TOWN OF BROOKLINE
MASSACHUSETTS

REPORTS OF SELECT BOARD AND ADVISORY COMMITTEE

on the

Articles in the Warrant

for the

ANNUAL TOWN MEETING

to be held in the High School Auditorium

Tuesday, May 23, 2023

at

7:00 P.M.

(Please retain this copy for use at the Town Meeting)

Town of Brookline

SELECT BOARD

Bernard Greene, Chair

John VanScoyoc, Vice Chair **Miriam Aschkenasy**

Mike Sandman **Paul Warren** **(elected May 3)**

Charles Carey, Town Administrator

"The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. Persons with disabilities who need auxiliary aids and services for effective communication in programs, services and activities of the Town of Brookline are invited to make their needs and preferences known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445, 730-2328 Voice, 730-2327 TDD, or email at lgellineau@brooklinema.gov."

MODERATOR

Kate Poverman

ADVISORY COMMITTEE

Dennis Doughty, Chair, 57 Perry Street……..... 739-7266
Harry Friedman, Vice Chair 27 Clafin Road..... BE2-0122
Benjamin Birnbaum, 15 Feneno Terrace, ... 276-5944
Harry Bohrs, 27 Toxeth Street..... 566-3556
Clifford M. Brown, 9 Hyslop Road 232-5626
Patricia Correa, 32 Davis Ave 347-9790
John Doggett, 8 Penniman Place 566-5474
Katherine Florio, 30 Gardner Road #3i 751-8056
David-Marc Goldstein, 22 Osborne Road 232-1943
Neil Gordon, 87 Ivy Street.....(508)265-1362
Susan Granoff, 52 Vernon Street #1 731-0822
Kelly Hardebeck, 18 Littell Road 901-7977
Amy Hummel, 226 Clark Road 731-0549
Anita Johnson, 41 Osborne Road..... 734-0711
Alisa G. Jonas, 333 Russett Road 469-3927
Janice Kahn, 63 Craftsland Road..... 739-0606
Carol Levin, 61 Blake Road..... 731-0166
Pamela Lodish, 195 Fisher Avenue 566-5533
Joslin Murphy, 62 Baker Circle 869-7260
Linda Olson Pehlke, 48 Browne St. #2..... 232-1965
Donelle S. O'Neal, Sr., 68 Village Way..... (857)-243-3602
Markus L. Penzel, 182 Pleasant Street..... 549-1747
David Pollak, 112 Lancaster Terrace…… 921-4418
Stephen Reeders, 85 Cottage Street 953-8315
Carlos Ridruejo, 16 Holland Road..... 901-5908
Lee L. Selwyn, 285 Reservoir Road 277-3388
Alok Somani, 126 Cottage Street.....(614)822-8315
Carolyn Thall, 66 Beverly Road 669-8050
Christine M. Westphal, 31 Hurd Road..... 738-7981

Lisa Portscher, Executive Assistant, Town Hall..... 730-2115

MAY 23, 2023
ANNUAL TOWN MEETING
INDEX

ARTICLE NO.	TITLE
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2.	Approval of Collective Bargaining Agreements. (Human Resources)
3.	Annual authorization of Compensating Balance Agreements. (Treasurer/Collector)
4.	Report on the close-out of special appropriations / Bond Authorization Rescission. (Select Board)
5.	Approval of unpaid bills of a prior fiscal year. (Select Board)
6.	Acceptance of legislation to increase certain property tax exemptions. (Assessors)
7.	Annual (FY24) Budget Appropriations Article. (Advisory Committee)
8.	Annual (FY24) Community Preservation Program Budget (Department of Planning and Community Development)
9.	Amend Article 2.1.13 of the Town's General By-Laws to increase the number of registered voters required for petitioned warrant articles from 10 to 50 (Gordon)
10.	Amend Article 2.1.13 of the Town's General By-Laws to define and require lead petitioners for warrant articles (Gordon)
11.	Amend Articles 2.5.2 and 3.22 of the Town's General By-Laws to revise the process for Select Board and Advisory recommendations and hearings on warrant articles (CTOS)
12.	Amend Article 4.1 of the Town's General By-Laws to require the Town to change auditors at least every five years and seek competitive bids for auditor at least every 10 years. (Lebovitz, Toffel)
13.	Create a new Article 3.12A of the Town's General By-Laws to establish an Office of Housing Stability (Wu, Card)
14.	Amend Article 4.08 of the Town's Zoning By-Laws (Inclusionary Zoning) to lower the unit threshold for developments that must include onsite affordable housing units (Blood)
15.	Amend Article 5.9 of the Town's General By-Laws to clarify and update votes previously taken regarding the Stretch Code and Specialized Energy Code, and add fossil fuel free restrictions in accordance with the MA DOER Demonstration Project.

(Department of Planning and Community Development)

16. Amend the Zoning Map and Articles 3 and 5 of the Town's Zoning By-Laws to create a new zoning district to set forth building massing requirements in two existing T-5 (two-family) zoning districts north of Beacon Street to encourage reuse and deter demolition (Department of Planning and Community Development)

17. Amend Article 8.37.2 of the Town's General By-Laws to change "marijuana" to "cannabis" and to permit two additional Storefront Cannabis Retailers licenses for Equity Applicants (O'Neal)

18. Amend Article 10.3 of the Town's General By-Laws to establish penalties for repeat violations of Article 8.8's requirements for refuse storage and removal. (Lebovitz, Goodwin, Ishak)

19. Create a Brookline Black N Brown Commission

20. Amend the Menstrual Hygiene Product Access By-Law of the Town's General By-Laws, currently Article 8.39, to change the Article's duplicative numbering and add provisions relative to reproductive and gender health care (Stone, et. al)

21. Create a new Article 8.XX.1 of the Town's General By-Laws to establish training, notice and reporting requirements for Innholders to prevent human trafficking. (Davis, Levin, Margolis)

22. Home Rule petition to establish ranked choice voting in Town elections (Rank Choice Voting Committee)

23. Resolution requesting the Select Board, Town Administrator and Human Resources Director to work with the Police Department to adopt and implement an in-car and body worn camera policy for the Police Department (O'Neal)

24. Resolution requesting the Select Board and the Town's legislative delegation to initiate or continue efforts to modify Department of Housing and Community Development guidelines promulgated pursuant to the MBTA Communities Act, requesting the Moderator to appoint a committee on compliance with the Act and requesting the Select Board to direct the Planning Department to staff the committee (Gordon, et. al)

25. Reports of Town Officers and Committees. (Select Board)

2023 ANNUAL TOWN MEETING WARRANT REPORT

The Select Board and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2023 Annual Town Meeting to be held on Tuesday, May 23, 2023 at 7:00 p.m.

Note: The following pages of this report are numbered consecutively under each article.

ARTICLE 1

FIRST ARTICLE
Submitted by: Select Board

To see if the Town will establish that the number of Measurers of Wood and Bark be two, to be appointed by the Select Board, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Article 20 of the November, 2000 Special Town Meeting requires that this be the first article at each Annual Town Meeting. It calls for the Select Board to appoint two Measurers of Wood and Bark.

SELECT BOARD'S RECOMMENDATION

On March 21st the Select Board voted FAVORABLE ACTION 4-0 on the motion offered by the Advisory Committee.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Warrant Article 1 by a vote of 19-0-0.

Executive Summary	Each year, the Select Board is called up to appoint two Measurers of Wood and Bark, whose task it is to ensure that cords of firewood sold in Brookline measure eight feet long, four feet wide and for feet high.

Voting Yes will...	Call upon the Select Board two appoint two Measurers of Wood and Bark, whose task it is to ensure that cords of firewood sold in Brookline measure eight feet long, four feet wide and for feet high.
Voting No will...	Eliminate this position.
Financial impact	The positions do not draw a salary, stipend or other remunerative benefit, and the Town incurs no current financial cost or future pension or OPEB liability. The Town does print several sheets of paper every year to send this description out to Town Meeting Members but this cost is considered de minimus.

Introduction

The position of Measurer of Wood and Bark was an early effort at consumer protection, important when homes were heated by wood and town dwellers had to purchase their fuel from vendors who came in from rural areas with their loads of cut and split cordwood.

Even into the 20th Century, the consumer protection aspect of the office remained. A town report from 1902 researched by Ken Liss of the Brookline Historical Society states that the town did not have a measurer that year. A number of complaints were filed regarding substandard cords of wood, and shortages were found in each case.

Discussion

At the spring 2000 Town Meeting the article was dropped because the Measurers of Wood and Bark were considered to be unnecessary. But in the fall of that same year, Town Meeting required that this traditional article be reinstated. The Advisory Committee in its report at the time noted:

"Of course the Measurers of Wood and Bark are unnecessary! They've been unnecessary for as far back as anyone now living can remember! But it was a harmless tradition, which cost nothing (except for the paper and ink used to print the Article in the Combined Reports) and it was a link with our origins in a less mechanized society."

Recommendation

By a vote of 19-0 with no abstentions, the Advisory Committee recommends FAVORABLE ACTION on the following motion under Article 1.

VOTED: That the Town establish that the number of Measurers of Wood and Bark be two, to be appointed by the Select Board.

ARTICLE 1 ADVISORY COMMITTEE VOTES

Article Description	Measurers of Wood & Bark
AC recommendation (Favorable Action unless indicated)	**19-0-0**
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	
Susan Granoff	Y
Kelly Hardebeck	
Amy Hummel	Y
Anita Johnson	
Alisa Jonas	
Janice Kahn	
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 2

SECOND ARTICLE
Submitted by: Human Resources

To see if the Town will 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; or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for any Town Meeting when there are unsettled labor contracts. Town Meeting must approve the funding for any collective bargaining agreements.

SELECT BOARD'S RECOMMENDATION

A report and recommendation on Article 2 will be included in the supplement.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation on Article 2 will be included in the supplement.

XXX

ARTICLE 2

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board will be revisiting Article 2 to consider a potential agreement with the Fire union. A report and recommendation will be available after their 5/23 meeting.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: FAVORABLE ACTION on Article 2, Brookline Police Union for the full amount of the Arbitration Award by a vote of 23-1 with 0 abstentions

Executive Summary:	Article 2 seeks to have Town Meeting approve the appropriation of the funds to pay for the Arbitration Award by the Joint Labor-Management Committee (JLMC) as a result of the Arbitration decision that sought to resolve collective bargaining difference between the Brookline Police Union and the Town of Brookline. Its primary purpose is to set the wage increases for FY21, FY22, and FY23. Those increases are FY21 2.5%; FY22 3% and FY23 3%. In addition, a "Certification Differential of 2% effective July 1, 2021 and 2% effective July 1, 2022 is to be added to all salaries. These increases exceed the Town's goals for salary increases and are based on the Arbitration Panel's finding that the Brookline Police salaries are below the averages of comparable communities.
Voting Yes will...	funds the salary increases and other payments included in the Arbitration Panel's Award dated April 25, 2023.
Voting No will...	Send the Town of Brookline back to the negotiations with Brookline Police Union.

Financial impact	The total cost of this 3-year contract adjustment and extension is $3,270,636. • Wages: 2.5% effective July 1, 2020, 3% July 1, 2021; 3% July 2022 • A new "Certification Differential" of 2% effective July 1, 2021 and 2% effective July 1, 2022 • The application of Education Incentive Compensation to all Non-Quinn Eligible Employees to bring them in line with Quinn Eligible Employees • The addition of the Town's proposal regarding the implementation of a Body Worn Camera policy, entitled "2-9-22 BPD Body Camera Proposal" to the Collective Bargaining Agreement
Legal implications	None identified.

Introduction
This Article seeks to have Town Meeting fund a three-year extension of the Collective Bargaining Agreement between the Town of Brookline and Brookline Police Union as ordered by a Decision of the Joint Labor-Management Committee (JLMC) dated April 25, 2023.

Cost Projections

ITEM	FY21	FY22	FY23	FY24	TOTAL
7/1/2020 - 2.5 %	312,653	312,653	312,653		**937,960**
7/1/2021 - 3%		384,564	384,564		**769,127**
7/1/2022 - 3%			396,101		**396,101**
Post certification 2%		264,067	264,067		**528,134**
Post certification 2%			277,270		**277,270**
Quinn 1/1/23 ees			180,030		**180,030**
10 year step				182,013	**182,013**
					0
TOTAL ROLL-OUT COSTS OF 3-YEAR PERIOD	**312,653**	**961,284**	**1,814,685**	**182,013**	**3,270,636**

Each 1% =	125,061	128,188	132,034	135,995	
New Wages - $ =	312,653	648,631	853,401	182,013	
New Wages - % =	2.5%	5.1%	6.5%	1.3%	**15.4%**

Discussion

The Town of Brookline and the Brookline Police Union, after extensive good-faith negotiations, were unable to reach an agreement on the extension of the Collective Bargaining Agreement that expired in 2020 and therefore agreed to arbitration before the Joint Labor-Management Committee for Municipal Police and Fire. The three-member arbitration Panel issued its decision on April 25, 2023. The Arbitration Panel's award ordered base salary increases of 2.5% effective July 1, 2020, 3% July 1, 2021; 3% July 2022.

In addition, the Arbitration Panel ordered a new "Certification Differential" of 2% effective July 1, 2021 and 2% effective July 1, 2022. The Certification Differential was requested by the Police Union to compensate Police Officers for what the Union characterized as significant new obligations imposed on the officers by the Police Reform Act of 2020 (Chapter 253 of the Acts of 2020). These new obligations require that before a person can be hired as a police office they be certified by the State as eligible for employment as a police office, and that they maintain that eligibility through continuing education and training. The Town of Brookline pays for the training and compensates officers for the time taken to obtain the necessary training. The Select Board, in agreement with the Dissenting Opinion of one of the Arbitration Panel Members, believes that the "Certification Differential" Award exceeded the authority of the Arbitration Panel and is appealing that part of the Order. Therefore, the Select Board did not include that amount of the Certification Differential in their recommendation under Warrant Article 2, leaving the total requested by the Select Board at $2,465,232 in order to fund the Police Union Contract. The Advisory Committee, after extensive discussion, understood the Select Board position, but felt that our Police Officers were under-paid relative to comparable communities, and the inclusion of the "Certification Differential"

would bring the Police Officers pay up to parity with comparable communities and so the Advisory Committee supported the full funding of the Order at $3,270,636.

Recommendation
The Advisory Committee recommends favorable action on the full amount of the arbitration award by a vote of 23-1 with 0 abstentions.

VOTED: To approve and fund by an appropriation, provided for in the FY2021, (Item #20), FY2022, (Item #20) and FY2023 (Item #20) budgets, for the cost items in the JLMC final award CASE NO. JLMC-22-9158 that commences on July 1, 2020- and expires on June 30, 2023:

Brookline Police Union

all as set forth in the JLMC final award, incorporated herein by reference

Article Description	**Collective Bargaining Agreement - Police**
AC recommendation (Favorable Action unless indicated)	**23-1-0**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	N
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	Y
Anita Johnson	Y
Alisa Jonas	
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	

Donelle O'Neal, Sr.	Y
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	

ARTICLE 2 ADVISORY COMMITTEE VOTES – Police

School Traffic report and motion below.

Recommendation: FAVORABLE ACTION on Article 2, School Traffic Supervisors Local 1358, AFSCME, AFL-CIO by a vote of 21-0 with 0 abstentions.

Executive Summary:	Article 2 seeks to have Town Meeting approve the appropriation of the funds to pay for the adjustment of the collective bargaining agreement between the Town and Local 1358, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) contained in a memorandum of Agreement dated April 2023. The agreement has been ratified by the AFSCME membership. Its primary purpose is to set the wage increases for FY22, FY23, and FY24. Those increases (1% in FY22; 3% in FY23; and 3% in FY24) fall within the Town's goals for salary increases.
Voting Yes will...	fund the salary increases included in the Memorandum of Agreement dated April 2023.
Voting No will...	Send the Town of Brookline back to the negotiations with Local 1358, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME)
Financial impact	The total cost of this 3-year contract adjustment and extension is $113,593. • Wages: 1% effective July 1, 2021, 3% July 1, 2022; 3% July 2023 • Increase Longevity Payments by $100 for each tier beginning in FY23 • Increase Motor Vehicle Allowance from $900 to $1000 per year (distributed monthly), beginning in FY22, reflecting increased cost of fuel • Merge Clothing, Uniform and Boot Allowance (currently at $835.00) to Clothing Allowance of $900.00, beginning in FY23 • Acceptance of Alcohol and Drug Policy, and Physical/Cancer Screening Policies when other unions accept it (similar pattern to other AFSCME divisions)
Legal implications	None identified.

Introduction
This Article seeks to have Town Meeting fund a three-year extension of the Collective Bargaining Agreement between the Town of Brookline and Local 1358, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) by a Memorandum of Agreement dated April 2023. The Memorandum of Agreement was ratified by a vote of the AFSCME membership on April 25, 2023.

Cost Projections

ITEM	FY22	FY23	FY24	TOTAL
7/1/21 - 1%	7,571	7,571	7,571	22,713
7/1/22 - 3%		22,941	22,941	45,881
7/1/23 - 3%			23,629	23,629
Longevity		400	400	800
Vehicle	6,380	6,380	6,380	19,140
Clothing		715	715	1,430
Shift Diff				0
TOTAL ROLL-OUT COSTS	13,951	38,007	61,636	113,593
Each 1% =	7,571	7,647	7,953	
New Wages - $ =	13,951	24,056	23,629	

Discussion
In addition to wage increases this MOA increases the longevity payments by $100 for each tier; merges the clothing, Uniform and boot allowance (currently $835 total) into a single clothing allowance of $900; and increases the Motor Vehicle Allowance from $900 to $1000 per year. It should be noted that these employees drive their own vehicles

to their duty station and this increase in the Motor Vehicle Allowance reflects the increased cost of fuel.

The MOA also includes the acceptance of the Town's proposed Alcohol and Drug Policy and Physical/Cancer Screening Policies when all of the Town's AFSCME unions accept the policies.

Recommendation
The Advisory Committee recommends favorable action on the motion offered by the Select Board by a vote of 21-0 with 0 abstentions.

Article Description	**Collective Bargaining Agreement - School Traffic Supervisors**
AC recommendation (Favorable Action unless indicated)	**21-0-0**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	Y
David-Marc Goldstein	
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	
Anita Johnson	
Alisa Jonas	
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	
Donelle O'Neal, Sr.	Y
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	

ARTICLE 2 ADVISORY COMMITTEE VOTES - School Traffic Supervisors

COMMONWEALTH OF MASSACHUSETTS
JOINT LABOR-MANAGEMENT COMMITTEE FOR MUNICIPAL POLICE AND FIRE
CASE NO. JLMC-22-9158

Arbitration Panel

Theodore H. OBrien, Neutral
Richard Pedrini, Labor Panel Member
Richard Tranfaglia, Management Panel Member

In the Matter of Interest Arbitration between:	)	
BROOKLINE POLICE UNION	)	
and	)	**AWARD**
TOWN OF BROOKLINE	)	
	)	

INTRODUCTION

On October 13, 2022, the Joint Labor-Management Committee ("JLMC") appointed the undersigned arbitrator to serve as Chair and Neutral member of a tripartite panel in the matter of the Town of Brookline and the Brookline Police Union. The panel presided over evidentiary hearings on January 18, and 24, 2023, during which documentary evidence was admitted and witness testimony was offered.

Appearing on behalf of the Town of Brookline (the "Town" or the "Employer") was Michael Downey, Esq., Associate Town Counsel. Appearing on behalf of the Brookline Police Union (the "Union" or "BPU") were Alan J. McDonald, Esq. and John O. Killian, Esq. of McDonald Lamond Canzoneri. Each party filed a post-hearing brief on March 31, 2023.

ISSUES CERTIFIED BY JLMC

The JLMC held a 3(a) Hearing on August 25, 2022 and certified the following issues for arbitration. The issues certified are the following:

Duration: The parties agreed on a three-year collective bargaining agreement ("CBA") to be in effect from July 1, 2020 to June 30, 2023.

Wages: The Union proposes across-the board increases of 3% on July 1, 2020, 3% on July 1, 2021, and 3% on July 1, 2022. The Town proposes across-the-board increases of 2.5% on July 1, 2020, 1% on July 1, 2021, and 3% on July 1, 2022.

Union Issue – POST Commission Stipend: **T**he Union proposes a stipend equal to 6% of base pay in recognition of this significant new obligations imposed by the Police Reform Act of 2020 (Chapter 253 of the Acts of 2020). The stipend to be implemented as follows: 2% on July 1, 2020, an additional 2% on July 1, 2021, and 2% on July 1, 2022.

Union Issue – New Six-Year Step: **T**he Union proposes adding a new maximum step after six years of service effective July 1, 2021 in an amount four percent (4%) greater than the current maximum step, which shall be relabeled as Step 3.

Union Issue – Moving the Senior Step: The Union proposes moving the senior step from a 20-year step to a 10-year step.

Union Issue – Equalized Education Incentive: The Union proposes that the current non-Quinn Eligible Employees be awarded the same Quinn equivalent incentive as other employees: 10% for an Associate's Degree, 20% for Bachelor's Degree, and 25% for a Master's Degree.

Union Issue – President Release Time: The Union proposes a new benefit granting the Union President two shifts off per each six-day work cycle to attend to union business.

Town Issue - New Article - Body Worn Cameras: The Town proposed adding a new article to the parties' CBA consisting of language contained in the attachment entitled "2-9-22 BPD Body Cam Proposal."

Town Issue – New Article – In Car Video: The Town proposes adding a new article to the CBA relative to In Car Video, consisting of language contained in the attachment entitled "2-9-22 BPD Body Cam Proposal.

Town Issue – New Article – GPS: The Town proposes adding a new article to the parties' CBA, consisting of the following language:

> GPS is an effective tool in providing officer safety, public safety, operational efficiency, and in investigations. The Union acknowledges and agrees that the town has satisfied its bargaining obligations with respect to the use of GPS in current and future equipment, vehicles, and technology. The parties agree that such GPS is and will continue to be used for officer safety, efficiency, police operations, incident response, dispatching, complaints, investigations, plan development and strategy, and deployment of personnel. With the exception of employees on early intervention plans ("EIP") and employees who have been previously counseled and/or disciplined about performance, the parties agree that the Town will not use GPS for the purpose of active monitoring of employee performance.

Town Issue – Article VI (12), Sick Leave: The Town proposes to amend Article VI (12)(A), as follows:

A. Employees injured in the line of duty and who cannot perform full duty because of such injury shall, to the extent possible, be assigned to the Chief of Police to perform duties in the department consistent with their physical condition. Although priority must be given to all line of duty injury cases under this section, the Chief may thereafter consider employees injured off the job for assignment on a similar basis as employees injured in the line of duty.

Town Issue – Article XIV, Other Leave: The Town proposes to amend Article XIV (1), as follows:

> Military Leave of Absence - Any employee of the Town who is a member of the Armed Forces of the Commonwealth or a reserve component of the Armed Forces of the United States shall be entitled to a leave of absence with pay during the time of compulsory military service as provided in Chapter 33, Section 59 of the General Laws as may be amended from time to time. Employees shall also be entitled to the same leaves of absence or vacation with pay given to other like employees.
>
> The employee must present his/her military order to the Human Resources Director for authorization of the leave prior to the beginning of the requested leave.

TOWN'S MODIFIED PROPOSAL - JANUARY 17, 2023

A letter dated January 17, 2023, addressed to Union President Michael Keaveney and signed by Town Administrator Charles Carey, was admitted into

evidence as Town Exhibit No. 30. The letter included a modified settlement proposal by the Town, the terms of which are summarized as follows:

1. **Cost-of-Living Wage Increases**: The Town offered wage increase of 2.5% in Fiscal Year 2021, 1% in Fiscal Year 2022, 3% in Fiscal Year 2023, and 3% in Fiscal Year 2024.
2. **Steps:** Effective July 1, 2023, create a new maximum step after ten (10) years of service at 2% above the current non-senior maximum step, which shall be relabeled as Step 3.
3. **Education Incentive**: The Town agreed to adopt full Quinn level for all degrees for which Brookline is currently providing an incentive. The effective date for this benefit would be January 1, 2023.
4. **Body Worn Cameras and In-Car Video/GPS Policy**: The Town's proposal stated: "Added to contract upon finalization of policy."
5. **Sick Leave**: The Town's proposal stated: "Add previously agreed language to contract upon ratification by Union and Town Meeting."
6. **Military Leave**: The Town proposal stated: "Parties agree to add Town proposal as amended to include 'or any other state or federal law pay requirements" after the reference to Chapter 33, Section 59 of the General Laws."

Mr. Carey's proposal stated further: "All other proposals withdrawn."

STATUTORY FACTORS CONSIDERED BY THE PANEL

The JLMC Statute (Chapter 589 of the Acts of 1987) lists the following factors which must be considered by the arbitration panel.

"The factors to be given weight in any decision or determination resulting from the mechanism or procedures determined by the committee to be followed by the parties in order to reach final agreement pursuant to this section shall include, but not be limited to:

1. Such an award shall be consistent with: (i) section twenty-one C of chapter fifty-nine of the General Laws, and any appropriation for that fiscal year from the fund established in section two D of chapter twenty-nine of the General Laws.
2. The financial ability of the municipality to meet costs. The commissioner of revenue shall assist the committee in determining such financial ability. Such factors which shall be taken into consideration shall include but not be limited to: (i) the city, town, or district's state reimbursements and assessments; (ii) the city, town or district's long and short term bonded indebtedness; (iii) the city, town or district's estimated share in the metropolitan district commissions deficit; (iv) the city, town or district's estimated share in the Massachusetts Bay Transportation Authority's deficit; and (v) consideration of average per capita property tax burden, average annual income of members of the community, the effect any accord might have on the respective property tax rates on the city or town.
3. The interests and welfare of the public.
4. The hazards of employment, physical, educational and mental qualifications, job training and skills involved.

5. A comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public and private employment in comparable communities.
6. The decisions and recommendations of the fact-finder, if any.
7. The average consumer prices for goods and services, commonly known as the cost of living.
8. The overall compensation presently received by the employees, including direct wages and fringe benefits.
9. Changes in any of the foregoing circumstances during the pendency of the dispute.
10. Such other factors, not confined to the foregoing, which are normally and traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, facts-finding, arbitration or otherwise between parties, in the public services or in private employment.
11. The stipulation of the parties.

AWARD

After a thorough examination of the evidence presented by the parties, and with consideration of the statutory factors, the panel finds that the following adjustments to the wages, hours and working conditions of the members of the bargaining unit represented by the Brookline Police Union are warranted and are so ordered.

Article XVI, Wages.

Article XVI shall be amended by adding an across-the-board increase of 2.5% effective July 1, 2020, an increase of 3% effective July 1, 2021, and an increase of 3% effective July 1, 2022.

Article XVI shall be amended by adding a new section entitled "Certification Differential." The details of the new section are found in the Union's proposal regarding the Police Reform Act of 2020, the so-called, "POST Commission Stipend."

The panel awards the following: A stipend equal to 2% of base pay shall become effective on July 1, 2021. The stipend shall be increased by an additional 2% effective July 1, 2022.

Article XVI shall be amended by replacing the current, twenty-year senior step with a new ten-year senior step. The new ten-year step shall become effective on June 30, 2023.

Article XVI, Wages, Educational Incentive Compensation.

The provisions of Article XVI regarding Education Incentive Compensation shall be amended in accordance with the Union's proposal regarding "Non-Quinn Eligible Employees." Such employees shall be awarded the same Quinn-equivalent incentive as other employees – specifically, 10% for an Associate's Degree, 20% for a Bachelor's Degree and 25% for a Master's Degree. These provisions shall have an effective date of January 1, 2023.

Body Worn Cameras.

The Town's proposal regarding the implementation of a Body Worn Camera policy, entitled "2-9-22 BPD Body Cam Proposal," shall be added to the CBA.

All other Town and Union proposals, other than those previously agreed to, are rejected.

DISCUSSION and FINDINGS

In reaching the above decision, the panel considered the statutory factors listed in Chapter 589 of the Acts of 1987. The factors which were given weight are discussed below.[1]

Financial Ability of Brookline to Meet the Costs.

The Town maintained that it derives approximately 90% of its revenue from residential property taxes, and that property taxes provide a stable, predictable source of revenue.[2] However, the Town argued, its ability to grow overall revenues is severely constrained by Proposition 2 ½. Further, the Town argues that constraints on revenue growth were negatively impacted by a decline in state aid between FY2022 and FY2023, a reduction of Chapter 70 Education Aid and a nine percent increase in it's MBTA assessment.

Notwithstanding the assertion that its ability to grow overall revenues is constrained, the Town offered evidence touting the success of its fiscal strategy and planning.

[1] Factors not discussed here were found to be either inapplicable or of no probative to our decision.
[2] The Union argues that the actual figure reported to the state in Union Exhibit No. 5 is 83.44%.

In 2022, Moody's assigned the Town a Aaa rating and credited the Town's "strong fiscal management." Moody's offered the opinion that the Town can expect near-term stability due, in part, to its "maintenance of adequate reserves." (See, Union No. 36.)

The Union counters that although Proposition 2 ½ applies to every community in the Commonwealth, the limitation on tax revenues has not prevented twelve of the thirteen total comparison communities from paying its patrol officers more that Brookline does. Further, the Union argues, Brookline has a larger "override capacity" as a percentage of its levy ceiling than any of the other communities referenced by the Union. [3]

The Union argued further that the limitations on aid received from the state, specifically Chapter 70 funding, is the result of the Town's ability to pay for education services. That assertion was not refuted by the Town.

The panel has examined all of the evidence relative to the Town's finances and concluded that Brookline has the financial ability to meet the costs of the proposed three-year CBA. (See, "Award" section above.)

- Brookline has a budget of nearly $400 million.
- The value of the average single-family home in Brookline is more than $2 million. (See, Union Exhibit No. 5.)
- According to the Town's Long Range Financial Projection (Union Exhibit No. 33), revenue from Property Taxes is projected to increase every year from approximately $281 million in FY 2023

[3] Union Exhibit No. 5 – from DOR Data Analytics and Resource Bureau, shows that Brookline's Override Capacity is $451,067,308., and that its Override Capacity as % of Levy Ceiling is 64.17%.

to more than $332 million in FY 2027. (See also Union Exhibit No. 34, "FY2023 Financial Plan.")

The Town has not sought a Proposition 2 ½ override since 2018. In 2018, the override was approved for approximately $7 million. Of that amount, $1-2 million went to the Town for building and library maintenance and to the DPW, with the remainder going to the School Department. Prior to that, there was an override in 2015. The funds approved by the Town Meeting in the 2015 override went to the School Department.

Comparison with Comparable Communities.

The Town offered seven (7) cities and towns in their proposed list of comparable communities. The Union offered a group of ten (10) communities. Four of these communities were on both parties' lists - Arlington, Needham, Newton and Watertown. In addition to those four communities, the panel has elected to look at additional communities from each party's proposed list. Thus, Wellesley, Everett, Lexington, Natick and Medford will round out the group of nine (9) communities whose wage and benefit packages warrant comparison. Excluded from our group are Boston, Cambridge, Quincy and Somerville which are dissimilar from Brookline in several ways.

A comparison of the total compensation for patrol officers in the four communities agreed upon by both parties with patrol officers in Brookline shows that Brookline patrol officers are the lowest paid of the five communities. In fact, an average compensation of the four agreed-upon communities is approximately $94,681, while the total compensation for Brookline patrol officers is $84,954.

Significantly, patrol officers in Newton, a community that borders Brookline, are paid $103, 331 - approximately $18,377 more than Brookline.

A comparison of the total compensation for Sergeants garners similar results. According to the evidence produced during the arbitration, a Sergeant in Brookline receives $108,757. in total compensation. The average pay for the four agreed-upon communities is approximately $116,141. Of that group, only Arlington receives a lower compensation package, $106,088. The highest paid Sergeants in that group are the Newton Sergeants who are paid $123,969.

When all nine (9) communities are compared, Brookline patrol officers are the second lowest paid of the group, with only officers in the Town of Wellesley receiving lower wages ($83,548). The highest paid of the nine communities is Everett whose patrol officers receive $106,002 compared to $84,954 for Brookline.

An examination of the evidence regarding the compensation paid to members of the police departments in comparable communities supports the Union's contention that the members of the Brookline Police Union are drastically underpaid. (See Union Exhibits Nos. 6, 6A and 38.)

The Cost of Living.

Two documents relevant to the cost of living were admitted into evidence at the arbitration hearing, the Consumer Price Index Overview Table – New England (Union Exhibits No. 31) and the Consumer Price Index for Boston-Cambridge-Newton – November 2022 (Union Exhibit No.32.) According to the information supplied in those documents, the Consumer Price Index for All Urban Consumers ("CPI-U") increase by 7.0% for the twelve-month period ending in November of 2022.

These documents confirm that the cost of living in eastern Massachusetts area has been going up for, at least, the past two years.

The Union asserts that the cost of living during the first two years of this CBA was 4.3% and 7% respectively. That assertion remains unrebutted.

The Interests of the Public and the Hazards of Employment.

The Union argued that the Brookline Police Department has a recruitment and retention problem that is "nearing a breaking point." It is further the Union's contention that the "dramatic exodus" from the department is the result of paying poor wages.

The assertion that law enforcement agencies across the country and in Massachusetts are having difficulty recruiting qualified police officers and retaining the ones they have is not in dispute. The Town, in fact, conceded that communities across the state are "straining to find police officers." In the City of Boston, Civil Service applicants seeking employment as police officers decreased by 43% over four years from 2017 to 2021. In Massachusetts, there was a 25% drop in the number of Civil Service applicants over the same period. (Employer Exhibit No. 26.)

The evidence presented by the Union shows that 12 of 126 police officers in the Brookline Police Department retired between December of 2021 and August of 2022. Further, in 2020 four (4) employees left the department for employment elsewhere. That number increased to five (5) employees in 2021 and to eight (8) employees in 2022. (Union Exhibits No. 22 and 23.)

In addition, the evidence (witness testimony) shows that the Town has had difficulty hiring new police officers. In 2021, the Town was authorized to hire nine (9) new officers. However, it only succeeded in hiring one. In 2022, the town sought to hire an additional ten (10) new officers. The Town received applications from four (4) residents and twenty (20) non-residents. Of that group of 24, only six (6) made it through to the academy.

The Union produced unrebutted evidence that the recruitment and retention problems plaguing Brookline are causing significant staffing shortages. As a result, officers are required to work forced overtime including double and triple shifts. As a result, there are fewer officers available to respond to calls from the public.

The POST Commission.

Chapter 253 of the Acts of 2020, the so-called "Police Reform" legislation, was signed by the Governor in December of 2020. The commissioners were appointed in the Spring and early Summer of 2021. Although, it is foreseeable that the work of this new commission will have an impact on the lives and work of police officers across the Commonwealth, it was not a fully functioning body until the end of Fiscal Year 2020. As a consequence, the POST Commission had no impact upon the Brookline Police during the first year of the CBA currently in dispute. There is no justification for a Certification Stipend on July 1, 2020.

However, the Union made a compelling argument that the POST Commission will have a significant impact on the working conditions of the Brookline Police going forward. It is foreseeable that the new statute will change the nature of police work in Massachusetts.

The Act created a new Massachusetts Police Training Committee which was granted broad authority to establish policies and standards for screening applicants, and to establish rules and regulations regarding the use of force.

The Peace Officer Standards and Training Commission (the "POST" Commission). The POST Commission is made up of nine (9) members who are authorized to create certification standards and to certify police officers every three years. The Commission is also authorized to revoke the certification of police officers. The only recourse for a decertified officer is to appeal that action to the courts.

Collective bargaining agreements negotiated by police officers and their employers have historically provided the employees with the right to have a disciplinary grievance heard by a neutral arbitrator with years of experience in labor law and the interpretation of contract language. The majority of collective bargaining agreements include "just cause" provisions which protect the employees from being disciplined unfairly or excessively.

The POST Commission, with only three of its nine members from the field of law enforcement, is vested with the authority to certify applicants and to "deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable."

The new law has weakened the job protections gained by police officers through the give-and-take of collective bargaining.

The Act and the authority granted to the POST Commission, will have a significant impact on the lives and work of police officers. For the reasons discussed here, the panel finds that the Stipend granted in the Award section herein is reasonable and warranted.

CONCLUSION

The collective bargaining agreement between the Brookline Police Union and the Town of Brookline, effective July 1, 2020 through June 30, 2023, shall be adjusted in accordance with the forgoing section of this decision entitled "Award." These adjustments are supported by the evidence presented by the parties. The panel considered and weighed the evidence presented in accordance with the statutory factors listed in Chapter 589 of the Acts of 1987.

_____ Dated: April 25, 2023
Theodore H. O'Brien, Chair

_____ Dated:
Richard Tranfaglia, Management Member

_____ Dated:
Richard Pedrini, Labor Member

DISSENTING OPINION

In the matter between the Brookline Police Department and the Town of Brookline, I concur with the vast amount of the decision as drafted by Arbitrator O'Brien with the exception of an award for POST

The Police Reform Act enacted by the State legislature I believe the tripartite panel agreed; was the result of a knee jerk reaction by the State legislature in response to national poor policing issues that had arisen, without limited input from members of law enforcement.

The Union request for a stipend to be awarded for adhering to a State mandated requirement to be awarded by a neutral Arbitrator I believe is something that should be sent back to the respective municipalities to negotiate, and not be subject to an Arbitrator's decision. Throughout my limited history in Municipal government, my experience has been that any new benefit is the result of negotiation between the Municipality and respective Union.

In the matter of Westport which recently settled with an award for POST, the position of the Town was to provide said stipend as a means of maintaining their COLA pattern with other settled contracts. The Town of Brookline opposed any stipend for said certification from the get go, and in my opinion was wrongfully allowed to be certified as an issue by the Chair.

In addition, I have difficulty awarding a stipend for certification as a condition of employment when other Municipal employees such as Teachers and EMT staff are held to certification requirements without the benefit of stipend being added for said certifications.

Furthermore, in the midst of a current national recession to award new stipends adds an additional burden to taxpayers of communities, and doesn't address the core issue of the implementation of the certification requirements as established.

In summation, I do not support the decision as issued regarding any stipend awarded for POST certification by the other two distinguished members of the tripartite panel in the matter of the Brookline Police Union, and the Town of Brookline,

Respectfully submitted,

Richard D. Tranfaglia

Management Member

CONCLUSION

The collective bargaining agreement between the Brookline Police Union and the Town of Brookline, effective July 1, 2020 through June 30, 2023, shall be adjusted in accordance with the forgoing section of this decision entitled "Award." These adjustments are supported by the evidence presented by the parties. The panel considered and weighed the evidence presented in accordance with the statutory factors listed in Chapter 589 of the Acts of 1987.

Theodore H. O'Brien, Chair

Dated: April 25, 2023

Richard Tranfaglia, Management Member

Dissent Opinion Attached

Dated: 4-27-23

Richard Pedrini, Labor Member

Dated: 4/25/2023

MEMORANDUM OF AGREEMENT

BY AND BETWEEN

THE TOWN OF BROOKLINE

AND

SCHOOL TRAFFIC SUPERVISORS
LOCAL 1358, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

April 2023

1. **Wages**

   FY'22: 1%
   FY'23: 3%
   FY'24: 3%

2. **Article III, Check-Off & Agency Service Fee**

   Remove Section 2.

3. Article V, Categories of Employees

   Specialist Assignment. The Chief may appoint and remove a Working Supervisor. Such Working Supervisor position shall be considered to be a specialist assignment and will be posted in accordance with the second paragraph in Article XIX. Only employees in Group 1 may apply for such assignment. The Chief will determine the responsibilities for such assignment. An individual appointed as the Working Supervisor shall receive a $1.00 per hour stipend while ~~she/he is~~they are serving in such assignment. If the same individual continues to serve in the Working Supervisor assignment for a second consecutive year after having completed the prior year in such assignment, such stipend shall increase to $1.50 per hour. If the same individual continues to serve in the Working Supervisor assignment for a third consecutive year or additional consecutive years after having completing the two prior consecutive years in such assignment, such stipend shall be $2.50 per hour. ~~The Chief will select and appoint a substitute working supervisor at the Chief's discretion~~ The most senior qualified Group 1 employee shall be selected to cover for the working supervisor when the working supervisor is absent ~~three or~~for more than one consecutive work day~~s~~, and such substitute working supervisor shall receive a ~~$1.00~~2.50 per hour stipend while she/he is serving in such assignment. Qualifications necessary to serve as the substitute working supervisor shall be determined at the discretion of the Chief or their designee.

4. **Article VII, Compensation – HOUSEKEEPING**

   a. **Remove** "1. Fiscal Year 2003"

b. **Remove** "2. Fiscal Year 2004"
c. **Remove** "FY2010, FY2011, FY2012"
d. **Remove** "FY2013, FY2014, FY2015"
e. **Remove** "FY2016, FY2017, FY2018"
f. **Replace** "FY2019, FY2020, FY2021" with general wage increase schedule for FY2022, FY2023, FY2024*

*To be reflected in Appendix A, Pay Schedule

5. **Article VII(4), Longevity** – Increase all longevity tiers by $100.00, effective July 1, 2022, as follows:

4. (a) Group 1 and Group 4 employees, for the purposes of longevity only, will be paid longevity pay based on their calendar years of service as of their date of hire, without prorating for part-time service, in accordance with the following schedule:

~~10 - 15 years - $115 20 to 30 years - $175~~
~~15 - 20 years - $145 30 or more years - $250~~

~~Effective July 1, 2005, longevity will be paid in accordance with the following schedule:~~

~~10 - 15 years - $140 20 to 30 years - $200~~
~~15 - 20 years - $170 30 or more years - $275~~

~~Effective July 1, 2006, longevity will be paid in accordance with the following schedule:~~

~~10 - 15 years - $165 20 to 30 years - $225~~
~~15 - 20 years - $195 30 or more years - $300~~

~~Effective July 1, 2008, longevity will be paid in accordance with the following schedule:~~

~~10 - 15 years - $265 20 to 30 years - $325~~
~~15 - 20 years - $295~~ 30 or more years - $~~400~~500

Effective July 1, ~~2013~~2022, longevity will be paid in accordance with the following schedule:

10-15 years - $~~290~~390 20-30 years - $~~375~~475
15-20 years - $~~320~~420 30 or more years - $~~450~~550

(Group 3 employees receive pro-rated longevity pay. Group 2 employees do not receive longevity pay)

(b) Effective July 1, 2008, Group 1 and Group 4 employees will be eligible for longevity provided in Section 4 (a) or 4 (b), whichever is greater.

~~Group 1 employees who have completed the equivalent of at least 10 years of full-time~~

~~service in the bargaining unit shall be eligible for the following longevity:~~

~~10-15 years of full-time service as of their employment anniversary date $625.~~

~~15-20 years of full-time service as of their employment anniversary date $775.~~

Effective July 1, ~~2013~~ 2022, Group 1 employees who have completed the equivalent of at least 10 years of full-time service in the bargaining unit shall be eligible for the following longevity:

10-15 years of full-time service as of their employment anniversary date $~~650~~750.
15-20 years of full-time service as of their employment anniversary date $~~800~~900.

(Every 1,957.50 hours of work by an employee in the bargaining unit shall equal one year of full-time service.)

6. **Article VII, Compensation – ADD "Section 11) "Mileage Allowance"** to incorporate the "Shared Work School Traffic Post" Agreement (attached), as agreed to by the parties on March 4, 2010, as follows:

(a) The Brookline Police Chief or ~~his/her~~their designee shall have the authority to assign the civilian Meter Collector(s) to regular morning and/or afternoon school traffic posts, and that this job duty shall be shared among police officers, members of the STS Unit, and the civilian Meter Collectors in the Main AFSCME Unit. Meter Collectors may be regularly assigned to a school traffic post which, from time to time, may include a temporary assignment to an alternate post to cover a short-term staffing need. Meter collectors will not eligible for overtime school traffic posts.

(b) All Group 1 and 4 employees shall receive an annual transportation mileage allowance of ~~thirty~~one thousand ~~five~~ dollars ($~~35~~1,000.00) ~~per month~~, to be paid in regular weekly paychecks (such allowance shall be paid on a bi-weekly basis should that change occur pursuant to Article VII, Section 10, of this Agreement). Employees in Group 2B and 2C shall receive a prorated transportation /mileage allowance based on the number of hours each such employee is regularly assigned to work as compared to a full time Group 1 and 4 employee. (For example if a Group 2C employee is regularly assigned to work hours equal to 50% of a full time Group 4 employee, such Group 2C employee shall receive a prorated transportation mileage allowance equal to 50% of the transportation mileage allowance.)

(c) This Section is specific to the school traffic post duties and does not in any way apply to parking control duties.

The increase to the mileage allowance in Paragraph (b) shall be effective July 1, 2021.

7. **Article XIV, Civil Service**

For all employees hired on or before May 20, 2010, and~~E~~ except as otherwise provided by Section 8 of the General Laws, Chapter 150E, the Employer and Union shall recognize and adhere to all Civil Service Rules and Regulations relative to seniority, promotions, discharges, suspensions and transfers from one job classification to another or from one department to another. The parties understand and acknowledge that the Civil Service Rules and Regulations do not apply to any and all employees hired on or after May 21, 2010.

8. **Post-Accident and Reasonable Suspicion Drug & Alcohol Policy**

The Union agrees to the terms and conditions of the Town's Drug & Alcohol Policy, though the Town agrees not to implement said Policy until it reaches agreement with all other unions on a Drug & Alcohol Policy.

9. **Article XVI, Other Leave – This will go into effect upon implementation of the Drug & Alcohol Policy**

Add Section (j): Employees shall be permitted eight hours of paid leave per calendar year for the purpose of undergoing a cancer screening and/or annual physical. Paid leave taken under this section must be taken in a single 7.5/8-hour block and will not deduct from the employee's accrued leave.

10. **Article XV, Uniforms - Employees currently receive allowances totaling $835.00 to pay for boots, shoes and uniform maintenance. The parties agree to merge the separate those allowances, and increase the total to $900.00, as follows:**

1) Uniforms shall be furnished to employees in Groups 1, 2, 3 and 4 by the Town at no cost to the employees. Uniforms must be worn as prescribed by the Department while on duty and shall not be worn at any other time.

2) Employees in Group 1 and Group 4 who are scheduled to work for a full year shall receive an allowance in the amount of nine hundred ($900.00) per year covering expenses for boots, shoes, and uniform maintenance. Group 3 employees shall receive a prorated allowance.

~~2) Boots. Cold weather boots and rubber boots will not be furnished by the Town, but the Town will pay employees in Group 1 $75.00 per year payment towards the cost of such boots purchased by employees. Effective July 1, 2011, the annual boot allowance will be increased by $25.00, and the annual boot allowance will be paid to employees in Groups 1 and 4. Group 3 employees receive a prorated amount. Only boots regarded as compatible with the uniform may be worn.~~

~~3) Shoes. Each employee in Group 1 and Group 4 scheduled to work for a full year shall receive a $125.00 per year allowance for uniform shoes approved by the~~

~~department. Effective July 1, 2011, increase the annual uniform shoe allowance by $25.00. Employees in Group 3 shall receive a prorated uniform shoe allowance.~~

~~4) Maintenance Allowance. Effective July 1, 2008, employees in Group 1 scheduled to work for the full year shall receive a three hundred fifty dollar ($350.00) maintenance allowance on or about the start of the school year. Effective July 1, 2011, the annual maintenance allowance will be increased by $35.00, and will be paid to employees in Groups 1 and 4. Group 3 employees shall receive a prorated maintenance allowance.~~

~~Effective July 1, 2005, employees in Group 1 scheduled to work for the full year shall receive a two hundred fifty dollar ($250.00) maintenance allowance on or about the start of the school year. Group 3 employees shall receive a prorated maintenance allowance. Effective July 1, 2018, employees in Group 1 and 4 who are scheduled to work for the full year shall receive a five hundred eighty-five dollar ($585.00) maintenance allowance on or about the start of the school year. Group 3 employees shall receive a prorated maintenance allowance.~~

The increase to the uniform allowance shall be effective July 1, 2021.

This Memorandum of Agreement is subject to ratification by the Union membership, approval by the Select Board for the Town of Brookline, and funding by the Brookline Town Meeting.

Agreed to by the Town and the Union on **April 25, 2023**.

For the Town of Brookline

Jennifer Paster, Chief of Police
Brookline Police Department

Ann Hess Braga, Director
Human Resources Office

For Local 1358, AFSCME, AFL-CIO

Mona Saltalamacchia, President
AFSCME Council 93

Michael Fallon, Union Consultant
AFSCME Council 93

ARTICLE 3

THIRD ARTICLE
Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Select Board, to enter into Compensating Balance Agreement(s) for FY2024 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article authorizes the Town Treasurer to enter into Compensating Balance Agreements, which are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

SELECT BOARD'S RECOMMENDATION

Compensating balances are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

Funds have been included in the Treasurer's FY2024 budget to pay for these banking services directly. This authorization, however, will give the Treasurer the flexibility to enter into such agreements if it should be in the best interest of the Town.

The Select Board voted 3-0 FAVORABLE ACTION on the following motion:

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2024 in accordance with General Laws Chapter 44, Section 53F.

ROLL CALL VOTE:

Aye:	Absent:
Greene	Aschkenasy
VanScoyoc	
Sandman	

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Warrant Article 3 by a vote of 19-0-1.

