2022**

- Call to order: 7:00P.M.
- A quorum being present, the meeting was called to order by Moderator Kate Poverman.
- **MOTION** to DISSOLVE the Second Special Town Meeting
  - **APPROVED**
    - *Second Special Town Meeting Dissolved November 30, 2022 at 5:00PM*
- **MOTION** to DEFER Article 2 to December 1, 2022
  - **APPROVED**

## **ARTICLE 15**

*Amend Article 8.37.4 of the Town's General By-Laws to limit the allowed number of Storefront Marijuana Retailers to four*

Submitted by: Susan Park TMM17, Bruce Levin TMM17, Wadner Oge TMM15, Cher Duffield TMM10, Ana Otero TMM6, Ariel Soiffer TMM2, Rich Snyder TMM2, Aone Wang TMM8, Alitza Soiffer (high school student)

Motioned and Duly Seconded

Presented by: Susan Park

Speakers: Susan Park (P17), Markus Penzel (P2/AC), Wadner Oge (P15), Miriam Aschkenasy (Select Board/AL), Bruce Levin (P17), Neil Gordon (P1), Cher Duffield (P10), Antonia Duffield (Resident), Alok Somani (AC), Ariel Soiffer (P2), Donnelle O'Neal, Sr. (P4), Aone Wang (P8), Eric Hyett (P10), Alitza Soiffer (Resident)

**MOTION** to Terminate Debate

**Approved**

**MOVED:** That the Town amend the General By-Laws, Part VIII – Public Health and Safety, Article 8.37, Marijuana Establishments, Section 8.37.4, Caps on the Number Select Board Licenses for Marijuana Retailers, as follows (additions are underlined and deletions appear in stricken text):

The Select Board shall not issue more Marijuana Establishment licenses in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, §15, as rounded up to the nearest whole number in the event the number is a fraction: ~~a) Storefront Marijuana Retailers, b) a)~~ Marijuana Delivery Operators, ~~e) b)~~ Social Consumption Retailers, and ~~d) c)~~ Marijuana Couriers.

a) The Select Board shall not issue more than four Storefront Marijuana Retailer licenses

**Approved:**    AYE: 137                      NO: 105                      ABSTAINED: 7

## **ARTICLES 11 and 12**

**[Debated Together]**

Speakers: Nancy Heller (P8), Amanda Zimmerman (P7), Linda Pehlke (P17/AC), Chi Chi Wu (P7), Mike Sandman (Select Board/AL), Steve Heiken (Resident), Scott Ananian (P10), Miriam Aschkenasy (Select Board/AL), Sean Lynn-Jones (P1), Gina Hahn (P3), Simon Grossman (P7), Judith Vanderkay (P9), Mark Levy (P7)

Point of Order: Lee Biernbaum (P9)

Point of Order: Bonnie Bastien (P5)

**MOTION** to terminate debate

**Failed**

Speakers: Lisa Shatz (P11), Colin Stokes (P7), Bob Lepson (P9), Sean Lynn-Jones (P1), Carlos Ridruejo (P14), Elton Elperin (Resident), Carolyn Thall (P16), Simon Grossman (P7), Bonnie Bastien (P5), Steve Heiken (Resident)

**MOTION** to terminate debate

**Approved**

## **ARTICLE 11**

*Amend Article 5.3.9 of the Town's General By-Law to extend demolition delay*

Submitted by: Nancy Heller

Motioned and duly seconded.

**MOTION** to Amend offered by Simon Grossman

**Approved:** AYE: 184 NO: 59 ABSTAINED: 9

**VOTED:** that the Town will amend the General By-Laws as follows:

By amending Section 5.3.9 of the Demolition Delay By-Law (language to be inserted appears in **bold underlined**, language to be removed from the as-filed version appears in ~~strike through~~) Changes between the as filed and amended version are in red.

### **SECTION 5.3.9 EXTENDED WITHHOLDING OF DEMOLITION PERMIT**

The Building Commissioner shall withhold the Demolition Permit for a period of one year, or for a period of eighteen months if the building meets the criteria of Section 5.3.5(b), from the date upon which the final determination was made that a building is a Significant Building except as provided in Section 5.3.11, **provided however that other provisions of this section 5.3.9 notwithstanding and excepting a project containing at least 75% affordable housing units as defined in section 4.08 of the zoning bylaw, during the first 12 months subsequent to the ~~date of approval by the Attorney General~~ effective date of this section 5.3.9 as amended in 2022 (the "24 Month Approval Date"), the Building Commissioner shall withhold the Demolition Permit for a period that shall not expire sooner than that date which is 24 months subsequent to said 24 Month Approval Date or ~~that such~~ date that is otherwise provided ~~above, within this section 5.3.9~~, whichever shall be the later.**

**Approved:** AYE: 172

NO: 77

ABSTAINED: 4

## **ARTICLE 12**

*Create a new Section 4.14 of the Town's Zoning By-Law to create a temporary demolition moratorium for residential structures*

Submitted by: Nancy Heller and Sean Lynn-Jones

Motioned and duly seconded.

**MOTION** to Amend offered by Simon Grossman

**Approved:** AYE: 186

NO: 50

ABSTAINED: 16

**VOTED:** That the Town adopt the following resolution:

A Resolution to urge the Department of Planning and Community Development to study proposals to reduce the number of demolitions in Brookline

WHEREAS, many buildings are being demolished in Brookline; and

WHEREAS, demolitions contribute to carbon emissions and have negative effects on climate change and the environment, leading many experts to say that “the greenest building is the building that already exists”; and

WHEREAS, demolitions often eliminate moderately priced housing and replace it with more expensive units without increasing the overall number of housing units; and

WHEREAS, demolitions eliminate attractive buildings that contribute to the overall look and feel of the streetscape and often replace them with buildings that are out of scale and do not contribute to an attractive and welcoming public realm; and

WHEREAS, demolitions often include removing all the trees on a property; and

WHEREAS, demolitions often eliminate greenspace or open space; and

WHEREAS, demolitions sometimes destroy buildings with architectural or historical significance; and

WHEREAS, recent state legislation (Section 3A of M.G.L. Chapter 40A) calls for MBTA communities to adopt zoning for “as of right” multifamily development in areas near transit no later than December 31, 2023; and

WHEREAS, Brookline's Department of Planning and Community Development will develop the Town's response to Section 3A of M.G.L. Chapter 40A with the goal of submitting recommendations to the November 2023 Town Meeting; and

WHEREAS, any new policies and bylaws to reduce the number of demolitions in Brookline need to be carefully integrated with one another and the Town's response to Section 3A of M.G.L. Chapter 40A; and

WHEREAS, the Town has just begun a comprehensive planning and zoning reform effort to define a community driven vision for our future land-use, and we need to minimize the loss of significant structures in the interim.

NOW THEREFORE BE IT RESOLVED, that Town Meeting urges the Department of Planning and Community Development, to (1) study the trends and location of demolition activity in Brookline; (2) identify the main contributing factors precipitating demolitions; (3) review Section 5.09 paragraph 4 in relation to how these standards could be applied to improve development outcomes in the case of demolitions; (4) prepare changes to the General By-Laws and the Zoning By-Law that are consistent with sound land use planning goals and that would reduce the number of buildings that are demolished in Brookline, and (5) submit relevant warrant articles for consideration at a future Town Meeting.

BE IT FURTHER RESOLVED that Town Meeting urges the Department of Planning and Community Development to consider measures to reduce the number of demolitions in Brookline, such as:

- Reducing the allowable floor area ratio (FAR) in certain zoning districts where the allowable FAR significantly exceeds the FAR of current structures.
- Developing neighborhood-sympathetic form-based zoning, consistent with M.G.L. 40A.
- Allowing a greater number of housing units—including affordable units—than the underlying zoning allows, if the principal structure is preserved, perhaps through a preservation restriction.
- Allowing the creation of Neighborhood Conservation Districts and a related design review board under M.G.L. Chapter 40A (Zoning) to replace the Town's disallowed Home Rule based Neighborhood Conservation District bylaw.
- Extending the current 12 month and 18-month demolition delays respectively to 18 and 24 months except as it pertains to affordable housing as defined in 4.08 of the Bylaw.
- Requiring demolition applicants to make a documented good faith effort to sell the property to someone who will use or repurpose it to achieve Brookline's affordable housing goals.
- Extending the special permit for demolition required in Section 5.09 2a of the Zoning By-Law to certain other parts of Brookline. (According to that section, all properties on or within 100 feet of Washington, Harvard, Beacon, and Boylston Streets, and Brookline Avenue or any structure or outdoor use on a lot any part of which is located in the G-1.75 (CC) or L-0.5 (CL) Districts requires a special permit and design review for demolition and subsequent construction.)

- Extending the design review/special permit requirement that applies to any substantially complete demolition of a principal structure in the Coolidge Comer Design Overlay District to certain other parts of Brookline.

**Approved:**    AYE: 187                      NO: 61                      ABSTAINED: 6

**ARTICLE 13**

*Amend Section 5.09 of the Town's Zoning By-Law to require design review after the expiration of a stay of demolition*

Submitted by: Susan M. Roberts (TMM Pct. 17), Elton Elperin, Dennis DeWitt

Motioned and Duly Seconded

Presented by: Linda Pehlke

Speakers: Linda Pehlke (P17/AC), Amanda Zimmerman (P7), Bernard Greene (Select Board/AL), Chi Chi Wu (P7), Elton Elperin (Resident), Lisa Shatz (P11), Susie Roberts (P17), Rick Fredkin (P14), Kara Brewton (Director of Planning and Community Development), Wendy Friedman (P5), Lee Biernbaum (P9)

Point of Personal Privilege: Harold Simansky (P9)

Speakers: Simon Grossman (P7), Steve Heikin (Resident), Bonnie Bastien (P5), Elton Elperin (Resident)

**MOTION** to terminate debate

**Approved**

**MOTION** to REFER

**Failed:** Aye: 78      No: 160                      Abstained: 5

**MOTION** to Amend offered by Bob Lepson

**Failed:**            AYE: 108                      NO: 133                      ABSTAINED: 5

**VOTED:** That the Town (1) amend the Zoning By-law Article 5.09, Design Review, by adding a new Section 5.09(2)(o), and (2) amend the Zoning By-law, Article 4.01, Permitted Uses, by adding a new Section 4.01(3) (d), both as follows (language to be inserted appears in **bold underlined**):

1. Zoning By-law, § 5.09 Design Review, 2. Scope



**(o) Any principal structure for which an application for a full demolition has resulted in a stay of demolition imposed by the Preservation Commission in accordance with the Town's bylaws without the Preservation Commission having advised the Building Commissioner in writing that the Commission: (i) has found that there is no reasonable likelihood that the building can be preserved, restored, rehabilitated or moved, and (ii) is satisfied with the use, design and improvement of the property following demolition, as stipulated by the Commission; provided, however, that this subparagraph o. shall not apply to principal structures in the S-40 and S-25 Districts, nor to any such structure otherwise subject to design review under this Section 5.09.**

2. Zoning By-law, § 4.01, Permitted Uses, 3.

**(d) The use necessitates design review that is subject to § 5.09(2)(o).**

**Approved: AYE: 168      NO: 71      ABSTAINED: 8**

**MOTION to Adjourn, duly seconded**

**Approved**

**Night 5: November 30, 2022**

- Call to order: 7:00P.M.
- A quorum being present, the meeting was called to order by Assistant Moderator Sandy Gadsby

## **ARTICLE 39**

### *Resolution regarding the study and use of the Golf Course*

Submitted by: Department of Planning and Community Development

Motioned and duly seconded.

