

ADVISORY COMMITTEE’S RECOMMENDATION

NOTE: The Advisory Committee recognized that, during its April 25th meeting, only the amended changes to Section 2.1.3 had been moved and the additional changes to Section 2.5.2 and Article 3.22 of the Town’s Bylaws were not included in the motion. On May 9, 2023, the Advisory Committee moved the full language of Article 11, including its amendments to Section 2.1.3 and voted to recommend FAVORABLE ACTION by a vote of 24-0-0.

**Recommendation:** The Advisory Committee recommends FAVORABLE ACTION on Article 11 as amended by a vote of 24-0-0

<b>Executive Summary:</b>	Warrant Article 11 seeks to amend the Town’s General By-Laws as follows: <ul style="list-style-type: none"><li>● Ensure the Select Board and Advisory Committee hold at least one public hearing on all warrant articles</li><li>● Revise the requirement of the Select Board to prepare written reports and make recommendations to allow the Select Board to decline to make a recommendation on any warrant article, but require the Board to provide a reason for not making a recommendation</li><li>● Specifies the categories of articles that the Select Board should prioritize in their review</li><li>● Changes the date for closing the warrant for the Annual Town Meeting to 90 days before the scheduled opening date</li></ul>
<b>Voting Yes will ...</b>	Amend the By-Law to redefine the Select Board’s obligation to provide recommendations on all warrant articles, reaffirm the Select Board’s responsibility to hold public hearings on all warrant articles, and change the timing with regard to the closing of warrant for the Annual Town Meeting.
<b>Voting No will ...</b>	Make no change to the Select Board’s current obligations or the closing date for the warrant for the Annual Town Meeting
<b>Financial Impact</b>	None expressed.
<b>Legal Implications</b>	None expressed.

**Introduction**

At the November 2022 Town Meeting, a warrant article which sought to reduce the Select Board’s obligations for public hearings and recommendations on warrant articles, was referred to the Committee on Town Organization and Structure (CTOS) with a request that CTOS report back to Town Meeting no later than May 2023. Article 11, petitioned by the Committee on Town Organization and Structure, is the result of their consideration and analysis.

Since 2018, Brookline has experienced a ~50% increase in Town Meeting warrant articles (although there are just 24 currently). This increase has burdened the Select Board, as, generally, Town Meeting needs recommendations from both the Select Board and the Advisory Committee in order to efficiently conduct Town Meeting business. By experiment<sup>1,\*</sup> the Select Board reviewed about half of the articles filed for a recent Town Meeting, and brought so-called Article 5 in November, 2022, which sought to codify the Select Board's practice. Town Meeting referred the subject matter of Article 5 to CTOS.

CTOS 'intent is to provide the Select Board with a workable, more efficient but also more definitive framework, while at the same time satisfying the need of Town Meeting to know and understand the Select Board's position on significant warrant articles, and the public's right to both be informed and to be heard.

### **Discussion**

There are many reasons for public hearings and for recommendations from the Select Board as they relate to warrant articles. CTOS has proposed Select Board discretion but that the Select Board prioritize their review of warrant articles based on five expressed categories. This would give the Select Board flexibility, but within a codified framework. Where the Select Board declines to provide a recommendation, they would issue a relatively short report citing their reasons not making a recommendation.

Two other modifications to the current Bylaw include (i) a relatively minor change, changing language citing a "first or only vote," to "a vote on a report or making a recommendation to Town Meeting," and (ii) a change in the timing for the closing of the warrant.

The Advisory Committee believes that the Select Board, as the Town's executive body, is obligated by virtue of their position to review articles, and as a full body rather than through subcommittees. Also, that Select Board meetings are held on a defined (i.e., Tuesday evening) schedule, are televised and archived, an important factor for community engagement.

CTOS 'article prioritizes articles that (1) have been submitted by a Town department body; (2) request action by the state legislature, (3) propose a By-Law amendment, (4) authorize or require binding agreements, and (5) involve any appropriation of funds. The Advisory Committee agrees that this framework balances the codification of priorities while not being rigid and prescriptive.

Discussion of changing the opening date of the warrant to 90 days prior to Town Meeting from 75 focused on the side effects of the change, e.g., having the warrant close in Summer, when staff is less available, and, with potentially a higher signature requirement for petitioned warrant articles, difficulty gathering signatures during vacation season.