Executive Summary:	This article is filed annually by the Town Treasurer/Collector. Compensating balances are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in exchange for certain bank services
Voting Yes will...	Authorize the Town Treasurer, with the approval of the Select Board, to enter into compensating balance agreements for FY2023 in accordance with Massachusetts General Laws Chapter 44, Section 53F. These agreements would allow the Town to maintain specified amounts of deposits, which may or may not be interest bearing, in exchange for the reduction or elimination of cash payments for bank services.
Voting No will...	Not authorize the Treasurer to negotiate a reduction or elimination of fees for services, in exchange for deposits of Town funds in non-interest-bearing accounts.
Financial impact	Compensating balance agreements add value when the savings in fees more than offsets the loss of interest income, or when services can be bargained for among competing banks.

Introduction
This article is filed annually by the Town Treasurer/Collector. Compensating balances are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in exchange for certain bank services.

Discussion
Article 3 asks Town Meeting to authorize the Town Treasurer, with the approval of the Select Board, to enter into compensating balance agreements for FY2023 in accordance with Massachusetts General Laws Chapter 44, Section 53F. These agreements would allow the Town to maintain specified amounts of deposits, which may or may not be interest bearing, in exchange for the reduction or elimination of cash payments for bank services.

The proposed Town budget generally assumes that the Town's available funds are invested in interest-bearing accounts, and that banking services are paid for in ordinary course. This authorization gives the Treasurer the authority to negotiate a reduction or elimination of fees for services, in exchange for deposits of Town funds in non-interest-bearing accounts.

Compensating balance agreements add value when the savings in fees more than offsets the loss of interest income, or when services can be bargained for among competing banks. Town Meeting has authorized these arrangements since the mid-1980s.

Recommendation
The Advisory Committee recommends FAVORABLE ACTION on the following motion by a vote of 19-0 with 1 abstention.

VOTED: That the Town authorize the Town Treasurer, with the approval of the Select Board, to enter into Compensating Balance Agreement(s) for FY2023 in accordance with General Laws Chapter 44, Section 53F.

ARTICLE 3 ADVISORY COMMITTEE VOTES

Article Description	Compensating balance agreements
AC recommendation (Favorable Action unless indicated)	**19-0-1**
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	
Susan Granoff	Y
Kelly Hardebeck	
Amy Hummel	Y
Anita Johnson	
Alisa Jonas	
Janice Kahn	
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	A
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 4

FOURTH ARTICLE
Submitted by: Select Board

To see if the Town will authorize the Comptroller to close out either all or a portion of the unexpended balances in certain Special Appropriations and return said sums to the Surplus Revenue accounts, and rescind the unused portion of prior borrowing authorizations, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a warrant article showing the status of all special appropriations.

SELECT BOARD'S RECOMMENDATION

This is an annual article required by Section 2.1.4 of the Town's By-Laws. The tables that appear on the following pages detail the status of capital projects and special appropriations broken out by those that are debt financed and those that are funded with current revenues.

Under state statutes, any revenue funds declared surplus must be closed out to free cash at the end of the fiscal year. No action by Town Meeting is required. Surplus funds from bond-financed projects may be appropriated by Town Meeting for any purpose for which a loan may be taken only under a warrant article calling for an appropriation that meets these requirements.

On April 25th the Select Board voted NO ACTION 3-0 on Article 4

ROLL CALL VOTE:

Aye:	Absent:
Greene	Aschkenasy
VanScoyoc	
Sandman	

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: NO ACTION on Article 4 by a vote of 1–19 with no abstentions.

Summary: An Article similar to Article 4 is submitted each year by the Select Board to close out any Special Appropriations and/or rescind any unneeded Bond Authorizations. Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a Warrant Article to: (1) show the status of all special appropriations to ensure that surplus funds, if any, are managed in a timely fashion; and (2) identify the unused portion of borrowing authorization that requires rescission.

The first part of Article 4 deals with Special Appropriations Closeouts. Under state statute, surplus funds for revenue-financed capital projects are transferred to Free Cash at the end of the respective fiscal year. The Town's Comptroller has the statutory authority to close out the unexpended balances in the accounts.

The second part of Article 4 raises the question of rescinding any – or any unused portion of – previously approved bond authorizations. There are currently no previously approved bond authorizations to rescind.

Accordingly, the Advisory Committee recommends NO ACTION on Article 4 by a vote of 1-19 with no abstentions.

ARTICLE 4 ADVISORY COMMITTEE VOTES

Article Description	**Close out special appropriations / bond authorization recission**
AC recommendation (Favorable Action unless indicated)	**1-19-0**
Ben Birnbaum	N
Harry Bohrs	N
Cliff Brown	
Patty Correa	N
John Doggett	N
Katherine Florio	
Harry Friedman	N
David-Marc Goldstein	Y
Neil Gordon	N

Susan Granoff	N
Kelly Hardebeck	N
Amy Hummel	N
Anita Johnson	
Alisa Jonas	N
Janice Kahn	N
Pam Lodish	N
Joslin Murphy	N
Donelle O'Neal, Sr.	
Linda Olson Pehlke	N
Markus Penzel	N
David Pollak	N
Stephen Reeders	N
Carlos Ridruejo	
Lee Selwyn	N
Alok Somani	
Carolyn Thall	N
Christine Westphal	
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

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Available Budget Report - Capital Funds (Bond funded) for Fiscal Year 2023 as of 3/21/23

		Revised Budget	YTD Expended	YTD Encumbered	Available	Status
C192	FIRE ENGINE TOWER #1 REPLACEME	1,599	0	0	1,599	complete
C193	FLEET MAINT FACILITY & TRAINING	753	0	0	753	Complete
C222	FIRE ENGINE #1	700,000		634,516	65,484	Contract signed - build in progress / available funds to be used for equipment
C233	FIRE ENGINE #4	800,000		734,583	65,417	Contract signed - build in progress / available funds to be used for equipment
	FIRE CAPITAL	1,502,352	0	1,369,099	133,253	
C199	ACQUISITION OF 111 CYPRESS ST	18,403	0	12,898	5,505	
	SELECT BOARD CAPITAL	18,403	0	12,898	5,505	
C185	RIDLEY SCHOOL RENOVATION	6,884,202	4,920	0	6,879,282	Complete (balance can shift to future project)
C195	ENVELOPE FENESTRATION	510,592	491,472	19,120	0	Ongoing
C204	BHS RENOVATION/EXPANSION	23,430,622	12,258,874	3,859,516	7,312,232	Ongoing
C208	TOWN/SCH BLDG ENV/FENESTRATION	1,372,284	150,418	0	1,221,866	Ongoing
C209	PIERCE SCHOOL FEASIBILITY	388,154	310,872	65,443	11,839	Ongoing
C210	DRISCOLL SCHOOL RECONSTRUCTION	91,486,038	36,950,998	53,415,767	1,119,273	Ongoing
C214	TOWN/SCH BLDG ROOF REPAIR	1,432,164	82,678	32,235	1,317,251	Ongoing
C220	ENVELOPE FENESTRATION	750,000	190,839	70,649	488,512	Ongoing
C230	TOWN/SCH BLDG ROOF REPAIR	650,000	0	0	650,000	Ongoing
C234	FIRE STATION RENOVATIONS	65,000,000	0	0	65,000,000	Underway - Architect to be hired
	BUILDING CAPITAL	191,904,056	50,441,071	57,462,730	84,000,255	
C150	MUDDY RIVER RESTORATION	39,726	37,873	0	1,853	In process
C157	NEWTON ST LANDFILL	2,274	0	879	1,395	Nearing Completion
C166	CARLTON ST FOOTBRIDGE RESTORAT	623,372	124,784	113,035	385,553	In process
C169	STORM DRAIN IMPROVEMENTS	1,379	560	800	19	Near Closeout
C179	NEWTON ST LANDFILL CLOSE	50,987	0	1	50,986	In process
C180	VILLAGE SQUARE IMPROVEMENTS	1,200,000	0	0	1,200,000	
C181	SINGLETREE TANK IMPROVEMENTS	65,498	0	5,000	60,498	Completed
C182	SINGLETREE GATEHOUSE IMPROVEMENTS	13,011	0	10,583	2,428	Completed
C187	WASTEWATER SYSTEM IMP	9,787	6,138	2,190	1,459	Completed
C194	COREY HILL PLAYGROUND	3,224	0	3,224	0	Nearing Close-out.
C196	WATER SYSTEM IMPROVEMENTS	4,437	0	4,437	0	In process.
C198	BROOKLINE RESERVOIR PARK	300,134	0	74,753	225,381	In process.
C200	WASTEWATER SYSTEM IMPROVEMENTS	957,998	535,378	410,294	12,326	In process
C201	HARRY DOWNES FIELD/KRAFT FAM	14,547	0	2,568	11,979	Nearing project close-out.
C202	LARZ ANDERSON PARK	91,153	77,586	8,605	4,962	In process.
C206	WATER SYSTEM IMPROVEMENTS	400,573	140,521	253,499	6,553	In process
C207	WASTE WATER SYSTEM IMPROVEMENT	2,896,400	1,773,221	1,085,909	37,270	In process
C211	WATER SYSTEM IMPROVEMENTS	1,867,994	138,978	102,557	1,626,459	In process
C212	WASTE WATER SYSTEM IMPROVEMENT	3,000,000	0	0	3,000,000	Will follow current projects
C213	LARZ ANDERSON PARK	2,200,000	95,248	440	2,104,312	In process.
C216	WATER SYSTEM IMPROVEMENTS	2,000,000	0	1,733,100	266,900	In process
C217	WASTE WATER SYSTEM IMPROVEMENT	3,000,000	0	0	3,000,000	In process
C218	MURPHY PLAYGROUND	915,000	0	756,431	158,569	In process
C219	ROBINSON PLAYGROUND	1,150,000	42,485	1,107,515	0	In process
C223	WASH/HARV/KENT/DAVIS TRAFFIC S	1,350,000	0	0	1,350,000	Design complete. Bidding schedule under discussion.
C224	STORM WATER IMPROVEMENTS	600,000	0	0	600,000	In process
C225	WATER SYSTEM IMPROVEMENTS	2,000,000	0	0	2,000,000	In process
C226	WASTE WATER SYSTEM IMPROVEMENT	3,000,000	9,365	165,225	2,825,410	In process

C227	NETHERLANDS ROAD FUEL UPGRADE	140,000	0	0	140,000	In process
C228	SKYLINE PARK	3,210,000	26,956	84,794	3,098,250	In process
C229	WILLOW POND REMEDIATION	2,800,000	0	0	2,800,000	In process
C231	ROBINSON PLAYGROUND II	275,000	0	246,387	28,613	In process
C232	MURPHY PLAYGROUND II	355,000	0	355,000	0	In process
	DPW CAPITAL	34,537,494	3,009,093	6,527,226	25,001,175	
C188	GOLF COURSE IMPROVEMENTS	748,914	0	0	748,914	For on-going work including drainage, bunkers, and cart paths.
	RECREATION CAPITAL	748,914	0	0	748,914	

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2023 as of 3/30/23

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K017	TOWN FURNITURE UPGRADES	25,938	591	25,347	(0)	Ongoing town furniture replacement program.
K018	SCHOOL FURNITURE UPGRADES	34,446	0	5,524	28,922	Ongoing school furniture replacement program.
Sub-Total Finance Dept		**60,384**	**591**	**30,871**	**28,922**	
K042	CLASSROOM CAPACITY	1,868,445	1,751,524	65,577	51,344	Ongoing
K042	CLASSROOM CAPACITY (school org)	32,651	0	0	32,651	Ongoing
Sub-Total School Dept		**1,901,096**	**1,751,524**	**65,577**	**83,995**	
K122	RIVERWAY BIKE/PED PATH	40,000	0	0	40,000	Being Coordinated with USACE for Phase II Improvements.
K158	PLANNING AND ZONING REFORM	194,644	0	37,650	156,994	Ongoing
Sub-Total Dept of Planning & Community Development		**234,644**	**0**	**37,650**	**196,994**	
K169	RADIO INFRASTRUCTURE	1,908,472	1,171,887	492,386	244,199	Ongoing project
Sub-Total Police Dept		**1,908,472**	**1,171,887**	**492,386**	**244,199**	
K175	FIRE STATION ALERTING SYSTEM	110,935	49,976	40,679	20,280	Installation underway / 95% complete
Sub-Total Fire Dept		**110,935**	**49,976**	**40,679**	**20,280**	
K002	ENERGY CONSERVATION	103,328	103,328	0	0	Ongoing
K010	ENERGY MANAGEMENT SYSTEMS	100,000	97,928	0	2,072	Completed
K022	TOWN-SCHOOL SECURITY-LIFE SAFETY	364,806	129,128	177,421	58,257	Ongoing
K046	TOWN HALL/MAIN LIBRARY GARAGE IMPROVEMENTS	288,200	0	0	288,200	Ongoing
K050	ADA RENOVATIONS	113,461	48,688	64,648	125	Ongoing
K098	FIRE STATION RENOVATIONS	1,266,237	54,506	34,530	1,177,201	Ongoing
K109	TOWN/SCHOOL BUILDINGS ELEVATOR	180,000	180,000	0	0	Complete
K121	GARAGE FLOOR SEALANTS	150,000	0	0	150,000	Ongoing
K123	DEVOTION HOUSE / PUTTERHAM SCHOOL	30,960	0	0	30,960	Ongoing
K161	HVAC EQUIPMENT	150,498	32,388	55,549	62,561	Ongoing
K163	PUBLIC BUILDING FIRE ALARM UPGRADES	217,966	21,938	25,555	170,472	Ongoing
K168	DRISCOLL SCHOOL SCHEMATIC DESIGN	77,866	30,627	0	47,239	Ongoing
K182	PUBLIC SAFETY BLDG LOCKER RM	450,000	484	0	449,516	Just started - hired Architect
K183	UNDERGROUND TANK REMOVAL	50,000	50,000	0	0	Re-appropriated in FY23
Sub-Total Building Dept		**3,543,322**	**749,015**	**357,704**	**2,436,604**	
K051	TREE MANAGEMENT	676,902	190,423	184,654	301,826	In Process
K052	BICYCLE ACCESS IMPROVEMENTS	497,077	0	6,161	490,916	In Process
K054	STREET LIGHTING REPLACEMENT	20,703	0	100	20,603	In Process
K055	CARLTON STREET FOOTBRIDGE	33,109	1,927	0	31,182	Anticipated completion calendar '23
K056	SIDEWALK IMPROVEMENTS	727,036	195,325	256,989	274,723	In Process
K058	STREET REHABILITATION	4,587,396	1,690,360	1,282,914	1,614,122	In Process
K065	RIVERWAY PARK IMPROVEMENT	86,369	4,106	0	82,263	Coordination & Planning - Will Follow Phase II Muddy River
K066	PLAYGROUND,FENCE,FIELD, EQUIPMENT	490,070	76,317	289,460	124,292	In Process
K069	TENNIS/BASKETBALL COURT REHAB	393,385	8,800	0	384,585	In Process
K070	LARZ ANDERSON PARK	1,365,586	11,532	90,162	1,263,892	Construction anticipated 2023.
K073	TOWN-SCHOOL GROUNDS REHAB	245,486	110,744	82,599	52,144	In Process
K078	MUDDY RIVER REMEDIATION	872,940	0	0	872,940	In Process
K083	TRAFFIC CALMING	872,797	228	18,285	854,284	Construction anticipated 2023.
K088	MOUNTFORT ST TRAFFIC SIGNAL	76,438	0	0	76,438	Awaiting MassDOT St. Mary's Bridge Project Approval & Funding
K093	WATER METER REPLACEMENT	139,528	138,869	175	484	Ongoing
K096	PARKING METERS	326,924	210,891	98,378	17,655	In Process
K097	LANDFILL SETTLEMENTS	125,606	12,251	29,001	84,354	In Process
K101	MUNICIPAL SERVICE CENTER REPAIRS	1,081	0	0	1,081	Nearing Close Out
K115	OLD BURIAL GROUNDS	75,604	16,355	16,356	42,893	In Process. Completion anticipated summer 2023.
K120	PARK COMFORT STATIONS	373,425	0	22,825	350,600	In Process
K124	WOODLAND RD / HAMMOND ST CROSSING STUDY	15,600	0	0	15,600	In Process. Awaiting funding for construction project for plans & specs
K125	BROOKLINE AVE PLAYGROUND	6,466	2,345	0	4,121	Nearing Close Out
K129	MBTA TRAFFIC SIGNALIZATION	16,240	0	40	16,200	In Process. Initial round implemented in 2020.
K142	WINTHROP PATH REHABILITATION	65,000	0	0	65,000	In Process
K150	DAVIS PATH FOOTBRIDGE	567,241	4,869	10,900	551,472	Initial Planning and Cost Estimates moving to 25% Design
K151	MURPHY PLAYGROUND	60,817	18,500	16,200	26,117	In Process. Contract awarded and construction starting

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2023 as of 3/30/23

Account	Account Name	Revised Budget	YTD Expended	YTD Encumbered	Available Balance	Comment
K152	STORMWATER IMPROVEMENTS	231,753	108,408	113,157	10,189	In Process
K160	CYPRESS PLAYGROUND DESIGN	181,030	31,869	2,814	146,347	In Process
K164	NETHERLANDS ROAD FACILITY IMPROVEMENTS	137,245	0	1,325	135,920	In Process
K166	BROOKLINE RESERVOIR	13,861	0	13,861	0	In Process
K167	RIDE SHARE FUNDS	337,735	124,988	94,554	118,193	In Process
K170	FIRE ALARM CALL BOX	298,676	0	6,224	292,452	In Process
K171	ROBINSON PLAYGROUND	8,765	2,465	6,300	0	In Process. Contract awarded and construction starting
K174	CARLTON ST/MONMOUTH ST TRAF SIGNAL	202,127	128,490	73,637	0	Substantially Complete
K177	WASH/HARV/KENT/DAVIS TRAF SIG	121,595	119,513	2,082	0	Design complete.
K178	ACCESSIBLE PEDESTRIAL SIGNAL	95,896	9,266	241	86,389	In Process.
K179	WASHINGTON ST AND COMPLETE STS	1,300,000	152,747	446,528	700,725	In Process. Design Review Committee
K180	WILLOW POND ENV RESTORATION	231,150	50,176	31,374	149,600	In Process
Sub-Total DPW		**15,878,659**	**3,421,764**	**3,197,295**	**9,259,600**	
K106	EVELYN KIRRANE AQUATIC CTR	182,064	0	0	182,064	on-going
K172	ELIOT REC CTR RENOVAT	7,220	0	0	7,220	completed renovation
Sub-Total Recreation		**189,284**	**0**	**0**	**189,284**	
	TOTAL	**23,826,796**	**7,144,756**	**4,222,161**	**12,459,879**	

ARTICLE 5

FIFTH ARTICLE
Submitted by: Select Board

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore, and appropriate from available funds, a sum or sums of money therefore, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.

SELECT BOARD'S RECOMMENDATION

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without the specific approval of Town Meeting. As of the writing of this Recommendation, there are no unpaid bills from a previous fiscal year. Therefore, the Board recommends NO ACTION, by a vote of 4-0 taken on March 21, 2023, on Article 5.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: NO ACTION on Warrant Article 5 by a vote of 19-0-0.

Executive Summary:	This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.
Voting Yes will...	
Voting No will...	
Financial impact	There are no unpaid bills from a prior fiscal year and, therefore, no financial impact

Introduction

This article is filed annually by the Select Board in case there are unpaid bills from a prior fiscal year. Massachusetts General Laws, Chapter 44, Section 64, requires the specific appropriation of funds for the payment of bills from a prior fiscal year.

Discussion

The Town has not identified any unpaid bills from a prior fiscal year.

Recommendation

The Advisory Committee recommends NO ACTION by a vote of 19-0-0.

ARTICLE 5 ADVISORY COMMITTEE VOTES

Article Description	Unpaid bills
AC recommendation (Favorable Action unless indicated)	**NO ACTION, 19-0-0**
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	
Susan Granoff	Y
Kelly Hardebeck	
Amy Hummel	Y
Anita Johnson	
Alisa Jonas	
Janice Kahn	
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

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ARTICLE 6

SIXTH ARTICLE
Submitted by: Board of Assessors

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2024 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, low-income elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved by Town Meeting continually since FY1989.

SELECT BOARD'S RECOMMENDATION

This article provides for an increase in the property tax exemption amounts for certain classes of individuals, including surviving spouses, the elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2024 is approximately $41,025 and is funded from the tax abatement overlay reserve account. The law allows the Town to increase the exemptions by up to 100% as indicated on the following schedule, which are recommended by the Board of Assessors:

Description	Ch.59, Sec.5 Clause	FY2023 #Granted	Basic Amount Exempted	Proposed Amount Exempted
Surviving Spouse	17D	3	$175	$350
Veteran (10% Disability)	22	40	$400	$800
Veteran (loss of one hand, foot or eye)	22A	0	$750	$1,500
Veteran (loss of two hands, feet or eyes)	22B	0	$1,250	$2,500
Veteran (special housing)	22C	0	$1,500	$3,000
Veteran (certain widows of soldiers)	22D	0	$250	$500
Veteran (100% disability, cannot work)	22E	6	$1,000	$2,000
Blind	37A	29	$500	$1,000
Elderly	41C	8	$500	$1,000

A unanimous Select Board voted FAVORABLE ACTION on the following motion:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2024 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Warrant Article 6 by a vote of 22-0-1.

Executive Summary	Article 6 is an annual warrant article to double the base amount of state-mandated local property tax exemptions for certain classes of qualifying individuals (including disabled veterans, blind persons, surviving spouses with low assets, and elderly taxpayers with both low income and low assets).
Voting Yes will…	Permit the Town to grant some additional property tax relief to approximately 90 qualifying taxpayers.
Voting No will…	For the first time since 1989, increase the tax burden on those qualifying individuals.
Financial impact	The estimated cost for FY24 of increasing these exemptions is $42,600 and would be paid out of the Town's tax abatement overlay reserve account.
Legal impact	None.

Background
This article would allow the Town in FY24 to continue its current practice of doubling the base amount of certain state-mandated property tax exemptions for several classes of

qualifying taxpayers, including disabled veterans, blind persons, surviving spouses with low assets, and elderly taxpayers with both low income and low assets. The Town is required by state law to give these taxpayers, if eligible, a base property tax exemption in the amount specified in Chapter 59, Section 5, of the Massachusetts General Laws and for which the Town is reimbursed by the state (fully for the elderly exemption and partially for the others). State law provides for a local, optional, annual increase in the mandated exemption classes and is paid out of the Town's tax abatement overlay reserve account. The proposed increases, which require annual re-authorizations, are recommended by the Board of Assessors and have been approved each year by Town Meeting since FY1989.

Discussion
The table below shows, for each category: the number of Brookline taxpayers who received an exemption in FY23, the base dollar amount exempted under state law for each category, the additional exemption amount proposed in this Warrant Article (which, in all categories, doubles the original amount), and the total cost to the Town.

Description	Ch. 59, §5 Clause	FY23 # Granted	Base Amount Exempted ($)	Additional Amount Exempted ($)	Total Cost to Town ($)
Surviving spouses	17D	4	175	175	700
Veterans (10% disability)	22	41	400	400	16,400
Veterans (100% disability)	22E	6	1,000	1,000	6,000
Blind persons	37A	30	500	500	15,000
Elderly	41C	9	500	500	4,500
TOTAL		**90**			**42,600**

During the past nine years, veterans have constituted an average of 54% of the recipients of these exemptions, blind persons 32%, the elderly 10%, and surviving spouses 3%.These percentages do not reflect the proportional distribution of these demographic groups among Brookline's population (for example, seniors comprise over 20% of Brookline's total population, veterans and blind residents considerably less). One reason for these disparities is that the exemptions for veterans and blind taxpayers do not have any income or asset cap requirements, unlike those for the elderly and surviving spouses.

The actual annual cost to the Town of these doubled exemptions has been steadily decreasing during the past decade, dropping from $62,000 in FY15, when there were 126 Brookline exemption recipients, to about $55,000 in FY19, when the number of recipients was 110. In FY23, there are 90 recipients and the cost to the Town is $42,600. Since 2019, the number of exemption recipients has decreased by 18%, and the total cost to the Town by 23%. This trend is likely to continue, and so the FY24 cost to the Town of doubling the base amount of these exemptions is unlikely to exceed $42,600.

The Town plans to increase efforts to inform potential recipients about these exemptions. Currently, the burden is on the taxpayer to find out about available tax assistance programs and to apply for them each year before the April 1 deadline.

Recommendation
By a vote of 22-0 with 1 abstention, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 6.

ARTICLE 6 ADVISORY COMMITTEE VOTES

Article Description	Property Tax Exemptions
AC recommendation (Favorable Action unless indicated)	**22-0-1**
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	
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	Y
Anita Johnson	
Alisa Jonas	A
Janice Kahn	
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

ARTICLE 7

SEVENTH ARTICLE
Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2024 Budget

Appropriate the sums requested or proposed by the Select Board or by any other officer, board or committee, or any other sum or sums, for the fiscal year 2024 budget; without limiting the foregoing, appropriate the sums necessary for all town expenses, including the snow and ice budget, debt and interest, and operating expenses; fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with an option to purchase or installment purchase of equipment; appropriate to or from a stabilization fund as provided for in General Laws Chapter 40, Section 5B; appropriate CPA funds as provided in General Laws, Chapter 44, Section 44B; authorize the continuation of all revolving funds in accordance with General Laws, Chapter 44, Section 53E½ and all Enterprise Funds in accordance with General Laws, Chapter 44, Section 53F½; allocate available free cash; provide for a reserve fund; and establish the requirements for transfers among appropriations, interfund transfers, transfers for the purposes of salary adjustments, filling vacant positions and budgetary reporting.

B.) Fiscal Year 2024 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $25,000, or any other sum, to be expended under the direction of the Chief Procurement Officer for town furniture upgrades.

2. Appropriate $375,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board, for the Brookline Village Library HVAC improvements.

3. Appropriate $900,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.

4. Appropriate $200,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the Select Board, for the equipment and of the Body Worn and In-Car Camera program.

5. Appropriate $500,000, or any other sum, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for traffic calming.

6. Appropriate $700,000, or any other sum, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for bike access improvements.

7. Appropriate $75,400, or any other sum, to be expended under the direction of the Commissioner of Public Works, for Accessible Pedestrian Signals.

8. Appropriate $3,930,000, or any other sum, 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 the rehabilitation of streets.

9. Appropriate $500,000, or any other sum, 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 the rehabilitation of sidewalks.

10. Appropriate $800,000, or any other sum, 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 design work related to the Washington Street Rehabilitation and Complete Streets Program.

11. Appropriate $600,000, or any other sum, 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 storm water improvements.

12. Appropriate $2,000,000, or any other sum, 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 water system improvements.

13. Appropriate $3,000,000, or any other sum, 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 wastewater system improvements.

14. Appropriate $520,000, or any other sum, 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 the design of the renovation of Amory Tennis Courts, Parking and Halls Pond.

15. Appropriate $350,000, or any other sum, 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 to Monmouth Park.

16. Appropriate $2,000,000, or any other sum, 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 the renovation of Schick Playground.

17. Appropriate $285,000, or any other sum, 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 the renovation of playground equipment, fields, and fencing.

18. Appropriate $100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works for the rehabilitation of Town and School grounds.

19. Appropriate $300,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Select Board and the Park and Recreation Commission, for the rehabilitation of tennis courts and basketball courts.

20. Appropriate $375,000, or any other sum, 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 and the Tree Planting Committee, for the removal and replacement of trees.

21. Appropriate $150,000, or any other sum, to be expended under the direction of the Recreation Director for the renovation of the Soule Courtyard.

22. Appropriate $300,000, or any other sum, to be expended under the direction of the Recreation Director, with any necessary contracts to be approved by the Select Board and the Park and Recreation Commission, for tree work at Putterham Woods.

23. Appropriate $25,000, or any other sum, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades.

24. Appropriate $200,000, or any other sum, to be expended under the direction of the Building Commissioner for HVAC equipment.

25. Appropriate $90,000, or any other sum, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.

26. Appropriate $250,000, or any other sum, to be expended under the direction of the Building Commissioner for elevator renovations.

27. Appropriate $130,000, or any other sum, to be expended under the direction of the Building Commissioner for upgrades to energy management systems in Town and School facilities.

28. Appropriate $125,000, or any other sum, to be expended under the direction of the Building Commissioner, for public building fire alarm upgrades.

29. Appropriate $170,000, or any other sum, to be expended under the direction of the Building Commissioner, for improvements to life safety systems and building security in Town and School facilities.

30. Appropriate $1,000,000 or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the

Select Board and the School Committee, for minor renovations / upgrades to school buildings.

31. To see if the Town will appropriate Two Hundred Nine Million Nine Hundred Fifteen Thousand Nine Hundred Fifty-Eight Dollars ($209,915,958) to the pay costs of constructing a new PreK-8 School which includes renovations/addition to the existing historic Pierce School and other site improvements including reconstruction and repair of the Town Hall and Pierce School garages which are beneath the new school and the Town Park across School Street to be located on the site of the existing John R. Pierce School at 50 School Street in Brookline, Massachusetts replacing the existing John R. Pierce School, including the payment of all costs related to designing the new school project, equipping and furnishing the school, site improvements, and all other costs incidental and related thereto (the "Project"), which new school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority (the "MSBA"); and to determine if said appropriation shall be expended under the direction of the Town of Brookline Select Board; to determine if said appropriation shall be raised by borrowing or otherwise; to determine if the Town shall acknowledge that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town and that any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) thirty-five and fifty-five hundredths percent (35.55%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; to determine if the amount of any borrowing authorized for the project shall be reduced by any grant amount set forth in and received pursuant to the Project Funding Agreement that may be executed between the Town and the MSBA; to determine whether the appropriation and any borrowing authorized for the project shall be contingent upon the Town's passage of a ballot question to exempt the principal and interest payments on such borrowing from the tax limitations of G.L. c.59, §21C (Proposition 2 ½); or to take any other action relative thereto.

32. Appropriate $2,026,982, or any other sum, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the School Committee, for the expansion of classroom capacity in various schools.

33. Appropriate $275,000, or any other sum, 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 rescind a like amount voted at the November 15, 2022 Special Town Meeting under Article 1, Item 4, which item was inadvertently omitted from the warrant for such meeting;

34. Appropriate $355,000, or any other sum, 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 rescind a like amount voted at the November 15, 2022 Special Town Meeting under Article 1, Item 5, which item was inadvertently omitted from the warrant for such meeting;

35. Appropriate $1,259,083, or any other sum, to resolve the special revenue account deficit as a result of COVID expenses that may not be eligible for reimbursement.

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the Select Board, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants, gifts, reimbursements, and aid from both federal, state, and other sources and agencies for any of the purposes noted in this Article, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This is the annual appropriations article for FY2024. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the publication of the Town Administrator's Financial Plan on March 7th. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Select Board. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

SELECT BOARD'S RECOMMENDATION

Article 7 sets the Town's budget and special appropriations for Fiscal Year ("FY") 2024. It is the most important article taken up at the Annual Town Meeting, as well as the most detailed. The Select Board would like to thank the Deputy Town Administrator, Assistant Town Administrator for Finance, Finance Director, Department Heads, Superintendent of Schools along with his staff, and the School Committee for their tireless efforts in developing the FY2024 budget.

Financial Plan and Changes

The Town's Financial Plan was released on March 7, 2023. Its assumptions were based on the Governor's budget, which was released seven days earlier. Since then, the House has passed its own budget, based on its Ways & Means Committee's bill, H.3900. While that bill included a small increase in per-pupil education pay under Chapter 70 for so-called "minimum aid" communities like Brookline, it decreased unrestricted general government aid funding. We estimate that this rebalancing will result in minimal additional funds becoming available if it holds through the remainder of the state budget process. As of the time of this report, the Town-School Partnership has not met to discuss whether and how this minimal additional funding

will pass through the community's traditional revenue split between municipal and educational operations. As such, the Select Board's budget recommendation remains tied to the Governor's budget numbers at this time.

The Financial Plan assumed that overall costs of providing healthcare to employees would grow by 8%. When the actual insurance rates came in, they were roughly commensurate with that estimate. Importantly, however, there were major changes to virtually all existing plans the Town offers its employees due to the merger/creation of numerous providers and plans. We will not know the practical impact of these changes until after the close of the open enrollment period, which coincides with the deadline for the release of this report.

At the time the Select Board made its budget recommendation, the outcome of the proposed operating override ballot question was not known. As such, the Select Board's recommendation includes contingencies for scenarios in which Question 2A (the so-called "base override") either passes or fails to pass. Since the override passed, the Board's motion reflects the recommendations made by the Town Administrator for the override.

One less significant change came in the form of an unexpected reimbursement from the Federal Emergency Management Agency ("FEMA"). This reimbursement lowers the amount needed to be appropriated to cover FEMA-ineligible expenses, which reduces the amount of Free Cash used to address this outstanding account.

Fiscal Snapshot at a Glance

The Town of Brookline continues to move through fiscally uncertain times with prudence and confidence, aiming to provide the services its residents want with the limited resources available to it. As we adjust to the economically turbulent early period of endemic COVID-19 and make the most of one-time funding sources that sprung up during the pandemic, we hope that FY2024 represents the end of the Town's "maintenance" and "recovery" periods and the beginning of an era focused on a future of long-term sustainable growth and community resiliency.

To that end, the Select Board's proposed FY2024 "no override" budget balanced $404,549,939 in revenues and expenditures, a 5.2% increase from FY2023. This reflects an unfortunately recurring situation in both Brookline and other Massachusetts municipalities that rely predominantly on residential income tax receipts for revenue: even in realizing revenue growth when compared to last year's figures, the Town and Schools alike face operational shortfalls due to the increases in costs from health care, sanitation, licenses, collective bargaining, our MBTA assessment, and the overall inflation-exacerbated costs of goods and services.

Although the new gubernatorial administration committed to an overall statewide increase of 8.2% in local aid from last year, Brookline was not the primary beneficiary of that additional funding. Education payments under Chapter 70 increased for Brookline by only 1.3% from last year, while unrestricted general government aid saw only a 2.0% increase (0.4% higher than the FY2022 to FY2023 increase). Property tax increases remain capped at 2.5% plus the value of any "new growth," which has also shown reduced results due to the lack of new opportunities like 10 Brookline Place and the Hilton Garden Inn that have supported the tax

base over the past five years. When paired with our increased costs, these figures left the Town with an operating shortfall on the town side of $521,176 and a school deficit of $3,701,870.

With the passage of the operating override, an additional $6,556,061 is expected in FY2024 revenue to cover the above shortfalls and be used for the purposes described in Ballot Question 2A. The Select Board may consider delaying some restorations in order to cover collective bargaining shortfalls, but at present, all restorations are included in the Select Board's motion. Overall, the Select Board's override priorities are the maintenance of services we already provide, restoration of critical services pared back during the pandemic, infrastructure investment that can generate savings and transformational change down the line, sustainable and equitable smart community growth in a fossil-fuel-free context, and assistance to vulnerable and/or chronically underserved community members. For further information regarding the override, please visit http://www.brooklinema.gov/override.

Our better-than-average Free Cash revenue came from a one-time tax payment and another one-time payment from the issuance of a building permit for a large development structure. But as explained in more detail later on in the Financial Plan, Free Cash is a one-time source of funding that we allocate according to a careful rubric, and not a reliable source of recurring revenue. Regular use of Free Cash to cover operating expenses is not a sustainable financial model, especially for a community with a triple-A municipal debt rating. For FY2024, we continue to follow the Town's Free Cash Policy to and provide support to our aggressive plan to address the Town's capital needs in the Capital Improvement Plan ("CIP"), support liabilities and financial reserves, and address outstanding COVID expenses that have not been reimbursed by FEMA.

Regarding the CIP, Town financial policies require at least 7.5% of the prior year net revenue be allocated to the annual capital budget. This covers both the cost of pay-as-you-go cash projects and the annual debt service on projects that were financed with municipal bonds. Over the last few years, our fund balance has allowed additional investment to meet a backlog of capital projects. A significant portion of the community's CIP activities are covered through "excluded" debt—that is, debt financed through a temporary property tax increase authorized by voters. As discussed in detail in Section VII of the Financial Plan, the current growth of the CIP is unsustainable, but we continue to make targeted choices to ensure needed repairs and replacements of school and municipal facilities such as parks and playgrounds can happen on a timely basis.

Inflation continues to put pressure on our municipal workforce, which is why we recommend an across-the-board cost-of-living increase of 3% for FY 2024. It remains a priority of the Select Board to attract and retain top talent in Brookline's unionized and non-unionized workforces, which is why the current operating override proposal includes $500,000 to address pay disparities between technical staff (such as social workers) and managers here and in comparable communities. Restoring the proposed operational cuts with override funds also ensures that money in the collective bargaining reserve can be used to fund fair agreements with our unionized workforce.

Through the second round of Brookline's unique and community-oriented American Rescue Plan Act ("ARPA") allocation process, the Town has also proposed a package of nearly $5M

in one-time requests, primarily to address public sector capacity issues caused or exacerbated by the pandemic in a "green" way while also targeting vulnerable communities impacted by COVID-19. This use of one-time money to address serious needs without creating unfunded mandates when the ARPA period of performance ends in 2026 limits the potential systemic shock of cutting off new initiatives that community members had come to rely on. Most of the programs proposed or continued in the Town's Round 2 ARPA asks are currently slated to move forward permanently as line items in the proposed "base" operating override.

The Select Board authorized up to $6M in payments of up to $4,000 in one-time federal ARPA funds to current full- and part-time benefits-eligible Town and PSB employees who worked 40 or more days in person during the first year of the COVID-19 pandemic. We continue to be grateful to all municipal employees for their service to Brookline.

We continue to anxiously await the possibility of new local aid initiatives at the State level or through the Infrastructure Investment & Jobs Act ("IIJA") and Inflation Reduction Act. Unfortunately, many of the initial IIJA grant initiatives were either targeted to communities of a lower income level or required too much of an initial investment for Brookline to seriously consider them. We continue to monitor for these and any alternative sources of funding that could help defray the costs of a potential override or offer alternative sources of short- and long-term benefits for the community.

This fall, as detailed further in the reports for Warrant Article 8, the Community Preservation Act Committee will make its first allocations from a pool of over $6,000,000 in additional funds for community priorities in the allowable categories of open space, historic preservation, community housing, and recreation. All four of these areas provide new opportunities for smart, community-driven growth.

Last year, the previous Town Administrator Mel Kleckner noted that the FY2023 budget represented the beginning of what he called the "New Normal," an era in which demands for a broader social safety net would be placed on the shoulders of local government. After all, this is the aftermath of the traumatic early years of a decade marked by a catastrophic global pandemic, runaway climate change, and a long-overdue increased awareness of institutionalized violence against people of historically marginalized communities. Larger entities proved unable or unwilling to address these societal concerns, and so the expectation fell to us in Town Hall. Mr. Kleckner urged the community to think creatively about how to fund longer-term transformative service-oriented efforts in the face of systemic operating shortfalls.

The abdication of responsibility by federal- and state-level institutions historically responsible for earlier versions of the social safety net requires local government to maximize its efficiency in evaluating how and when to step into the gap. Massachusetts places a fairly hard cap on how much money we can raise from property taxes. In a community as residential as Brookline is, we must think strategically about how to invest limited override opportunities into efforts that will reduce our reliance on overrides in the future so we can be confident that any expanded safety net will not be subject to sudden termination at the ballot box.

The Select Board believes that its budget, as developed by staff based on the Select Board's stated priorities, balances the needs of the community with the limited resources available to address them.

Advisory Committee Reconciliation

As of the date of this report, the Advisory Committee has not make a formal motion for the Board to deliberate. Select Board believes it appropriate at this juncture to offer their motion on the budget to consider until a balanced budget is presented by the Advisory Committee.

Accordingly, following a public hearing on the matter, at a meeting held on April 25, 2023, the Select Board voted 4-0 to recommend FAVORABLE ACTION on the following motion (except as to those portions of the motion that included funding for the Pierce School reconstruction project, which the Select Board approved of by a vote of 3-1 (John VanScoyoc opposed).

MOVED: To approve the budget for fiscal year 2024 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental appropriations separately set forth in Tables 1 and 2 shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

A) Expenditures within the appropriation for the School Department shall not be restricted.

B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Select Board and Advisory Committee:

i) Transfers from the appropriation for the capital outlay object classification to any other object classification.

ii) Transfers to the appropriation for the personal services object classification from any other object classification.

iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.

v) Transfers within the Department of Public Works from the Parks Division to any other purpose.

vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.

C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.

D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Select Board, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2023 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Select Board.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #20) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Select Board shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #19), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

4.) STIPENDS / SALARIES OF ELECTED OFFICIALS: The stipends of members of the Select Board shall be at the rate of $4,500 per year for the Chair and at the rate of $3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of $106,861 effective July 1, 2023, plus any adjustment approved by vote of the Select Board. The Town Clerk shall pay all fees received by the Town Clerk by virtue of their office into the Town treasury for Town use.

5.) VACANT POSITIONS: No appropriation for salaries, wages, or other compensation shall be expended for any benefit-eligible position which has become vacant during the fiscal year unless the Select Board, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) GOLF ENTERPRISE FUND: The following sums, totaling $2,517,574 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	$875,572
Purchase of Services	$438,060
Supplies	$481,000
Other	$9,600
Utilities	$137,741
Capital	$170,642
Debt Service	$119,721
Reserve	$25,000
Total Appropriations	$2,257,336
Indirect Costs	$260,238
Total Costs	$2,517,574

Total costs of $2,517,574 to be funded from golf receipts with $260,238 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling $32,522,728 shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	Water	Sewer	Total
Salaries	2,658,407	622,907	3,281,314
Purchase of Services	163,617	150,000	313,617
Supplies	149,805	27,000	176,805
Other	13,900	6,980	20,880
Utilities	141,379	0	141,379
Capital	543,349	65,000	608,349
Intergovernmental	8,551,815	14,169,817	22,721,632
Debt Service	925,750	1,261,540	2,187,290
Reserve	139,185	180,425	319,610
Total Appropriations	13,287,207	16,483,669	29,770,876

Indirect Costs	2,218,878	532,974	2,751,852
Total Costs	15,506,085	17,016,643	32,522,728

Total costs of $32,522,728 to be funded from water and sewer receipts with $2,751,852 to be reimbursed to the General Fund for indirect costs.

8.) REVOLVING FUNDS:

a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed $4,600,000.

b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed $225,000.

c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed $100,000.

d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed $30,000.

e.) The Library Director is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Copier Program. Annual expenditures from the fund shall not exceed $30,000.

f.) The School Department is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the School bus Program. Annual expenditures from the fund shall not exceed $75,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of $7,635,891 included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) SNOW AND ICE BUDGET: The sum of $457,530, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article 9.

11.) INTERFUND TRANSFERS: In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Cemetery Sales Special Revenue Fund [to the General Fund for the Department of Public Works]	$ 100,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	$460,811

13.) HOST COMMUNITY FUNDS

Appropriate $683,639 to be expended under the direction of the Town Administrator for marijuana mitigation activities, and to meet the appropriation transfer $683,639 from the HCA stabilization fund.

14.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

15.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 36 through 70, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with

the exception of Items #65 - 70, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

Appropriate sums of money for the following special purposes:

36. Raise and appropriate $1,099,920, to resolve the special revenue account deficit as a result of COVID expenses that may not be eligible for reimbursement.

37. Raise and appropriate $25,000, to be expended under the direction of the Chief Procurement Officer for town furniture upgrades.

38. Raise and appropriate $375,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board, for the Brookline Village Library HVAC improvements.

39. Raise and appropriate $900,000, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.

40. Raise and appropriate $200,000, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the Select Board, for the equipment and of the Body Worn and In-Car Camera program.

41. Raise and appropriate $500,000, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for traffic calming.

42. Raise and appropriate $700,000, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for bike access improvements.

43. Raise and appropriate $75,400, to be expended under the direction of the Commissioner of Public Works, for Accessible Pedestrian Signals.

44. Raise and appropriate $4,680,000, 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 the rehabilitation of streets.

45. Raise and appropriate $500,000, 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 the rehabilitation of sidewalks.

46. Raise and appropriate $800,000, 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 design work related to the Washington Street Rehabilitation and Complete Streets Program.

47. Raise and appropriate $520,000, 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 the design of the renovation of Amory Tennis Courts, Parking and Halls Pond.

48. Raise and appropriate $350,000, 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 to Monmouth Park.

49. Raise and appropriate $2,000,000, 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 the renovation of Schick Playground.

50. Raise and appropriate $285,000, 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 the renovation of playground equipment, fields, and fencing.

51. Raise and appropriate $100,000, to be expended under the direction of the Commissioner of Public Works for the rehabilitation of Town and School grounds.

52. Raise and appropriate $300,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Select Board and the Park and Recreation Commission, for the rehabilitation of tennis courts and basketball courts.

53. Raise and appropriate $375,000, 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 and the Tree Planting Committee, for the removal and replacement of trees.

54. Appropriate $150,000, to be expended under the direction of the Recreation Director for the renovation of the Soule Courtyard, and to meet the appropriation transfer $150,000 from the recreation revolving fund balance.

55. Raise and appropriate $300,000, to be expended under the direction of the Recreation Director, with any necessary contracts to be approved by the Select Board and the Park and Recreation Commission, for tree work at Putterham Woods.

56. Raise and appropriate $25,000, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades.

57. Raise and appropriate $200,000, to be expended under the direction of the Building Commissioner for HVAC equipment.

58. Raise and appropriate $90,000, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.

59. Raise and appropriate $250,000, to be expended under the direction of the Building Commissioner for elevator renovations.

60. Raise and appropriate $130,000, to be expended under the direction of the Building Commissioner for upgrades to energy management systems in Town and School facilities.

61. Raise and appropriate $125,000, to be expended under the direction of the Building Commissioner, for public building fire alarm upgrades.

62. Raise and appropriate $170,000, to be expended under the direction of the Building Commissioner, for improvements to life safety systems and building security in Town and School facilities.

63. Raise and appropriate $1,000,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the School Committee, for minor renovations / upgrades to school buildings.

64. Raise and appropriate $2,026,982, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the School Committee, for the expansion of classroom capacity in various schools.

65. Raise and appropriate $600,000, or any other sum, 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 storm water improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $600,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

66. Raise and appropriate $2,000,000, or any other sum, 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 water system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $2,000,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

67. Raise and appropriate $3,000,000, or any other sum, 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 wastewater system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $3,000,000 under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

68. To raise and 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; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose; and to rescind a like amount voted at the November 15, 2022 Special Town Meeting under Article 1, Item 4, which item was inadvertently omitted from the warrant for such meeting.

69. To raise and appropriate $355,000, or any other sum, 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; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose and to rescind a like amount voted at the November 15, 2022 Special Town Meeting under Article 1, Item 5, which item was inadvertently omitted from the warrant for such meeting

70. Appropriate Two Hundred Nine Million Nine Hundred Fifteen Thousand Nine Hundred Fifty-Eight Dollars ($209,915,958) to pay costs of constructing a new PreK-8 School which includes renovations/addition to the existing historic Pierce School and other site improvements including reconstruction and repair of the Town Hall and Pierce School garages which are beneath the new school and the Town Park across School Street, including the payment of all costs related to designing the new school project, equipping and furnishing the school, site improvements, and all other costs incidental and related thereto (the "Project"), which new school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority (the "MSBA"), said amount to be expended under the direction of the Town of Brookline Select Board; that to meet this appropriation the Treasurer, with the approval of the Select Board, is authorized to borrow said amount pursuant to G.L. c.44, §7(1) or G.L. c.70B, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that the Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; that any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) thirty-five and fifty-five hundredths percent (35.55%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; that the amount of the borrowing authorized by this vote shall be reduced by any grant amount set forth in and received pursuant to the Project Funding Agreement that may be executed between the Town and the MSBA; provided, however, that the appropriation and authorization to

borrow pursuant to this vote shall be contingent upon the Town's passage of a ballot question to exempt the principal and interest payments on such borrowing from the tax limitations of G.L. c.59, §21C (Proposition 2 ½).

16.) **FREE CASH**: Appropriate and transfer $20,067,869 from free cash for the following purposes:

a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $767,368;
b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $381,006;
c.) Stabilization Fund (MGL Chapter 40, Section 5B) - $4,500,000
d.) Reduce the tax rate (Special Appropriations) – $14,419,495.

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TOWN OF BROOKLINE'S FISCAL POLICIES
Adopted by the Board of Select Board on June 28, 2011

FREE CASH POLICIES

Free Cash shall not be used for Operating Budget purposes. It shall be utilized in the following manner and order:

1. Appropriated Budget Reserve – an amount equivalent to 0.25% of the prior year's net revenue shall be appropriated as part of the Town's 1% Appropriated Budget Reserve Fund, as allowed for under MGL Chapter 40, Section 6 and as described in the Town's Reserve Policies.

2. Unreserved Fund Balance / Stabilization Fund – Free Cash shall be used to maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town's Audited Financial Statements, with a goal of 12.5%, as described in the Town's Reserve Policies. If the Stabilization Fund were drawn down in the immediate prior fiscal year, then an allocation shall be made to the Fund in an amount at least equivalent to the draw down of the immediate prior fiscal year.

3. Liability / Catastrophe Fund – to the extent necessary, Free Cash shall be used to reach the funding target of the Town's Liability / Catastrophe Fund, as described in the Town's Reserve Policies.

4. Capital Improvement Program (CIP) – remaining Free Cash shall be dedicated to the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by available levels of Free Cash.

5. Affordable Housing Trust Fund (AHTF) – in order to support the Town's efforts toward creating and maintaining affordable housing, 15% of remaining Free Cash shall be appropriated into the AHTF if the unreserved fund balance in the AHTF, as calculated in the Town's financial system, is less than $5 million.