Presented by: Wendy Friedman

Speakers: Wendy Friedman (P5), Len Wholey (P11), Antonia Bellalta (Resident), Cher Duffield (P10), Jim Carroll (Resident), Jeffrey Benson (P3), Bob Weintraub (P9), Eric Hyett (P10), Carol Levin (AC), Adrienne Bowman (P16), Leigh Jackson (Recreation Director), Michael Sandman (Select Board/AL), Clint Richmond (P6), Steve Heiken (Resident), John Harris (P8), David Ford (Resident), Michael Berger (P15), Leigh Jackson (Recreation Director), Chi Chi Wu (P7), Jennifer Goldsmith (P11)

Point of Order: Jerry Tuckman (P9)

Speakers: Melissa Goff (Deputy Town Administrator), Chuck Swartz (P9), Joe Callanan (Town Counsel), Alec Lebovitz (P8), Wendy Friedman (P5), Leigh Jackson (Recreation Director)

Point of Order: Lauren Bernard (P17)

**MOTION** to Terminate Debate

**APPROVED**

**MOVED:** That the Town adopt the following resolution:

WHEREAS Town Meeting is responsible for approving the operating budget of the Golf Enterprise Fund, which fund includes costs associated with the golf course, a practice putting green, driving range, a pro shop and restaurant, as well as with several community events such as movie night on the range, the Harvest Festival, and snow sport recreation; and

WHEREAS 124.6 acres of Putterham Meadows were originally purchased by the town from 1899 to 1901 explicitly for the purpose of providing playgrounds; and

WHEREAS Putterham Meadows was a bird sanctuary for seven years before the opening of the municipal golf course in 1933; and

WHEREAS Putterham Meadows offered a bridle path that was built in 1907 and covered many acres of land; and

WHEREAS the Golf Enterprise Fund began contributing to the Town's revenue pool in 1989, and the Town set an annual fee of \$200,000, which declined over time and was eventually eliminated; and

WHEREAS Brookline's June 2021 Urban Forest Climate Resiliency Master Plan Report has a goal of planting 900 trees per year for the next 10 years; and

WHEREAS a multi-use path using the existing golf cart paths around the perimeter of Putterham Meadows could improve the connectivity of Brookline's Green Routes Bicycle Network; and

WHEREAS Brookline's two community gardens occupy minimal space and have a long waiting list; and

WHEREAS Brookline does not use pesticides or herbicides on its fields, the Robert T. Lynch Municipal Golf Course does use pesticides and herbicides, and in 2021 approximately 242 gallons of liquid and 1,305 lbs of dry pesticides containing dangerous and environmentally harmful chemicals were used at the golf course; and

WHEREAS, though the Robert T. Lynch Municipal Golf Course is considered by many community members and staff to be the most important and beautiful green space in Town, during the golf season, which is 9.5 to 10 months per year, non-golfers are only allowed access to the property on Monday mornings; and

WHEREAS the 120 acres of the Robert T. Lynch Municipal Golf Course covers 22% of Brookline's 557 acres of open space and 2.7% of all of Brookline; and

WHEREAS Brookline residents accounted for only 8.2% of golf rounds (2,556) at the Robert T. Lynch Municipal Golf Course in FY21 v. 91.8% of rounds played by non-residents (28,619); and

WHEREAS there are 30 other golf courses (9 of which are 9 holes) open to the public within 30 miles of the Robert T. Lynch Municipal Golf Course; and

WHEREAS the Golf Course Landscape Master Plan Design Review Committee is currently creating a site wide plan; and

WHEREAS the Golf Course Enterprise Fund has a FY21 year-end unreserved fund balance of \$773,829; and

WHEREAS Town Meeting in the 2022 Annual Town Meeting approved a Golf Enterprise Fund budget of \$2,580,460 of which \$475K is from retained earnings to support Master Plan work;

**NOW THEREFORE BE IT RESOLVED THAT:** Town Meeting urges the Parks and Recreation Commission to:

(1) Broaden the scope of the Golf Course Landscape Master Plan to consider what environmentally responsible uses are feasible within the 120 acres, taking into account the community priorities identified in the Parks, Recreation and Open Space 2019 Strategic Master Plan Survey, the top 3 of which were Parks and Playgrounds; Trails & Pathways; and Nature Sanctuaries. The plan should include at least one option with a 9 hole golf course. The plan

should include potential uses such as a perimeter path, wetland restoration, Miyawaki forest, tree nursery, community gardens, and/or other needs identified and expressed by the Parks and Recreation Commission. Plans should only consider uses that do not result in a further degradation of the natural peatland that currently exists on the golf course.

(2) Use a portion of either the \$475K Master Plan funds or the Golf Course Enterprise Fund year-end unreserved fund balance to pay for the updated Plan.

**Failed:**            AYE: 84                      NO: 146                      ABSTAINED: 15

Point of Order: Martin Yaseen (P17)  
Jonathan Simpson (Associate Town Counsel)  
Question of Privilege: Anne Weaver (P11)  
Point of Order: Natalia Linos (P6), Jesse Gray (P10)  
Point of Order: Jeffrey Benson (P3)

## **ARTICLE 26**

*Petition for a special act regarding a methane emissions surcharge*

Submitted by: Zero Emissions Advisory Board, Chair Jesse Gray, TMM10

Motioned and duly seconded.

Presented by: Wendy Stahl  
Speakers: Wendy Stahl (Resident), Richard Benka (P14), Neil Gordon (P1/AC), Lee Selwyn (P13), Jonathan Margolis (P7), Scott Englander (P6), Carol Gladstone (P2), Perry Grossman (P5), Mark Gerber (P13), Jesse Gray (P10), David Gladstone (Resident), Paul Warren (P1)

Question of Privilege: Mike Sandman (Select Board/AL)

Speakers: Lisa Cunningham (Resident), Lee Biernbaum (P9), Jesse Gray (P10), Jonathan Davis (P17), Richard Benka (P14), John Hebert (P7), Natalia Linos (P6), Jesse Gray (P10), Alisa Jonas (P16), Jonathan Simpson (Associate Town Counsel), Joslin Murphy (P16), Tommy Vitolo (State Representative/AL), Colin Stokes (P7), Wendy Stahl (Resident), Neil Wishinsky (P5), Jesse Gray (P10)

Point of Order: Scott Ananian (P10)

**MOTION** to Terminate Debate  
**APPROVED**

**MOTION** to Amend offered by Jonathan Margolis  
**Approved:**    AYE: 159                      NO: 81                      ABSTAINED: 9

**VOTED:** That the Town will adopt the following resolution:

A Resolution Urging the Massachusetts General Court to enact legislation to add a gas utility surcharge to the bill of all properties served by a gas utility, with appropriate lower income exemptions for the primary residence of households, to be remitted to the municipality in which that household is located and those surcharges to be used to fund programs or activities to promote emissions reduction in that municipality.

WHEREAS, the Commonwealth of Massachusetts has set a goal to have Net Zero emissions by 2050 and published a “Decarbonization Road Map” in February 2020 which sets a target of Net Zero emissions in the State by 2050 and a “Clean Energy and Climate Plan for 2025 and 2030 published in June 2022<sup>1</sup>; and

WHEREAS, Brookline Town Meeting has set a goal to have Net Zero emissions by 2040 (Warrant Article 37, Spring 2021) and published plans including a Greenhouse Gas Inventory (2000-2008), Climate Action Plan 2002, Zero Emissions by 2050 Climate Action Plan in 2018 as well as numerous Town Meeting resolutions, by-law and zoning changes<sup>2</sup>; and

WHEREAS, in 2020 the Commonwealth of Massachusetts emitted 50.3 Million Metric Tons of CO<sub>2</sub> (MMT) and in 2008 emitted 76.7MMT<sup>3</sup>; and

WHEREAS in 2008 Brookline emitted 0.54 MT (0.48 MMT), less than 1% of Commonwealth emissions at that time<sup>4</sup>; and

WHEREAS, Massachusetts emissions from residential and commercial buildings is about 27% of total statewide emissions, and to keep pace with targets, the Commonwealth needs to decarbonize about 2 million buildings<sup>5</sup>; and

WHEREAS, Brookline emissions for residential and commercial buildings is about 66% of total emissions, with over 26,800 housing units (is comprised of single-family houses, two, and three family dwellings, apartment blocks and condominiums of which only a very few dwellings are fully electric and/or have solar power) accounting for 46% of Brookline total emissions and over 1500 commercial establishments (ranging from local cafés, stores, medical offices etc. to multi-story office towers) accounting for 20% of emissions<sup>6</sup>; and

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<sup>1</sup>[mass.gov/doc/ma-2050-decarbonization-roadmap/download](https://mass.gov/doc/ma-2050-decarbonization-roadmap/download)

[mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download](https://mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download)

<sup>2</sup>Collins Report: [brooklinema.gov/DocumentCenter/View/22352/Brookline-Sustainability-Final-Report---August-2020](https://brooklinema.gov/DocumentCenter/View/22352/Brookline-Sustainability-Final-Report---August-2020)

GHG Inventory: [brooklinema.gov/ArchiveCenter/ViewFile/Item/628](https://brooklinema.gov/ArchiveCenter/ViewFile/Item/628)

<sup>3</sup>USEIA: [eia.gov/environment/emissions/state/](https://eia.gov/environment/emissions/state/)

<sup>4</sup>GHG Inventory: [brooklinema.gov/ArchiveCenter/ViewFile/Item/628](https://brooklinema.gov/ArchiveCenter/ViewFile/Item/628)

USEIA: [eia.gov/environment/emissions/state/](https://eia.gov/environment/emissions/state/)

<sup>5</sup>[mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download](https://mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download)

<sup>6</sup>Brookline Assessors database FY2022 PROPERTY ASSESSMENTS.xlsx

GHG Inventory: [brooklinema.gov/ArchiveCenter/ViewFile/Item/628](https://brooklinema.gov/ArchiveCenter/ViewFile/Item/628)

WHEREAS, natural gas is used for building space and hot water heating in 257 cities and towns in the Commonwealth including Brookline<sup>7</sup>: and

WHEREAS, the cost of conversion to electric power is substantial and for Brookline it could easily cost well over \$300 million for residential decarbonization alone; and

WHEREAS, a surcharge on a gas utility bill will incentivize demand reductions, thus lowering emissions, as well as providing some funding for decarbonization projects; and

WHEREAS, all Cities and Towns in Massachusetts need tools to help raise revenue for those municipalities to achieve their climate goals for decarbonization of residential, commercial, and municipal buildings; as well as transportation; and

WHEREAS, an act of the state legislature is necessary to provide additional revenue generating sources to enable municipalities to achieve decarbonization goals; and

WHEREAS, Resolutions urging our legislative delegation to introduce a bill addressing the statewide policy question are more likely to be successfully advanced through the legislature. Home Rule petitions are more appropriately used to address issues unique to a city or town, and not as a general exception to the law;

THEREFORE, be it RESOLVED, that Brookline Town Meeting hereby requests that the General Court of Massachusetts enact legislation that will allow Brookline and any other city or town in Massachusetts, to enact local legislation following an affirmative vote by its electorate, to enable a municipality to add a gas utility surcharge to the bill of all properties served by a gas utility, with appropriate lower income exemptions, where the utility company collects and forwards to the city or town concerned those remittances to be used to fund programs or activities to promote emissions reductions and have appropriate lower income exemptions for the primary residence of households; and

Be it further RESOLVED, that our legislative delegation include in their legislation as much as possible of the clause details contained in the citizen petitioners original home rule legislation cited below in the explanation to this resolution; and

Be it further RESOLVED, that the Town Clerk shall promptly forward a copy of this Resolution to each of Brookline's State Representatives and to Brookline's State Senator, with the request that they further distribute copies of this Resolution to their House and Senate colleagues.

**Approved:**    AYE: 134                      NO: 112                      ABSTAINED: 7

**MOTION** to Adjourn, duly seconded  
**Approved**

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<sup>7</sup>[mass.gov/doc/natural-gas-providers/download](https://mass.gov/doc/natural-gas-providers/download)

**Night 6: December 1, 2022**

- Call to order: 7:00P.M.
- A quorum being present, the meeting was called to order by Moderator Kate Poverman



## **ARTICLE 2**

### *Approval of Collective Bargaining Agreements*

Submitted by: Human Resources

Motioned and duly seconded.

Presented by: Heather Hamilton

Speakers: Heather Hamilton (Select Board/AL), Dennis Doughty (P3/AC)

**VOTED:** that the Town 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.

**Approved:** AYE: 218

NO: 0

ABSTAINED: 2

## **ARTICLE 28**

### *Petition for a special act regarding an emissions reduction fund*

Submitted by: Zero Emissions Advisory Board, Chair Jesse Gray, TMM10

Motioned and duly seconded.

Presented by: Wendy Stahl

Speakers: Wendy Stahl (Resident), Dick Benka (P14), Jesse Gray (P10), Joslin Murphy (P16/AC), David Mendels (Resident), Lee Selwyn (P13), Rachid Belhocine (Chief Assessor), Harold Simansky (P9), David Pendels (Resident), Lee Biernbaum (P8), Jesse Gray (P10), Jonathan Margolis (P7), Markus Penzel (P2), Charlie Homer (P8), Chas Carey (Town Administrator), Carol Gladstone (P2), Brenda Hochberg (P2), Susan Helms Daley (P1), Jesse Gray (P10), Linda Pehlke (P17), John VanScoyoc (Select Board/AL), Ariel Soiffer (P2), Rui Albuquerque (P1), Wendy Stahl (Resident)

Point of Privilege: Scott Gladstone (P16)

**MOTION** to Terminate Debate

**APPROVED**

**VOTED** that the Town authorize the Select Board to petition the Massachusetts General Court for special legislation, as set forth below, to fund greenhouse gas emissions reductions in the Town of Brookline; provided, however, 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.

**An Act authorizing the Town of Brookline to Create an Emissions Reduction Fund**

*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. Emissions Reduction Fund. Notwithstanding the provisions of MGL section 53 of chapter 44 or any other law to the contrary, the Town of Brookline shall establish a separate account to be known as the Emissions Reduction Fund of which the Town Treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the Town Meeting, and the Town Treasurer shall pay expenses in accordance with MGL chapter 41.