The subcommittee concluded that the timing for annual and special Town Meetings could be evaluated independently. Accordingly, the Advisory Committee concluded that advancing the closing of the warrant was best limited to Annual Town Meeting.

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<sup>1</sup> The obligation of the Select Board to review all warrant articles under the current bylaw remains controversial. Town Counsel has advised, in effect, that "shall" means "may."

**Meeting Recording:**

[https://brooklinema.zoomgov.com/rec/play/FEZxjOEsfbe9zV4SSmZPURDeRvkJaoweCssh5x24s3kwUEABcvFXZTfD5\\_tzQXCGjDjVZwK3gqHxYf.5x71pzFUwOcQMf6p](https://brooklinema.zoomgov.com/rec/play/FEZxjOEsfbe9zV4SSmZPURDeRvkJaoweCssh5x24s3kwUEABcvFXZTfD5_tzQXCGjDjVZwK3gqHxYf.5x71pzFUwOcQMf6p)

**Recommendation**

By a vote of 24-0-0, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 11, as amended by the committee and agreed to by CTOS. The full text of the motion is included below. Following the vote summary sheet is an appendix showing a clean version of the bylaw including the proposed changes.

VOTED: That the Town amend the General By-Laws as follows (language to be inserted appears in **bold underline**; language to be deleted is ~~struck out~~).

SECTION 2.5.2 COMBINED REPORTS

The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with the 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 **on all articles** ~~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~~ **its** recommendations, **if any**, and the reasons **for each such recommendation or a decision not to make a recommendation** ~~therefor~~, for all articles in the Warrant for a Town Meeting. **The Select Board shall give priority to making recommendations on articles that (1) have been submitted by a Town department, board, committee, or commission; (2) request action by the Massachusetts state legislature; (3) propose to amend any Town bylaw; (4) authorize or require the Town to enter binding agreements; or (5) involve any appropriation of funds. The Advisory Committee, in accordance with Section 2.2.6 (General Duties), shall prepare written reports or recommendations on any or all articles.** The reports ~~of the Select Board and Advisory Committee~~ shall be included in the combined reports to be emailed or mailed upon request as follows:

ARTICLE 3.22

THE PUBLIC'S RIGHT TO BE HEARD ON WARRANT ARTICLES

Any committee as defined in section 1.1.4, before taking ~~its first or only vote~~ **a vote on a report or making a recommendation to Town Meeting** with respect to an Article on the Warrant, must hold a duly noticed public hearing with respect to the Article, and the committee's permanent record must record that a duly noticed public hearing with respect to such Article occurred before such vote.

Due notice of the public hearing shall be satisfied if the due notice complies with the Open Meeting Law (G.L. C. 30A, secs. 18 et seq.) and By-law 3.21.3(a).

The vote may take place at any time or date after the completion of the duly noticed public hearing.

This Article shall not apply to the plenum of the Advisory Committee or School Committee, provided a subcommittee of those bodies assigned to review and report to the full Committee on a warrant article complies with the by-law by holding a duly noticed public hearing before any vote on said warrant article.

#### SECTION 2.1.3 FILING OF ARTICLES

All Articles for insertion in the Warrant for any ~~Annual or~~ Special Town Meeting shall be filed in the office of the Select Board prior to 12:00 noon on the 75<sup>th</sup> day, **and for any Annual Town Meeting on the 90<sup>th</sup> day**, preceding the scheduled date of the opening session of said meeting. On the 75<sup>th</sup> day **or the 90<sup>th</sup> day, as required by the foregoing sentence**, preceding the scheduled date of the opening session of said meeting, the Warrant shall be closed, and as soon as practicable thereafter signed, including only those Articles filed by the **required** 75<sup>th</sup> day **or 90<sup>th</sup> day** preceding said scheduled date.

ARTICLE 11 ADVISORY COMMITTEE VOTES

Article Description	Amend Select Board Requirements for Warrant Article Recommendations
<b>AC recommendation (Favorable Action unless indicated)</b>	<b>24-0-0</b>
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	Y
Anita Johnson	Y
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	
Donelle O’Neal, Sr.	
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	

* Chairperson does not vote except to break a tie	
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**APPENDIX — A clean copy of the bylaw, as amended by Warrant Article 11**

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The vote may take place at any time or date after the completion of the duly noticed public hearing.

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