6. Special Use – remaining Free Cash may be used to augment the trust funds related to fringe benefits, unfunded liabilities related to employee benefits, including pensions and Other Post-Employment Benefits (OPEB's), and other one-time uses, including additional funding for the CIP and AHTF.

RESERVE POLICIES

The establishment and maintenance of adequate financial reserves provide the Town of Brookline with financial flexibility and security and is recognized as an important factor considered by bond rating agencies, the underwriting community and other stakeholders. The Town shall maintain the following general, special, and strategic reserve funds:

- **Budget Reserve** – to respond to extraordinary and unforeseen financial obligations, an annual budget reserve shall be established under the provisions of MGL Chapter 40, Section 6. The funding level shall be an amount equivalent to 1% of the prior year's net revenue, maintained in the manner set out below. Any unexpended balance at the end of the fiscal year must go toward the calculation of free cash; no fund balance is maintained.

    - Funding from Property Tax Levy – an amount equivalent to 0.75% of the prior year's net revenue shall be allocated from the Property Tax levy to the Appropriated Budget Reserve.
    - Funding from Free Cash – an amount equivalent to 0.25% of the prior year's net revenue shall be allocated from Free Cash, per the Town's Free Cash Policies, to the Appropriated Budget Reserve.

- **Unreserved Fund Balance / Stabilization Fund** – the Town shall maintain an Unreserved Fund Balance plus Stabilization Fund in an amount equivalent to no less than 10% of revenue, as defined in the Town's Audited Financial Statements, with a goal of 12.5%. If the balance falls below 10% at the end of the fiscal year, then Free Cash shall be used to bring the amount up to 10%, as described in the Free Cash Policy, as part of the ensuing fiscal year's budget. The Stabilization Fund shall be established under the provisions of MGL Chapter 40, Section 5B.

    1. The Stabilization Fund may only be used under the following circumstances:
        a. to fund capital projects, on a pay-as-you-go basis, when available Free Cash drops below $2 million in any year; and/or
        b. to support the operating budget when Net Revenue, as defined in the CIP policies, increases less than 3% from the prior fiscal year.

    2. The level of use of the Stabilization Fund shall be limited to the following:
        a. when funding capital projects, on a pay-as-you-go basis under #1a. above, no more than $1 million may be drawn down from the fund in any fiscal year. The maximum draw down over any three year period shall not exceed $2.5 million.
        b. when supporting the operating budget under #1b. above, the amount drawn down from the fund shall be equal to the amount necessary to bring the year-over-year increase in the Town's prior year net revenue to 3%, or $1 million, whichever is less. The maximum draw down over any three year period shall not exceed $2.5 million.

3. In order to replenish the Stabilization Fund if used, in the year immediately following any draw down, an amount at least equivalent to the draw down shall be deposited into the fund. Said funding shall come from Free Cash.

- **Liability / Catastrophe Fund** – established by Chapter 66 of the Acts of 1998, and amended by Chapter 137 of the Acts of 2001, this fund shall be maintained in order to protect the community against major facility disaster and/or a substantial negative financial impact of litigation. The uses of and procedures for accessing the fund are described in the above referenced special act. The target fund balance is 1% of the prior year's net revenue and funding shall come from available Free Cash and other one-time revenues.

- **Overlay Reserve** – established per the requirements of MGL Chapter 59, Section 25, the Overlay is used as a reserve, under the direction of the Board of Assessors, to fund property tax exemptions and abatements resulting from adjustments in valuation. The Board of Select Board shall, at the conclusion of each fiscal year, require the Board of Assessors to submit an update of the Overlay reserve for each fiscal year, including, but not limited to, the current balances, amounts of potential abatements, and any transfers between accounts. If the balance of any fiscal year overlay exceeds the amount of potential abatements, the Board of Select Board may request the Board of Assessors to declare those balances surplus, for use in the Town's Capital Improvement Plan (CIP) or for any other one-time expense.

CAPITAL IMPROVEMENT PROGRAM (CIP) POLICIES

Planning, budgeting and financing for the replacement, repair and acquisition of capital assets is a critical component of the Town of Brookline's financial system. Prudent planning and funding of its capital infrastructure ensures that the Town can continue to provide quality public services in a financially sound manner. The development of a Capital Improvement Program (CIP) is the mechanism that the Town uses to identify projects, prioritize funding and create a long-term financial plan that can be achieved within the limitations of the Town's budget.

Definition of a CIP Project

A capital improvement project is any project that improves or adds to the Town's infrastructure, has a substantial useful life, and costs $25,000 or more, regardless of funding source. Examples of capital projects include the following:

- Construction of new buildings
- Major renovation of or additions to existing buildings
- Land acquisition or major land improvements

. Street reconstruction and resurfacing
. Sanitary sewer and storm drain construction and rehabilitation
. Water system construction and rehabilitation
. Major equipment acquisition and refurbishment
. Planning, feasibility studies, and design for potential capital projects

Evaluation of CIP Projects

The capital improvement program shall include those projects that will preserve and provide, in the most efficient manner, the infrastructure necessary to achieve the highest level of public services and quality of life possible within the available financial resources.

Only those projects that have gone through the CIP review process shall be included in the CIP. The CIP shall be developed in concert with the operating budget and shall be in conformance with the Board's CIP financing policy. No project, regardless of the funding source, shall be included in the CIP unless it meets an identified capital need of the Town and is in conformance with this policy.

Capital improvement projects shall be thoroughly evaluated and prioritized using the criteria set forth below. Priority will be given to projects that preserve essential infrastructure. Expansion of the capital plan (buildings, facilities, and equipment) must be necessary to meet a critical service. Consideration shall be given to the distributional effects of a project and the qualitative impact on services, as well as the level of disruption and inconvenience.

The evaluation criteria shall include the following:

- Eliminates a proven or obvious hazard to public health and safety
- Required by legislation or action of other governmental jurisdictions
- Supports adopted plans, goals, objectives, and policies
- Reduces or stabilizes operating costs
- Prolongs the functional life of a capital asset of the Town by five years or more
- Replaces a clearly obsolete facility or maintains and makes better use of an existing facility
- Prevents a substantial reduction in an existing standard of service
- Directly benefits the Town's economic base by increasing property values
- Provides new programs having social, cultural, historic, environmental, economic, or aesthetic value
- Utilizes outside financing sources such as grants

CIP Financing Policies

An important commitment is to providing the funds necessary to fully address the Town's capital improvement needs in a fiscally prudent manner. It is recognized that a balance must be maintained between operating and capital budgets so as to meet the needs of both to the maximum extent possible.

For the purposes of these policies, the following definitions apply:

- Net Operating Revenue - Gross revenues, less net debt exclusion funds, enterprise (self-supporting) operations funds, free cash, grants, transfers from other non-recurring non-general funds, and non-appropriated costs.
- Net Direct Debt (and Debt Service) - Gross costs from local debt, less Prop 2 1/2 debt exclusion amounts and amounts from enterprise operations.
- Net Tax-Financed CIP - Gross amount of appropriations for capital improvements from current revenues, less amounts for enterprise operations, grants, free cash, transfers, and non-recurring special revenue funds.

The capital improvements program shall be prepared and financed in accordance with the following policies:

OUTSIDE FUNDING
State and/or federal grant funding shall be pursued and used to finance the capital budget wherever possible.

ENTERPRISE OPERATIONS - SELF SUPPORTING
Capital projects for enterprise operations shall be financed from enterprise revenues solely.

CIP BUDGET ALLOCATIONS - 6% OF NET REVENUES
Total net direct debt service and net tax-financed CIP shall be maintained at a level equivalent to 6% of prior year net operating revenues.

- TAX FINANCED ALLOCATION - 1.5% OF NET REVENUES
  Net tax-financed capital expenditures shall be maintained at a target level equivalent to 1.5% of prior year net operating revenues.

- DEBT-FINANCED ALLOCATION - 4.5% OF NET REVENUES
  Net direct debt service shall be maintained at a target equivalent to 4.5% of prior year net operating revenues.

DEBT MANAGEMENT POLICIES
Debt financing of capital projects shall be utilized in accordance with the following policies:

- Debt financing for projects supported by General Fund revenue shall be reserved for capital projects and expenditures which either cost in excess of $250,000 or have an anticipated life span of five years or more, or are expected to prolong the useful life of a capital asset by five years or more. For projects supported by Enterprise Fund revenue, debt financing shall be reserved for capital projects and expenditures that cost in excess of $100,000.

- Bond maturities shall not exceed the anticipated useful life of the capital

project being financed. Except for major buildings and water and sewer projects, bond maturities shall be limited to no more than ten years.

- Bond maturities shall be maintained so that at least 60% of the outstanding net direct debt (principal) shall mature within 10 years.

- Total outstanding general obligation debt shall not exceed 2.5% of the total assessed value of property.

- Total outstanding general obligation debt per capita shall not exceed $2,385, which reflects $2,000 inflated annually since July 1, 2004. This amount shall continue to be adjusted annually by the consumer price index (CPI) for all urban consumers (northeast region all items).

- Total outstanding general obligation debt per capita shall not exceed 6% of per capita income, as defined by the Census Bureau of the U.S. Department of Commerce.

FREE CASH

After using free cash in accordance with the Town's free cash policy, available free cash shall be used to supplement the CIP so that total CIP funding as a percent of the prior year's net revenue is not less than 7.5%, to the extent made possible by levels of available free cash.

UNFUNDED LIABILITIES POLICY

Defined as "the actuarial calculation of the value of future benefits payable less the net assets of the fund at a given balance date", unfunded liabilities represent a significant financial obligation for all levels of government across the country. In Brookline and other Massachusetts municipalities, the two primary unfunded liabilities are for Pensions and Other Post-Employment Benefits (OPEB's).

- Pensions – the Contributory Retirement System is a defined benefit program that is governed by Massachusetts General Laws, Ch. 32 and is regulated by the Public Employee Retirement Administration Commission (PERAC), a State entity responsible for the oversight, guidance, monitoring, and regulation of Massachusetts' 105 public pension systems. Funding for this system covers the costs of employees who are part of the Town's retirement system, which does not include teachers, as their pensions are funded by the State.

  In accordance with State law, PERAC regulations and government accounting standards, the Town contracts for an actuarial valuation of the retirement system to quantify the unfunded liability on a biennial basis. Under current State law, the Town then establishes a funding schedule to fully-fund this liability by 2040. The Town shall

continue to fund this liability in the most fiscally prudent manner, recognizing the fact that the adoption of a funding schedule is, by law, the responsibility of the local retirement board.

- OPEB's – these consist primarily of the costs associated with providing health insurance for retirees and their spouses. The Government Accounting Standards Board (GASB) issued Statements No. 43 and No. 45 in 2004 to address the OPEB issue. GASB 43 required the accrual of liabilities of OPEB generally over the working career of plan members rather than the recognition of pay-as-you-go contributions, while GASB 45 required the accrual of the OPEB expense over the same period of time. The reporting requirements of GASB 43 and 45 include disclosures and schedules providing actuarially determined values related to the funded status of the OPEB. This requires that the accrued liabilities be determined by a qualified actuary using acceptable actuarial methods.

  While there is currently no legal requirement to fund OPEB's, the Town shall continue to follow its plan to move toward fully-funding the Annual Required Contribution (ARC), ultimately developing a funding schedule that fully-funds OPEB's according to a schedule similar to the pension funding schedule. This plan should continue to include annual increases in the portion of the appropriation supported by General Fund revenues. It should also include using the "run-off" from the pension system once that system is fully-funded. In order to determine the funding schedule, the Town shall continue its current practice of having an independent actuary prepare biennial valuations, which is in compliance with GASB's requirement.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation under Article 7 will be included in the supplement.

FY2024 BUDGET - TABLE 1 MAY 2023

		FY21 ACTUAL	FY22 ACTUAL	FY23 BUDGET	FY24 BUDGET	$$ CHANGE FROM FY23	% CHANGE FROM FY23
	REVENUES						
	Property Taxes	254,898,615	272,124,853	281,379,275	296,854,454	**15,475,179**	**5.5%**
	Local Receipts	30,479,935	36,614,449	29,065,786	30,343,443	**1,277,657**	**4.4%**
	State Aid	22,397,775	22,825,559	23,230,992	23,607,070	**376,078**	**1.6%**
	Free Cash	11,065,720	10,401,890	11,598,580	19,908,706	**8,310,126**	**71.6%**
	Other Available Funds	4,390,037	3,329,073	4,357,848	4,407,669	**49,821**	**1.1%**
	TOTAL REVENUE	**323,232,082**	**345,295,823**	**349,632,481**	**375,121,341**	**25,488,860**	**7.3%**
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Select Board	826,296	773,860	848,631	969,387	**120,756**	**14.2%**
	2 . Human Resources	572,887	619,381	607,890	646,527	**38,637**	**6.4%**
	3 . Information Technology	1,948,968	1,893,914	2,206,095	2,375,179	**169,084**	**7.7%**
	4 . Diversity, Inclusion, and Community Relations	300,971	335,627	358,667	393,864	**35,197**	**9.8%**
	5 . Finance Department	3,042,846	3,222,472	3,447,121	3,558,210	111,089	**3.2%**
	a. Comptroller	*687,568*	*713,961*	*726,008*	743,415	***17,407***	***2.4%***
	b. Purchasing	*719,383*	*707,143*	*761,441*	802,173	***40,732***	***5.3%***
	c. Assessing	*566,093*	*573,644*	*737,463*	752,732	***15,269***	***2.1%***
	d. Treasurer	*1,069,802*	*1,227,724*	*1,222,209*	1,259,890	***37,681***	***3.1%***
	6 . Legal Services	*1,179,915*	*1,033,710*	*1,105,224*	1,113,569	***8,345***	***0.8%***
	7 . Advisory Committee	18,152	20,242	29,129	30,136	**1,007**	**3.5%**
	8 . Town Clerk	1,117,013	530,082	830,521	882,621	**52,100**	**6.3%**
	9 . Planning and Community Development	1,039,154	1,217,769	1,467,993	1,783,640	**315,647**	**21.5%**
	10 . Police	17,314,441	17,023,052	17,703,841	17,753,499	***49,658***	***0.3%***
	11 . Fire	16,546,639	18,134,442	16,934,284	16,853,102	**(81,182)**	**-0.5%**
	12 . Building	8,465,596	9,859,939	10,237,173	11,142,213	**905,040**	**8.8%**
(1)	13 . Public Works	16,170,468	16,736,731	16,747,737	18,153,751	1,406,014	**8.4%**
	a. Administration	*779,873*	*946,587*	*951,914*	987,843	***35,929***	***3.8%***
	b. Engineering/Transportation	*1,304,413*	*1,230,447*	*1,459,743*	1,498,754	***39,011***	***2.7%***
	c. Highway	*4,995,342*	*4,932,637*	*5,380,746*	5,476,294	***95,548***	***1.8%***
	d. Sanitation	*3,632,171*	*3,665,056*	*4,293,420*	5,002,072	***708,652***	***16.5%***
	e. Parks and Open Space	*3,857,133*	*3,806,730*	*4,259,100*	4,731,258	***472,158***	***11.1%***
	f. Snow and Ice	*1,601,536*	*2,155,274*	*402,814*	457,530	***54,716***	***13.6%***
	14 . Library	4,104,319	4,507,116	4,387,687	4,480,000	**92,313**	**2.1%**
	15 . Health and Human Services	1,474,730	1,567,071	1,400,883	1,528,942	**128,059**	**9.1%**
	16 . Veterans' Services	263,282	266,038	316,534	322,728	**6,194**	**2.0%**
	17 . Council on Aging	858,548	950,900	1,010,140	1,092,722	**82,582**	**8.2%**
	18 . Recreation	1,079,663	1,071,638	1,162,787	1,200,056	**37,269**	**3.2%**
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	1,214,973	**499,973**	**69.9%**
(2)	20 . Collective Bargaining - Town	450,000	1,206,587	3,415,593	4,371,522	**955,929**	**28.0%**
	Subtotal Town	*76,773,888*	*81,685,571*	*84,932,930*	*89,866,641*	***4,933,712***	***5.8%***
	21 . Schools	120,928,616	121,641,293	125,613,878	130,702,376	**5,088,498**	**4.1%**
	22 . *Vocational Education Assessments*	*28,179*	*2,200*	*92,895*	*92,895*	***0***	***0.0%***
	Subtotal Education	*120,956,795*	*121,643,493*	*125,706,773*	*130,795,271*	***5,088,498***	***4.0%***
	TOTAL DEPARTMENTAL EXPENDITURES	**197,730,683**	**203,329,064**	**210,639,703**	**220,661,913**	**10,022,210**	**4.8%**
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	67,201,499	70,589,374	75,366,050	80,446,412	**5,080,363**	**6.7%**

		FY21 ACTUAL	FY22 ACTUAL	FY23 BUDGET	FY24 BUDGET	$$ CHANGE FROM FY23	% CHANGE FROM FY23
(3)	*a. Pensions*	*26,569,845*	*28,490,221*	*30,557,924*	*33,015,439*	**2,457,515**	**8.0%**
	b. Group Health	*31,707,590*	*32,753,010*	*34,799,370*	*37,078,562*	**2,279,192**	**6.5%**
(3)	*c. Retiree Group Health Trust Fund (OPEB's)*	*4,181,979*	*4,181,980*	*4,431,980*	*4,681,980*	**250,000**	**5.6%**
	d. Group Life	*128,740*	*127,365*	*145,000*	*145,000*	**0**	**0.0%**
	e. Disability Insurance	*50,521*	*53,401*	*46,000*	*46,000*	**0**	**0.0%**
(3)	*f. Worker's Compensation*	*1,850,000*	*1,850,000*	*1,850,000*	*2,193,656*	**343,656**	**18.6%**
(3)	*g. Public Safety IOD Medical Expenses*	*0*	*0*	*275,000*	*275,000*	**0**	**0.0%**
(3)	*h. Unemployment Compensation*	*200,000*	*525,000*	*250,000*	*0*	**(250,000)**	**-100.0%**
	i. Medical Disabilities	*11,751*	*11,103*	*40,000*	*40,000*	**0**	**0.0%**
	j. Medicare Coverage	*2,501,073*	*2,597,294*	*2,970,776*	*2,970,776*	**(0)**	**0.0%**
(2)	24 . Reserve Fund	2,776,291	3,741,209	2,930,043	3,069,471	**139,428**	**4.8%**
	25 . HCA Reserve Fund	300,000	0	0		**0**	**#DIV/0!**
	26 . Stabilization Fund	1,000,000	2,829,788	3,500,000	4,500,000	**1,000,000**	**28.6%**
	27 . Affordable Housing	726,549	80,737	427,012	0	**(427,012)**	**-100.0%**
	28 . Liability/Catastrophe Fund	49,729	81,223	132,489	381,006	**248,517**	**187.6%**
	29 . General Insurance	534,065	808,202	1,056,923	1,262,183	**205,260**	**19.4%**
	30 . Audit/Professional Services	99,284	135,500	149,000	149,000	**0**	**0.0%**
(5)	31 . Contingency Fund	6,242	8,185	10,000	10,000	**0**	**0.0%**
	32 . Printing of Warrants & Reports	52,405	48,786	116,000	50,000	**(66,000)**	**-56.9%**
	33 . MMA Dues	13,226	13,490	14,595	14,960	**365**	**2.5%**
	Subtotal General	*5,557,791*	*7,747,120*	*8,336,062*	*9,436,620*	***1,100,557***	***13.2%***
(1)	34 . Borrowing	25,056,165	34,262,603	36,032,468	35,939,014	**(93,454)**	**-0.3%**
	a. Funded Debt - Principal	*13,674,000*	*19,262,067*	*20,280,487*	*21,285,442*	**1,004,955**	**5.0%**
	b. Funded Debt - Interest	*11,237,370*	*14,879,854*	*15,591,981*	*14,493,572*	**(1,098,409)**	**-7.0%**
	c. Bond Anticipation Notes	*133,256*	*100,500*	*100,000*	*100,000*	**0**	**0.0%**
	d. Abatement Interest and Refunds	*11,539*	*20,182*	*60,000*	*60,000*	**0**	**0.0%**
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**97,815,455**	**112,599,097**	**119,734,580**	**125,822,046**	**6,087,466**	**5.1%**
	TOTAL GENERAL APPROPRIATIONS	**295,546,138**	**315,928,161**	**330,374,283**	**346,483,959**	**16,109,676**	**4.9%**
	SPECIAL APPROPRIATIONS						
	35 Host Community Agreement Special Appropropriation (transfer)				683,639		
	36 . COVID Sepecial Revenue account deficit (revenue financed)				1,099,920		
	37 . Town Building Furniture (revenue financed)				25,000		
	38 . Brookline Village Library HVAC improvements				375,000		
	39 . Police/Fire Radio Infrastructure (revenue financed)				900,000		
	40 . Body Worn and In-Car Camera Equipment (revenue financed)				200,000		
	41 . Traffic Calming / Safety Improvements (revenue financed)				500,000		
	42 . Bicycle Access Improvements (revenue financed)				700,000		
	43 . Accessible Pedestrian Signal Conversion (revenue financed)				75,400		
	44 . Street Rehab. (revenue financed)				4,680,000		
	45 . Sidewalk Repair/Reconstruction (revenue financed)				500,000		
	46 . Washington St. Rehab and Complete Streets (revenue financed)				800,000		
	47 . Design for Amory Tennis Courts, Parking & Halls Pond Reno. (revenue financed)				520,000		
	48 . Monmouth Park Improvements (revenue financed)				350,000		
	49 . Schick Playground Renovation (revenue financed)				2,000,000		
	50 . Playground Equipment, Fields, Fencing (revenue financed)				285,000		

		FY21 ACTUAL	FY22 ACTUAL	FY23 BUDGET	FY24 BUDGET	$$ CHANGE FROM FY23	% CHANGE FROM FY23
	51 . Town/School Grounds Rehab (revenue financed)				100,000		
	52 . Tennis/Basketball Court Rehabilitation (revenue financed)				300,000		
	53 . Tree Removal and Replacement (revenue financed)				375,000		
	54 . Soule Courtyard renovation (transfer)				150,000		
	55 . Putterham Woods Tree work (revenue financed)				300,000		
	56 . School Furniture Upgrades (revenue financed)				25,000		
	57 . HVAC Equipment				200,000		
	58 . Town/School ADA Renovations (revenue financed)				90,000		
	59 . Elevator renovations (revenue financed)				250,000		
	60 . Town/School Energy Management Systems (revenue financed)				130,000		
	61 . Public Building Fire Alarm Upgrades (revenue financed)				125,000		
	62 . Town/School Bldg Security / Life Safety Systems (revenue financed)				170,000		
	63 . School Building Rehab/Upgrade (revenue financed)				1,000,000		
	64 . Classroom Capacity (revenue financed)				2,026,982		
	65 . Stormwater Improvements (utility bond)				600,000		
	66 . Water System Improvements (utility bond)				2,000,000		
	67 . Wastewater System Improvements (utility bond)				3,000,000		
	68 . Robinson Playground - additional authorization (bond)				275,000		
	69 . Murphy Playground - additional authorization (bond)				355,000		
	70 . Pierce School reconstruction (bond)				209,915,958		
(4)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**8,828,250**	**7,617,048**	**9,784,287**	**18,935,941**	**9,151,654**	**93.5%**
	TOTAL APPROPRIATED EXPENDITURES	**304,374,388**	**323,545,209**	**340,158,570**	**365,419,900**	**25,261,330**	**7.4%**
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	103,231	101,559	131,592	145,424		
	State & County Charges	6,810,339	6,938,649	7,387,258	7,552,704		
	Overlay	1,829,768	3,603,145	1,930,062	1,978,315		
	Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		
	TOTAL NON-APPROPRIATED EXPEND.	**8,768,339**	**10,668,353**	**9,473,912**	**9,701,443**	**227,531**	**2.4%**
	TOTAL EXPENDITURES	**313,142,726**	**334,213,562**	**349,632,482**	**375,121,343**	**25,488,861**	**7.3%**
	SURPLUS/(DEFICIT)	**10,089,356**	**11,082,262**	**0**	**0**	**0**	

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #35).

FY24 BUDGET - TABLE 2 MAY 2023

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Debt Service	Agency Total
Select Board (Town Administrator)	870,753	57,060	2,048	36,900		2,626			969,387
Human Resources Department (Human Resources Director)	345,610	257,877	14,900	26,500		1,640			646,527
Information Technology Department (Chief Information Officer)	1,281,520	786,670	10,350	15,050		281,589			2,375,179
Diversity, Inclusion, and Community Relations (Director)	351,989	30,000	8,000	3,000		875			393,864
Finance Department (Director of Finance)	2,513,488	959,363	46,960	29,207	1,017	8,175			3,558,210
Legal Services (Town Counsel)	821,420	204,669	2,500	83,100		1,880			1,113,569
Advisory Committee (Chair, Advisory Committee)	25,996		3,275	570		295			30,136
Town Clerk (Town Clerk)	751,090	95,451	34,550	500		1,030			882,621
Planning and Community Department (Plan. & Com. Dev. Dir.)	1,336,316	431,150	8,800	3,805		3,569			1,783,640
Police Department (Police Chief)	16,319,957	536,731	137,857	31,300	301,073	426,581			17,753,499
Fire Department (Fire Chief)	16,048,002	168,426	126,952	27,100	227,270	255,352			16,853,102
Public Buildings Department (Building Commissioner)	3,021,519	4,917,258	25,075	5,248	3,044,643	128,470			11,142,213
Public Works Department (Commissioner of Public Works)	9,420,654	5,418,723	1,007,885	55,500	1,181,758	1,069,230			18,153,751
Public Library Department (Library Board of Trustees)	3,348,383	245,469	596,748	2,200	242,840	44,360			4,480,000
Health & Human Services Department (Health & Human Svcs Dir)	1,136,970	308,411	24,000	4,420	49,171	5,970			1,528,942
Veterans' Services (Veterans' Services Director)	161,341	2,388	1,150	157,339		510			322,728
Council on Aging (Council on Aging Director)	936,776	63,287	18,846	4,250	63,863	5,700			1,092,722
Recreation Department (Recreation Director)	884,089	23,037	86,480	12,400	191,050	3,000			1,200,056
School Department (School Committee)									130,702,376
Total Departmental Budgets	**59,575,873**	**14,505,970**	**2,156,376**	**498,389**	**5,302,685**	**2,240,852**			**214,982,522**
DEBT SERVICE									
Debt Service (Director of Finance)								35,939,014	35,939,014
Total Debt Service								**35,939,014**	**35,939,014**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	33,015,439								33,015,439
Group Health Insurance (Human Resources Director)	37,078,562								37,078,562
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,681,980								4,681,980
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	46,000								46,000
Workers' Compensation (Human Resources Director)	2,193,656								2,193,656
Public Safety IOD Medical Expenses (Human Resources Director)	275,000								275,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,970,776								2,970,776
Total Employee Benefits	**80,446,412**								**80,446,412**
GENERAL / UNCLASSIFIED									
Vocational Euducation Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				3,069,471					3,069,471
Stabilization Fund (Director of Finance)				4,500,000					4,500,000
Liability/Catastrophe Fund (Director of Finance)				381,006					381,006
General Insurance (Town Administrator)		1,262,183							1,262,183
Audit/Professional Services (Director of Finance)		149,000							149,000
Contingency (Town Administrator)				10,000					10,000
Printing of Warrants (Town Administrator)	20,000	20,000	10,000						50,000
MMA Dues (Town Administrator)				14,960					14,960
Town Salary Reserve (*) (Director of Finance)	4,371,522								4,371,522
Personnel Services Reserve (*) (Director of Finance)	1,214,973								1,214,973
Total General / Unclassified	**5,606,495**	**1,431,183**	**10,000**	**7,975,437**					**15,116,010**
TOTAL GENERAL APPROPRIATIONS	**145,628,780**	**15,937,153**	**2,166,376**	**8,473,826**	**5,302,685**	**2,240,852**		**35,939,014**	**346,483,958**

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.

ARTICLE 7

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board will be revisiting Article 7 to consider funding a potential agreement with the Fire union. A report and recommendation will be available after their 5/23 meeting.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: FAVORABLE ACTION on Article 7 by a vote of 21-0-1.

The Advisory Committee has reviewed the proposed appropriations for FY2024 and is pleased to present this report to Town Meeting. Since February of 2023, the Committee and its subcommittees have conducted well-attended public hearings with the Town's department heads and the leadership of the Public Schools of Brookline. By a vote of 21-0-1 the Advisory Committee recommends FAVORABLE ACTION on the FY2024 budget. The full motion follows this report.

We thank all of the people who assisted in this year's process, including (but not limited to) the Select Board, Town Administrator, Deputy Town Administrator, Assistant Town Administrator, the Administrative Services Director, School Committee, and Town department heads. Particular thanks are extended to Deputy Town Administrator Melissa Goff, Assistant Town Administrator Charles Young, and Finance Director Lincoln Heineman for their time and patience in explaining the intricacies of municipal finance and their willingness to answer the Committee's many questions. Special thanks should be given to all of the citizens of Brookline who volunteer their time and effort to serve on committees or attend the countless hearings and meetings which are necessary for this planning.

DISCUSSION

The FY2024 main budget motion is $365,519,900, a 4.9% increase from FY2023. The Town Administrator's annual budget message outlines some of the broad concerns into which we will dive more deeply below. The good news is that residential income tax receipts increased by over 5% (prior to the override vote), but balancing that is the fact that State Aid for education (under Chapter 70) increased by only 1.3% and Unrestricted General Government Aid increased by 2%. As we mentioned in this budget summary last year, increased demand for services, coupled with cost increases across the board (some driven by the burst of inflation we all experienced in our personal lives), would result in ongoing shortfalls. FY2024 was no exception. The Town Administrator prepared two operating budgets and the Select Board asked the voters to approve an operating override to address the various shortfalls.

All of the information to be shared in this report, including the Town Administrator's budget message, can be found in interactive form online and we recommend that you explore it in detail. (Start on the Town's home page at http://brooklinema.gov/ and follow the navigation links to "Open Government.")

As the May operating override vote succeeded, the numbers below reflect the FY2024 budget based on the higher revenue estimate. This higher estimate allows the Town to invest in services that were requested at recent Town Meetings, but for which no funding was identified or readily available. (Examples of this include the development of the "Comprehensive Plan," increased funding for sanitation control due to increased trash in parks and the corresponding increase in rats, and urban forestry management.)

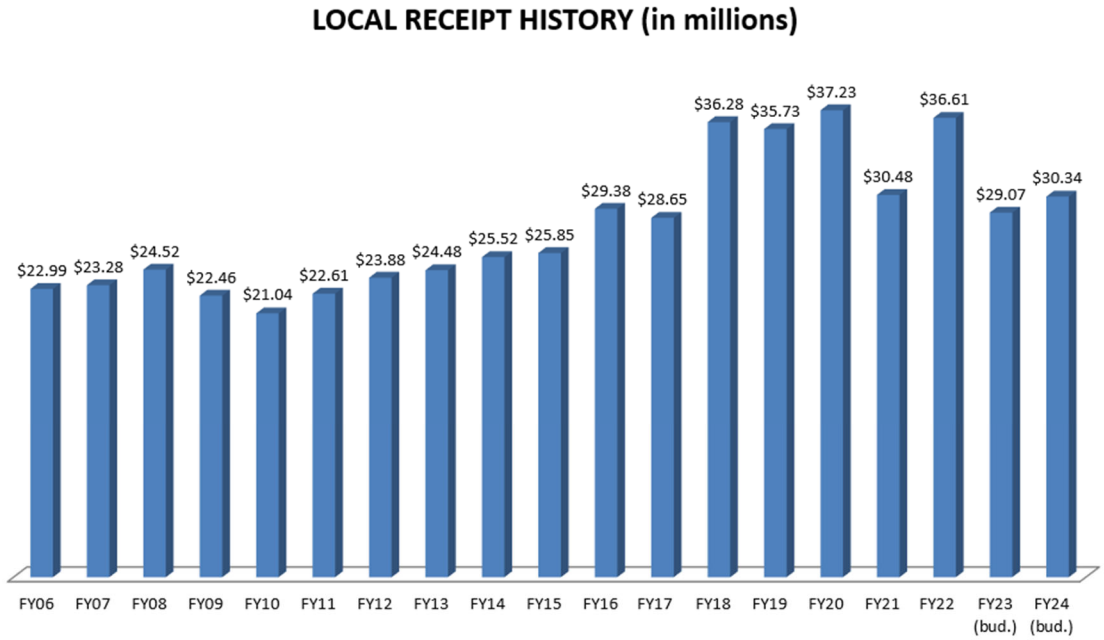
This budget is the last budget for which the one-time American Rescue Plan Act funds have any meaningful impact. The Town needs to move into its "new normal" phase, focusing on post-pandemic growth opportunities.

During the budget review process there were several topics which came up repeatedly and which will be discussed in more detail below: (1) ensuring proper training for the public safety departments; (2) concerns about underfunding with respect to vulnerable populations, most notably for the Council on Aging and Veterans' Services; (3) the overall size of the School budget, especially as it relates to the aforementioned underfunding; and (4) the size, scope, and appropriateness of the Pierce School CIP item.

Revenues

Local receipts continue to rebound. We project an increase of 4.4% from FY2023, which leaves us with local revenues comparable to what we received in FY2016 (still approximately $7M below the FY2020 peak). The trend is positive. Food and lodging in particular have rebounded considerably from their pandemic numbers. Marijuana excise taxes may have peaked, and revenues from Host Community Agreements have dropped

precipitously.



During the pandemic the Town deferred an increase to parking meter rates that had been anticipated to raise over $750,000. Last year we noted that this increase should be revisited once we settle on a "new normal" for parking, especially since some parking spaces have been eliminated due to the outdoor dining program, and enforcement activity has declined. We continue to hold that opinion.

A total of $20.1M in Free Cash has been certified. Free Cash is generated when the actual operating results compare favorably with the budget, such as when actual revenues exceed the original estimates and/or when actual expenditures are less than appropriated. It is also affected by increases or decreases in uncollected property taxes, non-General Fund deficit balances, and any other legally incurred operating deficits. The certified Free Cash number this year is higher than usual, primarily due to a one-time tax payment and receipts from a large building permit. In FY2024, the Town is appropriating Free Cash into the Operating Budget Reserve, the Stabilization Fund, the Liability Reserve, as well as to the special purpose of paying for COVID emergency expenses that the Federal Emergency Management Agency has or may declare ineligible for reimbursement. The remainder ($13M) will be used to fund capital improvements.

Expenses

The full set of departmental allocations is broken out in the budget resolution; this report will focus on selected areas of interest. You may recall from last year's budget report that the Advisory Committee had expressed significant concern regarding the funding of the Building Department (and in particular the funding allocated to building

maintenance). This year's budget responds to that concern. One can see a notable increase in the allocation for the Building Department. We repeat the table we included last year, showing spending for selected departments over the past 6 budget cycles. Below we address some specific departmental budgetary concerns.

	FY19 ACTUAL	FY20 ACTUAL	FY21 ACTUAL	FY22 ACTUAL	FY23 BUDGET	FY24 BUDGET
Police	$18,578,613	$17,742,983	$17,386,626	$17,493,030	$17,703,841	$17,648,217
Fire	$15,586,571	$16,105,142	$15,951,670	$16,481,472	$16,934,284	$16,853,102
Building	$5,511,493	$8,158,293	$8,831,246	$9,587,404	$10,237,173	$11,142,213
Public Works	$16,069,996	$16,360,644	$16,008,198	$16,668,234	$16,747,737	$18,153,751
Schools	$110,918,206	$116,978,533	$120,748,990	$119,870,476	$125,098,883	$130,702,376

Selected Department Expenses Over Time

Schools. The largest single allocation in the budget is for the Public Schools of Brookline (PSB). The School Department's budget is recommended to be funded at $130,704,685, a 4.1% increase from FY2023. The School Department will supplement these funds via its revolving and gift funds, and the use of federal, state, and private grants and funds.

In recent years, the PSB has used short-term and one-time funds to support permanent operating expenses. In last year's Combined Reports we stated that if organic growth in revenue was insufficient to make up for the projected end of state and federal Covid related assistance, the PSB would either have to reduce expenses or obtain funds via an increase in taxes, or some combination of both. The Town Administrator repeated the same in his budget message this year. The 'No Override' budget reflected those warnings, as it would have required the PSB to make approximately $4.85M of reductions. The budget as recommended, post-override, decreases those reductions by $3M but also adds approximately $700K for new initiatives.

The Advisory Committee, as the Town's finance committee, has raised many issues and concerns with the PSB over the past year, while also acknowledging the Department has been shorthanded in its senior central administration staff. These issues and concerns have had two broad areas of focus. The first is that the PSB has not presented a coherent set of metrics that can be tied to the PSB's stated operational goals and used to measure system progress. The second is that the PSB receives a disproportionate share of Town revenues, a consequence of which has been the requirement of Town departments to forego funds that could have a significant positive impact on non-school services, as well as employee safety and satisfaction.

The Advisory Committee has requested the PSB, via the School Committee, address (or help the Advisory Committee address) both of these matters by developing a clearer and perhaps narrower identification of priorities reflecting a greater appreciation for balance with the non-school needs of the Town. The Advisory Committee has expressed a desire to work more closely with the PSB on this matter.

The Superintendent and some members of the School Committee have indicated general agreement with the Advisory Committee on the issue of goals and metrics. The PSB intends to complete a strategic plan this calendar year which, it expects, will help establish useful and transparent links between goals and valuable measurements while concurrently moving the PSB towards being a "school system" versus what has been described as a "system of schools." The latter has been highlighted by PSB leadership and outside consultants as a primary impediment to uniform and equitable access to teaching and learning in the PSB.

Police. The Police Department budget for FY2024 is $17,648,217, essentially level-funded from FY2023. It should be noted that, as explained in the report for Warrant Article 2, the Joint Labor-Management Committee (JLMC) recently issued an arbitration decision to extend the Collective Bargaining Agreement between the Town of Brookline and the Brookline Police Union, adjusting the wages for Fiscal Years 2021-2023, which adjusts the base for FY2024. This adjustment is not reflected in the FY2024 budget for the Police Department; since any funds for FY2024 come from the Collective Bargaining reserve or out of the existing budget. (How does that work? Human Resources director Ann Braga informed the Advisory Committee that there are currently close to 30 open positions in the Police Department. Despite their best efforts, and despite the fact that the salary increases bring the Department's salaries closer in line with neighboring communities, it is unlikely that all of these positions will be filled before the end of the fiscal year. Those unpaid but budgeted salaries result in savings that will be applied towards overtime costs that will be required due to the number of unfilled position. The expected remainder should be sufficient to fund any FY2024 gap between the arbitration award and the funds in the Collective Bargaining reserve.)

In last year's report, we identified a number of budgetary issues within the Police Department, most notably those related to the absence of a collective bargaining agreement which impacted recruiting, retention, and morale. Although the number of vacancies in the department is higher now than it was at this time last year, Chief Jennifer Paster is hopeful that the department is turning a corner. In March, there were six hires in the training academy, with five additional hires likely to attend the Lowell training academy. The JLMC award makes compensation competitive.

Body Cameras
The CIP budget for FY24 has $200,000 budgeted for the purchase of body cameras. Grants are available at both the state and federal levels to help fund

implementation of this initiative. (Newton received a grant to fund a pilot program.) The JLMC award includes an agreement regarding body cameras, so there should be no impediments to rolling out their use.

Training
The Advisory Committee expressed concerns about the year-over-year decline in the training budget, which has fallen from $74,000 in FY2020 to an initial proposal of $31,300 for FY2024. Chief Paster noted that adequacy of training is especially important under current conditions. The department has many young officers, as well as younger persons at the management level. New young officers joining this year; a lack of in-person hands-on training during the past few years due to the constraints of COVID; increased calls for assistance with more violent incidents, more serious mental health problems, and difficult emotional and behavioral circumstances that may require more use of force and more de-escalation techniques, all may lead to increased need for training. Consequently, the Advisory Committee's budget proposal originally included an additional $40,000 for the Police Department's training budget. This requested funding was ultimately provided via ARPA funds. (In other words, the training will be provided, but is not accounted for in this budget line item.). Because this funding will be provided by one-time dollars, its inclusion in future budgets is uncertain and will need to be reconsidered.

Fire. The Fire Department budget for FY2024 is $16,853,102, essentially level funded. As of March, the department had one vacancy and anticipated four more in FY24. The Chief has noted that currently there are 18 members out injured on duty (IOD), which drives up overtime costs. The average department IOD was 12-13 over the past two years. Four employees have exceeded or are approaching the 2-year mark since injury, three employees are approaching the 1-year mark since injury, and 10 are within six months from their injury. Some of the reasons overtime is so high are "an inability to quickly and efficiently move employees through to the retirement process," "an inability to accelerate treatment or surgical interventions with providers," and "contractual restrictions (collective bargaining) with regard to modified duty." The Fire Department has responded to an increasing number of calls in recent years, rising from 8,201 in 2017 to 9,134 in 2022.

Training
As with the Police Department, the Advisory Committee expressed concerns over the training budget. The requested Diversity, Equity, and Inclusion training would have gone unfunded in the FY2024 budget. As such, the original Advisory Committee budget proposal included $45,000 for such training. This, too, has been provided through ARPA funds and is not explicitly included in this line item. As with training for the Police Department, the use of one-time funding means a funding source for this training, if desired for FY2025, will need to be identified.

Health of Firefighters

Firefighters face increased risks of cancers from the job, and there are increased efforts to minimize exposure to potential risk factors, which can include exhaust from fire trucks and toxins from increased use of plastics, flame retardants, rechargeable batteries, and the like. The union is working with OSHA to compile statistics on cancer rates. Firefighters are given two sets of clothing; each station now has working washing machines; and each station has been divided into zones which seeks to limit contaminated gear, etc. from contaminating station living areas. (This is one of the drivers of the planned fire station renovations. Improving air quality in stations is also a key part of the renovations.)

There is also a new recognition of the dangers of PFAS. For example, there are more electric cars on the road. When those vehicles catch on fire, firefighters need to use foam instead of water to stop the battery fire. Today, that foam contains PFAS, and can cause health problems. The department is trying to minimize the use of foam and is looking for a greener alternative. Additionally, it is now known that the chemical used to waterproof the turnout gear that firefighters use everyday also contains PFAS. The Chief has instituted a new policy that allows firefighters to forgo wearing the turnout gear in situations that don't need it (medical calls, etc.), reducing their exposure.

Renovations of Fire Stations
The debt exclusion to renovate the Town's antiquated fire stations passed easily at the November 2022 election. The estimated cost is around $60-65M and the renovations will be net-Zero. The project is planned to be done in stages over several years. First will be the renovation of Station 4 on Boylston St., followed by Station 1 in the Village. This project also includes the complete replacement (onsite) of Station 5 on Babcock St. The Town has received bids from three potential vendors, and hopes to begin the first project this coming fall or winter.

Council on Aging. The Advisory Committee commends the Council on Aging (COA) for its good work and felt strongly that the COA could benefit from additional funds for two important purposes: (1) funding transportation initiatives for seniors, including but not limited to sustaining the existing transportation options and exploring so-called "micro-transit" options; and (2) developing a strategic plan for the COA. The budget request of $1,192,722 includes an additional $100,000 of funding intended for these purposes.

Veterans' Services. The Advisory Committee supports the Veterans' Services budget request of $322,728, but expressed concern regarding some practices of the department which appear to be in response to perceived budgetary constraints. Most notably, the director of the department will sometimes transport veterans in his personal vehicle (which can sometimes include heavy or awkward lifting), rather than use professional transport services. This appears to be a liability risk for the Town (and the director) and the Advisory Committee would like to see attention paid to reducing this risk, possibly through increased funding for ride sharing, e.g., Uber/Lyft, or through the acquisition of a vehicle.

Capital Improvement Plan
The amount of funding for Brookline's Capital Improvement Program (CIP) is, by policy, determined to be 6% of the prior year's net revenue (4.5% debt financed, i.e., funds that are raised and paid for within the property tax levy, and 1.5% revenue financed), plus sufficient funds from Free Cash to reach 7.5% of the prior year's net revenue. It should be noted that debt service for Water and Sewer projects and Golf Course projects is paid for by the revenue streams of the Water and Sewer Enterprise Fund and the Golf Course Enterprise Fund.

The 2023 Annual Town Meeting will be asked to vote on a CIP for FY2024 that totals $232,938,585. Of that amount, 74% or $172,787,447, is funded by the recently approved debt exclusion override for the Pierce School project; 16% or $38,048,756 by state and federal grants (MSBA funds for the Pierce School and state funds for road rehab); 2% or $5,600,000 by Water and Sewer utility bonding, and 7% or $16,252,382 by property taxes and Free Cash. Among the pressures on the CIP are the leases for "Classroom Capacity" ($2,026,982) and the debt service on the $11 million settlement of the Gerald Alston case ($1,359,528), which was financed in its entirety with a 10-year bond.

Details and explanations for the CIP requests the Advisory Committee recommends funding can be found later in this report.

Concerns
The FY2024 budget is a comprehensive plan to address the needs of the Town, but of course there are concerns which must be noted.

Staffing
During the budget review process for FY2023 we heard many concerns about the Town's ability to hire and whether the total compensation offered for positions is competitive. The Town contracted with the Collins Center for Public Management to initiate a salary study; the results of which were deemed to be incomplete and inconclusive. During the FY2024 budget cycle we heard fewer complaints. The Department with the most difficulty in hiring has been the Police Department, which has just seen its overall compensation increased. It is hoped that this will have a positive impact on hiring.

Maintenance
As noted last year, the Advisory Committee recommends that a new approach to building maintenance funding be considered, possibly involving the use of a stabilization fund dedicated to building maintenance, with funds being directed to this stabilization fund via the debt exclusion for new construction. (In other words, a portion of the maintenance budget should be included and earmarked in the planning/costing when new buildings are built.)

Similarly, the Department of Public Works' vehicle inventory is getting long in the tooth. Vehicles that have outlived their planned lifespan are still on the road because

insufficient funds have been allocated for their replacement. Estimates show that over $10M in replacement costs for DPW vehicles will be necessary over the next 5 years.

Pensions/Other Post-Employment Benefits (OPEBs)
The Town continues to follow its plan to shore up the Pension Fund and OPEB funding deficits. Based on current estimates, the Town remains on track to fully fund the Pension Fund by 2030, freeing up funds to direct to cover the OPEB liability. Despite these welcome steps, it is important to recognize that a significant liability (approximately $225M each) currently exists in each area. As a percentage of revenue, Brookline's unfunded pension liability is third highest among AAA-rated communities, while our unfunded OPEB liability is in the middle of the pack.

Debt
The Town has maintained its AAA bond rating, indicating that the rating agencies continue to trust our management of our finances. Still, as of July 2022, the Town has amassed $468.6M in bonded debt (see https://dlsgateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=Dashboard.Category_6_Debt), with the possibility of an additional increase due to CIP Item 70 (the Pierce School reconstruction). Although the voters have continued to approve debt exclusions, this level of debt is higher than the vast majority of our peer communities. There is more to say on this topic below in the report on CIP Item 70.

Structural liabilities
One year ago in these pages, we pointed out the inherent structural deficits that result when our costs increase more than our revenues increase. Given that overall costs typically increase by 5% to 6% annually, while revenue (absent overrides) increases by 3% to 4% (held in check by Proposition 2½), we have a recurring structural budget deficit. For FY2023, we allocated almost double to the Collective Bargaining Reserve than had been allocated in FY2022. This trend continued for FY2024. The amount allocated to this reserve is $1.1M higher than in FY2023, and it represents 2.1% of the total departmental expenditures in the budget, higher than the line item allocation for many departments. (By comparison, the Library budget represents 2.0% of total departmental expenditures.)

Some of our structural deficits have been addressed year over year through one-time funds, but this cannot continue indefinitely. Our options remain:

- Increase the commercial tax base through new construction and new businesses
- Increase residential real estate taxes via overrides, continuing a trend we have employed for more than 20 years
- Cut or reallocate funding

Historically we have relied heavily on the second option, and did so again earlier this month. Last year, we warned that "taxpayers may be convinced to increase the levy but it

becomes increasingly likely that there will come a day when an override or debt exclusion will fail." The closeness of the vote for the debt exclusion for the Pierce School indicates that day may be closer than many think.

With respect to the third option, the steps that the Town took during this budget cycle to allocate additional funds to the Building Department is a positive sign, both for this budget and for future budget processes. In addition, the Advisory Committee, in late 2022, established a subcommittee that will work with department heads and the Town Administrator to move budget review and oversight earlier in the budgeting process. For this budget cycle, this mostly resulted in data gathering, but we expect that for the FY2025 budget cycle, we will have earlier involvement and a stronger set of departmental metrics on which to report.

RECOMMENDATIONS FOR CAPITAL IMPROVEMENT PROGRAM

The Town's Capital Improvement Program (CIP) policies define a CIP Project as follows:

A capital improvement project is any project that improves or adds to the Town's infrastructure, has a substantial useful life, and costs $25,000 or more, regardless of the funding source. Examples of capital projects include the following:

- Construction of new buildings
- Major renovation of or additions to existing buildings
- Land acquisition or major land improvements
- Street reconstruction and resurfacing
- Sanitary sewer and storm drain construction and rehabilitation
- Water system construction and rehabilitation
- Major equipment acquisition and refurbishment
- Planning, feasibility studies, and design for potential capital projects

Criteria to evaluate CIP proposals include the following:

- Eliminates a proven or obvious hazard to public health and safety
- Required by legislation or action of other governmental jurisdictions
- Supports adopted plans, goals, objectives, and policies
- Reduces or stabilizes operating costs
- Prolongs the functional life of a capital asset of the Town by five years or more
- Replaces a clearly obsolete facility or maintains and makes better use of an existing facility
- Prevents a substantial reduction in an existing standard of service
- Directly benefits the Town's economic base by increasing property values
- Provides new programs having social, cultural, historic, environmental, economic, or aesthetic value
- Utilizes outside financing sources such as grants

The Advisory Committee recommends funding the following FY 2024 CIP requests.