The following monies shall be deposited in the Emissions Reduction Fund: (a) all funds collected pursuant to local surcharges or bond proceeds in anticipation of revenue from such surcharges; (b) all funds received from the Commonwealth or any other source for such purposes; and (c) proceeds from the disposition of a real property interest that was acquired with funds from the Emissions Reduction Fund. The Treasurer may deposit or invest the proceeds of the Fund in savings banks, trust companies incorporated under the laws of the Commonwealth of Massachusetts banking companies incorporated under the laws of the Commonwealth that are members of the Federal Deposit Insurance Corporation or national banks. The Treasurer may also invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the Commonwealth or in the manner authorized by MGL section 54 of chapter 44, and any income therefrom shall be credited to the Fund. The expenditure of revenues from the Fund shall not exceed the amounts recommended by the Brookline Zero Emissions Advisory Board.

SECTION 2. Surcharge on real property; residential exemptions (a) Notwithstanding the provisions of MGL chapter 59 or any other law to the contrary, the Town of Brookline shall impose a surcharge on real property of up to 3% of the real estate tax levy against such property, as determined annually by the Brookline Board of Assessors. The amount of the surcharge shall not be included in a calculation of total taxes assessed for purposes of MGL section 21C of said chapter 59.

(b) No exemption or abatement of real property taxation authorized by MGL chapter 59 or any other exemption or abatement law for which a taxpayer qualifies, shall be affected by this chapter. The surcharge to be paid by a taxpayer receiving an abatement of real property authorized by MGL chapter 59 or any other law shall be reduced in proportion to the amount of such abatement.

(c) (1) For the purposes of this section the term “area median income” shall mean the median family income for the Boston-Cambridge-Quincy area, adjusted for family size, as established by United States Department of Housing and Urban Development.

(2) There shall be a complete exemption from the surcharge for qualifying residential real property owners who demonstrate, pursuant to subsection (e) hereof, that their income in the immediately prior year was less than 200% of the area median income, provided that Brookline Town Meeting shall determine this income percentage and may specify another value provided that it is greater than 200% of area median income. The exemption shall be applied to the primary residence of the taxpayer only. If a property owner's primary residence is in an owner-occupied multi-family property, the exemption shall be applied on a pro-rated basis only to the value of the owner-occupied unit.

(3) Real property shall qualify for the exemption if all of the following criteria are met:

- (i) The applicant or joint applicants' prior year's income would make the applicant or joint applicants eligible for the exemption;
- (ii) The qualifying real property is owned and occupied by the applicant or joint applicants as their primary residence; and
- (iii) The Brookline Board of Assessors has approved the application.

(d) There shall be a complete exemption from the surcharge for properties with a structure thereon, where the entire building or an entire condominium unit does not use on-site coal, oil, natural gas or other fossil fuels in support of its operation. Town Meeting may also grant complete or partial exemptions from the surcharge, including but not limited to, properties where there has been a MassSave or other energy audit, and the recommendations of such an audit have been implemented.

(e) A person who seeks to qualify for an exemption shall, before the deadline established by the Brookline Board of Assessors, file an application, on a form to be adopted by the Board of assessors, together with the supporting documentation of the applicant's income as described in the application. An application shall be filed each year for which the applicant seeks the surcharge exemption.

(f) Any amount of the surcharge not paid by the due date shall bear interest at the rate per annum provided in MGL chapter 59 section 57.

### SECTION 3. Surcharge on real property; collection

(a) Upon the Brookline Assessor's warrant to the Brookline Tax Collector, the surcharge shall be imposed.

(b) After receipt of the warrant, the Tax Collector shall collect the surcharge in the amount and according to the computation specified in the warrant and shall cause appropriate books and accounts to be kept with respect to such surcharge. The Brookline Assessor's property card shall include a "Y" or an "N" to identify whether the landowner has been granted an exemption. The tax collector shall pay the amounts so collected, quarterly or semi-annually, according to the town of Brookline's schedule for collection of property taxes for the tax on real property, to the town's treasurer for transfer into the Emissions Reduction Fund established pursuant to section 1.

(c) The remedies provided by MGL chapter 60 for the collection of taxes upon real estate shall apply to the surcharge on real property pursuant to this chapter.

### SECTION 4. Expenditures for emissions reductions

(a) The Brookline Zero Emissions Advisory board shall, from time to time, make recommendations to Brookline Town Meeting to fund programs or activities to promote emissions reductions. Said board may include in its recommendation to Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with emissions reduction but for which sufficient revenues are not then available in the Emissions Reduction Fund established pursuant to section 1 hereof to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with emissions reduction.

(b) After receiving such recommendations from the Brookline Zero Emissions Advisory Board, Town Meeting may vote to approve such appropriations from the Emissions Reduction Fund established pursuant to section 1 hereof, in an amount not to exceed the amounts recommended by the Board; provided, however, that nothing herein shall be deemed to constrain Brookline Town Meeting from appropriating such additional amounts as it deems appropriate to carry out the Board's recommendations from a source other than the Emissions Reduction Fund.

#### SECTION 5. Administrative expenses.

In each fiscal year, Brookline Town Meeting may make such appropriations from the Emissions Reduction Fund as it deems necessary for the administrative and operating expenses of the Brookline Zero Emissions Advisory Board, but the appropriations shall not exceed 5% of the annual revenues in the Emissions Reduction Fund. Funds held in the Emissions Reduction Fund may be spent in the year in which the surcharge was collected, provided that funds set aside for a specific purpose shall be spent only for the specific purpose. The Emissions Reduction Fund shall not replace existing operating funds, only augment them.

#### SECTION 6. Properties purchased by the Emissions Reduction Fund.

(a) A real property interest that is purchased with monies from the Emissions Reduction Fund shall be bound by a permanent deed restriction that meets the requirements of MGL chapter 184, limiting the use of the property interest to the purpose for which it was acquired. The deed restriction shall run with the land and shall be enforceable by the Town. The deed restriction may also run to the benefit of a nonprofit, charitable corporation or foundation selected by the Town, which has the right to enforce the restriction.

(b) Real property interests acquired under this chapter shall be owned and managed by the Town, but Town Meeting may delegate management of such property to the Brookline Zero Emissions Advisory Board or other Town board or commission, as it may deem appropriate. Town Meeting may also delegate management of such property to a nonprofit organization created under MGL chapter 180 or chapter 203.

#### SECTION 7. Record keeping.

The Brookline Zero Emissions Advisory Board shall keep a full and accurate account of all of its actions, including its recommendations and the action taken thereon, and shall keep records of all appropriations or expenditures made from the Emissions Reduction Fund. The Board shall

also keep records of any real property interests acquired, disposed of, or improved by the Town upon its recommendation, including the names and addresses of the grantors or grantees and the nature of the consideration given. The records and accounts shall be public records.

#### SECTION 8. Matching funds.

Funds in the Brookline Emissions Reduction Fund may be made available and used by the Town as the local share for state or federal grants upon recommendation of the Brookline Zero Emissions Advisory Board and approval of Town Meeting, as provided for in section 4 above as long as such grants and local share are used in a manner consistent with the recommendations of the Brookline Zero Emissions Advisory Board.

#### SECTION 9. Effective Date

This act shall take effect upon the approval by Town Meeting of the surcharge amount pursuant to section 2 above and the acceptance by the voters of a ballot question as described below. If Town Meeting approves this act, it shall be submitted for acceptance to the voters of Brookline at a regular municipal or state election following enactment of this chapter. The Town Clerk or the State Secretary shall place it on the ballot in the form of the following question:

"Shall the Town of Brookline accept An Act authorizing the Town of Brookline to fund reductions in greenhouse gas emissions, as approved by Town Meeting, a summary of which appears below?"

(Set forth here a fair, concise summary and purpose of the law to be acted upon, as determined by town counsel, including in said summary the percentage of the surcharge to be imposed.)

If a majority of the voters voting on said question vote in the affirmative, then the Act's provisions shall take effect, but not otherwise.

The final date for notifying or filing a petition with the Brookline Town Clerk or the Massachusetts Secretary of State to place such a question on the ballot shall be 35 days before the Brookline local election or 60 days before the state election.

#### SECTION 10. Accountability

The Brookline Emissions Reduction Fund shall have a ceiling, initially set to \$15,000,000 in inflation-adjusted 2022 dollars, for unallocated funds. If at the end of any fiscal year there are more dollars in the fund than the ceiling, excluding (1) any portion of funds already allocated by Town Meeting, (2) any portion of funds deposited within that fiscal year, and (3) any portion of funds provided by the Commonwealth rather than from local revenue, such excess shall be transferred to the Town's Free Cash. Town Meeting may modify the ceiling.

At any point more than five years after the effective date, Town Meeting may choose to terminate the Emissions Reduction Fund. If terminating the Fund, Town Meeting may transfer

remaining funds to other funds or to free cash, and may choose whether to terminate individual programs generating revenue for the Fund or to redirect those programs to generate revenue for another purpose.

**Failed:**            AYE: 119                      NO: 121                      ABSTAINED: 8

## **ARTICLE 29**

*Petition for a special act regarding a gasoline vehicle excise surcharge*

Submitted by: Zero Emissions Advisory Board, Chair Jesse Gray, TMM10

Motioned and duly seconded.

Presented by: Kathleen Scanlon

Speakers: Kathleen Scanlon (P3), Harry Friedman (P12), Joslin Murphy (P16/AC), Lee Selwyn (P13)

Point of Order: Regina Frawley (P16)

Speakers: Michael Berger (P15), Lisa Shatz (P11), Stephen Reeder (AC)

Question of Privilege: Jesse Gray (P10)

Speakers: Scott Englander (P6), Carolyn Thall (P16), Kathleen Scanlon (P3), Chas Carey (Town Administrator), Werner Lohe (P13), John Hebert (P7), Natalia Linos (P6), Wendy Stahl (Resident)

Question Privilege: Scott Gladstone (P16)

**MOTION** to Terminate Debate

**FAILED**

Speakers: Danielle Da Silva (P16), Lisa Cunningham (Resident)

Point of Order: Martin Yaseen (P17)

Speakers: Perry Grossman (P5), Conor Sheehan (P10), Scott Englander (P6)

**MOTION** to Terminate Debate

**APPROVED**

Point of Privilege: Scott Gladstone (P16)

**VOTED:** That the Town authorize the Select Board to petition the Massachusetts General Court for special legislation, as set forth below, to charge, in addition to the excise tax on registered motor vehicles set forth in Chapter 60A, Section 1 of the Massachusetts General Laws, an excise tax on gasoline-powered vehicles; provided, however, 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.

**An Act authorizing the Town of Brookline to assess a surcharge upon gasoline-powered motor vehicles.**

*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. Definitions. The words “gasoline-powered motor vehicle,” when used in this chapter, shall mean a motor vehicle capable of being powered, whether wholly or in combination with other power sources, by a distillate of petroleum or allied substance with suitable volatility and other characteristics to be used as a fuel for operating internal combustion engines, whether or not the fuel is mixed with other materials.

SECTION 2. Surcharge; valuation. Notwithstanding the provisions of any general or special law to the contrary, the Board of Assessors of the Town of Brookline may assess a surcharge on motor vehicles to be added to the excise tax bill set forth in chapter 60A, section 1 of the Massachusetts General Laws. The amount of the surcharge shall be determined by Town Meeting and valued at a rate not greater than twenty-five dollars per thousand of valuation of the vehicle. For the purpose of this surcharge, the value of each motor vehicle shall be as defined in MGL section 1 of chapter 60A. No surcharge shall be added under this chapter on any vehicle valued pursuant to MGL chapter 60A at less than thirty thousand dollars, with such figure to be adjusted for changes in the Boston Consumer Price Index-Urban (CPI-U) after December, 2022. The surcharge shall be abated in equal proportion to any abatement granted pursuant to MGL chapter 60A, and shall otherwise be subject to all provisions of chapter 60A, including assessment, exemptions, abatement, collection, deferral, and remedies for nonpayment. The funds collected from this surcharge shall be deposited in the Emissions Reduction Fund established by Section 4, below.

SECTION 3. Exemption. The surcharge imposed by this chapter shall apply only to gasoline-powered motor vehicles, including, unless expressly exempted by Town Meeting, plug-in hybrid electric vehicles. A person who qualifies for any calendar year for exemption from the surcharge imposed by this chapter on a motor vehicle owned and registered or leased by such person shall be entitled to the exemption upon application to the Brookline Board of Assessors for that year as provided in section 2 of MGL chapter 60A for the procedure of an owner aggrieved by the excise assessed. An application for exemption may be made by such person; the person’s spouse, if the motor vehicle is jointly owned and registered or leased in the names of the person and spouse; or, if the person is deceased, a surviving spouse, administrator, executor or trustee of the estate, will or trust, as the case may be.

SECTION 4. Emissions Reduction Fund. Notwithstanding the provisions of MGL section 53 of chapter 44 or any other general or special law to the contrary, the Town of Brookline, shall establish a separate account to be known as the Emissions Reduction Fund of which the Town Treasurer shall be the custodian. The authority to approve expenditures from the Fund shall be limited to the Town Meeting, and the Town Treasurer shall pay expenditures in accordance with MGL chapter 41.

The following monies shall be deposited in the Emissions Reduction Fund: (a) all funds collected pursuant to local surcharges or bond proceeds in anticipation of revenue from such surcharges; (b) all funds received from the Commonwealth of Massachusetts or any other source for such purposes; and (c) proceeds from the disposition of a real property interest that was acquired with funds from the Emissions Reduction Fund. The Town Treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under the laws of the Commonwealth, banking companies incorporated under the laws of the Commonwealth that are members of the Federal Deposit Insurance Corporation, or national bank. The Treasurer may also invest monies in the Fund in paid up shares and accounts of and in co-operative banks, in shares of savings and loan associations, or in shares of federal savings and loan associations doing business in the Commonwealth, or in the manner authorized by MGL chapter 44 section 54, and any income therefrom shall be credited to the Fund. The expenditure of the proportion of revenues from the Fund that are a result of this surcharge shall be limited to implementing the recommendations of the Brookline Zero Emissions Advisory Board for reducing transportation emissions and providing administrative and operating expenses to the board.

#### SECTION 5. Expenditures for emissions reductions

(a) The Brookline Zero Emissions Advisory board shall, from time to time, make recommendations to Brookline Town Meeting to fund programs or activities to promote emissions reductions. Said board may include in its recommendation to Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with emissions reduction but for which sufficient revenues are not then available in the Emissions Reduction Fund established pursuant to section 1 hereof to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with emissions reduction.

(b) After receiving such recommendations from the Brookline Zero Emissions Advisory Board, Town Meeting may vote to approve such appropriations from the Emissions Reduction Fund established pursuant to section 1 hereof, in an amount not to exceed the amounts recommended by the Board; provided, however, that nothing herein shall be deemed to constrain Brookline Town Meeting from appropriating such additional amounts as it deems appropriate to carry out the Board's recommendations from a source other than the Emissions Reduction Fund.

SECTION 6. This act shall take effect on the later of (1) July 1 of the year immediately following its passage and (2) the Attorney General's approval of a bylaw specifying the details of this policy, including the amount of the surcharge per thousand assessed dollars.



SECTION 7. Accountability. The Brookline Emissions Reduction Fund shall have a ceiling, initially set to \$15,000,000 in inflation-adjusted 2022 dollars, for unallocated funds. If at the end of any fiscal year there are more dollars in the fund than the ceiling, excluding (1) any portion of funds already allocated by Town Meeting, (2) any portion of funds deposited within that fiscal year, and (3) any portion of funds provided by the Commonwealth rather than from local revenue, such excess shall be transferred to the Town's free cash. Town Meeting may modify the ceiling.

At any point more than five years after the effective date, Town Meeting may choose to terminate the Emissions Reduction Fund. If terminating the Fund, Town Meeting may transfer remaining funds to other funds or to free cash, and may choose whether to terminate individual programs generating revenue for the Fund or to redirect those programs to generate revenue for another purpose.

**Failed:**            AYE: 118            NO: 125            ABSTAINED: 8

**MOTION** to Adjourn, duly seconded  
**Approved**

**Night 7: December 6, 2022**

- Call to order: 7:00P.M.
- A quorum being present, the meeting was called to order by Moderator Kate Poverman
- **MOTION** to DEFER Article 27 to December 8, 2022
  - **APPROVED**

## **ARTICLE 31**

*Amend Article 3.14 of the Town's General By-Laws to revise the discrimination complaint process*

Submitted by: Bernard Greene, Martin Rosenthal, and Nancy Daly Cavanaugh

Motioned and duly seconded.

Presented by: Bernard Greene

Speakers: Bernard Greene (Select Board/AL), Deborah Brown (Resident), Neil Gordon (P1/AC), Chi Chi Wu (P7), John VanScoyoc (Select Board/AL), Robert Lepson (P9), Marty Rosenthal (P9), Alec Lebovitz (P8), Dick Benka (P14), Bonnie Bastien (P5), Susan Granoff (P7)

**MOTION** to terminate debate

**Failed**

Speakers: Carlos Tomayo (P2), Nancy Daly (P12), Arthur Conquest, III (P6), Markus Penzel (P2)

Point of Personal Privilege: Chi Chi Wu (P7)

Speakers: Markus Penzel (P2), Colin Stokes (P7)

Point of Personal Privilege: Susan Granoff (P7)

Speakers: Colin Stokes (P7), Mark Levy (P7), Lee Biernbaum (P8), Bob Lepson (P9), Carolyn Thall (P16), Robert Lepson (P9)

**MOTION** to terminate debate

**Approved**

**MOTION** to REFER

**Failed:** Aye: 102                      No: 133                      Abstained: 6

**MOVED** that the Town amend the Town's General Bylaw Section 3.14 with the following:

### **ARTICLE 3.14**

#### **COMMISSION FOR DIVERSITY, EQUITY, INCLUSION, AND COMMUNITY RELATIONS AND OFFICE OF DIVERSITY, EQUITY, INCLUSION, AND COMMUNITY RELATIONS SECTION**

##### **3.14.1 ESTABLISHMENT AND PURPOSE**

This Bylaw hereby establishes the Commission for Diversity, Equity, Inclusion, and Community Relations (“Commission”) and the Office of Diversity, Equity, Inclusion, and Community Relations (the “Diversity Office”).

(A) Brookline Values.

Because the Town of Brookline values diversity, equity, and inclusion and amicable community relations based on those values in and for the Brookline community, the Commission, in coordination with the Diversity Office, shall work to support a welcoming environment by modeling and encouraging civility, kindness, cooperation, tolerance, and respect among and by all persons, and by advancing, promoting, and advocating for the human and civil rights of all through education, awareness, outreach, accountability, and advocacy.

The Commission and the Town shall strive for a community characterized by the values of diversity, equity, and inclusion. The Town believes that diversity and inclusion based on equity will provide opportunities and incentives to all to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that diversity and inclusion based on equity is, therefore, a critically important government interest of the Town. Inclusion based on equity means actively pursuing goals of including, integrating, engaging, and welcoming into the community on an equitable basis all persons, residents or non-residents, 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 whether they are a member of a Brookline Protected Class; (2) the substance of community is the recognition of human rights principles as applicable to all persons; (3) justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons; and (4) the commitment of the Town to these principles requires vigorous affirmative steps to carry out both the word and the spirit of the foregoing.

(B) The Commission.

The Commission shall consist of fifteen (15) residents, who shall be called Commissioners. Commissioners shall be appointed by the Select Board and hold office for a period of not more than three (3) years with terms of office expiring on August 31 of an appropriate year in a staggered manner so that approximately one-third (1/3) of the terms of the Commissioners will expire each year. A Commissioner whose term is expiring is expected to submit their renewal application to the Select Board not later than August 1 of the expiration year. The term of a Commissioner who does not submit a renewal application in a timely manner shall expire on August 31 of that year. The term

of a Commissioner who submits a timely renewal application shall then be extended until notified by the Town Administrator that the renewal application has been acted upon. If the application is denied, the term of that Commissioner shall expire five days after the date of the denial letter. If the application is approved, the term shall expire on August 31 of the year specified in the approval letter. The Select Board may appoint additional non-voting associate members (Section 3.1.5) 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 to the Brookline Public Schools. The Select Board shall appoint the Chair of the Commission and select a member of the Select Board to serve ex officio as a nonvoting member of the Commission. A quorum of the Commission shall consist of a majority of the voting members on the Commission, with a minimum of six.

The Select Board 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 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 discontinuance of the service of a Commissioner due to death, resignation, or non-residency in the Town, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the Select Board candidates to fill such vacancies.

(C) Definitions.

- (i) "Complaint" shall mean a written or oral allegation of an act of Discrimination or made to the Director or other Complaint recipient listed in rules or procedures issued pursuant to Section 3.14.2(G)(iii).
- (ii) "Discrimination" shall mean invidious adverse differential treatment or impact based on membership in a Brookline Protected Class or violation of rights under federal, state, or local laws that prohibit discrimination.
- (iii) "Plausibly Valid" shall mean a Complaint that presents a plausibly valid basis for action by the Town because it (a) alleges a significant harm to the complainant, (b) has a physical nexus with the Town of Brookline, (c) relates to a matter that is within the legal authority of a municipal government to address, (d) is not exclusively within the authority of another governmental or nongovernmental body, and (e) is subject to this Bylaw and within the authority of the Director to manage.
- (iv) "Town Employee" shall have the meaning given to "public employee" by General Laws, Ch. 258, §1,

### **SECTION 3.14.2 APPOINTMENT AND RESPONSIBILITIES OF THE DIRECTOR**

- (A) The Diversity Office shall be led by a professional in the field of human relations, who shall be the Director of the Diversity Office (the "Director"). The Director shall also be

professionally trained in matters of civil and human rights, community relations, and dispute resolution. The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator. In the event of a vacancy in the position of Director, the Town Administrator, after consultation with the Commission, shall recommend to the Select Board a replacement with appropriate qualifications. The Director shall have authority to bring matters directly to the Select Board, through the Chair of the Select Board if in the Director's professional judgement such matter needs the direct attention of the Select Board. If feasible, the Director shall consult with Town Counsel before taking a matter to the Select Board.

- (B) 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.
- (C) The Director's responsibilities shall include serving as the Town's chief diversity officer to carry out the duties below in Section 3.14.2(F) and (G) and the duties previously assigned to the Commission by the former Sections 3.14.3(A)(v) and (vii) in accordance with Section 3.14.1(A). The Director shall carry out these responsibilities with the goal of helping to create the policies and practices necessary for the Town to further evolve into a community based on the values of diversity, equity, and inclusion, and to help ensure that all residents and visitors enjoy the benefits of those values. To carry out those responsibilities, the Director shall (1) develop in the Diversity Office the skills and resources required to facilitate the harmonious resolution of incidents and Complaints arising from events occurring in Brookline, (2) investigate Complaints, determine whether they are Plausibly Valid, and devise Resolution Plans for Plausibly Valid Complaints or recommend solutions to the appropriate Town authorities, (3) find and exercise appropriate remedies for such Plausibly Valid Complaints and provide a means to address such Complaints in a non-adversarial manner, where possible, (4) guide residents and others to the appropriate adversarial forums when necessary or preferred to resolve their Complaints, and (5) address systemic issues in Town governance and operations, whether related to Complaints or not, that appear to impede diversity, equity, and inclusion and a harmoniously functioning community.
- (D) When preparing the Town's budget, there should be included a reasonable line item at an appropriate location in the operating budget to be used by the Director and Town Counsel to engage independent professional assistance, if necessary and appropriate, to carry out the Director's investigatory duties described below. The Director shall consult with Town Counsel in identifying and engaging such professional assistance. In an appropriate case, the Director and Town Counsel may select a member of Town Counsel's office to serve as an independent fact finder. In addition, the Director's department budget shall also include line items in a sufficient amount to acquire resources and materials necessary to carry out the Director's dispute resolution and community and human relations responsibilities.
- (E) The Director shall work with Town Counsel on matters that raise legal issues, such as enforcement of federal, state, or local civil rights laws or regulations, Open Meeting or

Public Records laws, the legal authorities or duties of the Director or the Commission, or the engagement of independent investigators or fact finders.

(F) General Responsibilities and Powers.

- (i) The Director shall use the staff and resources of the Diversity Office, as appropriate, to provide information, guidance, and dispute resolution services (including restorative justice) to all persons who allege that they have been subjected to Discrimination and whose Complaints are within the authority of the Director. The Director may, with the agreement of the parties, use the resources of the Diversity Office to resolve a Complaint without further investigation. But, when necessary, the Director shall investigate Complaints pursuant to Section 3.14.2(G)(iv)(d) or provide general information on the use of the services of other appropriate bodies, such as the Massachusetts Commission Against Discrimination (“MCAD”), the federal Equal Employment Opportunity Commission (“EEOC”), the Massachusetts Attorney General’s Office, or some other agency with investigatory and prosecutorial powers or the power to impose penalties. The Director shall explain to the complainant that neither the Director nor Town Counsel can provide any further legal advice or express an opinion, before an investigation, as to the merits of complainant’s case and that the complainant may need their own legal counsel to assist with any legal proceedings. In an appropriate situation, the Director may also assist a complainant to seek the mediation or conflict resolution services of agencies such as the Community Relations Service of the U.S. Department of Justice (“CRS”).
- (ii) The Director shall work with all Town departments and offices, including the Public Schools of Brookline, independent bodies, such as the Housing Authority and Library, community nonprofits, businesses, houses of worship, and individuals, including the elderly and youth, to facilitate good community relations, communication, and respectful human interactions between and among all persons.
- (iii) With the advice and counsel of the Commission, Town Counsel, the H.R. Director, the Human Resources Board, the Chief Procurement Officer, the Council on Aging, and any other relevant Town department, the Director shall prepare and submit to the Select Board a recommended diversity, equity, and inclusion statement and policy for the Town (“DEI Policy”) and periodically review and update the DEI Policy if necessary. The DEI Policy shall incorporate, by reference, existing or newly promulgated Town policies, including the Policy Against Discrimination, Sexual Harassment and Retaliation and other Town policies related to equal employment opportunity and affirmative action, procurement, the Americans with Disabilities Act, and other applicable policies. The DEI Policy shall also give guidance on recruitment, hiring, retention, training, and promotion of Town Employees, and propose steps to make improvements to ensure a work environment that is friendly to diversity, equity, and inclusion. The Director shall work with the Town Administrator, Town Counsel, and H.R. on the implementation of the DEI Policy.