37. TOWN BUILDING FURNITURE
Recommendation: $25,000 (Revenue Financed)
This item allows for the replacement of aging furniture at Town Hall and other non-school buildings.

38. MAIN LIBRARY HVAC
Recommendation: $375,000 (Revenue Financed)

The Brookline Main Library is in need of a new, upgraded HVAC system. The present system is 20 years old. It has been maintained over the years but the repair parts are not available. Also, the AC compressors are reaching/have reached the end of their lives. The system has been plagued with many failures over the last several years causing uncomfortable conditions for the buildings occupants.

There are two large HV units on the rear roof of the Library that supply heat, cooling and fresh air. For each HV unit there is a cooling coil connected to a large condensing unit/chiller. The unit's sizes are 109 tons of refrigeration and 84 tons of refrigeration. The controls internal to the AC systems and HVAC units have poor controls and monitoring equipment. Due to the age of the equipment, it is very difficult to diagnose problems and try to make a fix. Sometimes the fix is as simple as a relay but unfortunately with the antiquated control system, this does not easily present itself.

This project would replace the HVAC systems with a new modern system using scroll compressors design and state of the art controls. The 2 HV units would remain and get new motors and controls. The systems controls would tie in directly to the energy management system which would allow for remote monitoring.

39. POLICE/FIRE RADIO INFRASTRUCTURE
Recommendation: $900,000 (Revenue Financed)
The Police Department's FY 23 CIP request for $900,000 represents the fifth and last annual payment of a five-year lease/purchase agreement with Motorola for upgrading police and fire radio channel infrastructure. The upgrade program began four years ago when the system's copper circuit connections could no longer be supported by Verizon and replacement parts were no longer available for the 25-year-old equipment. The new system and equipment has a life expectancy of 12-15 years.
The upgrading process, although slowed down by the pandemic with scheduling delays and delays in the arrival of equipment, is in the "final stretch."

40. BODY WORN AND IN-CAR CAMERA EQUIPMENT
Recommendation: $200,000 (Revenue Financed)
The Brookline Police Department has been in contact with vendors with the goal of researching initial costs and additional fiduciary impacts with regard to the Department-wide implementation of Body-Worn (BWC) and In-Car (ICC) Camera Systems. This equipment will allow our Department to meet our goals of increased employee accountability and improved public trust, and will meet the public's demand for greater

transparency with regard to police involved incidents, community member complaints and internal investigations.

After years of research and meetings with vendors, our IT Division and Command Staff are exploring an integrated system which combines body cameras, cruiser cameras, information storage, and replacement/upgrade of both equipment and software. The cost of a full implementation of the system including bodycams, cruiser cameras, digital storage and scheduled equipment replacement, is approximately $200,000 for the first year, with approximate costs of $150,000 each following year over a five year contract which will include all necessary equipment, training, storage, and maintenance.

41. TRAFFIC CALMING / SAFETY IMPROVEMENTS
Recommendation: $500,000 (Revenue Financed)
As of September 14, 2021, the Town currently has a list of twenty Traffic Calming projects that have been submitted to the Engineering and Transportation Division for review and prioritization. This updated list remains available on the Transportation Division's website (https://www.brooklinema.gov/DocumentCenter/View/489/Current-Traffic-Calming-Project-Status-Report-PDF).

The following project has been assessed, designed and are prepared for implementation subject to approved funding:

Upper Washington Street Pedestrian Safety Project

The Transportation Board and the Transportation Division of Public Works committed to improving pedestrian safety along the portion of Washington Street from the town line with Boston and Salisbury Road as a result of a fatal pedestrian crash at the intersection of Washington Street and Downing Road in November of 2021. This area of Washington Street is outside the project limits for the transportation mitigation improvements as part of the Driscoll School construction project and the planned TIP project from Beacon Street to Station Street. The section of roadway was the site of safety improvements over 15 years ago that included the construction of curb extensions on Washington Street at intersections with residential streets that flow into the arterial roadway. The initial staff plan is to expand on these measures and to further increase pedestrian safety along the corridor, by increasing pedestrian sightlines, pedestrian accessibility, and reduce vehicle speeds of those turning onto and off of Washington Street through the installation of raised crosswalks along the side street crossings on Salisbury Road, Bartlett Street, Evans Road, and Downing Road and a pedestrian actuated rectangular rapid flashing beacon (RRFB) at the unsignalized crosswalk across Washington Street at Bartlett Street. These are safety improvement techniques used both regionally and nationally to create safer pedestrian accommodations along main arterial roadways like Washington Street. With the support of the Transportation Board and the Zoning Board of Appeals, staff was able

to secure a commitment by the developer for 45 Bartlett Crescent to design and construct the raised crosswalk for Bartlett Crescent.

42. BICYCLE ACCESS IMPROVEMENTS
Recommendation: $700,000 (Revenue Financed)
Projects funded through this appropriation originate from plans for a larger Green Routes Bicycle Network. The Network seeks to avoid circuitous routes that discourage cycling. As much as possible, its routes minimize traffic stress, avoid hills, are esthetically pleasant, and minimize stops. It incorporates routes that cyclists prefer since there is no benefit to designating routes that bicyclists won't follow. Funding supports the painting of existing and new bike lanes and sharrows, replacement and installation of protective bollards and designated signage, and the installation of curb extensions and protected bike lanes.
The Beacon Street Bridal Path Project that had been identified as the priority for design has fortunately been funded by a federal earmark. The next project identified as a priority is the Complete Street Design of the northern segment of Washington Street from Beacon Street to the Town/City line. That design effort is estimated to cost approximately $400,000 and will occur in parallel with the Town's transformative Washington Street corridor project that is already under design. This design will work to provide continuity of bike, pedestrian, and roadway improvements throughout the entire length of the Washington Street corridor.

The balance of the funding will be used in collaboration with the Transportation Board and Bicycle Advisory Committee to design and implement items (quick build opportunities, bike lane striping, etc.) identified in the Green Routes Bicycle Network Plan available here https://www.brooklinema.gov/DocumentCenter/View/18782/Green-Routes-Master-Network-Plan or other priorities that work to improve safety for cyclists in the public way. If/when approved, the Engineering and Transportation team will be working with both groups to identify goals and objectives to best use this funding.

43. ACCESSIBLE PEDESTRIAN SIGNAL CONVERSION
Recommendation: $75,400 (Revenue Financed)
Accessible Pedestrian Signals (APS), include pedestrian pushbuttons and countdown timers. They communicate information in non-visual formats to all pedestrians, including those who are vision-impaired, and play an important role in the safe navigation of signalized intersections by locating the crossing location, activating the pedestrian push buttons, and informing pedestrians when crossing the street is safe.
FY 24 CIP: Due to lack of replacement parts, the APS system on Beacon Street will have to be replaced with an updated version. This APS system was installed as part of the rebuilding of Beacon Street in 2007.

44. STREET REHABILITATION – TOWN
Recommendation - $4,680,000 (Revenue Financed)
In 1992, the Department of Public Works (DPW) undertook a comprehensive study of its roads and implemented a pavement management system. The system was designed to

bring Town- owned streets to a sufficient level of repair such that they could be maintained without undertaking costly full reconstruction. From 1992 to 1997, some progress in this regard was made, but funding was inconsistent. Starting in 1997, the Town began allocating $1 million per year to street repair, which was added to Chapter 90 funding from the State, reserved for streets and roads that meet specific criteria. With the approval of the 2008 Operating Override, an additional $750,000 was added to the CIP for streets and sidewalks ($700,000 for streets and $50,000 for sidewalks), along with an annual 2.5% increase in the CIP appropriation associated with this work.
In 2018 Stantec updated the Town's Pavement Management Program, noting that the $18.5 million backlog of Street Maintenance work in 2014 had increased to a $23.5 million backlog, that the PCI rating (Pavement Condition Index) was 73 and that the annual appropriation needed to keep the Town's public ways in good condition was $3 million.
In July 2021 Beta Engineering published a report on the Town's public ways based on survey work undertaken in Spring 2020. The report noted that the average PCI rating had dropped to 70.80, that the current backlog had increased to $53.9 million and that the annual appropriation needed to maintain streets and roads in good condition had increased to $5 million.
Going forward, Street Rehabilitation projects will be looked at through the lens of Complete Streets and will include traffic volume data, traffic counts, vehicular speed, crash summaries, pedestrian reports, sidewalk conditions, the Green Routes Master Plan for bicycle access, Safe Routes to School, traffic signals, accessibility ramps, and traffic calming. This is a far more comprehensive approach than has been used in the past and will involve more process and greater community input. It is also an approach that will cost more in time and in dollars and presents even greater justification for significantly increasing the annual appropriations for the Street Rehabilitation Program.
While the FY24 appropriation is higher than what the formula provides due to a strong Free Cash number, the out-years reflects the current constraints under a lower Free Cash estimate. This includes a $750,000 increase due to the 2023 Override approved by the Select Board and electorate.

45. SIDEWALK REPAIR
Recommendation - $500,000 (Revenue Financed)
Sidewalk Repair funds are directed to sidewalks that are not reconstructed as part of a larger street rehabilitation or major repair project. The 2008 Override included $50,000 for sidewalk repair, to be increased annually by 2.5%. Small sections of sidewalks are repaired by the crews of the Highway Division of the DPW, and some of the CIP appropriation is used to purchase materials for this purpose. Most of the CIP funds, however, are used to pay outside contractors to repair long stretches of sidewalks in the Town.
Similar to the department's pavement management program, as part of our larger Transportation and Mobility Plan, the DPW Sidewalk Improvement program is a data-driven approach to repair deteriorated sidewalks and ramps, reach ADA/AAB compliance Town-wide, provide essential pedestrian connectivity, and create more

walkable neighborhoods. While some sidewalks are reconstructed as part of the street reconstruction program, those that are not, are funded under this program.

46. WASHINGTON ST. REHAB AND COMPLETE STREETS
Recommendation - $800,000 (Revenue Financed)
Funding for the project supports survey, design, engineering, analysis, and project management services necessary to assist the Town in obtaining Federal and/or State funding for the rehabilitation of 1.3 miles of Washington Street and associated intersections from Station Street (Brookline Village) northerly up to and including its intersection with Beacon Street (Washington Square). The Washington Street Rehabilitation and Complete Street Project scored well with the Boston MPO and was one of only three new projects to be considered for inclusion in the next round of TIP funding. Based upon the recent Project Review Committee approval, the estimated construction cost for the project is $28.2M. The Town funding share is currently estimated at 6 million spread over several years to include preliminary design, public participation, right of way approvals, engineering bid documents, construction oversight, project management, funding assistance, implementation, and Town preferred betterments.

The primary goal of this project is not only to rehabilitate a critical arterial roadway that is in poor condition but to create a true Complete Street throughout the Washington Street corridor.

The Washington Street project work elements required by MassDOT include a survey, functional design report, preliminary right-of-way plans, community participation and outreach, preliminary design, state submittals, and final design. Town funding over several years will support the associated engineering design services for the preparation of designs, plans, specifications, and cost estimates. It will also be used for right-of-way agreements, project oversight, community engagement, and construction services. The first phase of work will include preliminary design and preparation of information and submittals to the Massachusetts Department of Transportation (MassDOT) and the Boston Metropolitan Organization (MPO) to include the project into the Federal and/or State Aid Funding Program.

47. AMORY TENNIS COURTS, PARKING AND HALLS POND RENOVATION
Recommendation - $520,000 (Revenue Financed)

This item includes the reconstruction of the drainage, subgrade, irrigation and clay tennis courts and associated infrastructure at Amory Park. It also allows for improvement to drainage and reconstruction of the parking lot and entrance to the park, picnic areas and includes rehabilitation of the existing boardwalk structure and pathways at the Halls Pond Conservation Sanctuary. The current board walk structure was installed in 2002 as a component of the overall restoration of the entire Conservation Sanctuary. Heavy use of the area is causing the decking and railings of the boardwalk to degrade, and the frequency of repairs is increasing. This project will remove the existing decking and railings, leave the piers and substructure in place, and install new pressure treated decking and handrails to ensure visitors will have a safe, and accessible, boardwalk system. This project will impact approximately 600 linear feet of boardwalk with a low bump rail, 140 linear feet with full handrails on both sides, and two overlook platforms. The FY24 appropriation include design costs only for this project.

48. MONMOUTH PARK
Recommendation - $350,000 (Revenue Financed)

Monmouth Park is located on St. Mary's Street close to Beacon. It was last renovated in 2006. The park is framed by an ornamental fence, has mature trees, stone seat walls, a walking path, bluestone plaza, lawn area, and playground. The park is located next to the Brookline Arts Center which was located here after an old chemical firehouse was remodeled in 1968. In Fall 2002, Town Meeting voted for both lots to be protected under Article 97. The playground is in need of full replacement. As part of the renovation, the lawn will be refurbished, plantings replaced, masonry repaired and plaza space repaired. The FY24 appropriation include design and construction costs for the playground structure.

49. SCHICK PLAYGROUND
Recommendation - $2,000,000 (Revenue Financed)

Schick Park, located on Addington Road, is in need of a full site renovation to meet new safety and accessibility requirements. Renovations will include new play equipment for older and younger children, repointing the stone walls, repair of the wooden picnic shelter, field renovation, fencing, paving and site furniture. The FY24 appropriation includes design and construction costs.

50. PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE
Recommendation - $285,000 (Revenue Financed)
This annual, town-wide program directs CIP funds to the evaluation, repair and replacement of unsafe and deteriorating park, playground, fence, and field facilities or components. Items funded under this program include fences, gates, backstops, retaining walls, picnic furniture, turf restoration, infield refurbishment, bench replacements, play structures, safety surfacing, and drainage improvements. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

51. TOWN/SCHOOL GROUNDS REHAB
Recommendation - $100,000 (Revenue Financed)
Town and School grounds require on-going structural improvements and repair. These funds will be applied to create attractive and functional landscapes and hardscape improvements including plant installation, regrading, reseeding, tree work, repair to concrete or asphalt walkways through the site, trash receptacles, bike racks, drainage improvements, retaining walls, and repairs to stairs, treads, railings, benches, or other exterior structures. This funding does not include capital replacement of areas over building structures or directly connected to the buildings, such as entrance stairways and ramps into the building that are under the Building Department's jurisdiction. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

52. TENNIS COURTS/BASKETBALL COURTS
Recommendation - $300,000 (Revenue Financed)
The Town has over 19 basketball courts and 36 hard-surface tennis courts. Over time, the court surfaces begin to deteriorate, crack, and weather. In order to maintain the integrity, safety, and playability of the courts, the Town needs to plan for the phased reconstruction/renovation/resurfacing of the courts, lighting and drainage improvements.

53. TREE REMOVAL AND REPLACEMENT / URBAN FORESTRY MANAGEMENT
Recommendation - $375,000 (Revenue Financed)
The tree removal and replacement program represents the Town's effort to balance street tree removals with plantings. As trees mature or are impacted by storm damage or disease, it is critical to remove these before they become public safety hazards. New tree plantings are also critical, as they directly impact the tree-lined character of the community, improve stormwater quality, provide oxygen, reduce heat impact in the summer, and improve the overall quality of life in Brookline. In addition, funding is included for on-going management work in the four conservation properties (Hall's Pond Sanctuary, Amory Woods Sanctuary, D. Blakely Hoar Sanctuary, and the Lost Pond Sanctuary) and parks. Storm damage, disease, and old age continue to reduce tree canopies. The funds will be utilized to remove hazard trees and provide structural, health, and safety pruning to prolong the life and viability of our significant trees. New trees will be planted in anticipation of the ultimate loss of existing mature trees.

Included in the requested annual amount is funding for Urban Forest Management to address a range of significant improvements needed, such as: tree removals, crown thinning, soil amendments, woodland canopy gap management, invasive removal, pest management, health and structural pruning, and planting throughout the Town's parks and open spaces. This program will help with resiliency to disease, pests and rapid decline attributed with trees unmanaged in an urban environment. The first phase of work will be performed in collaboration with the Olmsted Tree Society of the Emerald Necklace Conservancy who has worked with the Town of Brookline, City of Boston and Commonwealth of Massachusetts on an Urban Forestry Management Plan for the Emerald Necklace. The work outlined in this plan will be supported with public, private and grant funding. The protocol outlined in the plan shall be used to plan for and address urban forestry management priorities throughout Town.

54. SOULE-COURTYARD RENOVATION
Recommendation - $150,000 (Transfer)
Soule Early Childhood Education Center's philosophy supports nature, diversity, and discovery. This school is 100% cost recovery. We are looking to more formally design an outdoor classroom space, to help them achieve the mission. We currently utilize the Soule Courtyard for an outside classroom space, but it has fallen into disrepair and is in need of a capital improvement to re-design to make space more developmentally appropriate for the growing school. The project is in a space is approximately 3,100 square feet. Historically, during significant weather events, there have been drainage issues that have impacted the wood frame of outdoor space (Soule Structure). The project would start with removal of the current asphalt, assessing for appropriate drainage and assessing Soule building structure base for weather damage. We plan to replace the pavement with a more weather proof natural surfacing and materials. We expect $150,000 for feasibility, design, specs, equipment, and construction. We expect to purchase equipment to enhance the usability of space. Areas of play would be designed.

55. PUTTERHAM WOODS
Recommendation - $300,000 (Revenue Financed)
Putterham Woods at the Brookline Golf Course has suffered from significant forest die back and failure of the tree canopy, due to storms and other environmental concerns. The Putterham Woods site is approximately fifteen acres of forested land. The site is in need of tree work to remove down and damaged trees for safety reasons. This project would make the area safe, which is the first step before it is decided how the area is designed. Future phases include paths and plating new trees.

56. SCHOOL FURNITURE
Recommendation - $25,000 (Revenue Financed)

Funds in this program are used to replace school furniture, which absorbs significant wear and tear through daily use. Funds may also be used to respond to the occasional special request from a PSB teacher.

57. HVAC EQUIPMENT
Recommendation - $200,000 (Revenue Financed)

These funds would be used to primarily replace the larger, more expensive parts up to and including the entire unit for air conditioners, HVAC equipment and boilers. A majority of the money would be used for ac compressor replacements. There are presently 199 permanent air conditioning systems in both Town and School buildings. Their sizes range from 2 tons to over 100 tons. The equipment age goes from 1975 up to 2017, with 112 units 10 years or older. Typically, air conditioning compressors last only 5 - 10 years. Depending on the size, costs can range from $3,500 to $150,000. Instead of being proactive, there is presently a reactive response when there is a failure, usually in very hot weather. The cost to repair is born out of the operations and maintenance budget (O&M). However, with the large increase in installations of AC equipment over the years, the O&M would not be able to handle a large cost such as this. The plan would be to replace compressors and do upgrades in the off season, based on age and conditions.

The monies would also be used to replace gas fire equipment with no fossil fuel equipment in all buildings which would include hot water and heat. This would allow a start to achieve zero emissions by 2050. Emissions would be reduced over a number of years. The first to be replaced would be gas fire hot water heaters with hybrid electric hot water heaters. Then phase in heat pumps units.

58. TOWN/SCHOOL BUILDING - ADA RENOVATIONS
Recommendation - $90,000 (Revenue Financed)

This annual program of improvements is requested in order to bring Town and School buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all.

Handicap operators, signage, chair lifts, automatic flushometers. Some these items are on a maintenance cycle. Other are new locations or additional. Some these funds are also used for reasonable accommodations for HR or student requirements.

59. TOWN/SCHOOL BUILDING - ELEVATOR RENOVATIONS
Recommendation - $250,000 (Revenue Financed)
The Town presently has 47 elevators, LULAs, and wheelchair lifts throughout all buildings. When a building is renovated, most elevators are upgraded (new controls, motors, cables, refurbishment of the car, etc.). Some elevators are also partially upgraded to meet the requirements of the existing building codes. The buildings that have not been renovated have elevators that are close to 30 years old. Maintenance is an issue and parts

are increasingly difficult to find. The elevator's controller is basically a computer. The controller needs to be upgraded or replaced as technology progresses and older technology is not supported. This project would upgrade those cars and lifts with new equipment.

On schedule and presently fully funded is the modernization of the elevators and the Unified Arts Building (UAB) and the Lynch Rec Center.

60. TOWN/SCHOOL BUILDING - ENERGY MANAGEMENT SYSTEM
Recommendation - $130,000 (Revenue Financed)
This project is to upgrade the energy management systems in Town and School buildings. A few of the larger buildings have older (30 years) energy management systems that have exceeded their life expectancy and replacement parts are no longer available. These systems would be replaced and upgraded with new web-based systems integrated into the Town's existing computer network. Other systems would be upgraded with newer software or firmware. The Building Department will continue to work with the Information Technology Department on these projects. Hardware lifecycle is 10 years, software upgrades every 3 years. As buildings get more complicated, this cost may go up in the future.

61. PUBLIC BUILDING FIRE ALARM UPGRADES
Recommendation - $125,000 (Revenue Financed)
The Town engaged with Garcia, Galuska & Desousa to conduct a study to assess the existing fire alarm and fire protection systems. The funding will allow the Building Department to address the recommendations in the study to properly maintain and upgrade these systems. Upgrading older systems and new equipment in some years.

62. TOWN/SCHOOL BUILDING - SECURITY/LIFE SAFETY SYSTEMS
Recommendation - $170,000 (Revenue Financed)
Over the last number of years, several large capital projects have been undertaken that included security improvements in Town and School buildings. This program will extend the effort and improve areas where security may be lacking. In general, the plan calls for making all doors around the perimeter of a building more secure by replacing the doors, frames, door handles, and locks with electronic locks that may only be opened with a keypad and/or on a specific schedule. Only the front main entrance of the building would allow for general access. At the front door, a speaker and doorbell will be added to connect to the building's existing intercom or phone system for use by visitors. The lighting around each building will be improved and placed on a timer. A small camera system connected to a computer will be added at the main entrance to monitor access to the building.

School buildings will be a priority. Most schools are reasonably secure, but based on an assessment by the Police Department, security can and should be improved. These funds

would also be used to continue the on-going process of replacement and installation of new and upgraded burglar alarms, fire alarm systems, sprinkler systems, emergency lighting, and egress signs.

School badge ID system for the students at the High School. More discussion of why we are going in this direction needs to happen. There is a concern of tracking of students. $120,000 for Badges. Other expenses include cameras and digital storage.

63. SCHOOL BUILDING REHAB/UPGRADES
Recommendation - $1,000,000 (Revenue Financed)
This is an on-going school-wide program for the repair and upgrade of school facilities in between major renovation projects. Items funded under this program include large scale painting programs, new flooring, ceilings, window treatments and toilet upgrades. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate. There is a backlog of approximately $17,000,000 in deferred maintenance of the school buildings.

Last year's funding for this item was $50,000. The Building department has prioritized list for this FY24. It includes work done to the Lincoln, Baker and Runkle Schools.

64. CLASSROOM CAPACITY
Recommendation - $2,026,982 (Revenue Financed)
In response to the need for additional space to accommodate growing school enrollment and before the expansion/rebuild of several K-8 school buildings, a "Classroom Capacity" account was created and supported with CIP dollars. Initially used to repurpose existing space and to add modular units via lease-purchase arrangements, more recently Classroom Capacity funds have been used to lease not only classroom space for the Brookline Early Education Program (BEEP) but also office space for School administrators and support staff.
Currently, Classroom Capacity funds are used to lease space at Temple Ohabei Shalom, Temple Emeth, and 2 Clark Road, a property owned by the Maimonides School. All three locations house BEEP classes, but in the case of 2 Clark Road, while seven classrooms are used by BEEP, the remaining classrooms have been converted into administrative offices for curriculum directors and for SPED, Steps to Success, and School Operations support staff, all of whom total approximately 40 people.
For FY24, the draft request is for 3 leases to continue and to modify space at the former Newbury College library building located on Fisher Ave to prepare the space for PSB admin and support staff to relocate from 2 Clark Road.

PSB rents three properties for BEEP Classrooms and BEEP staff. The three properties reasonably represent 3 sections of Town:

· East – Temple Ohabei Shalom (BEEP @ Beacon)
· Central – Maimonides School (BEEP @ Clark Rd)
· South and West – Temple Emeth (BEEP @ Putterham)

Per prior School Committee Request, the leases from Temple Emeth and Temple Ohabei Shalom were to include tenant option years. From FY24 forward, PSB has the option to extend both each lease for an additional year or not, and needs to inform the landlord by November 1 each year.

2 Clark Road is under contract until the end of FY24, with a tenant option for FY25. There was an extensive discussion at the Advisory Committee Capital Subcommittee hearing regarding 1) the continued use of CIP funds for rent; 2) the School Department's timeline for moving all educational programs and administrative staff back onto school campuses or into other Town-owned properties; and 3) options to pursue in the interim. There is currently considerable pressure on the CIP, to the point that there are insufficient dollars to maintain and therefore prolong the lifespan of the significant investments that have been made in Town and School buildings and in public parks and playgrounds. There are also insufficient funds to address Climate Change and support Climate Change mitigation to the degree warranted.
For these reasons and understanding the need to have sufficient time to execute an alternative plan, the Advisory Committee, through its Capital Subcommittee, has requested that by February 2024, with the release of the FY 2025 CIP, the School Department will have prepared a plan that identifies steps to reduce reliance on CIP funds for leased spaces, including the specific goal of reducing the use of leased buildings for administrative space. Such measures could include 1) reducing the number of offices needed by creating shared office space, particularly for School staff members who spend much of their working day outside of their offices; 2) developing hybrid work models that include working from home as well as working from an office; 3) using current excess space on K-8 campuses resulting from current lower student enrollment; and 4) exploring the Baldwin School and the Town-owned property on the former Newbury College campus for office space, with the understanding that particularly in the case of the Newbury property, such office use might very well be temporary.
Some BEEP classes will move to the new Driscoll School.
Because of the other unmet demands on the CIP and because of the Town's published CIP policy, the School Department has been asked to develop a plan to eliminate reliance on the CIP for leased space, particularly administrative space, with any further leasing of such space after FY2024 to be funded from the Department's operating budget.

65. STORMWATER IMPROVEMENTS
Recommendation - $600,000 (Utility Bond)

As climate change continues to influence the frequency and intensity of storm events in the region, the Town is looking to better understand flood and storm risks to the community, infrastructure, and resource areas. The Town continues to develop plans that adapt to the severe extremes in the weather. This includes monitoring and assessing locations that are flood prone to develop ways to mitigate and/or reduce the potential for storm damage by managing stormwater flows upstream of these sensitive areas. Project funding will be put towards consulting services to assist with the EPA's NPDES Phase II MS4 Permit compliance and provide planning/design/installation of Best Management Practices (BMPs) to help reduce the amount of flow and pollutants discharged to resource areas. Projects will be prioritized in environmental justice areas within Town or climate-vulnerable neighborhoods and support goals of both the Town's Climate Action Plan and Urban Forest Climate Resiliency Master Plan. Construction costs to install the BMPs would also be covered with these funds. Funding for this important work follows both local initiatives for climate resiliency and compliance with Federal and State mandates.

66. WATER SYSTEM IMPROVEMENTS
Recommendation - $2,000,000 (Utility Bond)

Water System Improvements funding supports the ongoing capital improvements, analysis, repair/replacement, and servicing of the Town's water distribution system to provide high-quality, well-maintained, and properly managed potable water that meets state and federal regulations, protects the health and safety of the community, and is metered to provide accurate and efficient usage readings and calculations. In addition to distribution system upgrades to improve quality and reliability, Water System Improvement funding priorities are meter/MTU replacement and lead service line (LSL) replacements in accordance with state regulations. The last town-wide meter swap was completed in 2006. Typical meters have a 15 to 20-year service life. As meters age, they tend to under register. Under registration leads to revenue loss, delays in proper payment, and inefficiencies in business administration. The Town will purchase and install replacement meters over a 3-year period. Concurrent with the meter swap program, the Water & Sewer Division will focus on replacing all known and unknown Lead Service Lines (LSL). An LSL inventory will be developed in FY23 and used as a guidance tool to prioritize and plan the LSL replacements. Funds requested for FY24 will be used towards design and construction costs to physically replace the LSLs. The Town's goal would be in line with the MADEP goal of protecting public health by removing all identified lead services in 5 years or less. There are State Revolving Fund (SRF) loans available to help assist with the funding of LSL replacements.

67. WASTE WATER SYSTEM IMPROVEMENTS
Recommendation - $3,000,000 (Utility Bond)

The Wastewater System Improvements project provides funding for the rehabilitation of

the wastewater collection system (sanitary sewer). The asset rehabilitation program is based on the recommendations of the Sewer System Capital Improvement Program completed in 2016. The goal is to rehabilitate the entire sewer system over 18 years to protect the asset and reduce infiltration and inflow (I&I) by 2032. I&I reduction not only helps reduce the chance of backups in the system, but also lowers the MWRA wholesale costs by reducing extraneous clear water flows. Funding for this annual work is supported by generous grant/loan programs offered by the MWRA, reducing the Town's financial impact significantly.

68. ROBINSON PLAYGROUND
Recommendation - $275,000 (General Fund Bond)

At the recommendation of bond counsel, item 68 is a project that was previously authorized at the 2022 Special Town Meeting but flagged for not being explicitly listed in the warrant for the budget amendment (Article 1, STM2). Bond counsel recommended putting this item back on for the Annual Town Meeting, voting new authorization, and rescinding the previous authorization. This project has been listed in the warrant under Article 7. The warrant language and the motion were crafted by bond counsel.

69. MURPHY PLAYGROUND
Recommendation - $355,000 (General Fund Bond)

At the recommendation of bond counsel, item 69 is a project that was previously authorized at the 2022 Special Town Meeting but flagged for not being explicitly listed in the warrant for the budget amendment (Article 1, STM2). Bond counsel recommended putting this item back on for the Annual Town Meeting, voting new authorization, and rescinding the previous authorization. This project has been listed in the warrant under Article 7. The warrant language and the motion were crafted by bond counsel.

70. PIERCE SCHOOL RECONSTRUCTION
Recommendation - $209,915,958 (General Fund Bond)
After 2005, Brookline experienced historic enrollment growth in its public schools. The K-8 elementary schools grew by 40%, going from 3,904 students in 2006 to 5,482 students in 2017, which is equivalent to adding three schools into our existing schools in just over 10 years. For a decade now, the Town and School Department have been addressing the expanding student population by studying potential sites for a new elementary school and by adding classrooms to existing schools by dividing classrooms; converting offices, locker rooms, and hallways into classrooms; renting private buildings; and building new classrooms or adding modular classes. Despite adding nearly 60 classrooms to our existing schools through this "Expand-in-Place" strategy, the schools continued to be severely overcrowded. However, this trend reversed with the arrival of Covid, and school enrollment decreased.

The Pierce School Building Project is part of the Town's ongoing effort to address substandard facilities in the Public Schools of Brookline. Brookline will be working in

partnership with the Massachusetts School Building Authority (MSBA) during this project and will follow the MSBA's process for school building design and construction.

During the month of December 2022, the Project Team focused on responding to questions from the MSBA on the Schematic Design Submission prior to the December 21, 2022 MSBA Board of Directors Meeting. At the Board Meeting, the Project was approved and a Project Scope and Budget Agreement is underway. The Town requested an extension of the 120-day deadline in which to execute to the Project Funding Agreement. (The Town needed to extend the timeframe for execution until June 2023 to allow the Town Vote and Election to occur in May 2023. In May, Question 1 passed.)

The Advisory Committee had concerns about the wisdom of tearing down the Pierce School and significant concerns regarding the cost proposed by the School Committee. These concerns included the environmental impact of razing the school, the difficulties involved in the site (including the parking garage), the ability to fund future capital projects should borrowing capacity be largely taken up by Pierce, and the effect on taxpayers, making the Town a less affordable place for existing residents. Thus, the Advisory Committee initially voted 5-12-8 to recommend NO ACTION on the Pierce project.

After voters narrowly approved the project in the debt exclusion referendum of May 2, 2023, the Advisory Committee reconsidered its earlier vote, and reversed itself, voting 12-9-3 in favor of the project.

ADVISORY COMMITTEE'S FISCAL YEAR 2024 BUDGET RECOMMENDATION

By a vote of 21-0-1, the Advisory Committee submits the FY2023 Town Budget with a recommendation of FAVORABLE ACTION on the following motion:

MOVED: To approve the budget for fiscal year 2024 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental appropriations separately set forth in Tables 1 and 2 shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

A) Expenditures within the appropriation for the School Department shall not be restricted.

B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Select Board and Advisory Committee:

i) Transfers from the appropriation for the capital outlay object classification to any other object classification.

ii) Transfers to the appropriation for the personal services object classification from any other object classification.

iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.

v) Transfers within the Department of Public Works from the Parks Division to any other purpose.

vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.

C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.

D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Select Board, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) <u>PROCUREMENT CONTRACTS AND LEASES</u>: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2023 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Select Board.

3.) <u>ALLOCATION OF SALARY ADJUSTMENTS</u>: Appropriations for salary and wage adjustments (Item #20) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Select Board shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #19), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial
Report.

4.) <u>STIPENDS / SALARIES OF ELECTED OFFICIALS</u>: The stipends of members of the Select Board shall be at the rate of $4,500 per year for the Chair and at the rate of $3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of $106,861 effective July 1, 2023, plus any adjustment approved by vote of the Select Board. The Town Clerk shall pay all fees received by the Town Clerk by virtue of their office into the Town treasury for Town use.

5.) <u>VACANT POSITIONS</u>: No appropriation for salaries, wages, or other compensation shall be expended for any benefit-eligible position which has become vacant during the fiscal year unless the Select Board, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) <u>GOLF ENTERPRISE FUND</u>: The following sums, totaling $2,517,574 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	$875,572
Purchase of Services	$438,060
Supplies	$481,000
Other	$9,600
Utilities	$137,741
Capital	$170,642
Debt Service	$119,721
Reserve	$25,000
Total Appropriations	$2,257,336
Indirect Costs	$260,238
Total Costs	$2,517,574

Total costs of $2,517,574 to be funded from golf receipts with $260,238 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling $32,522,728 shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	Water	Sewer	Total
Salaries	2,658,407	622,907	3,281,314
Purchase of Services	163,617	150,000	313,617
Supplies	149,805	27,000	176,805
Other	13,900	6,980	20,880
Utilities	141,379	0	141,379
Capital	543,349	65,000	608,349
Intergovernmental	8,551,815	14,169,817	22,721,632
Debt Service	925,750	1,261,540	2,187,290
Reserve	139,185	180,425	319,610
Total Appropriations	13,287,207	16,483,669	29,770,876
Indirect Costs	2,218,878	532,974	2,751,852
Total Costs	15,506,085	17,016,643	32,522,728

Total costs of $32,522,728 to be funded from water and sewer receipts with $2,751,852 to be reimbursed to the General Fund for indirect costs.

8.) <u>REVOLVING FUNDS:</u>

a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed $4,600,000.

b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed $225,000.

c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed $100,000.

d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed $30,000.

e.) The Library Director is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Copier Program. Annual expenditures from the fund shall not exceed $30,000.

f.) The School Department is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the School bus Program. Annual expenditures from the fund shall not exceed $75,000.

9.) <u>SCHOOLHOUSE MAINTENANCE AND REPAIR</u>: The sum of $7,635,891 included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) <u>SNOW AND ICE BUDGET</u>: The sum of $457,530, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article 9.

11.) <u>INTERFUND TRANSFERS</u>: In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Cemetery Sales Special Revenue Fund [to the General Fund for the Department of Public Works]	$ 100,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	$460,811

13.) HOST COMMUNITY FUNDS

Appropriate $683,639 to be expended under the direction of the Town Administrator for marijuana mitigation activities, and to meet the appropriation transfer $683,639 from the HCA stabilization fund.

14.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

15.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 36 through 70, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #65 - 70, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

Appropriate sums of money for the following special purposes:

35.) Raise and appropriate $1,099,920, to resolve the special revenue account deficit as a result of COVID expenses that may not be eligible for reimbursement.

36.) Raise and appropriate $25,000, to be expended under the direction of the Chief Procurement Officer for town furniture upgrades.

37.) Raise and appropriate $375,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the Select Board, for the Brookline Village Library HVAC improvements.

38.) Raise and appropriate $900,000, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.

39.) Raise and appropriate $200,000, to be expended under the direction of the Police Chief, with any necessary contracts over $100,000 to be approved by the Select Board, for the equipment and of the Body Worn and In-Car Camera program.

40.) Raise and appropriate $500,000, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for traffic calming.

41.) Raise and appropriate $700,000, with any necessary contracts over $100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for bike access improvements.

42.) Raise and appropriate $75,400, to be expended under the direction of the Commissioner of Public Works, for Accessible Pedestrian Signals.

43.) Raise and appropriate $4,680,000, 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 the rehabilitation of streets.

44.) Raise and appropriate $500,000, 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 the rehabilitation of sidewalks.

45.) Raise and appropriate $800,000, 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 design work related to the Washington Street Rehabilitation and Complete Streets Program.

46.) Raise and appropriate $520,000, 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 the design of the renovation of Amory Tennis Courts, Parking and Halls Pond.

47.) Raise and appropriate $350,000, 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 to Monmouth Park.

48.) Raise and appropriate $2,000,000, 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 the renovation of Schick Playground.

49.) Raise and appropriate $285,000, 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 the renovation of playground equipment, fields, and fencing.

50.) Raise and appropriate $100,000, to be expended under the direction of the Commissioner of Public Works for the rehabilitation of Town and School grounds.

51.) Raise and appropriate $300,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Select Board and the Park and Recreation Commission, for the rehabilitation of tennis courts and basketball courts.

52.) Raise and appropriate $375,000, 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 and the Tree Planting Committee, for the removal and replacement of trees.

53.) Appropriate $150,000, to be expended under the direction of the Recreation Director for the renovation of the Soule Courtyard, and to meet the appropriation transfer $150,000 from the recreation revolving fund balance.

54.) Raise and appropriate $300,000, to be expended under the direction of the Recreation Director, with any necessary contracts to be approved by the Select Board and the Park and Recreation Commission, for tree work at Putterham Woods.

55.) Raise and appropriate $25,000, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades.

56.) Raise and appropriate $200,000, to be expended under the direction of the Building Commissioner for HVAC equipment.

57.) Raise and appropriate $90,000, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.

58.) Raise and appropriate $250,000, to be expended under the direction of the Building Commissioner for elevator renovations.

59.) Raise and appropriate $130,000, to be expended under the direction of the Building Commissioner for upgrades to energy management systems in Town and School facilities.

60.) Raise and appropriate $125,000, to be expended under the direction of the Building Commissioner, for public building fire alarm upgrades.

61.) Raise and appropriate $170,000, to be expended under the direction of the Building Commissioner, for improvements to life safety systems and building security in Town and School facilities.

62.) Raise and appropriate $1,000,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over $100,000 to be approved by the School Committee, for minor renovations / upgrades to school buildings.

63.) Raise and appropriate $2,026,982, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the School Committee, for the expansion of classroom capacity in various schools.

64.) Raise and appropriate $600,000, or any other sum, 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 storm water improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $600,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

65.) Raise and appropriate $2,000,000, or any other sum, 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 water system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $2,000,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

66.) Raise and appropriate $3,000,000, or any other sum, 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 wastewater system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow $3,000,000 under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

67.) To raise and 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; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose; and to rescind a like amount voted at the November 15, 2022 Special Town Meeting under Article 1, Item 4, which item was inadvertently omitted from the warrant for such meeting.

68.) To raise and appropriate $355,000, or any other sum, 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; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose and to rescind a like amount voted at the November 15, 2022 Special Town Meeting under Article 1, Item 5, which item was inadvertently omitted from the warrant for such meeting

69.) Appropriate Two Hundred Nine Million Nine Hundred Fifteen Thousand Nine Hundred Fifty-Eight Dollars ($209,915,958) to pay costs of constructing a new PreK-8 School which includes renovations/addition to the existing historic Pierce School and other site improvements including reconstruction and repair of the Town Hall and Pierce School garages which are beneath the new school and the Town Park across School Street, including the payment of all costs related to designing the new school project, equipping and furnishing the school, site improvements, and all other costs incidental and related thereto (the "Project"), which new school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority (the "MSBA"), said amount to be expended under the direction of the Town of Brookline Select Board; that to meet this appropriation the Treasurer, with the approval of the Select Board, is authorized to borrow said amount pursuant to G.L. c.44, §7(1) or G.L. c.70B, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that the Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; that any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) thirty-five and fifty-five hundredths percent (35.55%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; that the amount of the borrowing authorized by this vote shall be reduced by any grant amount set forth in and received pursuant to the Project Funding Agreement that may be executed between the Town and the MSBA; provided, however, that the appropriation and authorization to borrow pursuant to this vote shall be contingent upon the Town's passage of a ballot question to exempt the principal and interest payments on such borrowing from the tax limitations of G.L. c.59, §21C (Proposition 2 ½).

16.) **FREE CASH**: Appropriate and transfer $20,008,706 from free cash for the following purposes:

a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $767,368;
b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $381,006;
c.) Stabilization Fund (MGL Chapter 40, Section 5B) - $4,500,000
d.) Reduce the tax rate (Special Appropriations) – $14,360,332.

Article Description	FY2024 Omnibus Budget
AC recommendation (Favorable Action unless indicated)	**21-0-1**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	A
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	
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	
Alok Somani	
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

ARTICLE 7 ADVISORY COMMITTEE VOTES

FY2024 BUDGET - TABLE 1 MAY 2023

		FY21 ACTUAL	FY22 ACTUAL	FY23 BUDGET	FY24 BUDGET	$$ CHANGE FROM FY23	% CHANGE FROM FY23
	REVENUES						
	Property Taxes	254,898,615	272,124,853	281,379,275	296,854,454	**15,475,179**	**5.5%**
	Local Receipts	30,479,935	36,614,449	29,065,786	30,343,443	**1,277,657**	**4.4%**
	State Aid	22,397,775	22,825,559	23,230,992	23,607,070	**376,078**	**1.6%**
	Free Cash	11,065,720	10,401,890	11,598,580	20,008,706	**8,410,126**	**72.5%**
	Other Available Funds	4,390,037	3,329,073	4,357,848	4,407,669	**49,821**	**1.1%**
	TOTAL REVENUE	**323,232,082**	**345,295,823**	**349,632,481**	**375,221,341**	**25,588,860**	**7.3%**
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Select Board	826,296	773,860	848,631	969,387	**120,756**	**14.2%**
	2 . Human Resources	572,887	619,381	607,890	646,527	**38,637**	**6.4%**
	3 . Information Technology	1,948,968	1,893,914	2,206,095	2,375,179	**169,084**	**7.7%**
	4 . Diversity, Inclusion, and Community Relations	300,971	335,627	358,667	393,864	**35,197**	**9.8%**
	5 . Finance Department	3,042,846	3,222,472	3,447,121	3,558,210	111,089	**3.2%**
	a. Comptroller	*687,568*	*713,961*	*726,008*	743,415	***17,407***	***2.4%***
	b. Purchasing	*719,383*	*707,143*	*761,441*	802,173	***40,732***	***5.3%***
	c. Assessing	*566,093*	*573,644*	*737,463*	752,732	***15,269***	***2.1%***
	d. Treasurer	*1,069,802*	*1,227,724*	*1,222,209*	1,259,890	***37,681***	***3.1%***
	6 . Legal Services	*1,179,915*	*1,033,710*	*1,105,224*	1,113,569	***8,345***	***0.8%***
	7 . Advisory Committee	18,152	20,242	29,129	30,136	**1,007**	**3.5%**
	8 . Town Clerk	1,117,013	530,082	830,521	882,621	**52,100**	**6.3%**
	9 . Planning and Community Development	1,039,154	1,217,769	1,467,993	1,783,640	**315,647**	**21.5%**
	10 . Police	17,314,441	17,023,052	17,703,841	17,648,217	***(55,624)***	***-0.3%***
	11 . Fire	16,546,639	18,134,442	16,934,284	16,853,102	**(81,182)**	**-0.5%**
	12 . Building	8,465,596	9,859,939	10,237,173	11,142,213	**905,040**	**8.8%**
(1)	13 . Public Works	16,170,468	16,736,731	16,747,737	18,153,751	1,406,014	**8.4%**
	a. Administration	*779,873*	*946,587*	*951,914*	987,843	***35,929***	***3.8%***
	b. Engineering/Transportation	*1,304,413*	*1,230,447*	*1,459,743*	1,498,754	***39,011***	***2.7%***
	c. Highway	*4,995,342*	*4,932,637*	*5,380,746*	5,476,294	***95,548***	***1.8%***
	d. Sanitation	*3,632,171*	*3,665,056*	*4,293,420*	5,002,072	***708,652***	***16.5%***
	e. Parks and Open Space	*3,857,133*	*3,806,730*	*4,259,100*	4,731,258	***472,158***	***11.1%***
	f. Snow and Ice	*1,601,536*	*2,155,274*	*402,814*	457,530	***54,716***	***13.6%***
	14 . Library	4,104,319	4,507,116	4,387,687	4,480,000	**92,313**	**2.1%**
	15 . Health and Human Services	1,474,730	1,567,071	1,400,883	1,528,942	**128,059**	**9.1%**
	16 . Veterans' Services	263,282	266,038	316,534	322,728	**6,194**	**2.0%**
	17 . Council on Aging	858,548	950,900	1,010,140	1,192,722	**182,582**	**18.1%**
	18 . Recreation	1,079,663	1,071,638	1,162,787	1,200,056	**37,269**	**3.2%**
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	1,214,973	**499,973**	**69.9%**
(2)	20 . Collective Bargaining - Town	450,000	1,206,587	3,415,593	4,554,699	**1,139,106**	**33.4%**
	Subtotal Town	*76,773,888*	*81,685,571*	*84,932,930*	*90,044,536*	***5,111,607***	***6.0%***
	21 . Schools	120,928,616	121,641,293	125,613,878	130,702,376	**5,088,498**	**4.1%**
	22 . *Vocational Education Assessments*	*28,179*	*2,200*	*92,895*	*15,000*	***(77,895)***	***-83.9%***
	Subtotal Education	*120,956,795*	*121,643,493*	*125,706,773*	*130,717,376*	***5,010,603***	***4.0%***
	TOTAL DEPARTMENTAL EXPENDITURES	**197,730,683**	**203,329,064**	**210,639,703**	**220,761,913**	**10,122,210**	**4.8%**
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	67,201,499	70,589,374	75,366,050	80,446,412	**5,080,363**	**6.7%**
(3)	*a. Pensions*	*26,569,845*	*28,490,221*	*30,557,924*	*33,015,439*	**2,457,515**	**8.0%**
	b. Group Health	*31,707,590*	*32,753,010*	*34,799,370*	*37,078,562*	**2,279,192**	**6.5%**
(3)	*c. Retiree Group Health Trust Fund (OPEB's)*	*4,181,979*	*4,181,980*	*4,431,980*	*4,681,980*	**250,000**	**5.6%**

		FY21 ACTUAL	FY22 ACTUAL	FY23 BUDGET	FY24 BUDGET	$$ CHANGE FROM FY23	% CHANGE FROM FY23
	d. Group Life	*128,740*	*127,365*	*145,000*	*145,000*	**0**	**0.0%**
	e. Disability Insurance	*50,521*	*53,401*	*46,000*	*46,000*	**0**	**0.0%**
(3)	*f. Worker's Compensation*	*1,850,000*	*1,850,000*	*1,850,000*	*2,193,656*	**343,656**	**18.6%**
(3)	*g. Public Safety IOD Medical Expenses*	*0*	*0*	*275,000*	*275,000*	**0**	**0.0%**
(3)	*h. Unemployment Compensation*	*200,000*	*525,000*	*250,000*	*0*	**(250,000)**	**-100.0%**
	i. Medical Disabilities	*11,751*	*11,103*	*40,000*	*40,000*	**0**	**0.0%**
	j. Medicare Coverage	*2,501,073*	*2,597,294*	*2,970,776*	*2,970,776*	**(0)**	**0.0%**
(2)	24 . Reserve Fund	2,776,291	3,741,209	2,930,043	3,069,471	**139,428**	**4.8%**
	25 . HCA Reserve Fund	300,000	0	0		**0**	**#DIV/0!**
	26 . Stabilization Fund	1,000,000	2,829,788	3,500,000	4,500,000	**1,000,000**	**28.6%**
	27 . Affordable Housing	726,549	80,737	427,012	0	**(427,012)**	**-100.0%**
	28 . Liability/Catastrophe Fund	49,729	81,223	132,489	381,006	**248,517**	**187.6%**
	29 . General Insurance	534,065	808,202	1,056,923	1,262,183	**205,260**	**19.4%**
	30 . Audit/Professional Services	99,284	135,500	149,000	149,000	**0**	**0.0%**
(5)	31 . Contingency Fund	6,242	8,185	10,000	10,000	**0**	**0.0%**
	32 . Printing of Warrants & Reports	52,405	48,786	116,000	50,000	**(66,000)**	**-56.9%**
	33 . MMA Dues	13,226	13,490	14,595	14,960	**365**	**2.5%**
	Subtotal General	*5,557,791*	*7,747,120*	*8,336,062*	*9,436,620*	***1,100,557***	***13.2%***
(1)	34 . Borrowing	25,056,165	34,262,603	36,032,468	35,939,014	**(93,454)**	**-0.3%**
	a. Funded Debt - Principal	*13,674,000*	*19,262,067*	*20,280,487*	*21,285,442*	**1,004,955**	**5.0%**
	b. Funded Debt - Interest	*11,237,370*	*14,879,854*	*15,591,981*	*14,493,572*	**(1,098,409)**	**-7.0%**
	c. Bond Anticipation Notes	*133,256*	*100,500*	*100,000*	*100,000*	**0**	**0.0%**
	d. Abatement Interest and Refunds	*11,539*	*20,182*	*60,000*	*60,000*	**0**	**0.0%**
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**97,815,455**	**112,599,097**	**119,734,580**	**125,822,046**	**6,087,466**	**5.1%**
	TOTAL GENERAL APPROPRIATIONS	**295,546,138**	**315,928,161**	**330,374,283**	**346,583,959**	**16,209,676**	**4.9%**
	SPECIAL APPROPRIATIONS						
	35 Host Community Agreement Special Appropropriation (transfer)				683,639		
	36 . COVID Sepecial Revenue account deficit (revenue financed)				1,099,920		
	37 . Town Building Furniture (revenue financed)				25,000		
	38 . Brookline Village Library HVAC improvements				375,000		
	39 . Police/Fire Radio Infrastructure (revenue financed)				900,000		
	40 . Body Worn and In-Car Camera Equipment (revenue financed)				200,000		
	41 . Traffic Calming / Safety Improvements (revenue financed)				500,000		
	42 . Bicycle Access Improvements (revenue financed)				700,000		
	43 . Accessible Pedestrian Signal Conversion (revenue financed)				75,400		
	44 . Street Rehab. (revenue financed)				4,680,000		
	45 . Sidewalk Repair/Reconstruction (revenue financed)				500,000		
	46 . Washington St. Rehab and Complete Streets (revenue financed)				800,000		
	47 . Design for Amory Tennis Courts, Parking & Halls Pond Reno. (revenue financed)				520,000		
	48 . Monmouth Park Improvements (revenue financed)				350,000		
	49 . Schick Playground Renovation (revenue financed)				2,000,000		
	50 . Playground Equipment, Fields, Fencing (revenue financed)				285,000		
	51 . Town/School Grounds Rehab (revenue financed)				100,000		
	52 . Tennis/Basketball Court Rehabilitation (revenue financed)				300,000		
	53 . Tree Removal and Replacement (revenue financed)				375,000		
	54 . Soule Courtyard renovation (transfer)				150,000		
	55 . Putterham Woods Tree work (revenue financed)				300,000		
	56 . School Furniture Upgrades (revenue financed)				25,000		
	57 . HVAC Equipment				200,000		

		FY21 ACTUAL	FY22 ACTUAL	FY23 BUDGET	FY24 BUDGET	$$ CHANGE FROM FY23	% CHANGE FROM FY23
	58 . Town/School ADA Renovations (revenue financed)				90,000		
	59 . Elevator renovations (revenue financed)				250,000		
	60 . Town/School Energy Management Systems (revenue financed)				130,000		
	61 . Public Building Fire Alarm Upgrades (revenue financed)				125,000		
	62 . Town/School Bldg Security / Life Safety Systems (revenue financed)				170,000		
	63 . School Building Rehab/Upgrade (revenue financed)				1,000,000		
	64 . Classroom Capacity (revenue financed)				2,026,982		
	65 . Stormwater Improvements (utility bond)				600,000		
	66 . Water System Improvements (utility bond)				2,000,000		
	67 . Wastewater System Improvements (utility bond)				3,000,000		
	68 . Robinson Playground - additional authorization (bond)				275,000		
	69 . Murphy Playground - additional authorization (bond)				355,000		
	70 . Pierce School reconstruction (bond)				209,915,958		
(4)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**8,828,250**	**7,617,048**	**9,784,287**	**18,935,941**	**9,151,654**	**93.5%**
	TOTAL APPROPRIATED EXPENDITURES	**304,374,388**	**323,545,209**	**340,158,570**	**365,519,900**	**25,361,330**	**7.5%**
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	103,231	101,559	131,592	145,424		
	State & County Charges	6,810,339	6,938,649	7,387,258	7,552,704		
	Overlay	1,829,768	3,603,145	1,930,062	1,978,315		
	Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		
	TOTAL NON-APPROPRIATED EXPEND.	**8,768,339**	**10,668,353**	**9,473,912**	**9,701,443**	**227,531**	**2.4%**
	TOTAL EXPENDITURES	**313,142,726**	**334,213,562**	**349,632,482**	**375,221,343**	**25,588,861**	**7.3%**
	SURPLUS/(DEFICIT)	**10,089,356**	**11,082,262**	**0**	**0**	**0**	

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #35).