- (iv) At the request of the Town Administrator, the Director shall use the resources of the Diversity Office, or assist other Town Departments and offices, to resolve incidents and disputes occurring in the Town that risk impeding harmonious community relations.

(G) Complaint Responsibilities.

- (i) In general, the Director shall be the primary office to receive Complaints concerning allegations of Discrimination. The Director may receive such Complaints from complainants directly or through the Commission. If the Commission or another Town official or office, other than H.R., Town Counsel, or the Police Department, receives a Complaint, they shall forward it to the Director. Complaints involving Town Employees or Town Employees of the schools shall be handled by the Director pursuant to Section 3.14.2(G)(v).
- (ii) The Director may receive Complaints anonymously for the purpose of informally resolving the Complaint with the Town Administrator, the Superintendent, a department head, the director of a Town related agency, such as the Library or Housing Authority, or the governing body of a non-Town entity.
- (iii) The Director with the assistance of Town Counsel and the Commission shall develop official forms for filing Complaints under this Bylaw and any necessary rules or procedures for the receipt of such Complaints, which may include availability of oral Complaints, statutes of limitations not included in this Bylaw, guidance to Town departments as to how to handle complaints that inadvertently are presented to them, and other details of the Complaint process under this Bylaw.
- (iv) Upon receipt of a Complaint, the Director shall first determine whether it is a Plausibly Valid complaint and then take the following actions:
  - a. If, upon the Director's initial review, or after an investigation, or at any point in the process, the Director determines that the Complaint is not, on its face, Plausibly Valid and gives the complainant written notice of that determination, the complainant may appeal to the Commission within 30 days of receiving such notice. If the Director finds that a Complaint is Plausibly Valid and gives the respondent written notice of that determination, the respondent may also appeal to the Commission within 30 days of receiving such notice. In either event, the Commission shall handle such appeal as set forth in Section 3.14.3(B)(i).
    - 1. If the Commission pursuant to Section 3.14.3(B)(i) sends a Complaint back to the Director for reconsideration, the Director shall consider the Commission's reasons and either engage an independent investigator who shall make its report to the Director and the Town Administrator or take one of the actions listed in Section 3.14.2(G)(ii)(d).
    - 2. If after an investigation pursuant to Section 3.14.2(G)(iv)(d), the Director concludes that its determination was correct, the



Director shall report that conclusion to the Commission and the reasons for the conclusion, whereupon the Complaint shall be deemed resolved for purposes of this Bylaw, unless the Select Board, at the written request of the Commission, by majority vote of the Select Board, determines that the Complaint is, in their opinion, either Plausibly Valid, in which case the Director shall treat the Complaint in accordance with Section 3.14.2(G)(iv)(b), (c), or (d), or not Plausibly Valid, in which case the Complaint shall be deemed resolved for purposes of this Bylaw.

- b. If the Director determines that the Complaint on its face is Plausibly Valid but would be more appropriately handled by the MCAD, the EEOC, the Massachusetts Attorney General's Office, or some other agency with investigatory and prosecutorial powers, the Director shall provide the complainant with general information for filing a Complaint with such agency. In an appropriate situation, the Director may also call upon the services of the CRS.
- c. If the Director determines that the Complaint is Plausibly Valid but that the Director or the Town cannot fairly, effectively, or efficiently investigate the Complaint, the Director shall work with Town Counsel to engage the services of an independent investigator to handle the Complaint or take such other action as they deem to be appropriate.
- d. If the Director determines that the Complaint presents a Plausibly Valid issue for action by the Town and can be appropriately, effectively, and efficiently handled by the Director, the Director shall do the following:
  1. First, notify the Town Administrator and if the Complaint involves a minor matter that is easily corrected by the Town Administrator, give the Town Administrator an opportunity to do so.
  2. Second, initiate an investigation of the Complaint, including interviewing any witnesses in addition to the complainant and the respondent, if possible, and examining and analyzing any relevant documents or materials provided by the parties.
  3. Following the investigation, if the Director still believes that the Complaint is Plausibly Valid, the Director shall develop a written plan ("Resolution Plan") for resolution of the Complaint and present it to the parties for their consideration. The Resolution Plan shall include a resolution that the Director believes is effective and fair to all parties, including any of the following remedies or other appropriate remedies:
    - a. Meeting with the complainant and the respondent to attempt an informal resolution, including with Town

- departments, to correct problems identified in the Complaint
- b. Mediation
  - c. Reconciliation
  - d. Education of the parties in ways to avoid future disputes
  - e. Restorative justice
  - f. Referral to the Brookline police department, other law enforcement agency, or other Town department, including the Select Board, with the power to impose fines or other penalties if the Complaint relates to a violation of Town Bylaw or state law
  - g. Referral to the services, including Complaint procedures or educational, training, or community relations services offered by the MCAD, the EEOC, the CRS, the Office of Town Counsel, the Attorney General, or such other body as the Director deems appropriate.
- e. The Director shall complete and submit to the parties the written Resolution Plan within forty-five (45) days after receiving the Complaint. If the Director needs additional time, the Director shall notify the complainant and the Commission that a longer time is needed to adequately complete this process and provide an estimate of the additional time needed.
  - f. The Director shall periodically report to the Commission on the Complaints received and the disposition thereof. Such reports shall identify issues and trends or systemic problems of which the Commission should be aware and that will enable the Commission to make recommendations to the Select Board or propose appropriate Town regulation or legislation.
  - g. If a person, except for Town Employees (with respect to Town Employees, see Section 3.14.2(G)(v)), chooses to present a Complaint to the Commission after seeking the services of the Director, the Director may discuss the case in general terms with the Commission for guidance, but only if there is no ongoing or threatened litigation of the issues in the Complaint. The Commission's sole role with respect to such complaints shall be as described in Section 3.14.3(B).
  - h. The Director, after consulting with Town Counsel, shall advise complainants that they may need to seek legal advice to avoid running afoul of statutes of limitations, exhaustion of remedies, and other procedural hurdles that they must meet to preserve their rights in the MCAD or federal or state courts while pursuing their rights under the Town's Complaint procedures.
- (v) Town Employees. If the Director, the Commission, or any other Town office or official is presented with a Complaint involving Town Employees, such Complaints shall be handled as follows:

- a. Town Employee versus Town Employee. (i) Complaints by Town Employees involving allegations of Discrimination by another Town Employee or the Town, shall immediately be referred to H.R. in accordance with the Town's Policy Against Discrimination, Sexual Harassment, and Retaliation. (ii) Complaints by Town Employees involving allegations of misconduct or mistreatment, but not alleging Discrimination, by another Town Employee or the Town shall be referred to H.R. The Director may assist H.R. in the mediation of such allegations of misconduct or mistreatment but with the guidance of Town Counsel. (iii) All allegations of Discrimination or misconduct or mistreatment shall be handled in a manner that is fully consistent with applicable collective bargaining agreements.
- b. Resident or Non-Resident versus Town Employee. Complaints against a Town Employee that involve ongoing or threatened litigation shall be referred to Town Counsel. Complaints against a Town Employee that allege Discrimination shall be referred to H.R. and Town Counsel. Complaints against a Town Employee by a resident or non-resident of the Town involving misconduct or mistreatment shall be referred to H.R. or, in the case of a civilian or sworn Town Employee of the Police Department, to the Police Complaint Process.
- c. Town Employee versus a Resident or Non-Resident. A Town Employee who has a Complaint against another person who is not a Town Employee irrespective of whether based on said Town Employee's membership in a Protected Class shall be handled by the Director. The Director shall develop and implement a Resolution Plan for such complaints.
- d. Schools. If the Director receives a Complaint involving a Town Employee of the Schools Department, the Director shall refer it to the schools' Human Resources Office, unless the Complaint involves a Town Employee and a school Town Employee, in which case it shall be referred to H.R.
- e. Police Internal Procedures. The Police Chief, with respect to civilian or sworn Town Employees of the Police Department, shall not be precluded from using applicable internal police procedures, including the procedures of the Internal Affairs Office, consistent with applicable collective bargaining agreements, to resolve allegations of misconduct or mistreatment by a Town Employee in the Police Department, provided that H.R. shall be made aware of the use of such processes.
- f. Timely Investigations. Any Complaints referred to H.R. shall be Investigated in accordance with the *Policy Against Discrimination, Sexual Harassment, and Retaliation* or other applicable policy governing Town Employees. Both parties to a Complaint shall be entitled to a timely completion of the Investigatory Process, a failure of which shall entitle the party to submit a request to the Town Administrator and/or the Select Board for a quick resolution of such failure.

- g. Confidentiality. To the extent allowed by applicable law or legal process, the Director shall hold all Town Employee matters in confidence and shall respect the privacy rights or expectations of privacy of such individuals. The Director may, however, discuss complaints in general terms, without revealing a complainant's identity or identifying details, to inform the Commission about the general problems or issues that are presented by a complaint or a category of Complaints.

### **SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION**

To implement the Mission of the Commission in accordance with Section 3.14.1(A) (Brookline Values), the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

#### **(A) General Responsibilities.**

- (i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the willingness and 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) Work with the Select Board, H.R., the schools and the School Committee, and other Town departments, commissions, boards, and committees to increase their commitments to diversity, equity, and inclusion and to take appropriate steps to increase awareness of and sensitivity to such values and to civil and human rights issues in their departments.
- (iii) Provide advice and counsel to the Director on the preparation of the DEI Policy and on the periodic updating of the DEI Policy by the Director, as described in Section 3.14.2(F)(iii).
- (iv) Initiate educational programs to facilitate and inform the public of the foregoing and the Commission's and the Director's responsibilities with respect to Complaints.
- (v) Develop initiatives, including educational programs, and at all times work to facilitate harmonious community relations among residents and visitors to the Town of Brookline.
- (vi) Support the Director in carrying out the Director's role, including by offering constructive alternative perspectives or suggestions regarding the work of the Director when appropriate.

#### **(B) Complaint Responsibilities**

- (i) The Commission may receive Complaints within the limits of its authority under this Bylaw that were investigated by the Director and appealed by either party to the Commission for reconsideration. The question before the Commission on appeal shall be whether, based solely on the Director's written file, the Director's determination was correct. Upon receiving the appeal and said file, the Commission may assign one or two of its members to review the Complaint. The reviewing members shall review the Director's determination, review the original

Complaint, interview the complainant and/or the respondent and any witnesses who consent (if necessary), and decide whether they agree with the Director's determination. The reviewing members shall then present their written conclusions to the Commission in executive session. If the Commission, after taking into consideration the conclusions of the reviewing members, agrees with the Director, the matter shall be concluded. If the Commission does not agree with the Director, the Commission shall provide the Director with a written explanation of its reason for concluding that the Complaint is Plausibly Valid or not Plausibly Valid, whereupon the reconsideration of the Complaint by the Director shall be handled in accordance with Section 3.14.2(G)(iv)(a)(1) and (2).

- (ii) The Commission may receive Complaints from complainants. Such complaints shall be handled as follows:
- a. Complaints against the Town or its agencies concerning allegations of Discrimination shall be referred to the Director and Town Counsel.
  - b. Complaints involving Town Employees, including Town Employees of the schools shall be handled solely in accordance with Section 3.14.2(G)(v).
  - c. Other complaints may be handled by the Commission as follows:
    - i. First, the Commission shall refer the Complaint to the Director.
    - ii. Second, if the Commission believes that it can provide unique and useful information or a broader perspective to the Director, the Commission shall notify the Director and if the Director agrees, the Commission or a working group of the Commission may (1) perform a summary review of the Complaint, including, if necessary, an interview of the complainant and/or the respondent and any witnesses and a review of any documents or materials pertinent to the complaint, (2) prepare a written report of its summary review, including the alleged impact on the complainant of the alleged behavior or the alleged impact on the respondent, without stating any legal conclusions, and any unique and useful information or perspective that it believes would assist the Director or other Town office in handling the Complaint, and (3) within 90 days of the Commission's receipt of the Complaint provide its report with any recommendations to the Director and the Town Administrator, with a copy of the recommendations to the Select Board. The Commission's recommendations should include, as appropriate, the use of the dispute resolution resources and skills of the Director.
    - iii. Third, the Commission may ask the Director to provide the complainant with general information on complainant's options to bring proceedings at the MCAD or other appropriate federal, state, or local agency, including the Brookline Police Department.
  - d. The Commission may receive a Complaint anonymously for the purpose of resolving the Complaint informally with the Director or the Town Administrator.