FY24 BUDGET - TABLE 2 MAY 2023

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Debt Service	Agency Total
Select Board (Town Administrator)	870,753	57,060	2,048	36,900		2,626			969,387
Human Resources Department (Human Resources Director)	345,610	257,877	14,900	26,500		1,640			646,527
Information Technology Department (Chief Information Officer)	1,281,520	786,670	10,350	15,050		281,589			2,375,179
Diversity, Inclusion, and Community Relations (Director)	351,989	30,000	8,000	3,000		875			393,864
Finance Department (Director of Finance)	2,513,488	959,363	46,960	29,207	1,017	8,175			3,558,210
Legal Services (Town Counsel)	821,420	204,669	2,500	83,100		1,880			1,113,569
Advisory Committee (Chair, Advisory Committee)	25,996		3,275	570		295			30,136
Town Clerk (Town Clerk)	751,090	95,451	34,550	500		1,030			882,621
Planning and Community Department (Plan. & Com. Dev. Dir.)	1,336,316	431,150	8,800	3,805		3,569			1,783,640
Police Department (Police Chief)	16,214,675	536,731	137,857	31,300	301,073	426,581			17,648,217
Fire Department (Fire Chief)	16,048,002	168,426	126,952	27,100	227,270	255,352			16,853,102
Public Buildings Department (Building Commissioner)	3,021,519	4,917,258	25,075	5,248	3,044,643	128,470			11,142,213
Public Works Department (Commissioner of Public Works)	9,420,654	5,418,723	1,007,885	55,500	1,181,758	1,069,230			18,153,751
Public Library Department (Library Board of Trustees)	3,348,383	245,469	596,748	2,200	242,840	44,360			4,480,000
Health & Human Services Department (Health & Human Svcs Dir)	1,136,970	308,411	24,000	4,420	49,171	5,970			1,528,942
Veterans' Services (Veterans' Services Director)	161,341	2,388	1,150	157,339		510			322,728
Council on Aging (Council on Aging Director)	936,776	163,287	18,846	4,250	63,863	5,700			1,192,722
Recreation Department (Recreation Director)	884,089	23,037	86,480	12,400	191,050	3,000			1,200,056
School Department (School Committee)									130,702,376
Total Departmental Budgets	**59,470,591**	**14,605,970**	**2,156,376**	**498,389**	**5,302,685**	**2,240,852**			**214,977,240**
DEBT SERVICE									
Debt Service (Director of Finance)								35,939,014	35,939,014
Total Debt Service								**35,939,014**	**35,939,014**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	33,015,439								33,015,439
Group Health Insurance (Human Resources Director)	37,078,562								37,078,562
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,681,980								4,681,980
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	46,000								46,000
Workers' Compensation (Human Resources Director)	2,193,656								2,193,656
Public Safety IOD Medical Expenses (Human Resources Director)	275,000								275,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,970,776								2,970,776
Total Employee Benefits	**80,446,412**								**80,446,412**
GENERAL / UNCLASSIFIED									
Vocational Euducation Assessments									15,000
Reserve Fund (*) (Chair, Advisory Committee)				3,069,471					3,069,471
HCA Reserve (Town Administrator)									
Stabilization Fund (Director of Finance)				4,500,000					4,500,000
Liability/Catastrophe Fund (Director of Finance)				381,006					381,006
General Insurance (Town Administrator)		1,262,183							1,262,183
Audit/Professional Services (Director of Finance)		149,000							149,000
Contingency (Town Administrator)				10,000					10,000
Printing of Warrants (Town Administrator)	20,000	20,000	10,000						50,000
MMA Dues (Town Administrator)				14,960					14,960
Town Salary Reserve (*) (Director of Finance)	4,554,699								4,554,699
Personnel Services Reserve (*) (Director of Finance)	1,214,973								1,214,973
Total General / Unclassified	**5,789,672**	**1,431,183**	**10,000**	**7,975,437**					**15,221,292**
TOTAL GENERAL APPROPRIATIONS	**145,706,675**	**16,037,153**	**2,166,376**	**8,473,826**	**5,302,685**	**2,240,852**		**35,939,014**	**346,583,958**

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.

ARTICLE 7

AMENDMENT OFFERED BY JULIAN FISHER TMM PRECINCT 15

To amend the Advisory Committee's motion for Special Appropriation #70 under Article 7

Add the following language appearing in underline

31) Contingent upon a finding by the Massachusetts Office of Campaign and Political Finance ("OCPF") that the unsolicited email sent by Public Schools of Brookline employees to parents of Public Schools of Brookline students on March 24, 2023, April 7, 2023 and May 1, 2023, as more fully described in a Complaint to OCPF dated May 7. 2023, complied with applicable campaign finance law appropriate Two Hundred Nine Million Nine Hundred Fifteen Thousand Nine Hundred Fifty-Eight Dollars ($209,915,958) to pay costs of constructing a new PreK-8 School which includes renovations/addition to the existing historic Pierce School and other site improvements including reconstruction and repair of the Town Hall and Pierce School garages which are beneath the new school and the Town Park across School Street, including the payment of all costs related to designing the new school project, equipping and furnishing the school, site improvements, and all other costs incidental and related thereto (the "Project"), which new school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority (the "MSBA"), said amount to be expended under the direction of the Town of Brookline Select Board; that to meet this appropriation the Treasurer, with the approval of the Select Board, is authorized to borrow said amount pursuant to G.L. c.44, §7(1) or G.L. c.70B, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that the Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; that any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) thirty-five and fifty-five hundredths percent (35.55%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; that the amount of the borrowing authorized by this vote shall be reduced by any grant amount set forth in and received pursuant to the Project Funding Agreement that may be executed between the Town and the MSBA; provided, however, that the appropriation and authorization to May 23, 2023 Annual Town Meeting 7-18 borrow pursuant to this vote shall be contingent upon the Town's passage of a ballot question to exempt the principal and interest payments on such borrowing from the tax limitations of G.L. c.59, §21C (Proposition 2 ½).

ARTICLE 7

AMENDMENT OFFERED BY SELECT BOARD MEMBER JOHN VANSCOYOC

MOVED: to amend special appropriation item 70 of article 7 to limit the amount of approved funds to a maximum of $135 million, based on "Option R" for improvements to the 1970's Pierce building and the historic Pierce Primary, as presented to the Pierce School Building Committee on Dec. 13, 2021. Furthermore, the project shall proceed according to a construction timetable that minimizes relocations while providing for the maximum feasible continuity of educational use of both buildings.

Explanation:

EXPLANATION FOR PROPOSED AMENDMENT UNDER ARTICLE 7 (Pierce Debt)

The result of the May 2 election is unquestionable: a majority "Yes" vote (51.3%-48.7%). Those who worked on both "Yes" and "No" campaigns did the Town a service by informing voters and turning them out at the polls. They deserve our thanks.

Now it is up to Town Meeting to fulfill its role, as triggered by the May 2 vote.

Under the proposal in Warrant Article 7, iI we so choose, we will borrow the $209.9 million necessary for demolition and replacement of the 1973 Pierce building and renovation of the historic Pierce Primary.

But we should take that vote only after careful consideration of three questions:

1. The impact on the fiscal health of the Town.
2. The needs of Pierce *today* in the post-COVID context of future debt-financed projects.
3. Alternatives to the proposed $209.9 million project that **meet the priority needs of Pierce and cost less, while causing less harm to the environment and less disruption** to Pierce students and the Pierce community.

1. IMPACT ON THE FISCAL HEALTH OF THE TOWN

Question: Why should we dial back significantly the amount of borrowing required to meet the needs of the combined 1973 and historic Pierce buildings?

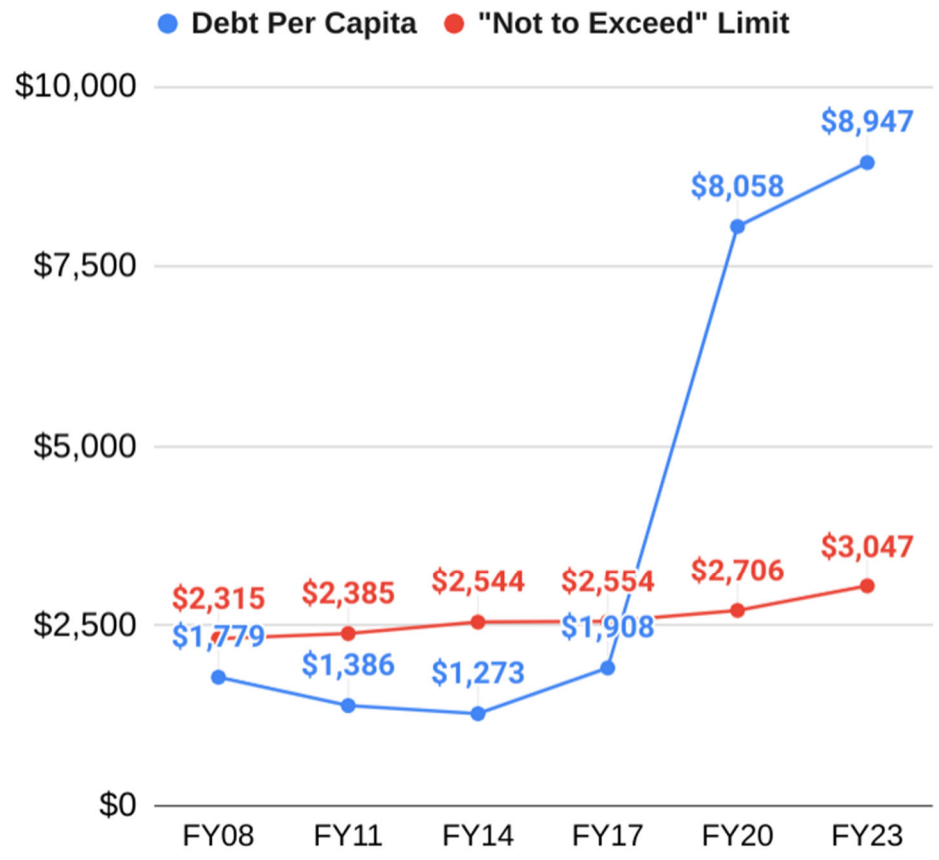
Answer: The bottom line is, even without the Pierce debt added, Brookline is already hundreds of millions of dollars in excess of Town debt policies.

Note this reference to the policies on page 368 (scrolling the PDF) of the FY24 Financial Plan .

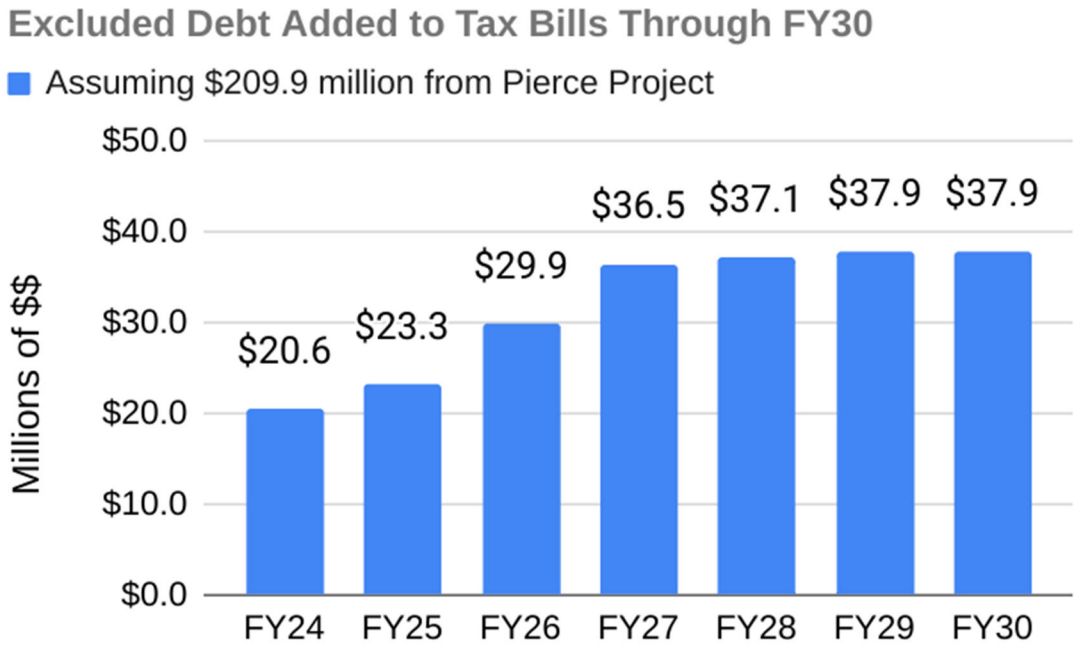
Town Policies

A. Total Outstanding Debt Per Capita = shall not exceed 6% of Per Capita Income.
B. Total Outstanding Debt Per Capita = shall not exceed $3,047 (for FY22).

Both policies were observed consistently until FY17. However, as shown in the chart below, things then changed dramatically, with the result that the Town debt per capita is now nearly *triple* the "shall not exceed" ceiling in the Town's fiscal policies.



The pressure from debt repayments will continue to be felt in tax bills in the years ahead:



Conclusion #1: The impact of adding the Pierce debt to an overall debt burden that is already in excess of town policies should be weighed carefully by Town Meeting Members.

2. NEEDS OF PIERCE TODAY AND FUTURE TOWN AND SCHOOL NEEDS

To put the $209.9 million demolish-and-rebuild plan for Pierce in context, it is necessary to revisit some recent history.

- The Pierce project originated during a capacity crisis for Brookline Public Schools. When the Pierce project was promised (as *either a renovation or rebuild)*, enrollments were in the 850+ range (as opposed to 700+ today).
- Faced with the 850+ enrollments and an upward trend, the decision was made to seek dramatic enlargement of Pierce -- of a scale that could only be achieved through wholesale demolition and replacement with a 5-section school, (900+ seats, comparable to Florida Ruffin Ridley).

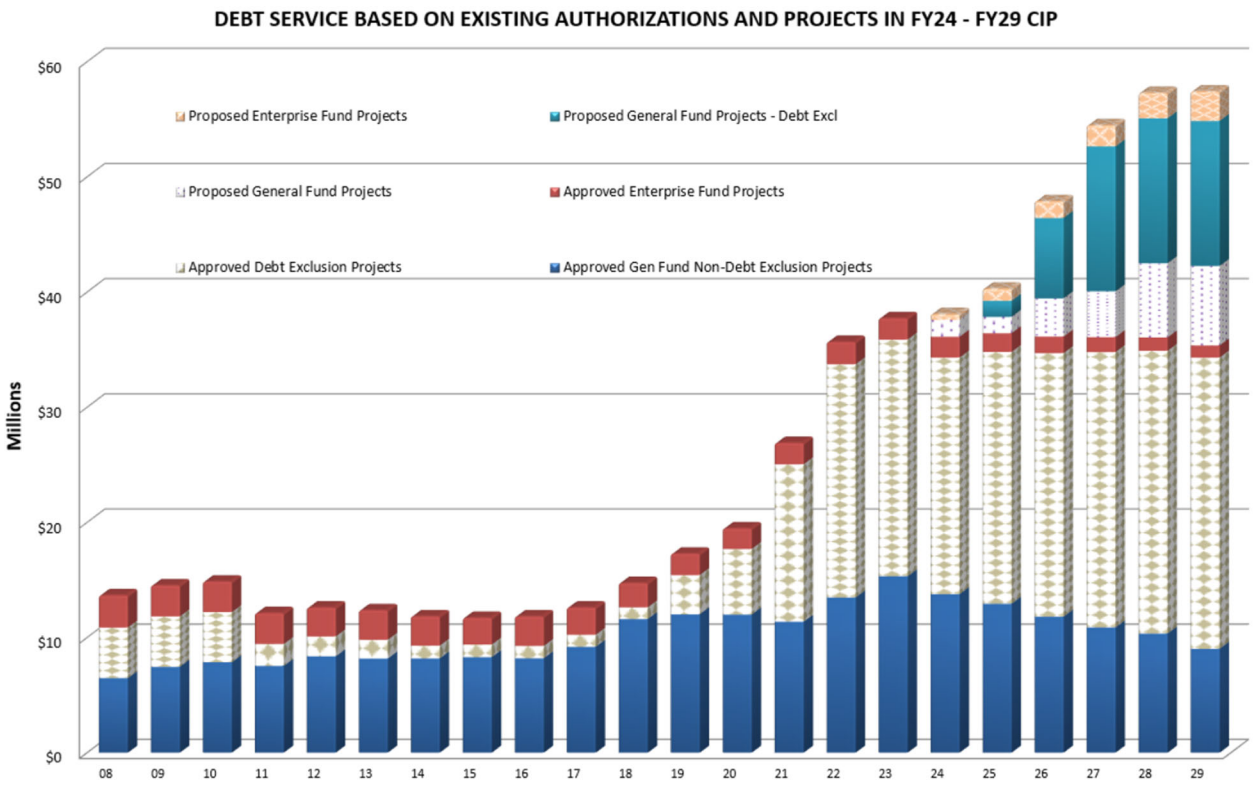
2019 now seems like a long, long time ago. Overall enrollment in all eight K-8 schools – including Pierce – dropped precipitously during COVID. Note this table from a July 2022 presentation to the Advisory Committee showing an excess capacity of our K-8 schools of some 500-700 seats, depending on class sizes.

	Enrollment October 2021	Max. Enrollment@ k=18;1-8=21	Max. Enrollment@ k-2=22; 3-8=25	Max. Enrollment@ k=19; 1-8=22
Lawrence	590	558	648	585
Ridley	787	930	1080	975
Driscoll	492	744	864	780
Pierce*	721	744	864	780
Lincoln	513	558	648	585
Runkle	494	558	648	585
Heath	467	558	648	585
Baker	650	558	648	585
Total	4702	5208	6048	5460

And yet, the borrowing under Warrant Article 7 assumes a demolish-and-replace plan – ignoring the opportunity to plan for future enrollment growth at Pierce by making full use of the combined Pierce and Driscoll capacity.

Furthermore, the MSBA, recognizing Brookline's reduced post-COVID enrollment trends, approved only a 4-section school. The $209.9 million, 4-section Pierce would add minimal seats when compared to the 720+ students accommodated by the existing campus.

And what about the overall debt burden stemming from future borrowing needs of the Town and Schools? Note this chart from the FY24 Financial Plan (Section VII). Debt exclusions, including Pierce, are represented by the turquoise section of the bar:



Conclusion #2: Borrowing the full $209.9 million is a "need" driven by a capacity crisis that no longer exists. Furthermore, the end result of demolishing the 1973 building yields minimal increase in Pierce's capacity, ignores other options for handling enrollment growth, and has consequences for Brookline's ability to address borrowing needs of other major Town and School capital projects.

3. ALTERNATIVES EXIST FOR ADDRESSING PIERCE NEEDS

Addressing the deficiencies of Pierce *without demolition* is a model that respects the future of our planet.

Demolition of a still-useful 50-year old school building sends the wrong message to young people – many of whom are riddled with anxiety over the warming of the planet. This is a teachable moment. We should use it to educate children about embedded carbon that results from the making of the concrete and steel that went into Pierce, as well as the intense fossil-fuel burning required by massive construction projects. Demolition is the wrong message. It treats the Pierce building as just another disposable product in our throw-away world. Preservation teaches the opposite – that we adults have learned to measure climate impacts in every decision we make.

But the first step is to cancel the demolition, pause to consider all options for addressing Pierce needs, and only then proceed to give new life to the existing Pierce.

Conclusion #3. Approval of borrowing of funds sufficient to pursue "Option R" (Renovation to full ADA compliance and Building Code compliance) is not a perfect alternative to the demolition-and-rebuild proposal, but it has advantages:

Even without MSBA reimbursements, the savings would make room for some $40 million in future projects already under consideration in the Town's Capital Improvements Plan.

Borrowing based on "Option R," combined with PSB planning that takes full advantage of available seats in the K-8 system, will give Pierce leadership the flexibility to continue as a 700+ student school, or right-size enrollment (550-600 students) to better align with – as designed – existing core school spaces such as the gym, auditorium, library, amphitheater and play areas.

"Option R" will allow continued use of the School Street pedestrian bridge – an essential safety feature of the existing Pierce that would be removed under the demolish-and-rebuild proposal in Warrant Article 7.

"Option R" avoids the unnecessary and costly demolition and rebuild of the Town/School garage, saving millions of dollars that would have been wasted just to replace demolished parking spaces.

Perhaps most important, "Option R," because it saves $40 million even without MSBA reimbursements, gives the Pierce Building Committee and the School Committee time to take a breather and reassess before going ahead with their next steps.

- If they choose, they can use the time to pursue MSBA approval of "Option R" or a different no-demolition plan within a budget of $137 million.
- Or, they can opt to embark immediately on a program of ADA- and Code-required renovations to the Pierce campus.
- Or they can prioritize a more modest program of deferred code-related and maintenance items and overdue upgrades such as provided by Director of Public Buildings Charlie Simmons in his email shared with the Advisory Committee in July of 2022.*

Summing up:

Article 7 as amended addresses the Pierce community's needs while preserving intact the existing buildings, with minimal disruption to education, at a savings of $40 million – or greater – over the Pierce School Building Committee's plan. That is the opportunity.

As always, Town Meeting Members should weigh all the options and their consequences, deliberate, and vote in the best interests of the Pierce community and the Town.

*****

*** The "Charlie Simmons list"**
From: Charlie Simmons <csimmons@brooklinema.gov>
Sent: Monday, July 18, 2022 10:03 PM
To: John VanScoyoc <jvanscoyoc@brooklinema.gov>
Cc: Dan Bennett <dbennett@brooklinema.gov>
Subject: Pierce and Pierce Primary

I understand you were looking for some information about the Pierce School.

Neither building is at the end of its life. Both are safe, have fully functioning life safety and HVAC systems, along with a modernized elevator.

But both buildings are tired – paint, flooring, ceiling tiles.

As far as accessibility –

Pierce Primary Building is only 50% accessible.

Only first floor is accessible from the rear handicap ramp. There are handicap toilets on the first floor.

A previous Building Commissioner tried to get an elevator installed for the Primary. We had the bid results but the Schools refused to sign the contract.
Main Pierce Building

Building is not 100% accessible. I would say its about 90% accessible.
It does have an elevator(which was modernized about 5 years ago) that runs from the lower garage to the top floor of the A wing.

The A wing does have certain, small loft areas (say about 4) that are not fully accessible. It has many very small toilets but does have an accessible bathrooms on the 2nd floor.

The B wing is fully accessible – handicap bathrooms on the first floor.

The C wing is only accessible on the 2nd floor. There are two floors below that have classrooms that cant be assessed and one above.

Sperber Center is accessible and has a lift. Also handicap bathrooms. But can only be accessed from Harvard or School Sts.

Improvements over the years

Pierce Primary

New slate roof
100% repointed
New windows
New Fire alarm system
New Fire alarm system
New Fire sprinkler system
Upgraded electrical service from Town Hall
Upgraded HVAC controls and ventilation
New handicap bathrooms on first floor (boys/girls/unisex)
And there has been over the years new carpeting/flooring and some painting.

Pierce Main Building
New HVAC systems (boilers and HV units) with all new controls.
New Fire alarm system.
New sprinkler system.
Modernized elevator.
Some new windows and doors.
We created many new additional teaching and office spaces over the years throughout the building.
New upgraded Auditorium – lights, power HVAC system, seating flooring, etc.

Sperber Center upgrades –

Bathrooms, wheelchair lift.
New handicap bathrooms in the café area by the locker rooms
The outside area between the 2 schools and Main Library – all new garage ceiling work and new outside seating area/ Amphitheater
And there has been over the years new carpeting/flooring and some painting.

I have attached the Schools Mini CIP List (aka Deferred Maintenance). This was generated from the schools. It is from February. I don't have another updated list.

The list is about $3.4M for Pierce.

About half is carpeting. Then toilet remodeling, new science rooms, painting and so on.

On "our" CIP list would be a new roof for the Pierce along with windows, doors, and masonry/pointing - (the envelope).

ARTICLE 8

EIGHTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will vote to appropriate and reserve from Community Preservation Fund annual revenues or available CPA reserve funds the amounts recommended by the Community Preservation Committee for committee administrative expenses, debt service, community preservation projects and other expenses in Fiscal Year 2024, with each item to be considered a separate appropriation as follows:

PURPOSE	**RECOMMENDED AMOUNT**	**CPA FUNDING SOURCE (If other than annual fund revenues)**
Appropriation		
Community Preservation Committee – Administrative Expenses	**177,500**	
Reserves		
Budgeted Reserves	**1,977,500**	
Open Space & Recreation	**465,000**	
Historic Preservation	**465,000**	
Community Housing	**465,000**	

Or act on anything thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Community Preservation Committee (CPC) recommends a total budget of $3,550,000 for FY24.

Under the Community Preservation Act (CPA), Brookline derives revenue from three sources: A one-percent CPA surcharge on the property tax, matching funds from the Massachusetts Community Preservation Trust account distributed yearly to each CPA participating community, and interest earned by the Brookline CPA accounts.

The CPA law requires that Town Meeting appropriate at least ten-percent of Brookline CPA annual revenue to the three allowed purposes under the act: Community housing,

open space & recreation, and historic preservation. Up to five-percent may be appropriated each year for staff and administration.

The CPA law mandates that the Town create and the Select Board appoint a Community Preservation Committee. The committee has been meeting since June, 2022 and continues to meet monthly with subcommittee meetings in between full committee meetings.

The Community Preservation Plan Development and Implementation

June/July 2022	Training for CPC members.
August 2022 – November 2022	o Established the CPC's organization and structure. o Developed and issued RFQ for procurement of consultant for assistance in developing CPA plan.
December 2022 – February 2023	o Reviewed applicant/consultant materials, o Interviewed and checked references. o Voted to approve contract with consultant.
March 2023 – May 2023	o Work with consultant to develop a draft CPA plan with community engagement. o Integrate relevant existing Town plans into the CPA plan. o Review of needs with boards/committees in targeted areas, i.e. housing, open space/recreation, and historic preservation.
June 2023 – September 2023	o Complete draft CPA plan. o Hold public hearing on draft plan (as required by State law). o Review and revise draft plan. o Approve final plan.
September 2023 – March 2024	o Accept applications for CPA funds. o Review applications and ensure that CPA regulations are met. o Make award recommendations. o Submit Warrant Article recommendations for May, 2024 Town Meeting.

The CPA plan will provide guidance for Town Departments and others seeking CPA funds: Spelling out goals, objectives, and priorities; providing information about the process for submitting and reviewing proposals; and a schedule geared to the deadline for submitting recommendations in time for the Town Meeting warrant.

A very important point: Town Meeting must ultimately vote the appropriation of CPA funds, but only for eligible projects the Community Preservation Committee has recommended. Town Meeting may reduce or reject a project, but cannot increase funding above the CPC recommendation.

Any additional funds remain unappropriated and available for future appropriation. Unspent funds accumulate year by year.

In Early April, the Department of Revenue will provide CPA eligible communities with an estimated FY 24 distribution from the CPA Trust Fund. The FY 24 distribution is likely to be less than the FY 23 distribution, but this information is currently unavailable. After the CPC receives the Department of Revenue April 2023 estimated distribution, the CPC may, if needed, update the Committee's recommendation.

The FY 23 CPA reserve appropriations for the community housing, open space and recreation, and historic preservation reserves did not comply with the 10% requirement. Therefore, the Committee is recommending an additional $110,000 be added to these reserves, as a true-up:

FY 24 Revenue

Estimated FY 24 Local CPA Net Surcharge Revenue	$2,800,000
Estimated FY 24 CPA Trust Fund Distribution	$ 750,000
Total FY24 Recommended Appropriation	$3,550,000

Required FY 24 Ten Percent Budgeted Reserves Distributions

Community Housing Reserve	$355,000
Open Space & Recreation Reserve	$355,000
Historic Preservation Reserve	$355,000

	FY 23 True-up	FY 24 Required	FY 23 true-up plus FY 24 Requirement
Community Housing Reserve	110,000	355,000	465,000
Open Space & Recreation Reserve	110,000	355,000	465,000
Historic Preservation Reserve	110,000	355,000	465,000

SELECT BOARD'S RECOMMENDATION

Article 8 is an appropriation article that sets the budget for the spending of Community Preservation Act funds. The CPA law requires that Town Meeting appropriate at least ten-percent of Brookline CPA annual revenue to the three allowed purposes under the act: Community housing, open space & recreation, and historic preservation. Up to five-percent may be appropriated each year for staff and administration. The Community Preservation Committee (CPC) recommends a total budget of $3,550,000 for FY24. Town Meeting must ultimately vote the appropriation of CPA funds, but only for eligible projects the

Community Preservation Committee has recommended. Town Meeting may reduce or reject a project, but cannot increase funding above the CPC recommendation. The CPC is still in the process of developing a CPA Plan, so the current recommendation provides funding for the reserves and the administrative budget. It is anticipated that there may be project recommendations next year.

The Select Board thanks the CPC for their hard work and looks forward to reviewing their recommended plan. A unanimous Select Board voted FAVORABLE ACTION on the following motion:

MOVED: That Town appropriate and reserve from Community Preservation Fund annual revenues or available CPA reserve funds the amounts recommended by the Community Preservation Committee for committee administrative expenses, debt service, community preservation projects and other expenses in Fiscal Year 2024, with each item to be considered a separate appropriation as follows:

PURPOSE	**RECOMMENDED AMOUNT**	**CPA FUNDING SOURCE (If other than annual fund revenues)**
Appropriation		
Community Preservation Committee – Administrative Expenses	**177,500**	
Reserves		
Budgeted Reserves	**1,977,500**	
Open Space & Recreation	**465,000**	
Historic Preservation	**465,000**	
Community Housing	**465,000**	

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation on Article 8 will be included in the supplement.

XXX

ARTICLE 8

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on Article 8 as submitted by petitioner, by a vote of 23 in favor, 0 opposed, with 0 abstentions.

The Advisory Committee met on 5/4/23. A recording of the meeting can be found here: https://brooklinema.zoomgov.com/rec/play/ez3yJTUmgCfn2CyWcYqVaN7naznvh606-klXzATHa7pSGLglq_x6Xqt0GkeU8eAGXXWNElBE7v573y97.v3VlC1N-H1tjzW1m?continueMode=true

Executive Summary:	WA08 asks Town Meeting to vote to appropriate and reserve from CPF annual revenues or available CPA reserve funds the amounts recommended by the CPC for committee administrative expenses, debt service, community preservation projects and other expenses in Fiscal Year 2024, with each item to be considered a separate appropriation as follows: $1,977,500 for Budgeted Reserves $450,000 for Community Housing $450,000 for Open Space & Recreation $450,000 for Historic Preservation $177,500 for Administrative Expenses There is a statutory requirement to appropriate 10% of the CPF each year for Community Housing, Open Space & Recreation and Historic Preservation categories and up to 5% can be appropriated for Administrative Expenses. This request complies with the statutory requirements. Approving the appropriation of these funds does not create a spending requirement. Any unspent, uncommitted funds would simply carry forward.
Voting Yes Will:	Appropriate and reserve the amounts set forth for FY24 budget enabling the CPC to consider and potentially recommend Community Preservation Projects for funding in FY24.
Voting No Will:	Not appropriate and reserve the amounts set forth for the FY24 budget. The Town may be unable to fund partially or fully, Community Preservation Projects reviewed and recommended by the CPC in FY24.

Financial Impact:	n/a
Legal Implications:	n/a

Background

Brookline became the 187th community in Massachusetts to adopt the Community Preservation Act (CPA) by voting to approve Ballot Question #2 in the May 2021 election.

The CPA law mandates that the Town create and the Select Board appoint a Community Preservation Committee (CPC). The CPC has been meeting since June, 2022 and continues to meet monthly with subcommittee meetings in between full committee meetings.

The nine members of the CPC as appointed by the Select Board are:

- At Large Members: David Lescohier, Nancy Heller, Mini Koulori,
- Representing the Housing Advisory Board: Jenny Raitt
- Representing the Brookline Housing Authority: Joanne Sullivan
- Representing the Preservation Commission: John Spiers
- Representing the Conservation Commission: Samuel Burrington
- Representing the the Planning Board: Blair Hines
- Representing the Park and Recreation Commission: Clara Batchelor

Under the CPA, Brookline derives revenue from three sources: a 1% CPA surcharge on residential property tax per Ballot Question #2 in the May 2021 election, matching funds from the Massachusetts Community Preservation Trust account distributed yearly to each CPA participating community and interest earned by the Brookline CPA accounts.

The CPA law requires that Town Meeting appropriate at least 10% of Brookline CPA annual revenue to the three allowed purposes under the Act: community housing, open space & recreation, and historic preservation. Up to 5% may be appropriated each year for staff and administration. Budgeted reserves are funds not appropriated and reserved for one of the three allowed purposes or budgeted as administrative expenses and are available for future appropriation and reserve.

Town Meeting vote the appropriation and reserve of CPA funds and vote the appropriation for eligible projects as recommended by the Community Preservation Committee (CPC). Town Meeting may vote to reject an eligible project or may vote to fund an eligible project up to but not exceeding the CPC recommendation. Any funds that remain unappropriated are available for future appropriation. Unspent funds whether in an allowed purpose reserve or budget reserve accumulate year by year.

FY 24 Budget, Appropriation and Reserve

The total FY24 revenue to the Community Preservation Fund (CPF) is estimated to be $3,550,000 sourced as follows:

- Brookline Property Tax Surcharge $2,800,000
- State CPA Trust Fund Distribution $ 750,000

The CPC recommends that Town Meeting appropriate and reserve the following for FY24:

- $1,977,500 for Budgeted Reserves
- $450,000 for Community Housing
- $450,000 for Open Space & Recreation
- $450,000 for Historic Preservation
- $177,500 for Administrative Expenses

Because FY23 actual revenue from the Massachusetts Community Preservation Trust exceeded estimated amounts, the recommendation to appropriate $450,000 for each of the three allowed reserves includes a "true up" for FY23 to ensure the 10% appropriation for FY23 is met as required by the Act.

Because the CPC is still in the process of creating the framework and process to apply, there are currently no projects submitted for consideration and the CPC has no projects to recommend to the Town Meeting for FY24. CPC anticipates receiving project proposals, reviewing those and recommending appropriations for projects in FY25.

Community Preservation Commission Work Plan

The following is the work plan for the CPC.

June/July 2022	Training for CPC members
August 2022 – November 2022	o Established the CPC's organization and structure o Developed and issued RFQ for procurement of consultant for assistance in developing CPA plan.
December 2022 – February 2023	o Reviewed applicant/consultant materials, o Interviewed and checked references. o Voted to approve contract with consultant.

March 2023 – May 2023	o Work with consultant to develop a draft CPA plan with community engagement. o Integrate relevant existing Town plans into the CPA plan. o Review of needs with boards/committees in targeted areas, i.e. housing, open space/recreation, and historic preservation.
June 2023 – September 2023	o Complete draft CPA plan. o Hold public hearing on draft plan (as required by State law). o Review and revise draft plan. o Approve final plan.
September 2023 – March 2024	o Accept applications for CPA funds. o Review applications and ensure that CPA regulations are met. o Make award recommendations. o Submit Warrant Article recommendations for May, 2024 Town Meeting.

The CPC has hired a consultant, Jessica Bolton, and is currently gathering input from various communities in Brookline associated with the three allowed purposes - community housing, open space and recreation, historical preservation. The CPC is drafting the Brookline Community Preservation Plan, available on the brooklinema.gov website, to guide the use of CPA funds for FY2024-2028. Once complete, the plan will serve as a guide for the CPC to consider which projects to recommend, to applicants for how to submit projects for consideration and for Town Meeting Members to refer to when considering the recommended appropriations.

What Sort of Projects Will the CPC Consider?

The CPC does not initiate projects. The CPC creates the framework for applicants to submit project approvals and anticipates using a two-step process. The first step is a project description to ensure that what is being proposed is eligible for consideration. If it is, the applicant would then prepare and submit a formal proposal for consideration.

Many of the projects that might be submitted could be surfaced by on-going initiatives, such as the Housing Production Plan, the Urban Forest Climate Resiliency Plan, the Open Space and Recreation Strategic Plan, the Athletic Fields Needs Assessment and Master Plan, the Historical Society, etc.

How Will Funding Decisions be Made?

The CPC is still considering and drafting the funding decision criteria but intends to include that in the Brookline Community Preservation Plan. The intent is to ensure that relevant Town departments are able to provide input.

Is the Goal of the Plan to Proportionally Fund the Three Allowed Purposes?

The CPA law requires that Town Meeting appropriate at least 10% of Brookline CPA annual revenue to the three allowed purposes under the Act: community housing, open space & recreation, and historic preservation. Up to 5% may be appropriated each year for staff and administration. Whether to include in the framework a set proportion that differs from the mandated minimums for each allowed purpose has not as yet been decided. Because the CPC does not initiate projects, it is not as yet know which projects will apply. The strength of the CPA is that it is flexible and allows each community to consider and support projects that are local priorities.

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on the following motion under Article 8, by a vote of 23 in favor, 0 opposed, with 0 abstentions.

VOTED: To appropriate and reserve from Community Preservation Fund (CPF) annual revenues or available Community Preservation Act (CPA) reserve funds the amounts recommended by the Community Preservation Committee (CPC) for committee administrative expenses, debt service, community preservation projects and other expenses in Fiscal Year 2024, with each item to be considered a separate appropriation.
ARTICLE 8 ADVISORY COMMITTEE VOTES

Article Description	**Community Preservation Program Budget**
AC recommendation (Favorable Action unless indicated)	**23-0-0**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	
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	
Anita Johnson	
Alisa Jonas	Y
Janice Kahn	Y

Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

ARTICLE 9

NINETH ARTICLE
Submitted by: Neil Gordon, TMM1

To see if the Town will amend Section 2.1.13 of the General Bylaws, as follows (deletions in ~~strikeout~~, additions in **bold underline**):

SECTION 2.1.13 PETITION ARTICLES The Select Board shall insert in the warrant for every special town meeting all subjects the insertion of which shall be requested of them in writing by ~~ten (10)~~ **fifty (50)** or more registered voters in the Town.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

On the one hand, petitioned articles are a sign of a healthy, involved citizenry, exercising a most fundamental right of those living in a democracy, i.e., the right to petition their government for a redress of grievances. That right, though, when exercised too broadly and without constraint, creates a curious irony, where the sheer number and quality of petitions becomes a source of grievance. Hence, this warrant article.

A quick note on the law:

> M.G.L. c. 39, s. 10 provides that for an annual town meeting, articles can be petitioned by ten or more registered voters. This warrant article cannot, and does not, seek to change that.
>
> For Brookline special town meetings, the number of signatures required is set by local bylaw, at any number from one to one hundred. This warrant article seeks to raise the requirement, to fifty, from the current ten.

Rationale:

Both the Select Board and the Advisory Committee have been burdened by a two-part recent trend: a proliferation of warrant articles, and articles (perhaps hastily conceived and hastily written) filed in forms that are less than fully developed. Town Meeting, the Select Board, the Advisory Committee, and other boards, committees and commissions involved in the process of reviewing, vetting, editing, amending, recommending and voting, deserve better.

Fifty signatures are what's required for a candidate for townwide office to get on the ballot. It's no great burden if done with the modest luxury of time.

Few petitioned warrant articles conceived shortly before a warrant closes are so critical that they can't wait until the next Town Meeting, whether annual or special. For those that

are that important, rallying allies to quickly gather signatures is a viable option. For a true crisis, anyone can petition the Select Board to put an Article on the Warrant directly.
It's time to ease the burden and preserve the integrity of the warrant, the review and vetting process of the Advisory Committee, Select Board, and other of the Town's boards, committees and commissions. It's time to ease the burden and preserve the integrity of Town Meeting, as a serious, deliberative body, and not as a mere suggestion box.
We cannot know in advance whether increasing the number of petition signatures will reduce the burden of the Advisory Committee, the Select Board, and other of the Town's boards, committees and commissions, or of Town Meeting. We cannot know in advance whether increasing the number of petition signatures only for special town meetings will merely cause a shifting of petitions from our November special town meeting to our annual town meeting in May (which may be beneficial in avoiding the difficulty of scheduling around Thanksgiving week and then butting up against holiday season). Petitioner, a Town Meeting Member since 2009, and an Advisory Committee Member since 2015, believes the proposed change, if adopted, is likely to achieve, at least in part, the intended result.

SELECT BOARD'S RECOMMENDATION

Article 9 is a petition to amend the Town's General By-laws regarding the number of signatures required to submit an article for special town meeting with the intent of reducing the number of hastily submitted warrant articles. The Select Board agreed with the petitioners' concerns regarding the number of hastily submitted or less than fully developed articles, but one Board member expressed concerns that the proposed measure would not reduce the number of warrant articles submitted and cited another community's high number of articles even with a fifty-signature petition requirement. A majority felt that while it may still not be difficult to gather fifty signatures, requiring a greater number could have the intended effect of reducing last minute warrant article submissions. Further, it was noted that fifty signatures would not be difficult for those individuals already actively participating in Brookline Town government.

After this discussion, at their meeting on April 11, 2023, and following a public hearing on the matter, the Select Board voted 3-1 for FAVORABLE ACTION on the motion offered by the Advisory Committee under Article 9.

ROLL CALL VOTE:

Aye:	No:
Greene	Aschkenasy
VanScoyoc	
Sandman	

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Warrant Article 9, as amended below, by a vote of 19-1-2.

Executive Summary:	Article 9 seeks Town Meeting approval to amend Section 2.1.13 of the General Bylaws by increasing the number of required signatures for inclusion of Petition Articles in the Warrant for Special Town Meetings from 10 registered voters of the Town to 50 registered voters of the Town. The Advisory Committee was divided on whether there should be any change to signature requirement. Proponents agreed with the Petitioner that the proliferation of Articles, in recent years places burdens on staff and various boards and commissions that might be alleviated if petitioners had to better develop their submissions and convince more voters of their merits prior to filing an Article. Opponents expressed doubt the change would accomplish the stated goals and cited the risk that petitioners would shift their submissions from the Fall Special Town Meeting to the Spring Annual Town Meeting where State law mandates a 10 signature limit for a Petition Article to be included in the Warrant. Another concern was limiting voter access to the democratic process. An amendment was proposed to change the number from 50 to 25. That was approved by the Advisory Committee as was the amended Article.
Voting Yes will...	Change the number of signatures required to file a Warrant Article for a Special Town Meeting from 10 to 25. (The Advisory Committee amended Motion increases the number to 25 registered voters of the Town instead of the Petitioner's 50 Registered Voters of the Town.)
Voting No will...	Cause no change to the signature requirement for the filing of a Warrant Article for a Special Town Meeting.
Financial impact	None foreseen.
Legal implications	None known.

Introduction
Article 9, if passed as originally submitted by the Petitioner, would change Section 2.1.13 of the General By-Laws such that the signature requirement for a Warrant Article filed for a Special Town Meeting would increase from 10 to 50.

Discussion
In recent years there has been a proliferation of Warrant Articles filed for Annual and Special Town Meetings, some of which are less than fully articulated or well vetted. The volume of these submissions places a burden on staff, the Select Board, Advisory Committee and other Boards, Committees and Commissions involved in the process of reviewing, vetting editing, amending and voting on the Articles. The signature requirement change would apply only to Article submissions for Special Town Meetings because due to State statute, the Town has no flexibility with regard to Article submissions for Annual Town Meeting.

There was a fair amount of agreement with many of the Petitioners comments and frustrations, particularly surrounding the issues of burden on staff and volunteer Boards and Commissions There was also support for the assertion that many Petition Articles do not seem well thought out or written and that some petitioners expect their articles to be 'cleaned up' for them during the review process.

On the other hand, many committee members, while acknowledging and mostly agreeing with the petitioner's comments, expressed skepticism the proposed By-Law change would accomplish the petitioner's goals and could backfire. The experience of other municipalities was raised with some evidence presented of an extreme mismatch between Articles at annual Town meeting versus special town meetings where a difference in signature requirements exists.

Other issues raised included the possibility that the change would favor the well-connected in Town and disadvantage voters who have disabilities, who do not have vehicles, who do not belong to larger interest groups, who do not have much free time or who do not have a large circle of registered voters as contacts in Town.

The Advisory Committee recommended reducing the new signature requirement from 50 to 25.

Recommendation
By a vote of 19-1 with 2 abstentions, the Advisory Committee recommends FAVORABLE ACTION on the amended motion below.

VOTED: That the Town amend Section 2.1.13 of the General Bylaws, as follows (deletions in ~~strikeout~~, additions in **bold underline**):

```
SECTION 2.1.13 PETITION ARTICLES
The Select Board shall insert in the warrant for every
special town meeting all subjects the insertion of which
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shall be requested of them in writing by ~~ten (10)~~ **twenty five (25)** or more registered voters in the Town.

ARTICLE 9 ADVISORY COMMITTEE VOTES

Article Description	Lead Petitioner
AC recommendation (Favorable Action unless indicated)	**19-1-2**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	
John Doggett	Y
Katherine Florio	A
Harry Friedman *	
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	N
Kelly Hardebeck	Y
Amy Hummel	
Anita Johnson	Y
Alisa Jonas	
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	A
Dennis Doughty	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 10

TENTH ARTICLE
Submitted by: Neil Gordon, TMM1

To see if the Town will amend Section 2.1.13 of the General Bylaws, as follows (deletions in ~~strikeout~~, additions in **bold underline**):

SECTION 2.1.13 PETITION ARTICLES

(a) Definitions:

Voter Initiated Petition – The petition of voters in the Town requesting insertion of a subject in the warrant for an annual town meeting pursuant to M.G.L. c. 39, s. 10, or special town meeting.

Lead Petitioner – The registered voter of the Town identified as such on a Voter Initiated Petition.

(b) **Insertion in the warrant of Voter Initiated Petitions:** The Select Board shall insert in the warrant for every special town meeting all subjects the insertion of which shall be requested of them in writing by ten (10) or more registered voters in the Town.

(c) For administrative purposes, each Voter Initiated Petition shall identify a single Lead Petitioner, and shall include such Lead Petitioner's relevant contact information.

(d) Failure to comply with the provisions of subsection (c) shall not relieve the Select Board from inserting in the warrant a subject otherwise meeting the criteria for such insertion.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

As the number of warrant articles has expanded, placing a burden on the Advisory Committee, the Select Board, other of the Town's boards, committees and commissions, and on Town Meeting, another trend has emerged: Where petitioned warrant articles were

most often brought by a petitioner or two, we now see a proliferation of co-petitioners. Excluding the multiple counts of grouped warrant articles, a rough count of last Fall's special town meeting showed at least fifteen articles with multiple petitioners. Five had five or more co-petitioners. One had eleven!

Hidden to many, perhaps, is the burden the practice of listing co-petitioners places on our boards, committees and commissions, and on the Town staff. Scheduling meetings/hearings is difficult, and made more so when multiple petitioners are added to the scheduling mix, without the identification of a lead. Further, the authority of one or another petitioner to speak for the others is often less than clear, leading to inevitable delays. These delays cause the Advisory Committee, the Select Board, and other boards, committees, and commissions, to delay meetings and hearings, and the completion of reports to Town Meeting Members, compressing, as well, Town Meeting Members' preparations for Town Meeting, as well.

This article proposes that every petitioned warrant article designate a single, "Lead Petitioner," for administrative purposes only. Designating a lead will create a single point of contact. It does not preclude collaboration, and it does not preclude identification of co-sponsors/petitioners.

SELECT BOARD'S RECOMMENDATION

Article 10 is a petition to amend the Town's General By-laws to require the naming of a single lead petitioner for every petitioned warrant article for Town Meeting. This requirement would be for administrative purposes only in order to better enable the Select Board and Advisory Committee to hold public hearings for articles that may have several co-petitioners, in particular when preparing for a town meeting with a number of submitted articles. In the event an article has several co-petitioners, the naming of a lead petitioner would ensure one individual can represent the co-petitioners in speaking on the article and serve as a single point of contact to prevent delays associated with scheduling for several petitioners. One Board member expressed that having more petitioners should have the opposite effect of easing scheduling for hearings on articles, while a majority held that this measure could have the intended effect of easing review of warrant articles particularly when a number have been submitted for Town Meeting.

After this discussion, at their meeting on April 18, 2023, and following a public hearing on the matter, the Select Board voted 3-1 for FAVORABLE ACTION on the motion offered by the Advisory Committee on Article 10.

ROLL CALL VOTE:

Aye:	No:
Greene	Aschkenasy
VanScoyoc	
Sandman	

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Warrant Article 10 by a vote of 19-1-0.

Executive Summary:	A growing number of Warrant Articles are being filed by multiple petitioners. Listing co-petitioners without identifying a lead and relevant contact information places a burden on Boards, Committees and Commissions, and Town staff with respect to scheduling and conducting hearings and meetings. These delays can have a ripple effect and impact the timely inclusion of reports of Advisory and relevant bodies in the Combined Reports. This then causes TMMs (and the interested public) to have to wait for the supplemental reports, reducing the time TMMs have to review relevant material and potentially compromising their ability to prepare for Town Meeting. Article 10 would require the identification of a single point of contact to simplify the ministerial processes described above and to ease the burden on staff, boards and commissions. It does not prevent or limit the inclusion or identification of or collaboration with co-sponsors or co-petitioners. The Advisory Committee concurred with the petitioner's views and voted to favorably recommend the proposed By-Law change.
Voting Yes will...	Amend the Bylaws to require voter-initiated petition articles to identify a Lead Petitioner and their contact information. Such Lead Petitioner shall be a registered voter of the Town of Brookline.
Voting No will...	Cause no change to the Bylaws.
Financial impact	None foreseen.

Legal implications	None identified.

Introduction
When there are multiple petitioners listed on a warrant article it can present organizational challenges for staff and the boards and commissions that are responsible for vetting the articles via the public hearing/meeting process. Delays in identifying the lead petitioner can result in multiple delays throughout the rather compressed (10) week period between the filing of the Warrant and Town Meeting. This impacts the ability of staff and boards and commissions who are responsible for writing reports to get such reports into the Combined Reports for Town Meeting Members to read and absorb prior to Town Meeting. What often happens instead is a Combined Report that says the recommendations of certain boards and commissions will be supplied in supplemental reports which often are not available until just days before Town Meeting.

WA 10 proposes to amend the By-Law to both add certain definitions and to require the identification of a single point of contact to simplify the ministerial processes described above and to ease the burden on staff. It does not prevent or limit the inclusion or identification of or collaboration with co-sponsors or co-petitioners.

Discussion
There was general agreement that the proposal could help streamline the vetting process and that such an outcome would be beneficial for everyone. There were a couple of questions asked by members of the committee that were answered by the petitioner. These included a question about penalties if someone refused to comply with the By-Law (none), if the intended result could be accomplished with codifying it into the By-Law, perhaps be having the identification and contact information requested when the petition is accepted by the 6th floor (possibly).

It was also explained that only registered voters could offer Petition Articles.

Recommendation

By a vote of 19-1 with no abstentions, the Advisory Committee recommends FAVORABLE ACTION on the following motion under Article 10.

VOTED: That the Town amend Section 2.1.13 of the General By-Laws (language to be added in **bold underline**):

SECTION 2.1.13 PETITION ARTICLES

(a) Definitions: Voter Initiated Petition – The petition of voters in the Town requesting insertion of a subject in the warrant for an annual town meeting pursuant to M.G.L. c. 39, s. 10, or special town meeting. Lead Petitioner – The

registered voter of the Town identified as such on a Voter Initiated Petition.

(b) Insertion in the warrant of Voter Initiated Petitions: The Select Board shall insert in the warrant for every special town meeting all subjects the insertion of which shall be requested of them in writing by ten (10) or more registered voters in the Town.

(c) For administrative purposes, each Voter Initiated Petition shall identify a single Lead Petitioner, and shall include such Lead Petitioner's relevant contact information.

(d) Failure to comply with the provisions of subsection (c) shall not relieve the Select Board from inserting in the warrant a subject otherwise meeting the criteria for such insertion.

ARTICLE 10 ADVISORY COMMITTEE VOTES

Article Description	Lead Petitioner
AC recommendation (Favorable Action unless indicated)	**19-1-0**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	
John Doggett	Y
Katherine Florio	
Harry Friedman *	
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	
Anita Johnson	Y
Alisa Jonas	
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	N
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	
Dennis Doughty	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 11

ELEVENTH ARTICLE
Submitted by: Committee on Town Organization and Structure

To see if the Town will amend the first paragraph of Section 2.5.2, the first paragraph of Article 3.22, and Section 2.1.3 of the General By-Laws as follows (insertions in **bold underline**, deletions in ~~strikethrough~~):

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 by-law; (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 ~~75th~~ **90th** day preceding the scheduled date of the opening session of said meeting. On the ~~75th~~ **90th** day 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 ~~75th~~ **90th** day preceding said scheduled date.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This petitioner's description serves as the explanation of the warrant article submitted by the Committee on Town Organization and Structure (CTO&S), as well as the CTO&S report on the subject matter of Article 5 of the November 2022 Town Meeting, which that Town Meeting voted to refer to CTO&S.

SUMMARY

The average number of articles on the warrant for Town Meeting has increased by 50% since 2018. This warrant article recognizes the impact of this increase and offers proposals for considering and reporting on the increased number of articles. Unlike Article 5 of the November 2022 Town Meeting, this warrant article includes a clear requirement for the holding of public hearings on warrant articles and offers guidance as to which articles the Select Board should make recommendations on. It would amend the General Bylaws to require that the Select Board and Advisory Committee hold public hearings on all warrant articles and to clarify the existing bylaw requirement for holding such hearings. The warrant article would amend Section 2.5.2 of the General Bylaws to recognize that the Select Board may choose not to offer a recommendation on every warrant article, but the Select Board would be required to explain why it has declined to make a recommendation. Section 2.5.2 also would be amended to specify that the Select Board should give priority to five important categories of warrant articles: those 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 by-law; (4) authorize or require the Town to enter binding agreements; or (5) involve any appropriation of funds. The warrant article also would extend the period from the closing of the warrant until the first session of Town Meeting from 75 days to 90 days by amending 2.1.3. This would

allow the Select Board and Advisory Committee to have more time to consider the increased number of articles on the warrant for each Town Meeting. Finally, the proposed article would amend 3.22 to better clarify that any committee, as defined in section 1.1.4, would be required to hold a public hearing only for those articles on which it votes on a report or makes a recommendation to Town Meeting. Beyond this warrant article, additional steps are necessary to limit the number of warrant articles or to make more time available for the Select Board and Advisory Committee to consider them.

BACKGROUND

The Increasing Number of Warrant Articles for Each Town Meeting

In recent years, the number of warrant articles for Town Meetings has increased significantly. Since May 2018, each Town Meeting has had an average of 37.8 articles on the warrant, a 50% increase compared to the average of 25.2 articles for Town Meetings between May 2001 and November 2017. Before May 2018, most Town Meetings considered 20–30 warrant articles. Since May 2018, the range has been 30–40 articles, and four Town Meetings have had over 40.

For any given Town Meeting, the number of articles on the warrant may not give an accurate indication of the amount of time that Town Meeting, the Select Board, Advisory Committee, and other boards, committees, and commissions must devote to considering those articles. Some articles are simple or uncontroversial. Sometimes groups of related articles can be considered simultaneously. Sometimes petitioners decide not to move their articles, although such decisions may not come until those articles have been debated by the Select Board and Advisory Committee. Nevertheless, over the past five years, the sustained increase in the number of warrant articles has required Town Meeting, the Select Board, the Advisory Committee, and other committees to spend more time reviewing and voting on warrant articles.

The Select Board's Decision ("Experiment") Not To Take A Position on Some Articles

Faced with a growing number of warrant articles that required more and more attention from its members and Town staff, the Select Board decided to save time by taking a position on some, but not all, of the articles on the warrant for the May 2022 Annual Town Meeting. Articles on which the Select Board did not take a position (i.e., make a recommendation) included those that were beyond the Select Board's jurisdiction (e.g., national and international issues such as the U.S. embargo against Cuba) and issues on which the Select Board already had taken a position (e.g. leaf blowers). The Select Board elected to take a position on articles for which a Town department was the petitioner, as well as those that were controversial and involved Town assets. By applying these criteria, for the May 2022 Town Meeting the Select Board took a position on approximately two-thirds of the articles on the warrant. The Select Board deemed this experiment a success and decided to follow a similar procedure for the November 2022 Town Meeting. The

Select Board reported that for the November 2022 Town Meeting it used the following criteria for choosing the articles on which to offer recommendations:

(1) Is the petitioner part of the Town, such as the Select Board or a Town Department?
(2) Are there substantial budget implications for the Town?
(3) Is the article likely to be controversial?

As it applied these criteria, the Select Board took a position on approximately half the articles on the November 2022 warrant.

Article 5 of the November 2022 Town Meeting

The Select Board placed Article 5 on the warrant for the November 2022 Town Meeting to formalize the process that the Board had followed at the May and November 2022 Town Meetings. Article 5 would have amended Section 2.5.2 of the General Bylaws to remove the requirement that the Select Board and Advisory Committee prepare written reports with recommendations for "*all* articles in the Warrant for a Town Meeting." By deleting "all" Article 5 would have enabled the Select Board and Advisory Committee to choose the articles on which they would offer reports and recommendations to Town Meeting. The Select Board's members argued that this change would allow "them to focus on warrant articles that directly affected their work instead of holding hearings on articles that were not germane to their interests and authority."

Referral of Article 5 at the November 2022 Town Meeting

CTO&S moved to refer the subject matter of Article 5 to CTO&S because the Committee had three concerns.

First, Article 5 could have deprived Town Meeting of the Select Board's valuable advice on important warrant articles. The Select Board has a unique and important role in reviewing Town Meeting articles. As the executive branch of Town government, the Select Board is responsible for overseeing the operations of Town departments, approving upper-level hiring, and appointing members of boards, committees, and commissions. The Select Board has the experience, knowledge, staff support, and access to information that enable it to offer important insights into the likely effects of warrant articles. It has the ability to alert Town Meeting to potential problems in implementing, administering, enforcing, or funding warrant articles that change the Town's bylaws or require the appropriation of funds. In many cases, the Select Board can play an indispensable role in vetting warrant articles carefully and thoroughly.

Second, if approved, Article 5 might reduce the number and quality of public hearings on warrant articles. The two Brookline bylaws that require public hearings on warrant articles (Section 2.5.2 and Article 3.22), both mandate public hearings by the Select Board and the Advisory Committee (or a subcommittee of The Advisory Committee) when a vote is taken. If Article 5, as proposed, had removed the requirement that the Select Board and

Advisory Committee prepare written reports with recommendations for "*all* articles in the Warrant for a Town Meeting" (emphasis added), it is possible that neither body would hold a "final vote" or "first or only vote" on some warrant articles. Such a change would eliminate the requirement that a public hearing be held. There is a general recognition that public hearings play an important role in the review of warrant articles before Town Meeting. One reason for referring the subject matter of Article 5 to CTO&S was to explore ways of guaranteeing that public hearings were held even if the Select Board and Advisory Committee were not required to report or make recommendations on all warrant articles.

Third, Article 5 did not differentiate between the Select Board and the Advisory Committee. Article 5 was placed on the warrant by the Select Board. The explanation is written entirely from the perspective of the Select Board, but the provisions of Article 5 also applied to the Select Board. CTO&S argued that referral of Article 5 was necessary either to consider whether the Advisory Committee should be required to report on certain categories of warrant articles *or* to revise Section 2.5.2 of the bylaws to make it consistent with the recently amended Section 2.2.6 (General Duties).

Article 29 of the November 2020 Town Meeting amended the Town's General Bylaws as follows to give the Advisory Committee greater latitude in deciding what to consider and the option of making reports or recommendations on warrant articles:

> SECTION 2.2.6 GENERAL DUTIES
>
> The Committee shall consider any **<u>or</u>** ~~and~~ all municipal questions, including appropriation requests and proposed action under all articles in the warrant for a Town Meeting, for the purpose of making reports **or** ~~and~~ recommendations to the Town.

The November 2022 Town Meeting by a vote of 162 in favor, 79 opposed, with 11 abstentions decided to refer the subject matter of Article 5 to CTO&S with a request that CTO&S consider amendments to the relevant bylaws and deliver a report no later than the May 2023 Town Meeting.

After the vote to refer Article 5, many Town Meeting members expressed concern that the Select Board had not taken a position or conducted a focused public hearing on several controversial and complicated articles that had been placed on the November 2022 warrant by the Zero Admissions Advisory Board (ZEAB). Some Select Board members agreed that the Board made a mistake in not taking a position on those articles.

<u>CTO&S CONSIDERATION OF THE REFERRED SUBJECT MATTER OF ARTICLE 5</u>

CTO&S met to consider the subject matter of Article 5 on January 25, February 8, February 23, February 28, and March 2, 2023. The January 25 and March 2 meetings included public

hearings. Members of the Select Board and Advisory Committee participated in several of these meetings.

CTO&S attempted to balance the need to ensure that the Select Board and Advisory Committee fulfill their responsibilities with the fact that the increasing number of warrant articles has made it difficult to give every article serious attention. There was general recognition that some articles were more important than others. Town Meeting would, for example, benefit more from the reports and recommendations of the Select Board on complicated articles that created new sets of regulations, procedures, or funding mechanisms than on articles on topics such as U.S. foreign policy.

CTO&S ultimately voted to submit a warrant article that includes three bylaw amendments regarding how the Select Board and Advisory Committee review warrant articles, the requirement that public hearings be held, and the length of the time period between the closing of the warrant and the opening session of Town Meeting,

The three bylaw amendments reflect the following conclusions that emerged as CTO&S considered the subject matter of Article 5 of the November 2022 Town Meeting.

- *The Importance of Public Hearings*. Public hearings on warrant articles are, first and foremost, an opportunity for members of the public to offer comments, but they serve many other purposes. Public hearings can provide feedback to petitioners, who may then decide to reconsider or modify their warrant articles. They help the Select Board or Advisory Committee to decide what to recommend to Town Meeting. Particularly when the hearings are televised, they also educate the public and Town Meeting members about the issues raised by petitioners, as well as the status and strengths and weaknesses of warrant articles. This public education function is particularly important now that Brookline does not have a print newspaper. Select Board public hearings are prominent and are made available to a wide audience by the Brookline Interactive Group. Public hearings also could help the Select Board (or Advisory Committee) to decide whether to make a report or recommendation on a warrant article. In the absence of a public hearing, the implications of a warrant article and its potential for generating a contentious debate may not be clear.

  CTO&S concluded that it was particularly important for the Select Board to hold public hearings on all warrant articles. While it was recognized that the Advisory Committee often does the most in-depth analyses of warrant articles, the Select Board's meetings are the only ones that are both publicly televised and generally scheduled for the same day and approximate time each week. CTO&S believes that it is important to give the proponents and opponents of articles this opportunity to articulate their positions, to identify issues for Select Board consideration, and to permit the televised Select Board hearings to serve as a vehicle for public education.

The Town has traditionally afforded all individuals who wished to speak the opportunity to do so at a noticed public hearing. In response to concerns that proponents or opponents, or both, could "flood" a Select Board public hearing with speakers and thus exacerbate workload issues, CTO&S has obtained an opinion from Town Counsel's Office (see Appendix A) that the chair of a board or committee can impose reasonable, content-neutral, narrowly-tailored limits to the time allotted for comment on each warrant article at a public hearing. This could include limits on the time allotted to each speaker as well as prohibiting additional individuals from speaking when the total allotted time was reached, even at a public hearing. Thus, the issue of workload could be controlled.

- *Preparing Reports Need Not Impose an Excessive Burden*. In response to concerns that the writing of reports imposed excessive burdens on Select Board staff, CTO&S noted that even when a report is mandated, the bylaws cannot dictate the extensiveness, quality, or depth of that report. Those issues would be entirely in the control of the Select Board. The Select Board has increasingly deferred its voting on articles until the Advisory Committee or an Advisory Committee subcommittee has reported, and a Select Board report could simply state "The Select Board agrees with the Advisory Committee" or "The Select Board takes a position that [with a short listing of bullet points]" or "The Select Board makes no recommendation on this article." Here too, workload issues could be controlled.

- *The Select Board Has a Unique Ability and Responsibility to Advise and Inform Town Meeting on Some Categories of Warrant Articles.* The Select Board is the Town's elected executive body, which means that it represents all the residents of Brookline and is responsible for overseeing the functioning of Town departments. It also has direct access to the Town's executive and administrative personnel and the information that they can provide on the impact of warrant articles on the Town's operations and financial situation. The Select Board is often responsible for placing articles on the warrant, either on its own behalf or on behalf of Town departments or committees that are appointed by the Select Board. The Select Board also has the responsibility for filing Home Rule Petitions with the state legislature. CTO&S thus believes that the Select Board should make recommendations for Town Meeting's consideration on specific categories of warrant articles that are of particular significance to the Town and on which the Select Board may have an important and unique perspective: 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 by-law; (4) authorize or require the Town to enter binding agreements; or (5) involve any appropriation of funds. Nonetheless, while making such recommendations should be the presumptive course, CTO&S recognizes that the Select Board members cannot effectively be compelled to take a position on any given warrant article, because members can always abstain on a vote. Thus, the amendment that CTO&S is proposing to Section 2.5.2 recognizes that the Select

Board may choose not to make a recommendation on a warrant article, but requires that the Select Board state its reasons for offering no recommendation.

- *The Advisory Committee is Functioning Well Under the Bylaws Regarding Its Responsibilities for Preparing Reports and Recommendations on Warrant Articles*. CTO&S decided not to amend Section 2.2.6 of the General Bylaws, which states that the Advisory Committee may consider "any or all" questions, including warrant articles, for the purpose of making "reports or recommendations" to the Town. That language was added to Section 2.2.6 by the November 2020 Town Meeting and the process used by the Advisory Committee to consider and report on warrant articles appears to be working well, even if Town Meeting does not always vote the way the Advisory Committee recommends. CTO&S thought it would be premature to consider changes to Section 2.2.6. CTO&S did, however, decide that Section 2.5.2 of the General Bylaws should be amended to ensure that section was consistent with Section 2.2.6.

- *The Need for Further Actions*. CTOS&S recognized that amending the bylaws regarding public hearings and the responsibilities of the Select Board and Advisory Committee would not address all the issues raised by the increasing number of warrant articles. Town Meeting itself also has found it challenging to consider a large number of warrant articles, particularly when some of those articles raise complex issues. It also will be necessary to reduce the number of warrant articles or to enable the Select Board, in particular, to find more time to devote to consideration of warrant articles.

EXPLANATION OF BYLAW AMENDMENTS PROPOSED BY THIS ARTICLE

The warrant article submitted by CTO&S on the warrant review process includes amendments to three sections of the Town's General Bylaws.

Amendment to Section 2.5.2 of the General Bylaws

The proposed CTO&S amendment to Section 2.5.2 includes the following components:

- Select Board public hearings are explicitly required on all warrant articles, not just on those with regard to which there is a "final" or "first" vote. As noted above and in Appendix A, the chair can impose reasonable controls on public hearings.
- The Select Board would be required to prepare reports on all warrant articles. In practice, such reports need not be as detailed as the reports of the Advisory Committee. For some warrant articles, the Select Board may simply incorporate the reasoning of other reports, including those of the Advisory Committee.
- The Select Board would not be required to make a recommendation on every warrant article, but would be required to explain its reasons for deciding not to make a recommendation.

- The amendment specifies the categories of articles that deserve priority attention from the Select Board: 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 by-law; (4) authorize or require the Town to enter binding agreements; or (5) involve any appropriation of funds. These are the types of articles for which the Select Board has a special responsibility, or on which the Select Board and its staff can provide important information and perspectives that would be valuable to Town Meeting.
- The amendment adds a reference to the recent November 2020 amendment to bylaw Section 2.2.6 (General Duties) regarding the Advisory Committee. Section 2.5.2 would thus be consistent with that section, which gives the Advisory Committee the option of considering "any or all" articles and offering "reports or recommendations" on each.

These changes to Section 2.5.2 reflect suggestions from former Select Board member and current Town Meeting Member Marty Rosenthal. CTO&S discussed many alternative approaches, including a firm requirement that the Select Board make recommendations on the five categories of warrant articles, procedures by which a supermajority of the Select Board could decide to not consider some article, and procedures by which a minority of the Select Board could vote to ensure that the Select Board considered a given warrant article and make a recommendation on it. After much discussion, CTO&S concluded that the approach embodied by the proposed amendments to Section 2.5.2 was the best and most balanced response to the significant increase in the number of warrant articles. It is ultimately up to Town Meeting to decide what the Select Board should be required to report to Town Meeting to enable Town Meeting to effectively make informed decisions on warrant articles.

Amendment Clarifying Article 3.22 of the General Bylaws

Article 3.22 of the General Bylaws requires all elected and appointed committees, boards, councils, and trustees to hold a public hearing before their "first or only vote" on a warrant article. Many of these bodies rarely make recommendations to Town Meeting. Most are not required to make recommendations. Should a committee that is not required to make a recommendation to Town Meeting be required to hold a public hearing prior to voting to not consider a warrant article that it is not required to consider? The proposed change would make clear that the requirement for a public hearing applies only when a such a committee decides to make a report or recommendation to Town Meeting. The Select Board and Advisory Committee are also governed by Sections 2.2.6 and 2.5.2 of the General Bylaws, which include further, more detailed requirements for holding hearings and making reports and recommendations to Town Meeting on warrant articles.

Note that the proposed CTO&S amendment to Section 2.5.2 requires the Select Board and the Advisory Committee (or a subcommittee of the Advisory Committee) to hold a public hearing on *all* articles in the warrant, even if no vote is taken. Article 3.22 ensures that

when the Select Board or Advisory Committee makes a recommendation to Town Meeting, such hearings will be held before the recommendation is made.

Amendment to Section 2.1.3 of the General Bylaws

This amendment to Section 2.1.3 would increase the time period between the closing of the warrant and the first night of Town Meeting from 75 days to 90 days. This would allow the Select Board and Advisory Committee more time to schedule hearings and meetings on warrant articles. The profusion of warrant articles that have recently been filed has increased the workload of the Select Board and the Advisory Committee, but the time period between the closing of the warrant and the beginning of Town Meeting has remained the same. CTO&S believes that, if those volunteer bodies are to be expected to do a thoughtful and credible job analyzing the language and impact of warrant articles (including, for the Advisory Committee, public hearings, subcommittee meetings, meetings of the full Advisory Committee, and the drafting of thorough reports), additional time is required. That view was shared by members of the Select Board and Advisory Committee who participated in the CTO&S's public hearings and meetings. The Advisory Committee, in particular, finds it challenging to schedule subcommittee public hearings and meetings of the full Advisory Committee to adequately review all warrant articles and departmental budgets in the weeks prior to the Annual Town Meeting. Even without the need to consider the budget, similar challenges emerge when there are many articles on the warrant for a November Town Meeting. The current bylaw providing a 75-day time period between the closing of the warrant and the opening session of Town Meeting was enacted when the warrant included many fewer articles.

Extending the time for the consideration of warrant articles and drafting of reports to 90 days would not prevent the Select Board from adding one or more articles to the warrant after the warrant had closed. The General Bylaws would continue to include the following provision: "The requirements of sections 2.1.2 through 2.1.4, inclusive, may be waived when the Select Board determines that emergency conditions, or a situation requiring immediate action or the provisions of any general or special law require such a waiver."

Would increasing the time period between the closing of the warrant and the first night of Town Meeting mean that Brookline was perpetually in "Town Meeting season"? Adding the 15 days to the current interval between the closing of the warrant and the start of Town Meeting would not significantly increase the amount of time devoted to Town Meeting-related issues. Brookline already has two Town Meeting "seasons" of approximately 120 days: 30 days in which the warrant is open, 75 days between the closing of the warrant and the first night of Town Meeting, and approximately 15 days from the first to the final night of Town Meeting—depending on the number of nights required and the need to take a break for holidays such as Thanksgiving. Thus, with Town Meetings in May and November, Brookline is now preparing for or holding Town Meeting for about 240 days of each year. The amendment to Section 2.1.3 would increase that total to about 270 days.

ADDITIONAL POTENTIAL METHODS TO DEAL WITH THE PROBLEM OF "TOO MANY ARTICLES, TOO LITTLE TIME"

In addition to the warrant article submitted by CTO&S, there are a variety of potential options that might be considered to deal with the problem of "too many warrant articles, too little time" that has been identified as a concern by members of the Select Board, Advisory Committee, and Town Meeting. The following list includes items that have been mentioned at CTO&S meetings and other discussions of how to address the problem of "article profusion." Although CTO&S has not evaluated these ideas, some may merit further study. Most could be implemented without amending the Town bylaws.

Reducing the Number of Warrant Articles

- Add more language to the Town Meeting Handbook to explain that a warrant article often is not necessary, because issues can often be resolved by discussions with Town or School personnel. Build the norm that the goal is not to have as many articles as possible. Discourage resolutions on national and international topics.

- Encourage the Select Board to place articles on the warrant only when necessary and when they already have been thoroughly vetted through an internal process and with community engagement. Past articles generated by Town departments have at times been referred or not moved because they were premature and should have been vetted and revised prior to submission.

- Require more signatures for warrant articles. Under State Law, G.L. c. 39, sec. 10, no more than 10 signatures may be required for an Annual Town Meeting warrant article and no more than 200 signatures for a Special Town Meeting warrant article. It is questionable whether there would be a realistic chance of increasing the Annual Town Meeting requirement by special State legislation. Brookline has in fact reduced the number to 10 for all Town Meetings; it could without State legislation increase the number of required signatures to as many as 200 for Special Town Meetings. But would an increased number of signatures be an effective hurdle? Or could it lead to petitioners simply filing articles for the Annual Town Meeting rather than a Special Town Meeting?

- Encourage the Select Board and Advisory Committee to develop the mindset that it is better to tell petitioners that they should not move their articles instead of expending time working with petitioners to revise and improve deeply flawed articles. Would this reduce the number of warrant articles that are ultimately debated at Town Meeting, or would it lead to Town Meeting passing flawed articles if the petitioner nonetheless forged ahead?

- Assign a staff person the responsibility of fielding queries from petitioners as to whether their potential warrant articles are necessary. That staff person might be better able to find out what departments are already doing. Petitioners are already

encouraged to check with staff in departments that would be affected by warrant articles, but that has not consistently occurred.

Finding More Time to Review Warrant Articles

- Allow the Select Board to delegate more of its responsibilities, including licensing and appointments. This would require approval of revisions to the Town Administrator Act by the State legislature. For example, the Select Board is now required to approve all innholder, lodging house, common victualer, food vendor, secondhand motor vehicle sales, open air parking, liquor sales, theater and entertainment licenses. Legislation was filed to change his requirement, but it died in the last legislative session; the legislation is apparently being refiled. In addition, the Select Board is required to make all Civil Service appointments (police and fire at all levels, not just the chiefs or management level personnel).

- Allow the Select Board to delegate authority regarding items such as minor budget changes (e.g., minor reallocations within departments) or minor contract approvals. The Town Administrator has committed to addressing some of these issues.

- Reduce the number of committees on which Select Board members serve. While it is important for Select Board members to be familiar with the actions of certain committees, an initial examination indicates that Select Board membership is in fact legally required on very few of the committees on which Select Board members sit.

- Amend Section 2.5.2 and Article 3.22 of the General Bylaws to allow Select Board subcommittees to hold public hearings on warrant articles—if the Brookline Interactive Group will televise these hearings. The current bylaws only allow subcommittees of the Advisory Committee and School Committee to hold such hearings in lieu of the full committee.

- Accept the fact that Select Board reports may be short and cursory, especially when the reports are not on the categories of warrant articles listed in the proposed CTO&S amendment to Section 2.5.2 of the General Bylaws.

- Encourage the Select Board and the Advisory Committee to write joint reports (including reports written by the Advisory Committee and signed by the Select Board) when the two bodies concur. This would be particularly appropriate for the initial 6 or 7 articles on the Annual Town Meeting warrant, but there might be other opportunities for joint reports. This also would reduce redundancy in the Combined Reports, which often include Select Board and Advisory Committee reports that contain very similar material.

- Improve the process of bringing the Select Board and Advisory Committee into concurrence (when that outcome is possible) so that it takes fewer meetings for the

two bodies to agree on a motion and that Town Meeting has fewer motions and amendments to consider.

APPENDIX A

From: Jonathan Simpson <jsimpson@brooklinema.gov>
Sent: Friday, February 24, 2023 1:20 PM
To: Richard Benka <rcvben@verizon.net>
Cc: Joe Callanan <jcallanan@brooklinema.gov>; John Moreschi <jmoreschi@brooklinema.gov>; Harry Bohrs <Harry.Bohrs@bmc.org>; Lynn-Jones, Sean M. <sean_lynn-jones@hks.harvard.edu>
Subject: FW: Legal question for CTO&S - must everyone be allowed to speak at a public hearing? If so, what is the source of the requirement?

Dick:

A chair can impose reasonable restrictions to the time, place, and manner of public testimony as long as the restrictions are content-neutral, narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication. The desire to conduct an orderly, efficient, and productive meeting is a governmental interest significant enough to justify restrictions on speech at the "limited public forums" that are public hearings.

Your specific questions were:

if something is noticed as a "public hearing," can the chair limit the number of speakers, which could effectively prohibit some individuals from speaking

I believe the answer is **yes**, if that limit was content-neutral and narrowly tailored. Allowing public comment doesn't mean a board has to sit and allow public comment indefinitely. A board can apply reasonable, narrowly-tailored limits to both the total time allotted for public comment and the time allotted to each speaker.

could the chair prohibit individuals who wanted to speak from speaking at a duly noticed "public hearing

Again, I believe that, if the limitations the chair was imposing were content-neutral and narrowly-tailored, they could, theoretically, result in prohibiting individuals who wanted to speak at a public hearing from speaking. If the chair has allotted an hour to take public comment, and given each speaker 3 minutes, then the 21st speaker may not get to weigh in. Note, though, that this is NOT a situation where the chair looks at a particular speaker, says "Mr. Smith, we've heard from 10 people on your side and I don't think you'll be adding anything new to the discussion so I'm going to skip you". That's not content-neutral. Again, any prohibition should be the result of a content-neutral, narrowly-tailored restriction – nothing individualized.

Of course, just because a Chair *can* limit testimony does not necessarily mean they *should*. I know from personal experience the value of letting everyone who wants to comment at a public hearing do so; it's been the Town's general practice for a reason. But, as noted above, boards need to be able to conduct orderly, efficient, and productive meetings.

SELECT BOARD'S RECOMMENDATION

Article 11 is a proposal filed by the Committee on Town Organization and Structure (CTOS) in response to the referral of Article 5 of the November 2022 to CTOS for further evaluation. The original article sought to eliminate the requirement that the Select Board provide recommendations on all of the articles in the warrant. CTOS has demonstrated the impact that larger sized warrants have had on the ability of the Board to give every article serious attention while balancing other time consuming agenda items. Unfortunately the Board feels that the solutions proposed by CTOS do not meet the request that the Board made, for a simplified solution. The proposed article does not make navigating the warrant any easier for the Select Board. The Board also heard concerns about the extended timeframe for the opening and closing of the warrant. There would need to be consideration given in years when the budget is filed late (as was the case this year with a new Governor extending the normal timeline) The Board also acknowledged that with a change in leadership they have reverted back to the prior system of reviewing all articles on the warrant, and that a change may not be necessary given that shift.

A unanimous Select Board voted NO ACTION on Article 11.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 11 as amended by a vote of 21-3-1

Executive Summary	Warrant Article 11 seeks to amend the Town's General By-Laws as follows: • Ensures the Select Board and Advisory Committee hold at least one public hearing on all warrant articles • Revises 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 • Specifies the categories of articles that the Select Board should prioritize in their review • Changes the date for closing the warrant for the Annual Town Meeting to 90 days before the scheduled opening date
Voting Yes will…	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.
Voting No will…	Make no change to the Select Board's current obligations or the closing date for the warrant for the Annual Town Meeting
Financial Impact	None expressed.
Legal Implications	None expressed.

Introduction

At the November 2022 Town Meeting, Warrant Article 5, which sought to reduce the requirement for the Select Board to hold a public hearing and make a recommendation on each warrant article, was referred to the Committee on Town Organization and Structure (CTO&S) with a request that CTO&S 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 CTO&S' consideration of the subject matter of Article 5.

Since 2018, we have experienced about a 50% increase in Town Meeting warrant articles (although there are just 24 submitted for this current Town Meeting). 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, 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 CTO&S.

CTO&S' 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. CTO&S 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, albeit within a codified framework. Where the Select Board declined to provide a recommendation, they would issue a relatively short report citing their reasons for doing so.

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.

CTO&S' 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 and amended the motion as shown below.

Meeting Recording: …

Recommendation

The Advisory Committee recommends FAVORABLE ACTION on an amended version of Warrant Article 11, shown below, by a vote of 21-3 with 1 abstention.

VOTED: That the Town amend the Section 2.1.3 of the General By-Laws as follows (language to be inserted appears in **bold underline**; language to be deleted is ~~struck out~~):

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 75th day**, and for any Annual Town Meeting on the 90th day,** preceding the scheduled date of the opening session of said meeting. On the 75th day **or the 90th 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** 75th day **or 90th day** preceding said scheduled date.

ARTICLE 11 ADVISORY COMMITTEE VOTES

Article Description	**Amend Select Board Requirements for Warrant Article Recommendations**
AC recommendation (Favorable Action unless indicated)	**21-3-1**
Ben Birnbaum	Y
Harry Bohrs	A
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	N
Kelly Hardebeck	Y
Amy Hummel	N
Anita Johnson	Y
Alisa Jonas	Y

Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	N
Markus Penzel	
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 11

COMMITTEE ON TOWN ORGANIZATION & STRUCTURE (CTO&S)
REPORT & RECOMMENDATION

RECOMMENDATION:

By a vote of 6–0–0 the Committee on Town Organization and Structure recommends FAVORABLE ACTION on the Article 11 motion offered by the Advisory Committee.

SUMMARY:

Article 11 was placed on the warrant by the Committee on Town Organization and Structure (CTO&S) to address concerns about the challenges faced by the Select Board as it considers an increasing number of warrant articles. Article 11 proposes to amend the Town's General Bylaws to provide a consistent, realistic, and feasible long-term framework for the process by which the Select Board and Advisory Committee review warrant articles and make recommendations to Town Meeting. The objective is to ensure that key articles are vetted thoroughly, and that Town Meeting has information that will help it to consider and vote on warrant articles. Article 11 also includes some "housekeeping" amendments to make the current bylaws consistent and to clarify the requirements for public hearings. Finally, Article 11 would extend the time between the closing of the warrant and the start of the Annual (May) Town Meeting so that the Select Board, Advisory Committee, and other committees would have more time to consider the increased number of warrant articles.

What Article 11 Does

- Gives the Select Board the flexibility not to make a recommendation on every warrant article. (The key change is inserting the words "if any" regarding recommendations.)
- Reaffirms the requirement that the Select Board and Advisory Committee (or one of its subcommittees) hold public hearings on all warrant articles.
- Lists five types of articles as priorities for Select Board recommendations: 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 by-law; (4) authorize or require the Town to enter binding agreements; or (5) involve any appropriation of funds.
- Makes Section 2.5.2 of the General Bylaws consistent with Section 2.2.6 as amended by Town Meeting in November 2020. (Those amendments, which allow the Advisory Committee to consider "any or all" warrant articles and to make "reports or recommendations," are in effect but as of May 17, 2023, had not yet been included in the General Bylaws as posted on the Town website.)
- Makes a technical correction to the requirement that committees that make

recommendations to Town Meeting on warrant articles must hold public hearings on those warrant articles. The current language would require a committee that is not required to make a recommendation to Town Meeting to hold a public hearing even if it were voting only on whether to consider an article. Article 11 would retain the requirement that there be a public hearing before any vote to make a recommendation to Town Meeting.

- Extends the period between the closing of the warrant and the first night of the Annual Town Meeting from 75 to 90 days to give the Select Board, Advisory Committee, and other committees more time to review the increasing number of warrant articles.

BACKGROUND:

Article 11 is a response to the problem of "too many warrant articles, too little time."

From May 2018 until November 2022, the average number of warrant articles per Town Meeting (37.8), was 50% higher than the average number for Town Meetings between May 2001 and November 2017 (25.2). The number of articles for the May 2023 Annual Town Meeting (including the one article for the Special Town Meeting) is only 26. It is too early to say whether the May 2023 Town Meeting is an outlier or the beginning of a trend.

For the May 2022 and November 2022 Town Meetings, the Select Board decided not to offer reports with recommendations for every article in the warrant. Instead, it offered no recommendation on one-third or more of the warrant articles. The Select Board then submitted Article 5 for the November 2022 Town Meeting. That article would have removed the requirement that the Select Board prepare reports stating its recommendation for *all* articles in the warrant for a Town Meeting.

Town Meeting voted 162–79–11 to refer the subject matter of Article 5 of the November 2022 Town Meeting to CTO&S, which had proposed referral and agreed to study the matter further with the objective of submitting a warrant article on this topic for the May 2023 Town Meeting. Although the vote to refer Article 5 took place before Town Meeting had considered the climate change articles submitted by the Zero Emissions Advisory Board (ZEAB), many Town Meeting members agreed that Town Meeting would have had more information and the process for considering the ZEAB articles—particularly Articles 26, 28, and 29—would have been better if the Select Board had held hearings and made recommendations on each of those articles.

For a more detailed discussion of the concerns that led the Select Board to submit Article 5 for the November 2022 Town Meeting and the reasons why Town Meeting voted to refer the subject matter of that article to CTO&S, see the petitioner's explanation of Article 11 (pp. 1-2 – 11-15 of the Combined Reports for the May 2023 Annual Town Meeting:

https://www.brooklinema.gov/DocumentCenter/View/41369/ARTICLE-11---SB-and-AC-recomms-and-hearings).

DISCUSSION:

How Article 11 Gives the Select Board Discretion to Focus on the Most Important Articles

By inserting "if any" after "recommendations" Article 11 eliminates the requirement that the Select Board "prepare written reports, stating their recommendations and the reasons therefore, for all articles." This change also will reduce the burden on Town staff who participate in the drafting of the Select Board's reports to Town Meeting. If there is no recommendation, such reports can be brief.

The Importance of Public Hearings

One key aspect of Article 11 is to reaffirm that the Select Board and Advisory Committee (or an Advisory Committee subcommittee) must hold a public hearing on each warrant article, even if no recommendation is ultimately offered. In CTO&S public hearings, there was strong support for this provision of Article 11.

Public hearings on warrant articles serve many purposes, including:

- Providing an opportunity for public input.
- Alerting the Select Board or Advisory Committee to potential controversies and helping those bodies decide which articles should receive significant further consideration.
- Making petitioners aware of potential problems or concerns with their articles.
- Educating the broader public about what is on the warrant and issues associated with particular articles. (Select Board hearings, in particular, serve this purpose, because the Select Board has a high profile as a body that is elected by a town-wide vote and its hearings are broadcast by Brookline Interactive Group.)
- Acknowledging that the petitioner has put in the necessary effort to submit a warrant article and thus deserves a hearing.

The legal requirements for public hearings are flexible, so the Select Board or Advisory Committee can reduce the time devoted to public hearings by, for example, imposing time limits. CTO&S Member Richard Benka consulted Town Counsel on this matter. See the petitioner's explanation for more details.

Why Are Five Categories of Warrant Articles Identified as Priorities for Select Board Recommendations?

The five categories are closely related to the Select Board's role as the executive branch of Town government. One or more of the following is usually true of articles in the five categories:

1) The Select Board is directly or indirectly responsible for placing the article on warrant and therefore has an obligation to explain the article to Town Meeting.

2) The Select Board (the Town's executive branch) or its staff has unique and important information, expertise, or experience (e.g., regarding funding or implementation of a new bylaw) that it should share with Town Meeting.

3) The Select Board has a responsibility to implement the provisions of a warrant article (e.g., a Home Rule Petition request, a binding agreement, or a new bylaw) and thus has an important perspective on that article.

Some warrant articles fall into other categories, including resolutions on global or national issues. Under Article 11, the Select Board would have the option of offering reports with recommendations on such articles, but the proposed bylaw would not prioritize such articles.

All five of the proposed categories rely on objective criteria. It will be clear whether articles fall into these categories. For example, either an article amends a bylaw or it does not. In this sense, the criteria are different from criteria that the Select Board used in 2022 during that body's experiment with the idea of not preparing reports with recommendations on all warrant articles. For example, the Select Board said it would consider articles that were likely to be "controversial," but it is not always easy to predict which articles will be controversial and whether something is controversial or not can be a subjective judgment.

Note that Article 11 only provides guidance and expectations regarding these five categories. It does not mandate that the Select Board offer reports with recommendations on all articles in these categories.

What Are the Technical/Housekeeping Changes in Article 11?

First, Section 2.5.2 of the General Bylaws would be amended to remove the requirement that the Advisory Committee offer reports with recommendations on all warrant articles. The November 2020 Town Meeting amended Section 2.2.6 (formerly numbered 2.2.5) to eliminate that requirement, but the language of Section 2.5.2 remained unchanged.

Second, Article 3.22 would be amended so that committees that make recommendations to Town Meeting would have to hold a public hearing only when they make such recommendations, not when they take any vote regarding a warrant article. The current

language could require a committee that is not required to make a recommendation to nonetheless hold a hearing before it voted on whether to even consider a warrant article.

Extension of the Interval between the Closing of the Warrant and the Start of Town Meeting from 75 to 90 Days

During the consideration of Article 11 by the Select Board, Advisory Committee, and CTO&S, there was discussion of the advantages and disadvantages of extending the period between the closing of the warrant and the start of Town Meeting from the current 75 days to 90 days. Article 11 as filed proposed such an extension for all Town Meetings so that the Select Board, Advisory Committee, and other committees would have more time to consider the increasing number of articles.

One concern about the proposed change was that a 90-day interval between the closing of the warrant and the start of the November Special Town Meeting would mean that the warrant would close in mid-August. Because Town staff might be on vacation then, petitioners might not have the opportunity to consult with staff about the need for and details of any potential warrant articles. Such consultations can be very important when petitioners are trying to decide whether and how to file a warrant article. In addition, during August, when many Brookline residents are on vacation, petitioners might find it more difficult to work with one another or to obtain the necessary signatures for their warrant articles. The "too many warrant articles, too little time" problem also tends to be more acute for the Annual (May) Town Meeting, which must consider the annual budget.

The Advisory Committee's recommended Article 11 motion thus extends the interval to 90 days only for the (May) Annual Town Meeting, leaving it at 75 days for Special Town Meetings, which are usually held in November but can be convened at other times. CTO&S concurs with this recommendation and supports the Advisory Committee's motion. CTO&S notes that closing the warrant 90 days before the start of the May Town Meeting would mean that the warrant would close at or toward the end of the February school vacation, depending on the calendar for that year. In recent years, the Advisory Committee has sometimes held subcommittee hearings during school vacation week. Even if it did not, the Advisory Committee and Select Board could use the extra time provided by a 90-day interval to get an earlier start on scheduling hearings on warrant articles and departmental budgets.

There also has been discussion of whether extending the interval to 90 days for the Annual Town Meeting would mean that the warrant, including the annual budget article (Article 7 for the May 2023 Annual Town Meeting), would close before a newly elected governor had filed their state budget. Under state law, the governor must file a state budget no later than the fourth Wednesday in January, but for a newly elected governor the deadline is extended by five weeks. For example, Governor Healey did not file the fiscal 2024 state budget until March 1.

There are several ways in which the 90-day interval could be reconciled with a new governor's decision to file a state budget after the usual deadline.

First, the Select Board would have the option of waiving the deadlines for the closing of the warrant. Article 11 would not change Section 2.1.4, which allows such waivers.

Second, the Select Board could opt to have the annual budget considered by a Special Town Meeting within the Annual Town Meeting. The Select Board already follows this procedure when it files a warrant article with budget adjustments for the November Town Meeting.

Third, the annual budget article (Article 7 in the May 2023 Town Meeting warrant) is currently filed largely as a "placeholder" article that includes language that allows the Advisory Committee to file a budget motion with specific appropriation amounts long after the warrant has closed. The budget article can thus be updated as more information about the state budget becomes available.

The 90-day interval also might mean that other committees, including the Community Preservation Committee, would not be able to provide complete information on recommended appropriations or other matters at the time of the closing of the warrant. In such cases, as with the Town budget warrant article as currently submitted for the warrant, a "placeholder" article could be placed on the warrant, giving the Community Preservation Committee (or others) more time to prepare recommendations to Town Meetings.

Requirement that the Select Board Explain Why It Has Not Offered A Recommendation