- e. To protect all parties to a Complaint and to avoid violation of any law or regulation concerning governmental operations, the Commission should consult with Town Counsel when presented with a Complaint.
  - f. At the request of a complainant and with the concurrence of the Superintendent, the Commission may handle a Complaint, except Complaints of Discrimination, involving the schools by: (i) serving as a neutral and knowledgeable body to which a complainant can bring their concerns, (ii) providing guidance to the complainant as to the best way to address their concerns, (iii) using the knowledge and credibility of the Commission to present concerns, information, or research to the schools of which the schools may not be aware, and (iv) performing any other role as may be agreed upon by the Director and the Superintendent. The Commission shall have no role with respect to a Complaint by a minor student or against a minor student unless the Complaint is by a minor student's parent or guardian.
  - g. To protect all parties to a Complaint and to avoid violation of any law or regulation concerning governmental operations or the rights of students or educational personnel, including federal laws governing student privacy and regulations of the Department of Elementary and Secondary Education and the local regional office of the Office of Civil Rights within the U.S. Department of Education, the Commission should work with Town Counsel when presented with a Complaint involving the schools.
- (iii) The Commission shall develop, to the extent permitted by law, a log for the Complaints referred to in Section 3.14.3(B), provided that such publication contains public record information only and does not violate anyone's right to privacy or expectations of confidentiality, 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 3.14.6 of this Bylaw. With respect to any complaints or patterns of Complaints involving the civil or human rights of any persons, work with the Director to facilitate changes that will reduce and eliminate violations of rights.
  - (iv) 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 its Fair Housing responsibilities, or as described in Bylaw 5.5.
- (C) To carry out the foregoing responsibilities, the Commission is authorized and encouraged to work with community organizations with diverse viewpoints and missions, government and nonprofit agencies, educational institutions, persons with relevant and diverse expertise, and others to:
- (i) Institute and assist in the development of (a) educational and training programs to further community relations, civil discourse, and mutual respect, especially by and among Town Employees, and resident volunteers, (b) a welcoming community environment for residents, nonresidents, and persons who are

- members of a Brookline Protected Class, (c) understanding and respect among all residents, non-residents, and Town Employees.
- (ii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity, equity, and inclusion, and encourage public and private agencies to respond to those youth's needs.
  - (iii) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity, equity, 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 Town Employees of all departments and agencies within the Town.
  - (iv) 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 Select Board and review by Town Counsel, to further human and civil rights of all persons in the Town, provided that the Commission shall evaluate all such research conducted or received for its relevance 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 relevance 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.
- (D) At least every two years, prepare written organizational goals for the Commission ("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) designated 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 Select Board at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the Select Board 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**

To carry out the purposes and provisions of this By-law, the Commission, with the approval of the Select Board, 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,

equity, inclusion, and community relations in the Town and to hear the concerns of the public on those issues. The Commission may also establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing, with the approval of the Select Board, after review by Town Counsel. Such rules and regulations may further provide for the governance of the Commission with respect to matters such as the appointments of committees as necessary to deal with specific community issues or concerns.

### **SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE**

All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning any 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 H.R. Director 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 annually 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**

With the assistance of the Director, the Commission shall submit an annual report to the Select Board, the School Committee, the Board of Library Trustees, and the Trustees of the Brookline Housing Authority detailing its activities and any research or information gathering related to its areas of responsibility or expertise and the results thereof. This report shall include (i) a review of the implementation of the DEI 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 H.R. Director, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the implementation and achievement of the Commission's Goals and the DEI 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 August 1, 2024, 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 propose changes, if necessary. The Commission shall prepare a written report summarizing its review and proposed changes and present those changes as Warrant Articles to Town Meeting at the fall Special Town Meeting or later if necessary.

### **SECTION 3.14.8 EFFECTIVE DATE**



The amendments to Bylaw Section 3.14 made by this Warrant Article, if adopted by the fall 2022 Special Town Meeting, shall become effective January 1, 2023.

**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 shall continue to be in full force and effect.

**SECTION 3.14.10 APPLICATION OF THIS BYLAW**

Should any remedies in this Bylaw conflict with grievance or dispute resolution procedures in collective bargaining agreements with the Town’s unions, the provisions of the collective bargaining agreements shall apply so long as all members of Brookline Protected Classes are protected.

**Approved:**    AYE: 151                      NO: 82                      ABSTAINED: 10

Point of Privilege: Arthur Conquest, III (P6)

**ARTICLE 33**

*Amend Article 4.07 of the Town’s Zoning By-Laws to allow for bee keeping*

Submitted by: Nathan Shpritz

Motioned and duly seconded.

Presented by: Nathan Shpritz

Speakers: Nathan Shpritz (P16), Clint Richmond (P6), Bernard Greene (Select Board/AL), Anita Johnson (P8/AC), Steve Hieken (Resident), Lee Selwyn (P13), Sigalle Reiss (Director of Health and Human Services)

**MOTION** to terminate debate

**Approved**

**MOVED:** That the Town Revise Table 4.07 – Table of Use Regulations, Accessory Use 57, Accessory Uses Column striking out the words “or the keeping of bees” as shown struck out in the complete paragraph:

57. The keeping of horses, cows, goats, or other similar animals, other than pigs, or the keeping of poultry, pigeons, rabbits, or other similar birds or animals, ~~or the keeping of bees,~~ provided that no stable or enclosure for any animal may be less than 100 feet from any existing residence building on other premises in any district, or any obvious residence building site on other premises in an S, SC, T, F or M District; and provided that no stable or enclosure for more than four animals may be less than 100 feet from any premises occupied by a church, school, playground, library, or building of a public or eleemosynary institution, except where that

distance is intersected by a street at least 60 feet wide; and further provided that no stable or enclosure in a S, SC, T, F or M District may be less than 100 feet from a street, nor contain more than 25 animals on the premises, and subject to such restrictions as to number, and as to location and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline.

1. Add to Table 4.07 – Table of Use Regulations, Accessory Use 57A the following:

Accessory Uses:

57A. The keeping of bees (*species Apis Mellifera*), provided that no hive may be less than 20 feet from any window, door, or other opening in any structure on any other lot; and further provided that no hive be within six feet of any lot line or placed in a location visible from the street; and subject to such requirements as may be imposed by the Director of Public Health of the Town of Brookline, including but not limited to, ~~restrictions~~ requirements as to number, and as to location, and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline. ~~No beehive shall be placed upon a lot nor retained on a lot without a current permit provided by the Director of Public Health of the Town of Brookline.~~

This new Accessory Use will be permitted in every zoning district.

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
57. The keeping of horses, cows, goats, or other similar animals, other than pigs, or the keeping of poultry, pigeons, rabbits, or other similar birds or animals, <del>or the keeping of bees</del> , provided that no stable or enclosure for any animal may be less than 100 feet from any existing residence building on other premises in any district, or any obvious residence building site on other premises in an S, SC, T, F or M District; and provided that no stable or enclosure for more than four animals may be less than 100 feet from any premises occupied by a church, school, playground, library, or building of a public or eleemosynary institution, except where that distance is intersected by a street at least 60 feet wide; and further provided that no stable or enclosure in a S, SC, T, F or M District may be less than 100 feet from a street, nor contain more than 25 animals on the premises, and subject to such restrictions as to number, and as to location and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I

<p>57A. The keeping of bees (<i>species Apis Mellifera</i>), provided that no hive may be less than 20 feet from any window, door, or other opening in any structure on any other lot; and further provided that no hive be within six feet of any lot line or placed in a location visible from the street; and subject to such requirements as may be imposed by the Director of Public Health of the Town of Brookline, including but not limited to, <del>restrictions</del> requirements as to number, and as to location, and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline. No beehive shall be placed upon a lot nor retained on a lot without a current permit provided by the Director of Public Health of the Town of Brookline.</p>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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**Approved:** AYE: 185

NO: 36

ABSTAINED: 18

**ARTICLES 34 and 35**  
**[Debated Together]**

Presented by: Marissa Vogt

Speakers: Marissa Vogt (P6), Neil Wishinsky (P5), Harry Bohrs (P3), Marty Rosenthal (P9), Natalia Linos (P6), Neil Gordon (P1), Mike Toffel (P8), David Lescohier (P11), Scott Gladstone (P16)

**MOTION** to Terminate Debate

**Approved**

**ARTICLE 34**

*Create a new Article 2.1.16 of the Town’s General By-Laws to require abstentions from Town Meeting Members with a financial interest in a warrant article*

Submitted by: Marissa Vogt (TMM-6) and Mike Toffel (TMM-8)

Motioned and duly seconded.

**VOTED** that the Town adopt the following amendment of General By-Laws by adding the following to a new section 2.1.16:

## SECTION 2.1. TOWN MEETINGS

### Section 2.1.16 Ethics

Town Meeting Members shall abstain from voting on any warrant article in which they or an immediate family member have a financial interest, unless such financial interest is shared with a substantial segment of the population of the Town or a Town precinct. Nothing in this section shall prohibit a Town Meeting Member from voting on the overall budget appropriation for a department, business, or organization despite the inclusion of a line item in which they have a financial interest.

For purposes of this section, “immediate family member” shall be defined as the spouse, children, parents, and siblings of the Town Meeting Member, and the terms “financial interest” and “substantial segment of the population” shall be interpreted to have the same meaning as they are used in MGL Chs 268A and 268B.

Notification of such abstention shall, if possible, be given to the Town Clerk in writing before the Town Meeting session in which the article is considered. The Moderator shall inform and periodically remind Town Meeting Members of the requirements of this section.

Failure of any Town Meeting Members or the Moderator to comply with the provisions of this section shall not affect the validity of any vote or action taken by Town Meeting, and such violations shall not be subject to prosecution or financial penalty.

**Failed:**            AYE: 63                      NO: 169                      ABSTAINED: 8

## **ARTICLE 35**

*Amend Article 2.1.11 of the Town’s General By-Laws to require speakers at Town Meeting to disclose financial interests in a warrant article*

Submitted by: Marissa Vogt (TMM-6) and Mike Toffel (TMM-8)

Motioned and duly seconded.

**VOTED** that the Town adopt the following amendment of the General Bylaws by adding the following to section 2.1.11:

## SECTION 2.1. TOWN MEETINGS

### SECTION 2.1.11 TOWN MEETING PROCEDURE

Anyone who speaks at Town Meeting, including but not limited to Town Meeting Members, upon any matter in which the speaker and/or their immediate family has a financial interest shall begin their remarks by disclosing such interest, unless such financial interest is shared with a substantial segment of the population of the Town or a Town precinct.

For purposes of this section, the speaker's "immediate family member" shall be defined as their spouse, children, parents, and siblings, and the terms "financial interest" and "substantial segment of the population" shall be interpreted to have the same meaning as they are used in MGL Chapters 268A and 268B.

The Moderator shall inform and periodically remind Town Meeting Members and other speakers at Town Meeting of the requirements of this section.

Failure of anyone who speaks at Town Meeting or of the Moderator to comply with the provisions of this section shall not affect the validity of any vote or action taken by Town Meeting, and such violations shall not be subject to prosecution or financial penalty.

**Approved:**    AYE:148                      NO: 83                      ABSTAINED: 9

## **ARTICLE 36**

*Resolution regarding the Town's Payment in Lieu of Tax (PILOT) program*

Submitted by: Alec Lebovitz (TMM-8) and Mike Toffel (TMM 8)

Motioned and duly seconded.

Presented by: Nathan Shpritz

Speakers: Alec Lebovitz (P8), Michael Sandman (Select Board/AL), Amy Hummel (P12/AC)

Point of Privilege: Michael Sandman (Select Board/AL)

**MOTION** to terminate debate

**Approved**

**VOTED:** That the Town adopt the following Resolution:

WHEREAS the Town of Brookline continues to face a "structural deficit," meaning its projected expenditures exceed its projected revenues.

WHEREAS a structural deficit can be addressed by reducing expenses and/or by increasing revenues.

WHEREAS increasing revenues can result from new economic development (“new growth”), increased fees, operating overrides, and more resources derived from Payments In Lieu of Tax (PILOT) paid by tax-exempt property owners.

WHEREAS the February 2020 Final Report of the Brookline Fiscal Advisory Committee (BFAC), convened by the Select Board, issued many recommendations to address the structural deficit including expanding PILOT revenues by “Designing and implementing an enhanced PILOT program to increase these payments, and the execution of tax-certainty agreements, such as the one entered into with Children’s Hospital for One Brookline Place.”

WHEREAS the Town of Brookline’s Payment In Lieu of Tax (PILOT) Policy was adopted by the Select Board in 2007 and was most recently revised in 2011, more than a decade ago, and significant PILOT reform has been implemented in other municipalities, including Boston.

WHEREAS other municipalities’ PILOT programs more comprehensively consider how an exempt property is used and the value of any community benefits generated by the property’s usage in negotiating PILOT agreements.

WHEREAS the BFAC Moderator’s Committee, which Town Meeting created to update Town Meeting on the progress (or lack thereof) on the various public bodies’ deliberations of BFAC’s recommendations, reported on March 23, 2022 that “The **[former]** Town Administrator has suggested that there is little that the Town can do to increase revenue from PILOTs except when a major institution needs something from the town.”

WHEREAS **Town staff continue to implement Brookline’s existing PILOT policy**, limited action has been taken to **conduct** a strategic review **of the policy, a review** of Brookline’s relationships with tax-exempt institutions in terms of the services and community benefits Brookline residents receive **has not been conducted since 2011**, and the BFAC recommendation that called for annual disclosures of PILOT payments has not been adopted.