Another issue that generated discussion during consideration of Article 11 was the requirement that the Select Board offer an explanation for not making a recommendation on a warrant article. There are at least two reasons for thinking that this burden would not be excessive. First, in most cases it should be easy to state a reason such as, "The article is on a question of U.S. foreign policy on which the Select Board does not have special expertise and is not directly relevant to Brookline town government." Second, the Select Board could simply invoke the language of Article 11 and state that it is not offering a recommendation because the article does not fall into one of the five priority categories.

What Happens if Article 11 Fails?

- The current bylaw that requires the Select Board to prepare reports and recommendations on *all* warrant articles would remain in effect.
- Sections 2.5.2 and 2.2.6 of the General Bylaws would not be consistent regarding the responsibilities of the Advisory Committee to consider and report on warrant articles.
- The warrant would close 75 days, not 90 days, before Annual Town Meetings.
- The technical correction to Article 3.22 (public hearings) would not be made.

RECOMMENDATION:

By a vote of 6–0–0 taken on May 10, 2023, the Committee on Town Organization and Structure recommends FAVORABLE ACTION on the Article 11 motion offered by the Advisory Committee.

ARTICLE 11

ADVISORY COMMITTEE'S SUPPLEMENTAL 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

Executive Summary:	Warrant Article 11 seeks to amend the Town's General By-Laws as follows: • Ensure the Select Board and Advisory Committee hold at least one public hearing on all warrant articles • 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 • Specifies the categories of articles that the Select Board should prioritize in their review • Changes the date for closing the warrant for the Annual Town Meeting to 90 days before the scheduled opening date
Voting Yes will …	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.
Voting No will …	Make no change to the Select Board's current obligations or the closing date for the warrant for the Annual Town Meeting
Financial Impact	None expressed.
Legal Implications	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,* 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.

Meeting Recording: https://brooklinema.zoomgov.com/rec/play/FEZxjOEsfbe9zV4SSmZPURDeRvkJaoweCss-yH5x24s3kwUEABcvFXZTfD5_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 75th day, **and for any Annual Town Meeting on the 90th day**, preceding the scheduled date of the opening session of said meeting. On the 75th day **or the 90th 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** 75th day **or 90th day** preceding said scheduled date.

ARTICLE 11 ADVISORY COMMITTEE VOTES

Article Description	**Amend Select Board Requirements for Warrant Article Recommendations**
AC recommendation (Favorable Action unless indicated)	**24-0-0**
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	

APPENDIX — A clean copy of the bylaw, as amended by Warrant Article 11

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 in the Warrant. The Select Board shall prepare written reports, stating its recommendations, if any, and the reasons for each

such recommendation or a decision not to make a recommendation 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 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 Special Town Meeting shall be filed in the office of the Select Board prior to 12:00 noon on the 75th day, and for any Annual Town Meeting on the 90th day, preceding the scheduled date of the opening session of said meeting. On the 75th day or the 90th 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 75th day or 90th day preceding said scheduled date.

ARTICLE 12

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

To see if the Town will amend Article 4.1 "Accounts and Audits" of the Town's General By-laws as follows (language to be added appearing in underline):

ARTICLE 4.1

ACCOUNTS AND AUDITS

SECTION 4.1.1 ACCOUNTING SYSTEM

All accounts of the Town shall be kept in accordance with a uniform accounting system approved by the Massachusetts Department of Revenue.

SECTION 4.1.2 AUDIT

The accounts of the Town shall be audited by an independent auditor retained by the Town at such times and in such manner as determined by the Select Board, with the advice of the audit committee, subject to the following restrictions: (a) no individual can serve as lead audit partner for the Town's audit for more than five consecutive years; (b) the Town's contract with an independent auditor cannot specify a term longer than five years; and (c) the Town must seek competitive bids at least every ten years.

SECTION 4.1.3 AUDIT REPORTS

All reports by the independent auditor shall be available for inspection by the public during regular business hours at the Town's offices. The audit report shall also be made available at the Main Library.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Regular rotation of audit firms and partners has been widely adopted as a best practice for managing financial risk by large organizations, including public companies and state and municipal governments. Beginning with Congress's passage of the Sarbanes-Oxley Act of 2002 which required certain U.S. corporations to rotate audit partners every five or seven years, many legislative and regulatory bodies have recommended or required the implementation of audit rotation policies by large public and private organizations.[1] This has included the implementation of a 2013 law in California requiring audit firm and partner rotation at least every six years for local governments[2] and the promulgation of regulations in the European Union requiring all public interest entities (including publicly listed companies, financial institutions, and insurance companies) to rotate audit firms at least every ten years.[3]

Brookline currently has no audit rotation policy in place, and has employed the same audit firm for more than twenty years. In its 2020 report that examine the Town's financial position and practices, the Brookline Fiscal Advisory Committee (BFAC) recommended that the Town adopt an audit rotation policy requiring audit firm rotation at least every ten years and lead audit partner rotation at least every five years as a best practice to ensure audit quality and to better manage financial risk.[4] When the Town's Audit Committee considered BFAC's proposal in December 2020, it acknowledged the potential benefits of an audit rotation policy but did not enact an audit rotation policy for either lead audit partner or auditing firms.[5] After the Select Board renewed the contract with the Town's audit firm for another three years in 2022 without stipulating lead audit partner rotation, the Audit Committee subsequently requested that the lead audit partner be changed effective June 30, 2022, which the audit firm agreed to; however, no rotation policy has been codified.[6]

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[1] SEC, "Commission Adopts Rules Strengthening Audit Independence," https://www.sec.gov/news/press/2003-9.htm

[2] California State Controller, "Auditor Rotation Requirements for Annual Audits of Local Governments," https://www.sco.ca.gov/aud_auditor_rotation_requirements.html

[3] Ken Tysiac, "Mandatory audit firm rotation rules published in EU," *Journal of Accountancy* (May 28, 2014), https://www.journalofaccountancy.com/news/2014/may/201410229.html

[4] The Brookline Fiscal Advisory Committee's Final Report (February 5, 2020) Recommendation 5 was to "Change the Town's independent audit and accounting firm every ten years, and rotate the partner assigned to the Town every five years" (page 30), available at https://www.brooklinema.gov/DocumentCenter/View/21168/February-5-Final-BFAC-Report

[5] See BFAC Report 1 (August 2021) of the Brookline Fiscal Advisory Committee Moderator's Committee, page 9, available at https://www.brooklinema.gov/DocumentCenter/View/25182/BFAC-MC-Report-1-of-3-August-2021?bidId=

[6] See Report 2 (March 2022) of the Brookline Fiscal Advisory Committee Moderator's Committee, page 8, available at https://www.brooklinema.gov/DocumentCenter/View/30336/BFAC-MC-Final-Report-no-2--32322

This article would amend the Town bylaws to require lead audit partner rotation by restricting any individual from serving as Brookline's lead audit partner to a maximum of five consecutive years, by limiting the term of an audit firm contract to five years, and by requiring that the Town seek competitive bids from audit firms at least every ten years. Such a competitive bidding process would not preclude the incumbent audit firm from submitting a bid and being awarded the contract, but would ensure that the Town would have opportunities to review other bids as well. This proposal mirrors the recommendation made by BFAC to improve the Town's risk management policies. The petitioners met with Audit Committee Chair Paul Healy who expressed support for the three changes this article seeks to enshrine in our bylaws.

MOTION OFFERED BY THE PETITIONER

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

ARTICLE 4.1

ACCOUNTS AND AUDITS

SECTION 4.1.1 ACCOUNTING SYSTEM

All accounts of the Town shall be kept in accordance with a uniform accounting system approved by the Massachusetts Department of Revenue.

SECTION 4.1.2 AUDIT

The accounts of the Town shall be audited by an independent auditor retained by the Town at such times and in such manner as determined by the Select Board, with the advice of the audit committee<u>, subject to the following conditions: (a) no individual can serve as lead audit partner for the Town's audit for more than five consecutive years; (b) the Town's contract with an independent auditor cannot specify a term longer than five years; and (c) the Town must seek competitive bids or undertake an alternative procurement method at least every ten years, with the option of an extension of up to two years contingent on the approval of the Select Board</u>.

SECTION 4.1.3 AUDIT REPORTS

All reports by the independent auditor shall be available for inspection by the public during regular business hours at the Town's offices. The audit report shall also be made available at the Main Library.

Comparison to petitioner's original Warrant Article:

Two substantive amendments and one language amendment were proposed by the Audit Committee and accepted by the petitioners. The substantive amendments changed the proposed language in Section 4.1.2 (c) to clarify that alternative procurement methods chosen at the discretion of Town staff would satisfy the competitive bidding requirement, and that an extension of the ten-year procurement requirement could be granted by the Select Board if requested. The language amendment replaced "subject to the following restrictions" with "subject to the following conditions."

AUDIT COMMITTEE REPORT AND RECOMMENDATION

The Town of Brookline Audit Committee comprises Bernard Greene, Paul Healy (Chair), Steve Herscovici, Mariah Nobrega, Lee Selwyn, and Alok Somani, and ex officio members Michael DiPietro (Comptroller), Melissa Goff (Deputy Town Administrator), and Lincoln Heineman (Finance Director).

The Committee's duties include: (i) to recommend selection of, and scope of services for the auditor; (ii) to review annual audit of financial statements and reports; (iii) make any recommendations to the SB or Town Meeting ("TM") relative to the findings of the audit; (iv) make any recommendations for areas for expanded scope of the audit; (v) make recommendations regarding the Town's financial management practices and controls; (vi) report to TM on audit matters within the scope of their responsibilities; (vii) report to TM any recommendations to the SB or Town staff made in past 12 months; and (viii) pursuant to bylaw §4.3 (Contracts – Prohibited Action) report any apparent violation of the bylaw.

The Audit Committee reviewed the Warrant Article (see Appendix) and its own policies on auditor rotation at a series of public hearings and executive meetings held on March 27, April 4, and April 20. The Committee unanimously adopted an internal policy similar to Warrant Article 2 and voted 3-2 to recommend favorable action on Warrant Article 2.

DISCUSSION

The Committee's discussion of Auditor Rotation focused on three areas. First, there was recognition that a change in the firm conducting the Town's audit every ten years can provide a fresh view on the financial statements and internal controls and increase confidence in their integrity. However, given the small number of local firms that audit municipalities (four firms), the Committee also appreciated that a mandatory change every ten years may not be desirable if there is general satisfaction in the quality and independence of the current auditor. The adopted policy and warrant language, therefore, required the Committee to seek competitive bids every ten years, but did not require that a new firm be appointed.

The second area of discussion was over allowing some flexibility in requiring the Committee to conduct a search for a new audit firm after ten years. Unanticipated circumstances, such as the extensive staff turnover experienced last year, could make it very inconvenient to conduct a search in any given year. As a result, both the adopted internal policy and the proposed Warrant Article allow the Committee to seek up to a two-year delay in conducting a search at the approval of the Select Board.

Finally, while there was broad support for the Committee's new Auditor Rotation Policy, reflected in the 5-0 vote, some members questioned whether it was necessary to have the rotation policy governed by Town by-laws. In contrast, the majority argued that the Warrant article demonstrates further commitment to good governance practices for the Audit Committee, potentially increasing confidence in the integrity of the audit oversight. Further, several observed that there had been no commitment to auditor rotation prior to recent turnover on the Committee.

The Committee finally voted by a margin of 3-2 to support the proposed Warrant article.

ROLL CALL VOTE:

Aye:	No:	Absent:
Healy	Greene	Somani
Selwyn	Herscovici	
Nobrega		

APPENDIX

Proposed Town By-Law on Auditor Rotation Policy

SECTION 4.1.2 AUDIT The accounts of the Town shall be audited by an independent auditor retained by the Town at such times and in such manner as determined by the Select Board, with the advice of the audit committee, subject to the following conditions: (a) no individual can serve as lead audit partner for the Town's audit for more than five consecutive years; (b) the Town's contract with an independent auditor cannot specify a term longer than five

years; and (c) the Town must seek competitive bids or undertake an alternative procurement method at least every ten years, with the option of an extension of up to two years contingent on the approval of the Select Board.

SELECT BOARD'S RECOMMENDATION

Article 12 is a petition to amend the Town's General By-laws to require the rotation of auditors and bidding of contracts with audit firms on a regular basis by prohibiting the Town's lead audit partner from serving with Brookline for more than five years, limiting Town contracts with outside auditors to five years in length, and by requiring the Town to seek competitive bids for audit services at least once every ten years. These provisions were in part recommended by the Brookline Fiscal Advisory Committee's final report in February 2020. The Article has been amended by the petitioners to include a provision that would allow for extension of a contract with the Town's outside auditor in the event of extenuating circumstance, such as during a change in leadership in Finance or Town Administration, with approval from the Select Board to waive the requirement.

The Select Board debated the merits of Article 12, with two members expressing criticism that the article stems from a lack of trust and by passing it, Town Meeting would impose regulations on a process that is ultimately the responsibility of the Select Board and Town Administrator, appointed leadership in the Finance Department, and the Town's Audit Committee. These members further expressed that the provisions in the article could limit the Town's ability to form a productive partnership with the audit firm over time, or lead to difficulty in procuring a contract for an audit firm due to the relatively small number of firms willing to perform municipal audits in the Commonwealth. Bids are also not required for audit services, so there was a concern about the quality of proposals the town may receive.

Board members in support of Article 12 expressed opposing sentiments, arguing that auditors may become too comfortable with a given client over time. They further expressed that Article 12 does not mandate a change in the audit firm, only the lead partner in charge of the audit at a given firm, and that it would be fiscally responsible to at minimum seek bids or proposals on a ten-year basis even if the Town is not mandated to change the audit firm as had been previously proposed by the petitioners of Article 12.

With unsuccessful votes of 2-2 for no action and 2-2 for favorable action on the petitioner motion, the Select Board makes no recommendation on Article 12

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Article 12, as amended, by a vote of 19-5-3.

Executive Summary:	Article 12 would amend Article 4.1 ("ACCOUNTS AND AUDIT"), Section 4.1.2 ("AUDIT") of the Town's General Bylaws, in order to accomplish three things: a. prohibit the Town's lead audit partner from serving for more than five consecutive years; b. limit the Town's contract with an outside auditor to five years; and c. require the Town to seek competitive bids from audit firms at least every ten years. The rotation of audit partners and firms is a very common and responsible financial practice, and this article seeks to require the practice within the Town's Bylaws. Since the Warrant was published, Article 12 was amended after consultation with the Finance Director and the Audit Committee to permit an alternative procurement method and to allow for an extension of the ten year procurement requirement when warranted. The intent of the Article is considered to be a positive step forward in the financial governance of Brookline.
Voting Yes will...	Require periodic rotation of the Town's auditors and procurement of auditing services every ten years, and ensure that these policies are maintained over the long run in the Town's Bylaws.
Voting No will...	Not mandate these requirements in the Town's Bylaws, and rely instead on the policy adopted by the Audit Committee – which mirrors these requirements.
Financial impact	No significant financial impact is anticipated, other than the time and expense that might arise from soliciting bids as required in the Article.
Legal implications	The legal implications are considered to be positive. Thorough accurate audits are a legal requirement and contribute to good financial governance.

Overview

The Town of Brookline is subject to an annual financial audit. Within corporations, the regular rotation of auditors is a common best practice, and in some cases is required by law. The State of California, for example, requires such auditor rotation in local

government. Article 12 is in step with both the recommendation of the Brookline Financial Advisory Committee (BFAC) and the existing rotation policy that has been adopted by the Town's Audit Committee. Article 12 seeks to compel implementation of the rotation policy with an amendment of the Town's Bylaws. The proposed amendment would restrict any individual from serving as the Town's lead audit partner to a maximum of five consecutive years; limit the term of contracts between audit firms and the Town to five years; and require that the Town seek competitive bids from audit firms at least every ten years. The competitive bidding process would not, however, preclude the incumbent audit firm from submitting a bid and being awarded the contract again, but would ensure that the Town has opportunities to review other competitive bids as well.

The petitioners reported that during their conversations with the Finance Director and the Audit Committee concerning Article 12, a recommendation was made by the Finance Director to include the opportunity for an alternative procurement method to competitive bidding in order to permit some flexibility in this regard, and a recommendation was made by the Audit Committee to include the option for an extension of the ten year for such procurement for up to two years in order to accommodate unforeseen events. In addition, the word "restrictions" was replaced with "conditions" in Section 4.1.2 as a "housekeeping" measure. The petitioners accepted each of these as "friendly" amendments.

Discussion

During the review of Article 12, consideration was given to the value of adopting a bylaw instead of simply maintaining a policy such as the Audit Committee has done, and it was determined that a bylaw would be more rigid in compelling compliance over the longer run. Questions were also raised about the value of soliciting a bid on an every ten year basis, particularly where it might create additional work and distraction for Town staff. Overall, both the Subcommittee and the full Advisory Committee felt that audits are important to the financial health and reputation of a town, and that soliciting bids allows for a renewed exploration of best practices, perhaps even gleaning some intellectual benefit from the process as well as financial. The Audit Committee supports what is proposed in Article 12, and has already adopted a policy that largely mirrors the requirements in the Article. However, it was noted that committee members change over time, as also does institutional memory, and as a bylaw, the structured discipline hat is set forth in the framework of Article 12 can be expected to endure. Bylaws and policies are intended to ensure consistent compliance, and within either, the unexpected should be considered. An appropriate measure of flexibility is included in the amended version of Article 12 to allow for such flexibility and for timely compliance. It was noted that the Town has a relatively new Finance Director and Town Administrator, and that changing auditors during this transitory period could have been disruptive, and possibly risky. The current auditors, who are one of only a few who provide the service to municipalities in this area, have a long history with the Town and significant institutional knowledge. As amended, Article 12 anticipates this, and provides a mechanism for extending contracts when circumstances such as these occur. Generally, however, it is considered good practice to have regular rotations, invite in new eyes and perspectives, and open up the competitive bidding

process. As amended, Article 12 strikes a good balance by providing required guidance to Town staff while also accommodating timely responsiveness to potential need.

As amended, Article 12 has the support of both the Finance Director and the Audit Committee.

Research Conducted by Petitioners

SEC, "Commission Adopts Rules Strengthening Audit Independence," https://www.sec.gov/news/press/2003-9.html

California State Controller, "Auditor Rotation Requirements for Annual Audits of Local Governments," https://www.sco.ca.gov/aud_auditor_rotation_requirements.html

Ken Tysiac, "Mandatory audit firm rotation rules published in EU," Journal of Accountancy (May 28, 2014), https://www.journalofaccountancy.com/news/2014/may/201410229.html

The Brookline Fiscal Advisory Committee's Final Report (February 5, 2020) https://www.brooklinema.gov/DocumentCenter/View/21168/February-5- Final-BFAC-Report 5

BFAC Report 1 (August 2021) of the Brookline Fiscal Advisory Committee Moderator's Committee https://www.brooklinema.gov/DocumentCenter/View/25182/BFAC-MC-Report-1-of-3-August2021

BFAC Report 2 (March 2022) of the Brookline Fiscal Advisory Committee Moderator's Committee https://www.brooklinema.gov/DocumentCenter/View/30336/BFAC-MC-Final-Report-no-2--32322

https://www.gfoa.org/materials/audit-procurement

The meeting recording can be found at https://brooklinema.zoomgov.com/rec/play/nqLhgy3TThVAWDF1Ig1ElwjNHNdMC2k1BKer548FjLY9pK2L6jwY2MmXIVAR0iuofFNJ6ctdPmwJnfwG.wnMxE4EVPZfg-Jma?continueMode=true.

Recommendation

By a vote of 19-2 with 4 abstentions, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 21 as amended. The clean version of the motion is shown below. After the vote summary table an appendix is included to show the differences between the amended motion and the version published in the Warrant.

ARTICLE 12 AMENDED MOTION

VOTED: That the Town amend Article 4.1 "Accounts and Audits" of the Town's General By-laws as follows (language to be added appearing in underline):

ARTICLE 4.1

ACCOUNTS AND AUDITS

SECTION 4.1.1 ACCOUNTING SYSTEM

All accounts of the Town shall be kept in accordance with a uniform accounting system approved by the Massachusetts Department of Revenue.

SECTION 4.1.2 AUDIT

The accounts of the Town shall be audited by an independent auditor retained by the Town at such times and in such manner as determined by the Select Board, with the advice of the audit committee, subject to the following conditions: (a) no individual can serve as lead audit partner for the Town's audit for more than five consecutive years; (b) the Town's contract with an independent auditor cannot specify a term longer than five years; and (c) the Town must seek competitive bids or undertake an alternative procurement method at least every ten years, with the option of an extension of up to two years contingent on the approval of the Select Board.

SECTION 4.1.3 AUDIT REPORTS
All reports by the independent auditor shall be available for inspection by the public during regular business hours at the Town's offices. The audit report shall also be made available at the Main Library.

ARTICLE 12 ADVISORY COMMITTEE VOTES

Article Description	Require rotation of auditors
AC recommendation (Favorable Action unless indicated)	**19-2-4**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y

John Doggett	Y
Katherine Florio	Y
Harry Friedman	A
David-Marc Goldstein	Y
Neil Gordon	N
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	N
Anita Johnson	A
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	
Lee Selwyn	Y
Alok Somani	A
Carolyn Thall	Y
Christine Westphal	A
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

APPENDIX — Amendments to Warrant Article 12

For clarity, additions to the motion as filed are shown below in **bold underline**; deletions are shown in ~~strikethrough~~.

ARTICLE 4.1 ACCOUNTS AND AUDITS

SECTION 4.1.1 ACCOUNTING SYSTEM All accounts of the Town shall be kept in accordance with a uniform accounting

system approved by the Massachusetts Department of Revenue.

SECTION 4.1.2 AUDIT The accounts of the Town shall be audited by an independent auditor retained by the Town at such times and in such manner as determined by the Select Board, with the advice of the audit committee, subject to the following ~~restrictions~~ **conditions**: (a) no individual can serve as lead audit partner for the Town's audit for more than five consecutive years; (b) the Town's contract with an independent auditor cannot specify a term longer than five years; and (c) the Town must seek competitive bids **or undertake an alternative procurement method** at least every ten years, **with the option of an extension of up to two years contingent on the approval of the Select Board**.

SECTION 4.1.3 AUDIT REPORTS All reports by the independent auditor shall be available for inspection by the public during regular business hours at the Town's offices. The audit report shall also be made available at the Main Library.

XXX

ARTICLE 13

THIRTEENTH ARTICLE
Submitted by: Chi Chi Wu, TMM7

To see if the Town will adopt the following as a new Article 3.12A of the Town By-laws:

Article 3.12A
Office of Housing Stability

There shall be established an Office of Housing Stability within the Department of Public Health, or within another Town Department at the discretion of the Town Administrator. The purpose of the Office shall be to assist residents at risk of displacement, prevent homelessness, and to develop initiatives to combat displacement. The office shall serve as a resource and clearinghouse of information for residents who need housing-related assistance and a forum for identifying best practices for combatting displacement. Potential services offered by the office may include:

- Advice and information on housing issues for Brookline residents
- Referrals to community agencies to prevent displacement (legal, mental health, social services, advocacy)
- Accessing financial assistance
- Advocacy with landlords or housing agencies to resolve housing disputes
- Case management to stabilize tenancies
- Housing search (affordable, private, public, inclusionary)
- Individual outreach to Landlords and on-line resources regarding tenant rights and housing search

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Renters across the country and the Commonwealth have faced tremendous challenges in recent years, such as shortages of affordable, decent housing and spiking rent increases. Even before the COVID-19 pandemic, tens of millions of renters struggled with high housing costs, paying over 30 percent of their income for rent, which is considered "cost burdened." The COVID-19 crisis only exacerbated this housing affordability crisis, with soaring rent hikes and millions of households behind in rent- a peak of 15 million people or 1 in 5 adult renters in arrears in January 2021.

Here in the Greater Boston region, we have some of the highest rents in the nation - the second highest, behind New York City, with no signs of prices hikes slowing down.

About 45% of residents, and over half of Black and Latino residents, in Greater Boston are cost burdened.

As an integral part of the Greater Boston region, Brookline faces these challenges as much as our neighbors. Over 50% of our households are renters. And while our median household income is over $120,000 per year, about 10 percent of our population is in poverty. Moreover, 45% of our renter households are cost burdened. When rents become unaffordable to our residents, the result can be displacement, which jeopardizes individual households and disrupts stable communities

A number of communities in Greater Boston region have responded to the affordability crisis facing renters by establishing an Office of Housing Stability or similar municipal department. The City of Boston created its office in 2016, which provides assistance to tenants in housing crisis due to fire, natural disaster, eviction, or condemnation. Boston is not alone in having an Office of Housing Stability, as several municipalities that are comparable or only slightly larger than Brookline have also created similar offices:

- The City of Somerville (population 79,815; budget $307.7 million) created an office in 2018 which is staffed by nine people.
- The City of Malden (population 65,932; budget $188 million) created an office just this past year.
- The City of Revere (population 53,864; budget $241 million) opened its office in 2020.

Brookline should have an Office of Housing Stability similar to our peer communities of Malden, Somerville and Revere. This article establishes such an office in the Town By-Laws.

DIRECTOR OF HEALTH AND HUMAN SERVICES REPORT

TOWN OF BROOKLINE
DEPARTMENT OF PUBLIC HEALTH

11 Pierce Street, Brookline, Massachusetts, 02445
Telephone: (617) 730-2300 Facsimile: (617) 730-2296
Website: www.brooklinema.gov/health

Sigalle Reiss, MPH, RS/REHS
Director of Public Health
& Human Services

To: Select Board
Advisory Committee

From: Sigalle Reiss, Commissioner of Public Health & Human Services

Date: May 1, 2023

Re: Spring 2023 Town Meeting Warrant Article 13: Create a new Article 3.12A of the Town's General By-Laws to establish an Office of Housing Stability

CC: Charles Carey, Town Administrator

Housing is one of the most important social determinants of health, and safe and stable housing is vital for individual and community well-being. The link between stable housing and public health is strong, as several studies have shown that unstable housing situations can increase the risk of chronic physical and mental illness. Poor living conditions resulting from homelessness, inadequate housing, and overcrowding can negatively affect health outcomes.

When people do not have access to safe and stable housing, they are more likely to experience a range of health problems. These problems include respiratory issues, mental health challenges, and infectious diseases such as tuberculosis. Additionally, children who grow up in unstable housing conditions are at a higher risk of developmental delays, behavioral issues, and poor educational outcomes. Stable housing is also critical to supporting mental health. For people experiencing homelessness, mental health issues often arise as a result of the stress and uncertainty of their

living situation. Access to stable housing can reduce stress and provide a sense of security, leading to improved mental health outcomes.

The benefits of stable housing go beyond individual health outcomes. A lack of stable housing can also negatively impact the broader community's health. Homelessness can contribute to the spread of infectious diseases, particularly in crowded shelters. It can also increase the burden on emergency departments and hospitals, leading to higher healthcare costs. Providing stable housing solutions for individuals and families is, therefore, critical for promoting public health. This requires a multi-sectoral approach involving healthcare providers, social services, and housing authorities. We can improve overall health outcomes and build healthier, more resilient communities by addressing the root causes of unstable housing and providing support and resources to those in need.

In their presentation, the petitioners spoke about the high cost of rent in the metro Boston area. The Department of Housing and Urban Development (HUD) defines affordable housing as housing that costs less than 30% of a household's income. Approximately 45% of renters are cost-burdened in the metro Boston area, and black and Latino residents disproportionately experience the burden. To help support residents in need of stable housing, communities in the region have an office of housing stability, including Boston, Somerville, Revere, and Malden. Several communities created this new office in response to the pandemic using ARPA funds. Malden, in particular, used some of its ARPA funds to partner with a local nonprofit HFI to establish their office of housing stability.[1]

Department of Public Health Staff, ACPH members, and members of the public raised several concerns regarding the warrant article. In particular, Brookline DPH staff and ACPH members wondered how much this warrant article would cost the town annually. Commissioner Reiss noted the Department's plan to complete a human services mapping assessment before adding additional staff to support housing needs. The Brookline Public Health & Human Services Department plans to hire a consultant to conduct this human services assessment to evaluate the resources and services available to Brookline residents. The project will be conducted in three phases. The team will identify all available resources and services, evaluate gaps in operations and barriers to accessing existing services, and convene stakeholders to identify recommendations to improve access to human services. Once completed, Brookline DPH will have an action plan to improve access to human services, identify systems to address identified obstacles, and promote existing successful programs.

[1] https://advocatenews.net/malden/news/mayor-announces-new-office-of-housing-stability/

On March 22nd, the Advisory Council on Public Health held a public hearing[2] on Warrant Article 13 for the Spring 2023 Brookline Town Meeting. After hearing from the petitioners' and Department of Public Health staff, the ACPH expressed their support for the Department's ongoing Community Health Assessment and human services mapping project. ACPH members expressed their strong support for the intention of the Warrant Article. They were happy that the petitioners included flexibility and that it did not dictate the precise manner to accomplish the goals of addressing housing needs in Brookline. The ACPH voted to recommend Warrant Article 13 to Town Meeting by a vote of 4 in favor, 0 opposed. Roll call in favor: Natalia Linos; Charles Homer; Leonard Jokubaitis; and Andy Epstein.

HOUSING ADVISORY BOARD REPORT AND RECOMMENDATION

Warrant Article 13 calls for the establishment of an Office of Housing Stability within the Department of Public Health, or within another Town Department at the discretion of the Town Administrator. The purpose of the Office shall be to assist residents at risk of displacement, prevent homelessness, and to develop initiatives to combat displacement. After a public hearing and discussion of how best to address the needs of the community with respect to housing insecurity, the Housing Advisory Board made the following motion:

MOTION for approval of a HAB recommendation for Warrant Article 13, as amended by Steve Heikin (Motion: Klein, Seconded: Jacobs)

The Housing Advisory Board recommends REFERRAL of Warrant Article 13 to the Select Board for further action as follows:

HAB concurs with the Select Board's recommendation to refer this matter to the Town Administrator. A decision will be made by the Town as to which services, if any, will be provided by Town staff or by outside service providers. The HAB also supports the use of CPA funds, to the extent they are eligible, to address the needs identified in this warrant article.

The roll call vote went as follows:

McNally – Aye, Goodman – Aye, Jacobs – Aye, Heikin – Aye, Klein – Aye, Greene – Aye, O'Neal – Aye, Blood – No

[2] Advisory Council on Public Health - Zoom (zoomgov.com)

SELECT BOARD'S RECOMMENDATION

Article 13 is a petition to amend the Town's by-laws to create an Office of Housing Stability within Town government in a department selected "at the discretion of the Town Administrator." The proposed by-law states that the office's purpose would be to "assist residents at risk of displacement, prevent homelessness, and to develop initiatives to combat displacement." Furthermore, the office would "serve as a resource and clearinghouse of information for residents who need housing-related assistance and a forum for identifying best practices for combatting displacement." The article lists, but does not mandate, several services the office could potentially provide.

In debating Article 13, the Select Board expressed support generally for the Town to provide a centralized "clearinghouse" that connected residents to existing housing-related services, and asked that Town staff increase visibility of their present efforts to provide such connections. The Select Board also acknowledged the power of the comments in favor of the article at the public hearing, describing them as a clear indication of a need for supportive services regarding housing in the community.

Some members of the Select Board questioned whether the creation of a new Town office to provide such services was necessary or appropriate, noting, among other things, a pending comprehensive inventory of social services to be conducted by the Health Department. One member raised the possibility of confusion with regard to whether the office could legally offer eviction protection or advocacy for individuals on either side of a landlord/tenant dispute.

With the above discussion, and following a prior public hearing on the matter, at the Select Board meeting held on April 25, 2023, Select Board Chair Bernard Greene offered the motion contained within these reports that would refer Warrant Article 13 to the Town Administrator to determine how best to implement the article's aims. The Select Board then voted 3-1 FAVORABLE ACTION on the following motion:

VOTED: That the subject matter of Warrant Article 13 (establishment of a housing stability office) be referred to the Office of the Town Administrator to identify the appropriate body or bodies to address the various aspects of housing instability found in Brookline, including those aspects listed in Warrant Article 13. Such bodies may include Town departments, non-governmental organizations in Brookline or in the Boston Metropolitan Region (NGOs), or federal, state, or regional governmental agencies addressing housing issues.

This referral is intended to prompt the establishment of a central point of contact within Town government to receive general inquiries, requests for assistance, or complaints relating to housing challenges of individuals and families. This referral is not intended to supplant in any way the efforts of the Department of Public Health and Human Services to identify and develop a structure for addressing human service needs, including those related to housing in Brookline. The point of contact can, where appropriate, identify

outside legal or advocacy organizations to refer any matters involving landlord-tenant disputes, but cannot provide direct advocacy assistance to parties in such disputes.

ROLL CALL VOTE:

Aye:	No:
Greene	Aschkenasy
VanScoyoc	
Sandman	

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on the Advisory Committee's MOTION TO REFER the subject matter of WA 13 to a Select Board Committee to report back to Fall 2023 Town Meeting by a vote of 14-3-1.

Executive Summary:	This article would create an Office of Housing Stability either in the Health Department or within some other Town department at the discretion of the Town Administrator which would (1) provide assistance to Brookline residents at risk of housing displacement, (2) help prevent homelessness, (3) develop initiatives to combat displacement, and (4) serve as a resource and clearinghouse for residents who need housing-related assistance and as a forum for identifying best practices for combating displacement, and (5) possibly provide several other potential services to Brookline residents facing displacement. The Advisory Committee was supportive of this proposal but because there are so many unknowns (To what extent are these services currently being provided by Town departments? What is the extent and nature of housing displacement in Brookline? What kinds of services should this Office provide itself and what should be outsourced? How should this Office be structured and staffed? In which Town department should it be placed? How should this Office be funded, and how much funding will it need?), the Advisory Committee believes that a Select Board Committee of Town of Brookline staff and other Town residents and professionals with knowledge about housing displacement issues should research these questions and then report back to the Fall 2023 Town Meeting with recommendations.

Voting Yes will . . .	**On the petitioners' motion:** Create a new Office of Housing Stability with primary responsibility for helping Brookline residents facing housing displacement but without first doing a preliminary study of the extent and nature of housing displacement in Brookline, how many staff are needed, the specific services that this Office would be providing to Brookline residents, and the costs to the Town of this new Office. **On the Advisory Committee's motion to refer:** Charge a Select Board Committee with studying the nature and extent of housing displacement in Brookline and how best this new Office of Housing Stability should be structured, staffed, and funded to meet the needs of Brookline residents facing housing displacement and to report back to Fall 2023 Town Meeting with recommendations. Because no money is budgeted for this new Office in the FY24 budget, a delay of a few months to study these basic questions is unlikely to result in a delay in getting this Office up and running.
Voting No will . . .	Result in continuing the current piecemeal efforts of some Brookline Town departments (Council on Aging, Veterans Services) which provide assistance to elderly and Veteran residents facing housing displacement, but leave other residents without comparable help.
Financial impact	Unknown, but potentially a large financial impact. A minimum of 1-2 full-time employees (or more) would be required at a cost likely ranging anywhere from $85,000-$150,000 to half a million dollars or more depending on the number of staff needed, the required skill set of the staff, and the extent that the work of the Office would be outsourced.
Legal Implications	Unlikely.

Introduction

Background Information. The Greater Boston area has some of the highest rents in the nation, competing with San Francisco for the second most expensive city in the country for renters (New York City is number one). Brookline's median household income is over $122,000. In addition, a significant portion of Brookline's rental population is transient, from all parts of the United States and the world, living in Brookline while attending one of the graduate or undergraduate schools in this area or as rotating fellows at medical and scientific institutions. Because they are only here for a few years, this transient population is less sensitive to pricing. As a result of these factors, rents in Brookline have been rapidly increasing, placing an enormous strain on renters in Brookline with more modest incomes, including but not limited to the over 10% of Brookline's population who are below the poverty line.

According to recent US census data, over 52% of Brookline's households are renters. During the years 2015-2019, approximately 43% of Brookline's rental households were considered to be “cost burdened” (spending over 30% of their household income on housing costs), while 24% were considered to be “severely cost burdened” (spending over 50% of their household income on housing costs), as shown in the table below.

Cost-Burdened Renters in Brookline

Table 2.4. Incidence of Housing Cost Burden

		Renters			Homeowners		
Income by Cost Burden	Total	Total	Cost Burdened	Severely Burdened	Total	Cost Burdened	Severely Burdened
Income <= 30%	3,960	3,190	63.5%	55.2%	770	81.8%	71.4%
Income >30% to <=50%	2,180	1,360	83.1%	68.4%	820	77.4%	28.0%
Income >50% to <=80%	2,505	1,615	80.2%	18.6%	890	53.9%	28.7%
Income >80% to <=100%	1,560	800	46.3%	1.3%	760	46.1%	11.8%
Household Income >100%	14,225	5,515	9.3%	0.2%	8,710	12.8%	2.2%
Total	24,435	12,485	42.7%	24.1%	11,950	26.9%	11.0%

Source: HUD, Comprehensive Housing Affordability Strategy Data (from ACS 2015-2019).

The petitioners stated that they believe that in Brookline the problem is less a matter of eviction than one of voluntary displacement, in which Brookline renters are forced by increasing rents to move away from Brookline to a less expensive community. However, no data was provided.

Offices of Housing Stability presently exist in Boston, Somerville, Malden, and Revere. All but one of these communities have a higher percentage of renter households than does Brookline (52%).

- Boston (65% renters) created its OHS in 2016 and uses a fee paid by landlords to help fund it.

- Somerville (66% renters) created its OHS in 2018 and has used ARPA funding to expand its staff to 9.

- Revere (49% renters) opened its OHS in 2020 as primarily a centralized referral service. It is currently not staffed, but they plan to hire a coordinator.

- Malden (58% renters) created its OHS in 2022, but it primarily acts as an outsourcing referral mechanism, contracting its services with a nonprofit organization.

Warrant Article 13. This article seeks a new bylaw Article 3.12A that would create an Office of Housing Stability either in the Health Department or within some other Town department at the discretion of the Town Administrator. This Office would (1) provide assistance to Brookline residents at risk of housing displacement, (2) help prevent homelessness, (3) develop initiatives to combat displacement, and (4) serve as a resource and clearinghouse for residents who need housing-related assistance and also as a forum for identifying best practices for combating displacement.

As stated in the proposed bylaw, the Office also might provide other potential services as well: (1) advice and information on housing issues, (2) referrals to community agencies to prevent displacement, (2) accessing financial assistance, (3) advocacy with landlords and/or housing agencies to resolve housing disputes, (4) case management to stabilize tenancies, (5) housing search, and (6) individual outreach to landlords and on-line resources regarding tenant rights and housing search. It could also potentially help smaller landlords with problem tenants.

Evaluation Methodology/Research

- In developing their warrant article, petitioners consulted with the Town Administrator and the Director of the Department of Health and with the Offices of Housing Stability in Somerville and Malden. They did not consult with any of the Brookline departments currently providing services to Brookline residents facing housing displacement (e.g., the Council on Aging/Senior Center, Veterans Services) or with the Housing Advisory Board.

- The Human Services Subcommittee held a virtual public hearing on WA 13 via Zoom on March 27, 2023. The hearing recording can be found at the following link: https://brooklinema.zoomgov.com/rec/share/nxdgTf-Pi7rp62at5oHVPOhmLBBdv85AzEL_az7bUDgjALj0FZKN6nEI_QfUbOFk.Oghb4VGJ7HC0hv2w

Discussion

The Advisory Committee agrees with petitioners that the Town needs to do more to help residents who are at risk of eviction and displacement from their rental apartment and to provide Brookline residents with a centralized, coordinated, and guided information and referral system. An Advisory Committee Member with experience helping renters at risk of displacement spoke of the need for a central clearinghouse because the average renter, when threatened with non-renewal of their lease or eviction, may not have any sense of what to do or where to go for help or what their rights are. Codification of an Office of

Housing Stability in the General By-Laws was also seen as an important Brookline values statement as well.

However, there were many concerns expressed about creating this Office via a new bylaw when there are still so many unknowns and before key questions have been answered or even studied, including the following important ones:

- What is the extent and nature of housing displacement in Brookline?
- What kinds of services should this Office provide itself and what, if any, should be outsourced?
- To what extent are these services currently being provided by Town departments?
- How should this Office be structured and staffed?
- In which Town department should it be placed?
- How should this Office be funded, and how much funding will it need?

For this reason, the Advisory Committee believes that a Select Board Committee of Town of Brookline staff, and other Town residents and professionals with knowledge about housing displacement issues should research these questions and then report back to the Fall 2023 Town Meeting with recommendations. Because no money is budgeted for this new Office in the FY24 budget, a delay of a few months to study these basic questions is unlikely to result in a delay getting this Office up and running.

Recommendation
The Advisory Committee recommends FAVORABLE ACTION on the Advisory Committee's MOTION TO REFER the subject matter of WA 13 to a Select Board Committee to report back to Fall 2023 Town Meeting by a vote of 14-3 with 1 abstention.

VOTED: That the subject matter of Article 13 be referred to a Select Board Committee, which will coordinate with different Town departments to find out what they're already doing and what more needs to be done, explore ways to get it all into one centralized location, if possible, along with finding a funding mechanism, and then report back to the Fall 2023 Town Meeting with recommendations.

ARTICLE 13 ADVISORY COMMITTEE VOTES

Article Description	**Establish an Office of Housing Stability**
AC recommendation	**REFER TO SB COMMITTEE 14-3-1**
Ben Birnbaum	Y
Harry Bohrs	A
Cliff Brown	
Patty Correa	
John Doggett	Y
Katherine Florio	
Harry Friedman *	
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	
Anita Johnson	Y
Alisa Jonas	
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	N
Linda Olson Pehlke	Y
Markus Penzel	
David Pollak	N
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	
Alok Somani	Y
Carolyn Thall	N
Christine Westphal	
Dennis Doughty	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 13

MOTION OFFERED BY THE PETITIONER

MOVED: That the Town adopt the following as a new Article 3.12A of the Town By-laws:

Article 3.12A
Office of Housing Stability

There shall be established an Office of Housing Stability within the Department of Public Health, or within another Town Department at the discretion of the Town Administrator. The purpose of the Office shall be to assist residents at risk of displacement, prevent homelessness, and to develop initiatives to combat displacement. The office shall serve as a resource and clearinghouse of information for residents who need housing-related assistance and a forum for identifying best practices for combatting displacement. Services offered by the office may include advice and information on housing issues for Brookline residents; referrals to community agencies (legal, mental health, social services, advocacy) to prevent displacement; accessing financial assistance; advocacy with landlords or housing agencies to resolve housing disputes; case management to stabilize tenancies; housing search (affordable, private, public, inclusionary); and individual outreach to Landlords and on-line resources regarding tenant rights and housing search.

ARTICLE 13

REPORT AND RECOMMENDATION OF THE COMMITTEE ON TOWN ORGANIZATION & STRUCTURE (CTO&S)

SUMMARY

CTOS is convinced that there should be a centralized and coordinated approach to assisting and directing residents who are at risk of home displacement or experiencing housing instability. However, we believe additional work needs to be done to accurately quantify the need and craft a structural approach.

This is why CTOS recommends referral to a working group under the aegis of the Town Administrator, involving the pertinent departments and, importantly, one of the Article's petitioners. CTOS also asks for a report back to the November Town Meeting which creates a time-line requiring specific proposals and action, and it brings important voices around the table.

We believe the CTOS referral motion will produce a more thorough approach, one not done in isolation given that there are often other accompanying issues surrounding housing insecurity. One that allows a more holistic consideration.

CTOS referral recommendation appears at the end of this report.

INTRODUCTION

Where we choose to live is influenced by many factors: family, employment, affordability, and desirability just to name a few. Some of us choose to spend a smaller portion of our incomes on housing by residing in less convenient areas, and others choose to spend a greater potion for convenience and/or access to amenities. And for some, for reasons such as family or social support networks, the choice is much more complex.

Brookline is a highly desirable community, and, as such, it is increasingly expensive to live here. Many are being priced out and/or are selling out to developers who are eager to take advantage of Brookline's popularity. It's a vicious circle – the increased demand just drives prices up further.

This is exacerbated by the fact that we're a transient community. Most children who enter our K-8 schools are not likely to graduate from Brookline High. Brookline's transiency pushes up living costs as short-termers are less sensitive to pricing. They endure the expense for a short period of time. This creates a dynamic where people who want to establish roots and raise a family here are competing for housing (primarily rental) with the Harvard Medical or Boston University Law students, and the post-doc fellows at Longwood and the universities - people willing to pay higher rents for convenience during their stints here. Convenience, our public schools, and our amenities make it attractive to all, including high earning people in financial services, medicine, and the rapidly growing information and biotechnology sectors.

Real estate developers of course tend to cater to these high earning and transient populations. That's where the money is. That makes it particularly difficult for those with low or fixed incomes, and even those in the so called "middle". This broader dynamic puts

the housing situation of some of our residents at risk. It also changes the economic and social diversity of our community, the very fabric of our town.

In addition to the financial stress and the fear of being displaced from one's home, is the frightful and bewildering maze of navigating services, assistance, and legal options when grappling with housing challenges. This is a vulnerable population, often with other accompanying issues – job related, heath issues, language, substance abuse, etc. We are often unaware of the complications in the lives of others.

DISCUSSION

The petitioners' proposal seeks to address some of these issues, through bylaw, by establishing a new, and yet to be defined, Office of Housing Stability. This does not come with an articulated understanding or proposal for the structure or needed staffing. The petitioners' intent is to allow flexibility and discretion for the Town Administrator, with details to follow.

Clearly there is a need for a coordinated, centralized effort to provide information, assistance, and referrals around housing issues - particularly, around housing instability and the prospect of losing one's home. While we have yet to fully understand the problem quantitatively, we do have a sense of it qualitatively. We know that people in the midst of a housing crisis are particularly vulnerable, perhaps complicated by other struggles in their lives. And, we know there can be a more efficient system for the Town to provide some measure of support and guidance.

While the motion under WA13 attempts to address some of this, there are aspects of the proposed bylaw that are unnecessarily broad or vague and, more importantly, inappropriate to tangentially introduce into a bylaw. In particular, the "may" clause technically allows the Town to intercede in and mediate private contract disputes between individuals – whether advocating for a tenant, or advocating for a landlord. Formally extending this prerogative in a bylaw could potentially open the door for risk and liability to the Town, as well as claims of unequal treatment.

We know that the Town Administrator plans to establish an Office of Social Services, and recently issued an RFP for a consultant to help in that regard. Housing Stability could surely be a component of this, though there are other departments and entities involved as well (e.g. the Council on Aging, Housing Advisory Board, Planning) and should be engaged. It simply makes sense to incorporate Housing Stability into the conversation and be strategic in its placement and implementation.

OTHER COMMUNITIES

Offices of Housing Stability exist in other communities, though in differing fashions.

Boston's Office of Housing Stability is funded by fees paid by landlords (as a Town, it is unclear whether Brookline can impose such fees without home-rule legislation).

Somerville has a staffed Office of Housing Stability that was created and expanded largely through the assistance of ARPA funds.

The Cambridge Office of Housing Stability offers referrals, housing and financial assistance, and legal aid, and it has full-time staff. Keep in mind that Cambridge has taxing capacity that Brookline can't even imagine.

Malden has an Office of Housing Stability that primarily acts as an outsourced referral mechanism, and its services are contracted with a local nonprofit organization that specializes in aggregating and providing services and referrals.
Revere's Office of Housing Stability is primarily a centralized referral point. While not currently staffed, they intention to hire a referral coordinator.
There is a potential for Brookline to refer residents to a variety of existing social service agencies, as well has help navigate people through the process. There is no "one model", and work will need to be done to establish a "Brookline model" appropriate to our situation.

A STRUCTURED APPROACH FOR BROOKLINE

CTOS considered and made changes to the petitioners' original language, and those changes are being offered as a separate amendment that can be voted on its own. However, in the end CTOS felt there was enough work that still needed to be done that it warranted a referral motion instead.
The nature of the problem has been identified, and the need for centralized coordination and guided referrals is apparent, and likely not just for housing insecurity.
The next step should be a thoughtful approach to creating the most efficient and effective structure for the community and the governmental administration. One that can consider the broader context of needed services and where a housing stability program would be best integrated.
This is why CTOS recommends the referral motion below. The expectation is that the next several months will allow for the full and deep conversation, one that has yet to occur, and a bit of time to better study existing models in other communities.

CTOS' REFERRAL RECOMMENDATION

By a unanimous vote of CTOS,
Voted:
To refer the subject matter of Warrant Article 13 to the Brookline Select Board to convene a committee under the auspices of the Town Administrator, consisting of one of the Article's petitioners and at least one representative each from the following: Health Department, Housing Advisory Board, Council on Aging, Planning Department; and any others deemed appropriate, to:

- propose a structure for the centralized coordination around housing stability and related services.
- make proposals leading to the establishment of a program for housing stability which, among other things, will provide a housing resource coordinator.

Resident services may include, without limitation, providing:

- Advice and information on housing issues for Brookline residents.
- Referrals to community agencies to avoid displacement, access financial assistance, or access other services (legal, mental health, social services, dispute resolution, housing search, advocacy).

This committee is to report back to the 2023 November Town Meeting.

ARTICLE 13

AMENDMENT OFFERED BY HARRY BOHRS, TMM3

Summary
In considering WA13, CTOS supported two different amending motions under this Article. In the end, CTOS decided to recommend a motion to refer.
However, it also created amended language to the original article. Should a motion to refer fail, it is important for Town Meeting to vote favorably on CTOS' amended language below.
The amended language preserves the mission of the petitioners' original language but clarifies it as a bylaw. Importantly, it modifies and condenses the "may" clause so as to preserve the original elements, but also guards against the unintended consequences of potential legal actions.