NOW, THEREFORE, BE IT RESOLVED that Town Meeting **asks** the Moderator to appoint a committee to (1) review the PILOT policies of Brookline and several other towns to identify best practices, (2) suggest improvements to Brookline’s PILOT policies that could be adopted by the Select Board (as policy) or by Town Meeting (as bylaw), and (3) any related topics the Moderator deems appropriate or helpful. The committee shall deliver written reports to Town Meeting Members, the Select Board, the Advisory Committee, and the School Committee by August 1, 2023, timing that precedes by several weeks the date when the Warrant will likely open in anticipation of the Fall 2023 Special Town Meeting.

**Approved:**    AYE: 186                      NO: 43                      ABSTAINED: 7  
**MOTION** to Adjourn, duly seconded  
**Approved**

**Night 8: December 8, 2022**

- Call to order: 7:00P.M.
- A quorum being present, the meeting was called to order by Moderator Kate Poverman

## ARTICLE 37

### *Resolution regarding a budget review for the School Department*

Submitted by: Lee Selwyn

Motioned and duly seconded.

Presented by: Lee Selwyn

Speakers: Lee Selwyn (P13), Joslin Murphy (P16), David Pearlman (P15/School Committee), Mariah Nobrega (School Committee), Katherine Florio (P10/AC), Michael Sandman (Select Board/AL), Neil Gordon (P1), David Pollak (P11), Nathan Shpritz (P16), Miriam Aschkenasy (Select Board/AL), John Doggett (P13), Bernard Greene (Select Board/AL), Vena Priestly (P4), Valerie Frias (P13/School Committee), Lisa Shatz (P11), Lee Selwyn (P13), Bob Weintraub (P9)

**MOTION** to Terminate Debate

**Approved**

**VOTED:** That the Town adopt the following resolution:

WHEREAS, M.G.L. c. 71, Section 34 states, in part, that: “Every city and town shall annually provide an amount of money sufficient for the support of the public schools as required by this chapter, *provided however, that no city or town shall be required to provide more money for the support of the public schools than is appropriated by vote of the legislative body of the city or town.* In acting on appropriations for educational costs, *the city or town appropriating body shall vote on the total amount of the appropriations requested and shall not allocate appropriations among accounts or place any restriction on such appropriations. ... The vote of the legislative body of a city or town shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation.* (emphasis supplied); and

WHEREAS, the Town Administrator Act, Chapter 270, Acts of 1985 Section 2(f) (as amended), states that the Town Administrator is responsible for the "formulation of the annual financial plan, including detailed projections of all revenues and expenditures;" and

WHEREAS, Article 2.2, Section 2.2.5 of the Town’s General Bylaws states that “The Advisory Committee shall submit a budget at the annual town meeting. It may examine the books and records of any board, committee or officer of the town so far as permitted by law;” and

WHEREAS, the annual operating budget of the Brookline School Department has since FY15 been increasing at an annual rate that is nearly double that of all other Town departments combined; and



WHEREAS, Town Meeting has a responsibility to assure that this pattern of School Department budget growth is justified and, even more important, that the forced limitations and reductions in other departmental budgets do not unduly impair their ability to meet their service obligations to the Town; and

WHEREAS, It is critical that decisions as to the prioritization of Town resources across all Town Departments and functions be subject to review and approval by Town Meeting, and not be effectively preempted by the largely unchecked budget demands put forth by the School Department.

NOW THEREFORE, BE IT RESOLVED: That Town Meeting requests the Advisory Committee, acting in its capacity as the Town's Finance Committee, in consultation with the School Committee or its designee, to develop a detailed scope of a Budget Review of the School Department to be undertaken by an outside consultant subject to oversight by the Advisory Committee, and that in doing so, the Advisory Committee shall: (1) develop a scope of work for the consultant; (2) prepare and submit to Town Meeting a proposed budget for the School Department Budget Review that will be presented to and considered by Town Meeting in May 2023 for inclusion in the FY24 budget; (3) prepare an RFP for the School Department Budget Review; (4) based upon responses to the RFP, select a consultant for this assignment; and (5) oversee the Budget Review with the objective of applying the consultant's recommendations in time for the development of the FY25 School Department budget.

**Failed:**            AYE: 59                            NO: 178                            ABSTAINED: 8

## **ARTICLE 38**

### *Resolution regarding the celebration of Asian American & Pacific Islander Heritage Month*

Submitted by: Chi Chi Wu, Town Meeting Member Pct.7; Chris Chanyasulkit, Library Trustee; Ashley Eng, Town Meeting Member Pct.9; Paul Hsieh, Town Meeting Member Pct. 4; Christina Kovach, Town Meeting Member Pct. 8; Susan Park, Town Meeting Member Pct.17; Rita Shon-Baker, Town Meeting Member Pct.7; Aone Wang, Town Meeting Member Pct.8, and the Brookline Asian American Family Network

Motioned and duly seconded.

Presented by: Chi Chi Wu  
Speakers: Chi Chi Wu (P7), Katherine Florio (P10)

**VOTED:** That the Town adopt the following resolution:

WHEREAS Asian American & Pacific Islanders (AAPI) residents constitute the largest community of color in the Town of Brookline. According to the 2020 Census, over 12,000 of Brookline residents identify as AAPI, which is 19% of the Town's population or 1 in 5 residents;

WHEREAS AAPI residents have made numerous contributions to the civic, business, and social life of Brookline;

WHEREAS on October 23, 1992, Congress passed and the President signed a Public Law 102-450 proclaiming the month of May to be AAPI Heritage Month;

WHEREAS the needs of the AAPI community are often overlooked because of the Model Minority Myth;

WHEREAS Office of Diversity, Inclusion and Community Relations (ODICR), in conjunction with the Brookline Asian American Family Network (BAAFN), has sponsored an AAPI Heritage Month celebration since 2016;

WHEREAS the Town of Brookline sponsors an Annual Town-wide Commemoration of Dr. Rev. Martin Luther King, Jr. as a result of a Resolution passed by Town Meeting on May 25, 2010; and

WHEREAS Town Meeting passed a Resolution on November 15, 2017 to commemorate the second Monday of October as Indigenous Peoples Day and to establish a Committee to organize an annual commemoration.

NOW, THEREFORE, BE IT RESOLVED THAT TOWN MEETING URGES:

1. The Select Board to proclaim the month of May as Asian American & Pacific Islander Heritage Month in Brookline in recognition of Brookline's AAPI community and its contributions;
2. The Select Board to establish an Annual Town-wide Celebration of AAPI Heritage Month during the month of May, to be organized by ODICR in conjunction with a Brookline-based AAPI organization. In the event there is no willing Brookline-based AAPI organization to co-sponsor the event, an AAPI Heritage Month Celebration Committee shall be established with the assistance of ODICR;
3. The Select Board ensure there is adequate funding for the annual AAPI Heritage Month Celebration;
4. The people of Brookline celebrate the month of May as AAPI Heritage month, including by attending the annual Celebration and by learning more about the history, culture, and lives of their AAPI neighbors, classmates, and friends;

and

5. The Public Schools of Brookline observe AAPI Heritage Month by organizing activities in celebration of the month and providing instruction on the history and culture of the AAPI community.

**Approved:**    AYE: 236                      NO: 0                      ABSTAINED: 3

*[Assistant Moderator John Karon Presiding]*

## **ARTICLE 40**

### *Resolution regarding a feasibility study for an outdoor pool*

Submitted by: Alisa Jonas (TMM 16), Tracie Burns (TMM 8), Rosanna Cavallaro (resident precinct 8), Alec Lebovitz (TMM 8), Joanna Mark (resident precinct 16), Lynda Roseman (TMM 14), Kathleen Scanlon (TMM 3), Maura Toomey (TMM 2), Anne Turner (resident precinct 3), Marissa Voigt (TMM 6), Amanda Zimmerman (TMM 7)

Motioned and duly seconded.

Presented by: Kathleen Scanlon

Speakers: Kathleen Scanlon (P3), Alec Lebovitz (P8), Alisa Jonas (P16), John Doggett (P13/AC), Lauren Bernard (P17), Jennifer Goldsmith (P11), Alexandra Vecchio (Director of Parks and Open Space), Carolyn Goodwin (P8), Lincoln Heineman (Finance Director), Melissa Goff (Deputy Town Administrator), Lisa Shatz (P11), Alisa Jonas (P16), John Hebert (P7), Richard Nangle (P15), Alexandra Vecchio (Director of Parks and Open Space), Kara Brewton (Director of Planning and Community Development), Jesse Gray (P10)

**MOTION** to Terminate Debate

**Approved**

**VOTED:** That the Town adopt the following resolution:

WHEREAS access to outdoor fitness opportunities is important for the health and wellness of Brookline’s residents;

WHEREAS water recreation and fitness exercises (e.g., lap swimming, water play, water aerobics and other low-weight-bearing exercises, water volleyball, competitive swimming) are some of the healthiest forms of exercise and can be done by persons of all ages and physical abilities;

WHEREAS, as the summers get hotter, making other outdoor fitness and recreational activities both less enjoyable and, for many members of the population, not feasible due to health risks of over-heating, outdoor water fitness activities will become increasingly important;

WHEREAS many Brookline households have the means to own a vacation home close to water, to join a private club, or to have their own backyard pool, while many other households do not have those options, and yet all of the Town's households should have the opportunity to swim outdoors, one of the highlights of summer time, and some of the best memories of childhood;

WHEREAS vulnerability assessments have identified areas in Brookline where the populations are disproportionately impacted by extreme heat due to their proximity to so-called "heat islands";

WHEREAS the world's experience with COVID, combined with scientific assessments that other pandemics will likely arise more frequently due to increased travel, has made more urgent the need for outdoor fitness and community activities;

WHEREAS the lack of an outdoor public pool precludes the opportunity for community members to build shared experiences, appreciate differences, and welcome residents of all ages from across the town;

WHEREAS a community pool would serve to address the need for loosely supervised recreational and physical activities for our teens who do not have access to private facilities, camps, and programs, especially in the summer;

WHEREAS it is critical that all young people learn to swim so as to avoid drowning, which is a leading cause of death in children; and Brookline's current facility lacks the physical capacity to meet the demand, resulting in oversubscribed lessons;

WHEREAS recently constructed municipal outdoor pools with modern amenities<sup>8</sup> generate more revenue than they expend in operating costs, resulting in net revenue to the community;<sup>9</sup>

WHEREAS the construction of an outdoor community pool complex has a very reasonable price tag when compared to the cost of other capital projects;<sup>10</sup>

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## ENDNOTES

<sup>8</sup> For example, zero-depth entry, which is more accessible for young children, seniors, and those with disabilities, connected splash pads, greenery and/or café tables for seating

<sup>9</sup> Belmont, Wayland, and Lexington all generate more revenue (e.g., memberships, swim lessons, community events held at the pool, aerobics classes) than they expend in annual operating costs. An estimate of Belmont's net revenue for 2020 was \$136,000.

<sup>10</sup> The capital cost for the recently constructed Belmont pool complex, which included 2 pools, 2 bathhouses, decking and greenspace surrounding the pools, and a café area was \$5.3 million, and the Waltham community pool cost \$6 million, including the cost of Hazmat remediation on the site, solar panels and making the project zero net energy. Needham's large multi-pool complex, including an Olympic-sized lap pool, other pools and splash pads, with challenging construction on a steep slope and a small community center with gym and offices, was \$14 million. For comparative purposes, Brookline spent \$7 million on the (beautiful) Fisher Hill Park and the current CIP includes \$3 million for

WHEREAS a pool complex, including several pools, green space, bathhouse, and café; uses a surprisingly small footprint, generally about ½ acre, and so can be sited at locations that could also be the site of other complementary facilities;<sup>11</sup>

WHEREAS most of the larger towns (20,000 +) in the Greater Boston area provide their residents with at least one – and sometimes more than one - outdoor swimming option (pool, pond, or lake swimming facilities), frequently in addition to an indoor pool, even though many of these communities are considerably less populated than Brookline;

WHEREAS, as summer temperatures become more common in spring and fall, the outdoor swimming season has become longer, currently from Memorial Day through the end of September;

WHEREAS solar or other renewable sources of power can provide the energy needed for a community outdoor pool;<sup>12</sup> heating can extend the seasons, and a relatively low cost bubble<sup>13</sup> can provide for year-round use;

WHEREAS Brookline’s 2001 Needs Assessment found that more than two-thirds of Brookline residents have expressed interest in outdoor fitness, second only to performing arts;<sup>14</sup> and further, determined that the Town’s next steps include the completion of a feasibility study for a public outdoor pool;

WHEREAS the 2005-2015 Comprehensive Plan analysis continued to show strong interest by the public in an outdoor community pool, ranking it among the highest priority items, and again included the feasibility study for a pool as an action item, this time for the 2005-2015 time frame;

WHEREAS the 2020 Parks Open Space and Recreation Strategic Asset Master Plan Update (“Plan Update”) survey of residents found that the percent of residents who rated the future need

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improvements to Skyline Park (\$2 million for improved bathrooms and some added walking paths and \$1 million to replace the artificial turf field), and the indoor rink complex is projected to cost \$35-50 million.

<sup>11</sup> For example, Belmont’s complex is 22,000 sq. ft, which is approximately ½ acre, and includes separate areas for lap swimming, diving, and recreational activities, a bathhouse, greenery, and a café space. At the Newbury site, at 3.14 acres, such a complex would take up less than 1/6 of the acreage.

<sup>12</sup> DCR’s newly built pool in Waltham uses solar energy and is a net zero.

<sup>13</sup> Wayland installed a bubble for year-round use in the late 2010s at a capital cost of \$250,000, with annual heating and other operating expenses exceeded by revenue.

<sup>14</sup> 2001 Brookline Recreation Department assessment, based on a written survey, focus groups and a public meeting. The next most frequently cited interests were – in order of popularity - indoor fitness, arts and crafts, environmental activities, special events, aquatics, self-improvement, and sports and athletics

for a public outdoor pool as important or very important<sup>15</sup> was higher than that for the majority of other future needs, exceeded only by improved trail connectivity, improved biking infrastructure, improved sanctuaries, and improved amenities (e.g., parking and equipment);<sup>16</sup>

WHEREAS, according to the National Sporting Goods Association, swimming ranked second in fitness activities nationwide in terms of participation in 2018.<sup>17</sup>

WHEREAS, according to the 2006 Master Plan, the National Recreation and Park Association (NRPA) standard for public pools has been one public pool per 20,000 in population; and Brookline, with a population of 61,000 has only one public pool; and further, according to the Plan Update, applying the 2019 NRPA Park Performance Review to Brookline, the Town needs to add 2 outdoor pools to meet the *median* for comparatively-sized similar communities;

WHEREAS, although the Reilly Pool in Brighton has been suggested as an option for Brookline residents seeking outdoor swimming options, it is an old pool with limited amenities: It does not allow any kind of chairs at the pool, it has no separation of the pool for different uses (such as an area for laps for adults and recreation for children), it has limited provision to enable young children, the elderly and the disabled to enter the pool, no facilities for younger children to play, solely concrete surrounding the pool, no opportunities for the Town to provide activities for its residents (e.g., swimming lessons, aerobics classes, swim meets, evening events, etc.), and on that same theme, it is not a community pool for the residents of the Town of Brookline.

WHEREAS, although the 2020 Plan Update states that “[s]plash pads are...becoming increasingly important because of climate change, and the increasing need for accessible cooling hubs as cities experience hotter, drier summers,” splash pads are used by only very young children, and the 2020 Plan Update no longer explicitly mentions a feasibility study for an outdoor community pool to address those needs for other residents, making it all the more important to reassert that need.<sup>18</sup>

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<sup>15</sup> Rating the outdoor pool either a 4 or a 5 out of a ranking scale of 1-5, with 1 being Not at All Important and 5 being Very Important.

<sup>16</sup> At 48%, ranking only behind improved trail connectivity (65%), improved biking infrastructure (66%), additional sanctuaries/nature center (64%), and improved amenities (e.g., parking, equipment)(52%), followed closely by athletic fields (47%), recreation center (45%), and improved aquatic facilities (46%); with indoor leisure play pool, indoor skating rink and additional gymnasiums ranked 4-5 by 30%, 26% and 11%, respectively. Note that while another survey question asked participants how they would divide a hypothetical \$100 among a group of options for future needs, an outdoor pool was not included as one of the choices, and so that set of responses cannot be used for comparative purposes when analyzing residents’ interest in an outdoor community pool.

<sup>17</sup> According to Brookline’s Strategic Asset Master Plan of 2006: “The top four free-time activities for all Americans for the last decade have been and remain: watching television, reading, socializing with friends and family, and shopping. Swimming and walking are the only two physical activities that make the top ten on the list.”

<sup>18</sup> This Plan Update instead recommends a \$75,000-100,000 feasibility study for improving the indoor pool and Tappan Gym and \$500,000 for consulting fees to identify a location and develop conceptual

WHEREAS an outdoor community pool working group identified several possible Brookline sites, as called for by passage of Warrant Article 30 of the Spring 2019 Town Meeting, and other possibilities exist that were not discussed at the working group, including land on private property for which a private/public partnership might be possible;

WHEREAS the need for an outdoor community pool has been called for as far back as 2001, with the explicit directive to develop a feasibility study in both the 2001 and 2006 assessments of the Town's park and recreational needs; which directive should finally be acted upon, particularly as recent changes in our environment (longer and warmer summers and a pandemic) have made the need for an outdoor community pool greater over time;

WHEREAS the Spring 2019 Warrant Article 30 instructed that the site selection analysis be preparatory for a more comprehensive study of feasibility to be initiated thereafter;

NOW, THEREFORE, BE IT RESOLVED that Town Meeting calls for a long-overdue feasibility study for the development of a net zero emissions<sup>19</sup> outdoor community swimming facility for Brookline residents, to be led by either the Department of Parks and Open Space or the Department of Recreation, as determined by the Select Board; and

BE IT FURTHER RESOLVED that the feasibility study shall identify the most well-suited sites, following consideration of a range of sites for an outdoor swimming facility, and that this

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plans for an indoor full-size ice-skating rink, in addition to the \$50,000 feasibility study for an indoor athletic/recreation center, which had been included in the previous plans together with the outdoor pool feasibility study.

<sup>19</sup> Net zero emissions is defined as follows:

- a) A Zero Emissions facility is a facility that is Fossil Fuel Free (FFF) and Net Zero Energy (NZE).
- b) Fossil Fuel Free means that the facility uses no fossil fuels for heating, ventilation, or air conditioning (HVAC), for domestic hot water, for cooking, or for any other purpose.
- c) The facility may have emergency electricity generators that use fossil fuels.
- d) The facility should not only be FFF on site, but also from the source. That is, the electricity used on site should be from renewable sources. This will require the purchase of 100% renewable electricity or renewable energy certificates. Any renewable energy certificates (RECs) associated with either on-site or off-site energy generation must be retained or retired to prevent double counting.
- e) Net Zero Energy means that the facility produces as much energy as it consumes over the course of a year. This requires low energy consumption (gross EUI or Energy Use Intensity measured in kBtu/ft<sup>2</sup>/year) along with on-site renewable energy generation (gross REI or Renewable Energy Intensity also measured in kBtu/ft<sup>2</sup>/year), presumably provided by solar photovoltaic (PV) panels. Net Zero Energy means that gross REI equals or is greater than gross EUI.
- f) For the facility, not just site EUI, but rather source EUI should be considered since that more accurately represents the carbon impacts of different fuel sources. Source energy accounts for upstream generation impacts of the fuel source, such as natural gas burned to generate electricity. Any renewable energy certificates (RECs) associated with on-site or off-site energy generation must be retained or retired to prevent double counting.

analysis shall (i) include a range of options that include but are not limited to Newbury College, the Department of Public Works site at Larz Anderson, redesign of a portion of the Soule Recreation Center land/parking lots that could be better utilized, a carved-out parcel of the 120 acre golf course land, or use of private land; (ii) take into consideration any advantages of siting the outdoor swimming facility together with other complementary Town facilities, such as the ice skating rink or a recreation center; (iii) prioritize equitable access by vulnerable populations who are disproportionately affected by extreme heat or who have limited economic means to access private swimming pools and swimming lessons; and (iv) assess the cost of a circuit shuttle for locations that are not close to public transportation; and

BE IT FURTHER RESOLVED that \$75,000 for the cost of the study shall be paid from a portion of the FY25 Community Preservation fund that is dedicated to recreation or otherwise be covered by other Town funding sources, such as the Recreation Department revolving retained funds or be included in the FY26 Capital Improvements Plan; with a completion date for the feasibility study of July 1, 2026.

**Approved:**    AYE: 212                      NO: 24                      ABSTAINED: 6

*[Moderator Poverman Presiding]*

## **ARTICLE 41**

*Resolution regarding an affordable housing overlay district (AHOD) study committee*

Submitted by: Wendy MacMillan, Kimberley Richardson, Deborah Brown

Motioned and duly seconded.

Presented by: Alice Thompson  
Speakers: Alice Thompson (Resident), Atlas Noubir (Resident), Tal Canetti (Resident), David Pollak (P11/AC), Jonathan Klein (Resident), Steve Heiken (Resident), Miriam Aschkenasy (Select Board/AL), David Lowe (P11), Jonathan Klein (Resident), Chi Chi Wu (P7)

**MOTION** to Terminate Debate  
**Approved**

Point of Order: Mike Toffel (P8)

**MOTION** to Amend offered by the Advisory Committee

**Failed:**            AYE: 79                      NO: 137                      ABSTAINED: 14

Point of Order: Bernard Greene (Select Board/AL)



**VOTED:** That the Town adopt the following resolution:

**RESOLUTION REGARDING AN AFFORDABLE HOUSING OVERLAY  
DISTRICT (AHOD) STUDY COMMITTEE**

WHEREAS the shortage of affordable housing in Brookline and the region disadvantages low- and moderate-income residents, especially renters;

WHEREAS Brookline residents participating in the 2021 Housing Production Plan community engagement sessions expressed issues with housing instability and a need for more affordable housing;

WHEREAS Brookline's affordable housing stock is only 2,125 units according to the Brookline Department of Planning & Community Development's June 2022 Affordable Housing Inventory spreadsheet. There are 670 units of subsidized housing owned or controlled by non-profits other than the Brookline Housing Authority, most of which are for seniors.

WHEREAS Brookline Housing Authority (BHA) has 923 units, 458 are senior/disability, 31 special needs and 434 unrestricted;

WHEREAS Brookline has 380 subsidized rental units owned by private investors; of that 153 are senior and disabled units and 227 general units;

WHEREAS Brookline has 152 subsidized owner-occupied units;

WHEREAS exclusionary zoning disproportionately harms buyers and renters of color;

WHEREAS the price of homes for sale in Brookline, like those in the rest of the Boston area, have doubled over the past ten years;

WHEREAS Brookline has an additional 304 net new units of additional subsidized units approved but not ready for occupancy, units permitted and not constructed;

WHEREAS because Brookline reached its Chapter 40B safe harbor threshold (10%) in 2022, this eliminates an incentive to build affordable housing under 40B;

WHEREAS meeting Chapter 40B affordability and unit creation standards will not address Brookline's housing needs;

WHEREAS there are areas in Brookline where the Zoning Bylaw including its Dimensional Requirements may limit affordable housing production;

WHEREAS there is a lack of incentives in Brookline's Zoning Bylaw for developments to include all income-restricted affordable housing units;

WHEREAS Cambridge, Somerville and North Reading are Greater Boston communities that have passed AHOD bylaws and regulations;

WHEREAS establishing an AHOD may promote the public good by supporting the development of housing that is affordable to households earning at or below 120% of the area median income.

WHEREAS incremental increases in density, limited increases in height, and relaxation of certain other zoning limitations for residential developments in which all units are made permanently affordable to households earning at or below 120% of the area median income may be achievable without stressing municipal infrastructure;

WHEREAS AHODs may promote affordable housing objectives, promote greater socioeconomic diversity, and ensure a more equitable distribution of affordable housing town-wide;

WHEREAS Brookline has passed the Community Preservation Act and continues to seek passage of the real estate transfer fee which, along with Brookline's Affordable Housing Trust, can potentially provide subsidy funds to promote AHOD development;

WHEREAS Brookline, a MBTA community, is required to have zoning that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right;

WHEREAS according to the Intergovernmental Panel on Climate Change (IPCC) "Established cities will achieve the largest greenhouse gas emissions savings by replacing, repurposing, or retrofitting the building stock, targeted infilling and densifying"; in other words, AHODs would likely result in a healthier environment;

WHEREAS having denser and smaller housing units around shops, public transportation, and job hubs near Boston (as opposed to housing in suburbs further from workplaces) is more environmentally efficient;

WHEREAS creating significant additional affordable housing, with varying tiers of affordability, will provide housing opportunities for current and future Brookline residents, including people who live in BHA properties;

WHEREAS housing density may also increase economic development and thus Brookline's goals for its commercial tax base;

THEREFORE BE IT RESOLVED that, to encourage the development of affordable homes in Brookline by exploring the potential for the creation of 100% affordable housing developments in Brookline, the Housing Advisory Board (HAB) is urged to create and charge an Affordable Housing Overlay District Study Subcommittee for Brookline. The subcommittee shall be composed of a mix of HAB members and non-members to include no more than eight residents and the HAB will seek to have it reflect the economic and racial diversity (to the extent consistent with law) found in Brookline, with at least two members who live or have lived in public or affordable housing, at least one member with zoning expertise, at least one member who serves on

the Housing Advisory Board, at least one member designated by the Director of the Council on Aging, and at least two members with expertise in affordable housing development.

**Approved:**    AYE: 207                      NO: 18                      ABSTAINED: 9

**MOTION** to dissolve annual town meeting effective at 5:00pm on December 9, duly seconded  
**Approved**

*[Meeting is dissolved December 9, 2022 at 5:00pm]*