Consideration Of Bylaw Language.
It is clear that there is a need for a coordinated and centralized effort to provide information, assistance, and referrals around housing issues, particularly with regard to housing instability and the prospect of losing one's home. While we have yet to fully understand the problem quantitatively, we do have a sense of it qualitatively. We know that people in the midst of a housing crisis are particularly vulnerable, and that it may also be related to other struggles in their lives. As well, we know there can be a more efficient system within our Town government to address the issue by providing some measure of support and guidance.
The original motion under Warrant Article 13 is an attempt to address some of this, though there is language in the proposed bylaw that is unnecessarily broad or vague and, more importantly, inappropriate to introduce into a bylaw in a tangential manner through a "may" clause. This is especially important as it may technically allow the Town to intercede in and mediate private contract disputes between individuals. Formally extending this prerogative in a bylaw potentially opens the door for risk and liability to the Town and claims of unequal treatment.

May vs Shall
"May" is often perceived as simply not obliging one to do something, as opposed to "shall" which carries with it an expectation of action. However, "may" does confer authority and grants open discretion to exercise that authority, nonetheless. "May" establishes the outside bounds of what is possible, whether now or in the future. That is why it is extremely important to be careful in how "may" is interwoven into any bylaw. It is a concept particularly important to the consideration of the bylaw language proposed by the petitioners.
The petitioners' proposed bylaw language technically allows the Town to advocate with landlords, in any way, in housing disputes; something that is fraught with potential issues. The language is broad and subject to interpretation. Can the Town intercede in rental-agreement disputes? Can landlords have the Town provide help in evicting tenants over

rental disputes? It may be as simple as moderating a conversation between landlord and tenant to resolve a problem, or it could be much more involved and turn litigious.

Our Town Administrator and Town Counsel's offices have stated that the Town must not inject itself into private contract disputes. CTOS agreed with this position. However, regardless of how our current Town Administrator chooses to interpret the discretion granted in the proposed bylaw, a bylaw is a law. It grants prerogatives not merely to those in position now, but also in the future. And, during hearings on this article, the petitioners made it clear that ideally the Town would become directly involved in dispute mediation. Granting that broad authority in a bylaw, before we even understand what the position or program will look like, is simply not responsible.

The proposed amended language drafted by CTOS removes that specific provision, while still maintaining specific references to the office's role in providing referrals to existing community agencies for "legal, mental health, social services, advocacy, financial assistance, housing search, dispute resolution" assistance.

Where to Situate the Office

The petitioners' original language is vague in that it proposes that a new Office of Housing Stability be situated in the Health Department, but then says it is up the Town Administrator to put it where he deems it to fit best. It is laudable to provide a measure of flexibility in the language. However, as a bylaw it is unclear by being merely "suggestive". The bylaw language should simply state that the office placement will be at the discretion of the Town Administrator. The proposed amended language below provides that clarity and maintains the same measure of flexibility as the petitioners' original language.

As A Policy Forum

The article also seeks to establish this yet to be formulated office as the central Town forum for addressing the housing issue. Again, inscribing that in a bylaw for a still undefined office is premature. Additionally, it is a broad policy issue that involves planning, public health, and affordable housing development, rather than a services-oriented approach to provide help, navigation, and referrals. The amended language below removes that broader reference, allowing this proposed new office to act as a focused resource.

Post Script

As a general rule, a bylaw should be clear, sharp and not overreach, especially if it addresses or establishes something that still needs a lot of study and consideration before implementation.

The petitioners' proposed bylaw asks us to jump in with both feet, before really knowing how deep the pool is.

The proposed amended language below preserves the core elements of the original article, while creating a clearer bylaw. It avoids opening the door to unnecessary risk or litigation. These language changes were originally developed within CTOS (which unanimously supported the changes). However, in the end CTOS felt more work needed to be done and is strongly supporting its referral motion.

That being said, this amended language should be favorably supported by Town Meeting if a motion to refer fails. It is part of a belt and suspenders approach and ensures better bylaw language.

Recommendation

Voted:
To amend Warrant Article 13 as follows:
That the Town will adopt the following as a new Article 3.12A of the Town By-laws:
Article 3.12A
Office of Housing Stability
There shall be established an Office of Housing Stability within ~~the Department of Public Health, or within another~~ **a designated** Town Department**, the appropriate department is to be determined** at the discretion of the Town Administrator.
The purpose of the Office shall be to assist residents at risk of displacement, prevent homelessness, and to develop initiatives to combat displacement. The office shall serve as a resource and clearinghouse of information for residents who need housing-related assistance ~~and a forum for identifying best practices for combatting displacement~~.
Potential services offered by the office may**, without limitation,** include:
● Advice and information on housing issues for Brookline residents
● Referrals to community agencies to prevent displacement (legal, mental health, social services, advocacy, **financial assistance, housing search, dispute resolution**)
~~● Accessing financial assistance~~
~~● Advocacy with landlords or housing agencies to resolve housing disputes~~
● Case management to stabilize tenancies
~~● Housing search (affordable, private, public, inclusionary)~~
~~● Individual outreach to Landlords and on-line resources regarding tenant rights and housing search~~

ARTICLE 14

FOURTEENTH ARTICLE
Submitted by: Roger Blood

To see if the Town will amend Section 4.08, Paragraph 5, Subsection (d) of the Brookline Zoning Bylaw (Inclusionary Zoning) as follows:

d. For projects that include four to 10~~9~~ dwelling units, in accordance with paragraph 3 above, the applicant may choose to make a cash payment to the Housing Trust as provided in the Affordable Housing Guidelines.

PETITIONER'S ARTICLE DESCRIPTION

This Inclusionary Zoning Bylaw Amendment would reduce from 19 to 10 the maximum number of units in a proposed project whereby a developer can choose to make a prescribed lump sum payment to the Town's Affordable Housing Trust in lieu of contributing 15% onsite affordable housing units.

Brookline's Affordable Housing Trust over recent years has made possible otherwise financially infeasible affordable housing projects. Sponsors of these projects—including the Brookline Housing Authority and private non-profit affordable housing developers--have brought with them to Brookline substantial state and federal subsidies to bring these affordable housing developments to fruition.

This 'leveraging' of the Trust Fund's limited resources from Inclusionary Zoning has resulted in the creation of many more affordable units in Brookline than would have been produced by requiring onsite affordable units.

Brookline's recent adoption of the Community Preservation Act (CPA) will soon be generating a substantial and continuing new source of affordable housing funds. Leveraged funding from smaller projects subject to Inclusionary Zoning will continue to meet a critical need. However, the advent of CPA funds will help to diversity the Trust Fund's sources of revenue, while also furthering geographic diversification in newly created affordable housing units.

HOUSING ADVISORY BOARD REPORT AND RECOMMENDATION

Warrant Article 14 proposes to amend Section 4.08 of the Zoning Bylaw (Inclusionary Zoning - Affordable Housing Requirements) to reduce from 19 to 10 the maximum number of units in a proposed project whereby a developer can choose to make a prescribed lump sum payment to the Town's Affordable Housing Trust in lieu of contributing 15% onsite affordable housing units.

After a public hearing and discussion, the Housing Advisory Board made the following motion:

MOTION for Favorable Action of Warrant Article 14 (Motion: Blood, Seconded: Jacobs)

The roll call vote went as follows:

McNally – Aye, Goodman – Aye, Jacobs – Aye, Heikin – Aye, Klein – Aye, Greene – Aye, O'Neal – Aye, Blood – Aye

PLANNING BOARD RECOMMENDATION AND REPORT

Article 14 was submitted by Roger Blood on behalf of the Housing Advisory Board. It proposes to require on-site affordable units when a development has 10 or more units, rather than 19 or more units. Previously, if the number of units in a development were under 19, a cash payment to the Housing Trust Fund was allowed in lieu of the required 15 percent on-site affordable units. The recent Town's passage of the Community Preservation Act (CPA) requires financial contributions for affordable housing through the implementation of a one percent annual CPA property tax. When the CPA funds are supplemented with revenue-sharing from the Commonwealth, it is anticipated that it will generate about $3 million annually beginning in FY2024, and a portion of this will be allocated to affordable housing.

Both the Planning Board and the Zoning By-Law Committee agreed with the petitioner that a reduction of the upper limit under Section 4.08 from 19 to 10 units for on-site units will have a dual advantage of generating a modest number of increased on-site affordable housing units, while still allowing funding of the Housing Trust Funds through CPA and matching State funds.

At its joint hearing on April 12th, the Zoning By-Law Committee and the Planning Board saw a PowerPoint presentation by Roger Blood, Chair of the HAB, on this warrant article. At the end of the presentation, and after public comment and discussion by the two Boards, votes were taken in support of the warrant article.

The Zoning By-Law Committee voted (11-0) to recommend Favorable Action on Article XIV, as submitted.

The roll call vote went as follows: Greene – aye, Benka – aye, Blood – aye, Brown – aye, Goldstein – aye, Hamlin – aye, Hresko – aye, Pehlke – aye, Saltzman – aye, and Saner – aye, and Zarrillo – aye.

The Planning Board voted (5-0) to recommend Favorable Action on Article XIV, as submitted.

The roll call vote went as follows: Zarrillo – aye, Brue – aye, Chipimo– aye, Hamlin – aye, and Hines – aye. (Heikin was not present.)

SELECT BOARD'S RECOMMENDATION

Warrant Article 14 was submitted by Roger Blood on behalf of the Housing Advisory Board (HAB). If adopted, the Article would amend Section 4.08 of the Zoning By-law (Inclusionary Zoning) to reduce from 19 to 10 the maximum number of units in a proposed project whereby a developer can choose to make a prescribed lump sum payment to the Town's Affordable Housing Trust in lieu of contributing 15% onsite affordable housing units. Currently, developers of projects with 4-19 units a can opt to make a cash payment to the Housing Trust.

An argument against cash payments in lieu of onsite units is that allowing developers to "buy out" of the obligation to provide affordable units has led to the creation of luxury rather than mixed-income housing in a number of new developments. While the Housing Trust has and will continue to be vital for the creation of new affordable housing in the future, the topic of lowering the threshold of Section 4.08 has been discussed in a number of settings. Lowering the threshold, and thereby encouraging the creation of mixed-income housing on site, will provide more immediate opportunities to address the shortage of affordable housing units in Brookline.

The Select Board agrees with the HAB's rationale for proposing this change. In the past, a broader Inclusionary Zoning threshold allowed the HAB to leverage cash payments to capitalize the Housing Trust. A well-funded Housing Trust made possible otherwise financially infeasible affordable housing projects sponsored by mission-based developers —including the Brookline Housing Authority and private non-profit affordable housing developers. Town-funded projects resulted in the creation of many more affordable units in Brookline than would have been produced by requiring onsite affordable units. Now, however, the recently adopted Community Preservation Act provides an additional source of funding to assist the Town in meeting its affordable housing objectives.

The Town's adoption of the CPA offers a more predictable and accessible source of funding to support future affordable housing projects. CPA funds will greatly augment other resources that the Town can bring to bear. This additional funding source allows the Town to consider a shift in the focus of the Inclusionary Zoning By-law to the production

of onsite units in mid - to large-sized (>11 units) housing developments across Town. Developers of smaller projects (4-10 units) will still have the option to make a payment-in-lieu of onsite units, ensuring that Housing Trust contributions will continue. This shift could add the inventory of affordable housing units in the shorter term.

The Select Board acknowledges that the HAB, Planning Board, Land Use, the Zoning and Sustainability Subcommittee of the Advisory Committee, and the full Advisory Committee support the proposed amendment to Section 4.08. Therefore, the Select Board recommend FAVORABLE ACTION on the following motion:

MOVED: That the Town will amend Section 4.08, Paragraph 5, Subsection (d) of the Brookline Zoning Bylaw (Inclusionary Zoning) as follows: (additions in bold and underline, deletions struck)

d. For projects that include four to **10** ~~19~~ dwelling units, in accordance with paragraph 3 above, the applicant may choose to make a cash payment to the Housing Trust as provided in the Affordable Housing Guidelines.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 14 by a vote of 23-0-0.

Executive Summary	This Article seeks to amend Brookline's Inclusionary Zoning By-Law, Section 4.08, lowering the maximum size of private housing projects that may make cash payments to the Brookline Affordable Housing Trust Fund (AHTF) in lieu of providing affordable housing units in their developments. Currently, developers of projects with between four and nineteen dwelling units may opt to pay cash to the Town instead of including affordable housing units in their building or buildings. This Warrant Article would reduce the upper limit for this option from nineteen units to ten.

Voting Yes will...	Require private housing developments to meet the Town's requirement of including 15% affordable housing units on site in their building or buildings if their developments contain more than ten units, reducing the maximum size of housing developments that may opt for payments to the Town.
Voting No will...	Leave the zoning bylaw unchanged.
Financial impact	The AHTF is currently well funded and is anticipating significant additional funds from the Welltower project on Fisher Hill in the near future. In a more sustained fashion, Community Preservation Act (CPA) funds will be available to support low-income housing on an annual basis going forward, and the AHTF will be able to compete for this funding stream. So while this Article would reduce income to the AHTF, there are limited investment opportunities for these funds, and the HAB does not anticipate that this proposed change will reduce its ability to support any worthy projects. There are no staff or budgetary costs associated with this Article.
Legal implications	None

Introduction
This Article is filed by Housing Advisory Board Chairman Roger Blood. The Housing Advisory Board oversees the development and execution of affordable housing units in Brookline, whether by private developers, non-profit developers, or the Town. Brookline Zoning Law Section 4.08 Affordable Housing Requirements includes Inclusionary Zoning that requires multi-family housing development projects of four or more residential units to include 15% of their housing units as "affordable dwelling units". "Affordable" units are those available to households with low or moderate incomes according to certain formulas. To date (over the past 30 years), the program has produced a total of 104 affordable units (including both on-site and off-site) across 22 separate projects.

Apartment units are considered "affordable" if rented to household members with an income set at the affordable income limit set by the Town. Rent is set at 30% of household members' gross income on rent and tenant-paid utilities. Section 4.08 (5)(d) permits private housing developers of projects of four to nineteen dwelling units to make a cash payment to the Affordable Housing Trust in lieu of including low to moderate income units in their developments. This Article reduces from nineteen units to ten units the size of housing developments that are permitted to opt for a cash payment in lieu of including affordable units in the developments. That is, developers of between eleven-

and nineteen-unit buildings would no longer have the option of paying the Town in lieu of including affordable units in their own buildings.

Discussion
Private developers' opt-out payments are set by Town guidelines on a sliding scale based on number of units and project value, starting at two percent for a four-unit project and increasing by one percent per additional unit up to seventeen percent at the nineteen-unit upper limit. The Housing Advisory Board (HAB) has set the value of payments in lieu of building units to be at a higher level than the cost of building the units. This is because most developers would rather not take on the complexity of a mixed-income project.

These payments have assisted the Town in developing new affordable housing such as the Harold and Ronald Brown Family House developed by 2Life Communities on Harvard Street, and the Colonel Floyd Apartments on Marion Street (currently under development by Brookline Housing Authority). The Town's investment of "last in" money into these projects has allowed the projects to move forward, thereby contributing to an overall production of far more affordable units than would have been achieved if the Inclusionary Zoning (IZ) bylaw was limited to only the "on site production" option.

The current buy-out option of buildings with four to nineteen units was passed by Town Meeting in 2019. Prior to 2019, the number of affordable units required in building developments and the number of affordable units that developers could opt to buy out varied over time. A brief history of inclusionary zoning in Brookline is attached to this report and can be found
here: https://www.brooklinema.gov/DocumentCenter/View/40454

The "cost" on a per-unit basis of the AHTF's contribution to past projects has varied significantly over time, from a low of around $50,000 to well over $100,000. The upper limit was reached and exceeded for the Station Street project that came before Town Meeting twice but ultimately has not been able to proceed because the level of subsidy – over $200,000 per unit – was deemed to be not worth the investment when compared with other opportunities.

Two reasons were cited for the proposed change:

1. CPA revenue – a one percent annual real estate surtax – is expected to generate about $3 million annually, with a minimum 10% allocated to each purpose of affordable housing, historic preservation and open space, and the remaining 70% allocated among the three purposes as directed by the Town.

2. The preference of including affordable units within newly developed buildings (rather than allowing developers to "buy their way out" of mixed-income solutions in favor

of building luxury-only projects) has been loudly heard both within Town Meeting and beyond in recent years.

The current pipeline includes 16 projects containing a total of 268 units (total units, not affordable units). Of these, only three projects/39 units are in this 11-19 range. So moving those three projects to on-site affordable units will result in about six new on-site affordable units (15% of 40).

The recording of the April 11, 2023 Advisory Committee meeting can be viewed here (discussion of WA 14 begins at 2:00:29):
https://brooklinema.zoomgov.com/rec/share/Z9HSs3h_fkLoV16bPWcLp4cpAMfVJwwXqGVNhdxCXQqvNY69ZnbjhfLrbinhp4A.J3snWNG0jhALOUj7

The recording of the March 27, 2023 Land Use Subcommittee Public Hearing can be viewed here:
https://brooklinema.zoomgov.com/rec/share/XJzcEEW85K7UIvKAx6QGaDEaX8ON0onTJSSZcKpblCRUzS-VwGOgDKJckFqz9iZy.Hz1v1eArOLOcf2aO

Recommendation
The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 14 by a vote of 23 – 0 with no abstentions.

ARTICLE 23 ADVISORY COMMITTEE VOTES

Article Description	**Inclusionary zoning**
AC recommendation (Favorable Action unless indicated)	**23-0-0**
Ben Birnbaum	Y
Harry Bohrs	
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	Y
Anita Johnson	Y
Alisa Jonas	
Janice Kahn	Y
Pam Lodish	
Joslin Murphy	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

APPENDIX

INCLUSIONARY ZONING IN BROOKLINE
Background for Adopting Warrant Article 14 Zoning Amendment

Brookline first adopted Inclusionary Zoning (I.Z.) over 30 years ago at about the same time as it established the Housing Advisory Board and the Affordable Housing Trust.

The idea of "inclusionary zoning" was an outgrowth of "exclusionary zoning" or "snob zoning", which in affluent suburbs perpetuated large-lot single family zoning to discourage the development of smaller, denser housing that would be priced to attract new residents with lower incomes.

In Massachusetts, as with the state's Chapter 40B (also an "anti-snob zoning" program), inclusionary zoning conditions the approval of new housing development with the requirement that a designated percentage of the new units in a project be legally designated as affordable for occupancy by income-qualified households whose rent or purchase price would be established at below-market amounts.

Brookline's original inclusionary zoning bylaw contained a requirement that any new project with ten or more units must include at least 15 percent of total units be designated as affordable for low-moderate income occupants. Projects of nine or fewer units would have no affordable housing obligation. In most instances, the developer's affordable housing obligation meant providing the required units onsite. The bylaw allowed exceptions, only if pre-approved by the Town, for affordable units to be provided offsite or for a negotiated cash payment to be made to the Housing Trust.

One unintended consequence of this initial inclusionary zoning bylaw was a so-called "cliff effect" whereby developers could avoid entirely the costly affordable housing obligation by proposing to build nine-unit projects.

In 2001 and 2003, the HAB recommended, and Town Meeting approved, amendments to the I.Z. bylaw that successfully eliminated this undesirable "cliff effect". The revised bylaw replaced the steep financial "cliff" obligation at nine-vs-ten units with a gradient form of obligation. Instead of a sharp break point at ten units, the revised bylaw reduced the minimum

threshold obligation from ten to six units and at the same time established a project size range of six to fifteen units within which the developer could choose to provide the required 15 percent of units as onsite affordable or pay a prescribed sliding scale amount to the Housing Trust.

The sliding scale at six units began with a relatively low payment amount (3 percent of project value) and gradually increased to 9.75 percent of project value at 15 units, the top end of the range in which developers were afforded this option. While onsite affordable units were always the preferred option under the bylaw, over the two decades since this amendment was adopted, the HAB as trustees of the Affordable Housing Trust has used these payments to create several times as many new affordable units through non-profit affordable housing sponsors than would have been produce under the 15% onsite requirement.

In 2019 the I.Z. bylaw was further amended for two purposes: (1) to reduce further—from six to four units--the lower threshold of project unit count that would trigger the I.Z. 15 percent affordable housing obligation; and (2) to increase the upper limit of the unit count range in which the developer could opt for a cash payment in lieu of onsite affordable units—from 15 to 19 units, thereby increasing the potential cash income to the Housing Trust. By 2019, the Housing Trust had developed a record creating many more affordable units by partnering with its non-profit sponsors—including the Brookline Housing Authority—than it could via the onsite housing alternative.

At the same time, the sliding scale Housing Trust fee schedule was increased by 1/3, and currently ranges from 2 percent of project value at the new lower project size threshold of four units to 17% of project value at the 19-unit upper limit of the range.

Successful affordable housing developments made possible with local Affordable Housing Trust funding have included St. Aidans, the BHA Dummer Street project, 2-Life's Brown Family House at JFK Crossing, and Hebrew Senior Life's current project at 108 Centre Street.

XXX

ARTICLE 15

FIFTEENTH ARTICLE
Submitted by: Department of Planning and Community Development

To see if the Town will:

1) Vote to amend Article 5.9 to document votes previously taken by Town Meeting regarding adoption of the Specialized Energy Code and Stretch Code as well as to clarify incorporate state regulation references, as follows:

a) Change the title of Article 5.9 from "Stretch Energy Code" to "Energy Codes"
b) Amend 5.9 as follows, **with additions underlined and deletions in strikeout**:

"Section 5.9.1 Stretch Energy Code and Municipal Opt-in Specialized Energy Code

a) Purpose: The purpose of this by-law and related state regulations ~~780 CMR 120.AA~~ 225 CMR 22 and 23 is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

b) Authority: Through Town Meeting action, the Town of Brookline has adopted the Stretch Energy Code and Specialized Energy Code, and both are incorporated by reference into the Town of Brookline General By-Laws Article 5.9. These codes are enforceable by the Building Commissioner or their designated Building Inspector(s).

c) Definitions:

Specialized Energy Code – Codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, the Specialized Energy Code adds residential and commercial appendices to the Massachusetts Stretch Energy Code, based on amendments to the respective net-zero appendices of the International Energy Conservation Code (IECC) to incorporate the energy efficiency of the Stretch energy code and further reduce the climate impacts of buildings built to this code, with the goal of achieving net-zero greenhouse gas emissions from the buildings sector no later than 2050.

Stretch Energy Code - Codified by the combination of 225 CMR 22 and 231, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation

Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

~~Section 5.9.2 Definitions~~

~~a) International Energy Conservation Code (IECC) 2009 – The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.~~

~~b) Stretch Energy Code – Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 as may be amended from time to time.~~

~~Section 5.9.3 Applicability~~

~~This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.~~

~~Section 5.9.4 Authority~~

~~The Town of Brookline hereby adopts 780 CMR 120 AA in order to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR Appendix 120 AA and mandates adherence to said Appendix as may be amended from time to time.~~

~~Section 5.9.5 Stretch Code~~
~~The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Brookline General Bylaws, Article 5.9. The Stretch Code is enforceable by the Building Commissioner or their designated Building Inspector(s).~~"

2) Vote to amend Article 5.9 of the Town of Brookline General By-Laws by **adding** the following language for the purpose of restricting and prohibiting new building construction and major renovation projects that are not Fossil-Fuel Free, pursuant to the entirety of 225 CMR 24 Fossil Free Building Construction and Renovation Demonstration Project, which

latest version is on file with the Town Clerk. This amendment shall only take effect if approved by the Massachusetts Department of Energy Resources (MA DOER) as a Participating Community pursuant to 225 CMR 24.

"Section 5.9.2 Fossil Fuel-Free Demonstration

a) Purpose: The purpose of this by-law and related state regulations 225 CMR 24, also referred to as the Fossil Fuel-Free Demonstration, is to restrict and prohibit new building construction and major renovation projects that are not fossil fuel-free.

b) Authority: Through this Town Meeting action, the Town of Brookline will adopt the Fossil Fuel Free-Demonstration. Upon approval by the Department of Energy Resources (DOER) of the necessary changes to the Specialized Energy Code, amendments to the Specialized Energy Code are adopted as listed in Section 5.9.2 (f) below. These changes are enforceable by the Building Commissioner or their designated Building Inspector(s) and will go into effect for any project seeking a permit after the effective date.

c) Applicability: This restriction applies to residential and commercial buildings that qualify as new construction or major renovation, as defined in 225 CMR 22 and 23. This restriction shall not apply to research laboratories for scientific or medical research, hospitals and medical offices regulated by the department of public health as a health care facility as defined in 225 CMR 24.

d) Definition of Fossil Fuel-Free Demonstration: Codified by the entirety of 225 CMR 24, the Fossil Fuel-Free Demonstration.

e) The effective date of this Section 5.9.2 is the latest of the following: (1) sixty days following approval by DOER of the necessary changes to the Specialized Energy Code and the Town's status as a Participating Community; (2) the effective date established by M.G.L. c. 40, s. 32; and (3) January 1, 2024.

f) Amendments to the Specialized Energy Code as part of the Fossil Fuel-Free Demonstration are as follows:

1) Low-rise Residential Code (225 CMR 22 Appendix RC):
Sections RC102 and RC101 "Zero Energy Pathway" and "Mixed Fuel Pathway" shall not be permitted for use for new construction or major renovations.

2) Commercial and All Other (225 CMR 23 Appendix CC)
Sections CC103 and CC105 "Zero Energy Pathway" and "Mixed-Fuel Pathway" shall not be permitted for new construction or major renovations, with the following

exceptions:

(i) Research laboratories for scientific or medical research,
(ii) Hospitals regulated by the department of public health as a health care facility,
(iii) Medical offices regulated by the department of public health as a health care facility, and
(iv) Multi-family buildings over 12,000 square feet with permit application filed prior to January 1, 2027 may utilize gas or propane for domestic water heating as the only combustion equipment."

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Brookline and nine other municipalities are prioritized to participate in the MA DOER Pilot. We are working with Town Counsel's office and the Building Department to draft a Warrant Article for the upcoming Annual Town Meeting, and will have that for your review by Monday or Tuesday morning. That Warrant Article will be submitted by the Department of Planning & Community Development (DPCD). We would be asking Town Meeting to adopt a General By-Law amendment as part of the Pilot. Missing that window would negate the participation of Brookline in the Pilot as a prioritized community. We are asking the Select Board support of this Warrant Article.

This Pilot is a direct result of the Home Rule Petition from Brookline to the State for the ban on Fossil Fuel infrastructure in new construction. Several of the other nine municipalities selected for the Pilot based their own Home Rule Petitions on that Brookline model. The Pilot would allow Brookline to test eliminating petroleum combustion fuels (naturally occurring or synthetic) from HVAC, water heating, and backup generators within buildings newly constructed or undergoing significant renovation. The purpose of this Pilot is to establish a framework, requirements, data collection, and a mechanism for executing such a by-law for new construction and major renovations.

The key issues for this Warrant Article are as follows:

1. This is part of a Pilot for the State. An experiment. The duration of the Pilot will be short, essentially from July 2024 until September 2025.
2. The DOER regulations governing this Pilot are still in draft form and will not be finalized until later this Spring, hopefully before the Annual Town Meeting begins. We may need to return to Town Meeting this Fall to make some modifications.

3. The By-Law Amendment will also clean up the existing By-Law we have regarding Stretch Code, since some of the referenced regulations have changed numbering, and we also want to reference the Town's recent adoption of the Specialized Code.
4. The State has provided the draft regulations as well as a template for the Warrant Article and By-Law. It is the position of DPCD, Town Counsel's Office, and the Building Department that Brookline not make heavy modifications to these templates to ensure that Brookline remains in the Pilot program. However, we have removed the exemption for the use of Bio-Mass as a fuel source as suggested by the DOER's template by-law. Per the template1, exemptions would be in place for:
    a. research laboratories for scientific or medical research
    b. hospitals regulated by the department of public health as a health care facility
    c. medical offices regulated by the department of public health as a health care facility, and
    d. domestic water heating for multi-family buildings over 12,000 square feet (until January 1, 2027).

Key Activities for MA DOER:

- A Pilot Municipality must provide a Letter of Intent by September 1, 2023
- All materials for the application, including a voted By-Law, must be in place by November 10, 2023 according to the draft regulations.

1 https://www.mass.gov/info-details/municipal-fossil-fuel-free-building-demonstration-program

Brookline has a long history of being on the forefront of climate action and in this case a leader in the pursuit of the adoption of building codes that will have a significant impact on our community's carbon footprint. The precursors to this Article include Warrant Article 21 of the 2019 Special Town Meeting, which the Town first voted to adopt and then voted to send to the Commonwealth as a Home Rule Petition. To date, our by-law amendments on this issue have been struck down by the State through the office of the Attorney General. However, the pursuit of this needed action has invited debate and discussion resulting in visibility to the argument that the current building codes, even though they do somewhat consider carbon reduction and energy efficiency, are not sufficient to get us to our climate action goal of Net Zero by 2040.

Thanks to the efforts of the Town's climate action groups, Representative Tommy Vitolo, and other climate leading cities and towns, the State, through MA Department of Energy Resources (DOER), has created regulatory authority under St. 2022, c. 179, § 84 to permit ten Prioritized Communities to participate in a Pilot. Brookline, being a community that filed a Home Rule Petition on this issue, is one of those ten communities. The others are: Arlington, Lexington, Acton, Concord, Cambridge, Lincoln, Newton, West Tisbury, and Aquinnah. More information on this program is available at https://www.mass.gov/info-details/municipal-fossil-fuel-free-building-demonstration-program.

Purpose and Effect

What is before you are a prescribed set of parameters that MA DOER has drafted for adoption by each of the Prioritized Communities to allow for participation in the Pilot. This Pilot will allow Brookline and the other communities to test the parameters in real-time through the permitting of building projects. This will result in data from multiple municipalities over a wide spectrum of size, demographics, and landscapes that will inform the future building codes of the Commonwealth. According to DOER staff, currently the Pilot duration will be from local adoption through to 2025.

The Town Administrator and Building Commissioner support the passage of this warrant article with an effective date as presented. The Town fully understands the uncertainty accompanying the rollout out of this experiment: the state agencies are creating this as we are voting to adopt it. Education and clarification will be needed as this Demonstration Project is executed. This project builds on some of the changes that Brookline has already adopted, primarily the Stretch Energy Code and Specialized Energy Code. The staff time to track the permitting data required under the Demonstration Program will be better understood as communities move forward in partnership with DOER over the next several months. Although the Building Commissioner does not currently anticipate the need for additional staff to support this Demonstration Program such an expansion may need to be discussed further during budget processes.

Timing of this Warrant Article and DOER regulations related to Fossil Fuel-Free Demonstration

As described below and confirmed by DOER staff, the current draft DOER regulations require Brookline to adopt a bylaw prior to November 10, 2023 in order to remain a Prioritized Community and a participant in DOER's Fossil Fuel-Free Demonstration Project. DOER staff anticipate adopting final regulations by April or May 2023, prior to the Annual Town Meeting vote.

Draft MA DOER 225 CMR 24.00 (as of February 27, 2023)

225 CMR 24.00 – Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project

Sections:

24.01 : Purpose and
Application 24.02:
Definitions
24.03 : Prioritized Communities
24.04 : Application Materials and Review
Process 24.05: Eligibility Criteria
24.06 : Substitute Communities
24.07 : Reporting and Assessment of Results
24.08 : Specialized Municipal Opt-in Energy Code and Model Rule
24.09: Severability

24.01 Purpose and Application

The purpose of 225 CMR 24.00 is to establish the framework, requirements, and timeline for cities and towns to participate in the Department's Municipal Fossil Fuel Free Building Construction and Renovation Demonstration Project as authorized by St. 2022,

c. 179, § 84.

24.02 Definitions

Comparable Municipalities. Municipalities designated by the Department for data collection and reporting purposes that share similar relevant characteristics to Participating Communities.

Demonstration Project. Not more than 10 cities or towns as approved by the Department pursuant to 225 CMR 24.00 that may, notwithstanding chapter 40A of the General Laws, section 13 of chapter 142 of the General Laws and chapter 164 of the General Laws or any other general or special law to the contrary, adopt and amend general or zoning ordinances or by-laws that require new building construction or Major Renovation projects to be fossil fuel-free, and enforce restrictions and prohibitions on new building construction and Major Renovation projects that are not fossil fuel-free, including through the withholding or conditioning of building permits

DHCD. The Massachusetts Department of Housing and Community Development, as established by M.G.L. c. 23B.

Department. The Massachusetts Department of Energy Resources, as established by

M.G.L. c. 25A.

Fossil Fuel-free. As defined by a city or town to include, but not be limited to, an entire building or entire condominium unit that does not, in support of its operation after construction, utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic equivalents, or other fossil fuels.

Hospitals or Medical Offices. A facility licensed or approved by the Department of Public Health to provide health care, including clinics licensed as health care facilities and facilities that provide substance use disorder treatment services, including outpatient withdrawal management, opioid treatment programs, office-based opioid treatment programs, acute treatment services (inpatient detoxification), and clinical stabilization services.

Local Approval. By a majority vote of the: (i) city council with the approval of the mayor in the case of a city with a mayor elected to serve as the chief executive officer of the city; (ii) city council in every other city; (iii) annual town meeting or a special town meeting called for that purpose in the case of a municipality with a town meeting form of government; or (iv) town council in the case of a municipality with a town council form of government.

Major Renovation. A level 3 alteration as defined in 225 CMR 22.00 and 23.00.

Participating Community. A city of town approved by the Department for participation in the Demonstration Project.

Prioritized Community. A city or town with a home rule petition filed with the general court prior to August 11, 2022 and listed in 225 CMR 24.03(1); provided, however, that a city or town that submits a letter of withdrawal pursuant to 225 CMR 24.03(3) or is deemed withdrawn pursuant to 225 CMR 24.03(4) shall not be a Prioritized Community.

Process load. Energy demand in commercial or industrial buildings that is not covered by the Massachusetts building energy code.

Research laboratories for scientific or medical research. A building where a laboratory procedure or research activity occurs, where the building has an average ventilation at full occupancy greater than 0.5 cfm/sf. Such buildings shall provide the ventilation design documentation described Section C103.2 of 225 CMR 23.00 at the time of building permitting.

Substitute Community. A city or town that applies to the Department for participation in the Demonstration Project that did not file a home rule petition prior to August 11, 2022.

24.03 Prioritized Communities

Prioritized Communities. As established by St. 2022, c. 179, § 84, the Department will prioritize the following 10 Prioritized Communities, being the first 10 communities to have filed home rule petitions with the general court in the following order: **Order Filed**	**Town**	**Filing Date**
1	Arlington	4/22/2021
2	Lexington	5/05/2021
3	Brookline	6/01/2021
4	Acton	8/27/2021
5	Concord	9/01/2021
6	Cambridge	4/06/2022
7	Lincoln	4/19/2022
8	Newton	4/20/2022
9	West Tisbury (No longer participating, a new town will be selected by the State.)	6/14/2022
10	Aquinnah	6/14/2022

(1) Letter of Intent. In order to inform the Department and potential Substitute Communities about participation in the Demonstration Program, Prioritized Communities must confirm their participation by submitting a letter of intent to the Department not later than September 1, 2023.
   (a) This letter must be:
      1. signed by an authorized representative of the city or town, and
      2. affirm the city or town's intention to participate in the Demonstration Project.
   (b) Prioritized Communities that submit a letter of intent will maintain their Prioritized Community status until February 11, 2024. The Department will publicly post letters of intent to its website.

(2) Letter of Withdrawal. Any Prioritized Community that will not apply to participate in the Demonstration Project must submit a letter of withdrawal to the Department not later than September 1, 2023.
   (a) This letter must be:

1. signed by an authorized representative of the city or town, and
2. affirm the city or town's intention not to participate in the Demonstration Project.

(3) Default. Any Prioritized Community that does not submit either a letter of intent or letter of withdrawal by September 1, 2023 will be deemed withdrawn and shall no longer be a Prioritized Community.

24.04 Application Materials and Review Process

(1) Application Materials. Applications must be submitted in a manner and form to be determined by the Department, and shall include all of the following information:

(a) Copy of home rule petition and date submitted.
1. Home rule petitions filed by Prioritized Communities do not need to be updated or resubmitted to the general court to be eligible for participation.

(b) Copy of proposed bylaw or other ordinance for participation in the Demonstration Project. If the city or town proposes a bylaw or ordinance that is not the model bylaw or the Department's Fossil-Free Code, the application must include an explanation of differences and provide the applicant's rationale for any differences.

(c) An implementation plan, including:
1. Timeline and effective dates of bylaw or other ordinance provisions or requirements;
2. A demonstrated commitment to collaborate with the Department on data collection, reporting, and outreach/training;
3. Description of the current process within each city and town for storing building permit data and certificates of occupancy;
4. Description of how the local bylaw will affect the use of fossil fuels for commercial and industrial Process Load in buildings subject to the bylaw or ordinance, including but not limited to, restaurants, dry cleaners, and manufacturing uses;
5. Description of exemption or waiver process from any requirements, if any, to be included in the bylaw or ordinance.

(d) Documentation sufficient to demonstrate that the applicant has achieved at least one of the three housing production eligibility thresholds set forth in 24.05(1)(c).

(e) Proof of Local Approval.

(2) Additional Materials for Substitute Communities. In addition to the above

components, an application from a Substitute Community must include a description of the actions it has taken or will take after the adoption of the proposed bylaw, to encourage the production of multi-family housing. This description should include, but is not limited to:

(a) The community's progress toward creation of a multi-family zoning district compliant with Sec. 3A of G.L. Ch. 40A, if applicable.
(b) Initiatives taken by the community to support the preservation and production of housing units, including multi-family housing.
(c) Substitute Communities may submit letters of support from community leaders and/or community members.

(3) Review Process. The Department will review applications from Prioritized Communities on a rolling basis and will issue approvals in the order in which cities and towns have submitted home rule petitions to the general court.

(a) The Department will provide feedback on completeness of application materials and notify applicant if any requirements are not met, or if any clarifications are needed for approval.
(b) Prioritized Communities may update and re-submit applications through November 10, 2023 based on Department feedback.
(c) November 10, 2023 is the final deadline to submit a complete application.
(d) February 11, 2024 is the final deadline to meet all eligibility requirements listed in 225 CMR 24.05. After such date the application of any Prioritized Community shall expire and be deemed void.

24.05 Eligibility Requirements

(1) Requirements. All Prioritized and Substitute Communities must meet each of the following three requirements prior to submissions of application to the Department:
    (a) Home Rule Petition filed with the general court on the subject matter of these regulations;
    (b) Local Approval received on the subject matter of these regulations; and
    (c) The municipality has achieved one of the following housing eligibility thresholds:
        1. The municipality has met the 10 per cent housing affordability threshold set under chapter 40B of the General Laws as of December 21, 2020 or in a subsequent update from DHCD; or
        2. The municipality has been granted safe harbor status through a valid Housing Production Plan that DHCD has certified in accordance with 760 CMR 56.03(4); or

3. The municipality has an approved a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, that such multi-family housing shall be without age restrictions and shall be suitable for families with children, as evidenced by a determination of district compliance issued by the department of housing and community development pursuant to its guidelines implementing section 3A of chapter 40A of the General Laws.

24.06 Substitute Communities

(1) Application Submission. Substitute Communities may submit applications starting on the effective date of these regulations.

(a) The Department will not review applications from Substitute Communities until:
1. Receipt of a Letter of Withdrawal from one or more Prioritized Communities forfeiting their prioritized status, or
2. Default by a Prioritized Community as established in 225 CMR 24.03(4).

(b) The Department will notify and work with applicants to update applications if missing information or for which clarifications are required.

(c) Substitute Communities must meet all requirements set forth in 225 CMR
24.04 and 225 CMR 24.05 prior to submitting applications to the Department.

(2) Timeline of Review. Substitute Communities applications will be considered if less than 10 of the Prioritized Communities participate in the Demonstration Project. The

Department will not issue approvals for any Substitute Communities before March 1, 2024.

(3) Selection Criteria. In addition to ensuring that Substitute Communities meet the requirements set forth in 225 CMR 24.04 and 225 CMR 24.05, the Department will consider the following factors when evaluating applications and selecting Substitute Communities for participation up to a total of 10 Participating Communities and may consider such additional factors as the Department deems appropriate.

(a) Contribution to the overall Demonstration Project, including diversity of Participating Communities, such as gateway cities,

environmental justice communities, diversity of demographics, diversity of size, scale of building development, and type of housing development;

(b) Ability to meet Department reporting requirements and effectively monitor and ensure code compliance and implementation;

(c) Consistency of proposed bylaw or ordinance to the model bylaw provided by the Department;

(d) A preference for cities and towns that meet the compliance guidelines implementing section 3A of chapter 40A of the General Laws through an approved zoning ordinance or bylaw that provides for at least 1 district of reasonable size in which multi-family housing is permitted as right, or, if not applicable, a similar commitment to multi-family housing production as determined by the Department, in consultation with the Executive Office of Housing and Economic Development;

(e) Localized electric grid investments needed to support the Demonstration Project as determined through consultation between the Department and electric distribution companies;

(f) Demonstrated support from community members and municipal leaders.

(4) Selection. The Department will issue a determination letter upon approval of any application of a Substitute Community documenting its selection and the basis therefor. The Department will publish determination letters on its website.

24.07 Reporting and Assessment of Results

(1) Department Reporting. Not later than September 30, 2025, and every 2 years thereafter, the Department shall compile a report to be filed with the Senate and House Committees on Ways and Means, the Joint Committee on Housing, and the Joint Committee on Telecommunications, Utilities and Energy. The report shall include, but not be limited to, the following components:

(a) Description of Demonstration Project and list of participating communities;

(b) Description of the Department's process for selecting Comparable Municipalities as a comparison group for the Demonstration Project;

(c) An analysis of the net reduction in emissions:
   1. for each newly constructed building or Major Renovation project subject to the Demonstration Project in each municipality participating in the Demonstration Project; and
   2. for each comparable newly constructed building or Major Renovation project in a number of Comparable Municipalities, as selected by the Department, not participating in the Demonstration Project.

(d) An analysis of impacts on: housing production, if any; housing affordability, if any, including electric bills, heating bills and other operating costs; housing affordability for persons of low and moderate income, if any, including electric bills, heating bills and other operating costs;

(e) Recommendations for the continuation or termination of the Demonstration Project.

(2) Reporting Requirements for Participating Communities. Annually, not later than June 30th, Participating Communities shall submit the following data, in an accessible format as established by the Department, to the appropriate electric and gas distribution companies, or other designees as determined by the Department:

(a) For each applicant for a building permit, the applicant's name, street address, building usage type, square footage, and estimated construction cost.

(b) Electronic copies of any third-party energy reporting on new construction and Major Renovation projects that illustrate the expected energy use for each major end use. These include but are not limited to relevant sections of: final Home Energy Reporting System rating reports; Passive house certification reports; building energy modeling reports used to demonstrate commercial energy code compliance through ASHRAE 90.1 or Thermal Energy Demand Intensity (TEDI) building code compliance pathway.

(c) Timely and accurate data reporting is required to perform analysis and assessment of impacts of the Demonstration Project.

(2) Reporting Requirements for Electric and Gas Utilities. Each year beginning in 2024, not later than September 30th, all electric and gas distribution companies serving customers in Participating Communities, or the Comparable

Municipalities shall, in an accessible and standardized format approved by the Department, report the following data:

(a) Monthly kWh and therm usage, monthly electric costs, broken down by cost category, and monthly gas costs, broken down by cost category.

(b) The information above shall be submitted by account, with an associated anonymized account identifier to track information over time. Each account shall be submitted with an associated rate class, and street address, and be linked to a permit number provided through 225 CMR 24.07(2).

(5) Comparable Municipalities. The Department will identify and designate Comparable Municipalities in a manner to be determined by the Department. Comparable Municipalities shall report data as set forth in 225 CMR 24.07(2). The Department will coordinate with Comparable Municipalities on the method and process of data collection and reporting.

24.08 Specialized Municipal Opt-in Energy Code and Model Rule

(1) Recommended Process. The Department has published a model rule and other guidance in order to assist Participating Communities in achieving the objectives of the Demonstration Project. The Department recommends that cities or towns seeking to participate in the Demonstration Project:

(a) Adopt the Specialized Municipal Opt-in Energy Code, as established in 225 CMR
22.00 and 225 CMR 23.00, and

(b) Adopt through Local Approval the model rule published by the Department.

(2) Model Rule. The model rule published by the Department ensures appropriate integration with the Massachusetts Specialized Municipal Opt-in Energy Code. If a Participating Community determines that adoption of a local by-law or ordinance that differs from the model rule published by the Department is necessary, the Participating Community shall provide information as described in 225 CMR 24.04(1)(b) in its application.

(a) Deviations from the model rule provided by the Department must include exemptions from fossil fuel free requirements for Research Laboratories for Scientific or Medical Research, or for Hospitals or Medical Offices.

24.09 Severability

If any provision of 225 CMR 24.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY St.

2022, c. 179, § 84.

SCHOOL COMMITTEE STATEMENT

On April 27, 2023, the School Committee voted (5-0-1) to recommend passage of WA15. Voting in favor were Mr. Pearlman (Chair), Dr. Liu (Vice Chair), Ms. Charlupski, Dr. Ehrenberg, and Ms. Federspiel. Voting to abstain was Ms. Nobrega.

The School Committee supports fossil fuel free construction due to the better health outcomes and improved air quality that it creates for Brookline's residents. New school buildings in Brookline are already being built fossil fuel free. WA15 is also expected to reduce costs to build and live in Brookline, and protect the town from costly retrofits. All of these benefits from WA15 will make Brookline healthier and more sustainable for all residents, including our youth.

ZERO EMISSIONS ADVISORY BOARD REPORT

The Zero Emissions Advisory Board (ZEAB) held a public hearing on WA 15 on March 29th, 2023.

After the public hearing, the members of the Board voted 4-0 to recommend Favorable Action on WA 15 to Town Meeting.

Wendy Stahl, chair–Yes
Jesse Gray–Yes
Kathleen Scanlon–Yes
Werner Lohe–Yes

Background

In 2019 Brookline passed WA 21 requiring all new construction and substantial renovations to be all-electric and fossil fuel free. However, the Attorney General's Office (AGO) did not approve our Bylaw because it conflicted with State laws. Subsequently, in 2020, Brookline passed a Home Rule Petition requesting authority from the State Legislature to be able to enforce this Bylaw. Brookline also passed two zoning Bylaws in 2021 asking for the same authority through different legal mechanisms.

All four of these Warrant Articles addressing fossil fuel free construction passed in Town Meeting with near unanimous votes and yet Brookline has been unable to enforce Fossil Fuel Free construction due to conflicts with State law.

In response to growing demand from multiple communities throughout the State, in 2022 our State legislature developed a **Demonstration Project** through the Department of Energy Resources (DOER) to allow **10 communities to enact requirements that building construction be Fossil Fuel Free.**

The project is currently limited to the first 10 municipalities who filed Home Rule Petitions with the legislature. These communities are Arlington, Lexington, Brookline, Acton, Concord, Lincoln, Cambridge, Newton, West Tisbury, and Aquinnah. Four additional communities - Boston, Somerville, Salem, and Northampton - have also passed Home Rule Petitions and are currently on a waitlist to get into this project.

WA 15 will allow us to enter the 10 Community Fossil Fuel Free Demonstration Project.

In order to participate in the Demonstration Project, DOER has determined that all of the 10 selected communities have to pass new Bylaws, since our prior ones were disallowed by the AGO for conflicting with State law. Our new Bylaw will not be disallowed by the AGO because State law changed with the creation of this Demonstration Project.

Three of the ten prioritized communities have already passed similar WAs in their 2023 Spring Town Meetings: Lincoln, Lexington and Acton. Aquinnah is also lined up to pass a similar WA for its Spring Town Meeting.

WA 15 follows DOER's "Model Rule"

DOER has proposed a recommended Bylaw for us to adopt called the Model Rule. Warrant Article 15 uses the proposed language from DOER with one exception: eliminating a proposed exemption for biomass heating.

WA 15 is very close to what Brookline has passed previously.

Compared to our previous Fossil Fuel Free Warrant Articles, WA 15 accomplishes the same goal, but in a simpler manner.

WA 15 simply alters the existing Specialized Code (which Brookline adopted in January 2023) by eliminating the pathways that allow fossil fuels, leaving the remaining all-electric pathway.

The major difference compared to Brookline's prior Fossil Fuel Free Warrant Articles is that WA 15 (and the proposed Model Rule) does not provide an exemption for gas cooking.

Amendments.

After bringing WA 15 to ZEAB and later to the Advisory Committee, the Planning Department worked with the Building Commissioner and Town Counsel to make amendments that bring it closer in line with Brookline's previous Fossil Fuel Free Warrant Articles, while still closely following DOER's Model Rule.

Most notably, the amendments ensure that an entire building, not an individual unit within a building, has to undergo >50% renovation for this WA to take effect. The amendment also provides a waiver and appeals process.

WA 15 will improve health outcomes and health equity.

Poor air quality from burning fossil fuels in our buildings is associated with higher rates of disease and death throughout the Commonwealth. As advocates for safer indoor air quality in public housing in the Bronx recently noted, "Everyone deserves to live in a healthy home."

Gas appliances are associated with an increased risk of asthma development in children. In Massachusetts, **1 in 8 children have an asthma diagnosis**. Gas stoves are attributable to about 15% of childhood asthma in the Commonwealth, equal to having a smoker in the home. Gas appliances release high levels of nitrogen dioxide, carbon monoxide, methane, formaldehyde and benzene, producing indoor air quality that is not allowed outdoors under the Clean Air Act.

WA 15 will reduce costs to build and live in Brookline, and will protect our town from costly retrofits.

According to DOER's own data, all-electric buildings have the lowest building costs as well as operational costs across all project types when compared with gas. The costs in the chart below are compared to the costs under the Base code. It is clear

that all-electric is less expensive than building with gas.

Building type	Incremental cost to build			Incremental cost to operate		
	Electric	Gas	**Electricity edge**	Electric	Gas	**Electricity edge**
Large 1-family	- $20,062	+ $3,183	**$23,245**	- $548	- $302	**$246**
Small 1-family	- $28,597	+ $7,907	**$36,504**	- $1,053	+ $496	**$1,549**
Townhouse	- $11,938	+ $802	**$12,740**	- $335	+ $21	**$356**
6-family	- $15,690	+ $2,277	**$17,967**	- $683	- $14	**$669**

From https://www.mass.gov/doc/summary-of-stretch-code-study-energy-efficiency-analysis-feb-2022/download
Summary pages 13-14, detail pages 16-32

Additional studies confirm DOERs data that construction and operational costs of efficient all-electric homes are already similar to or lower than their fossil fuel counterparts. All-electric building technology is also mainstream and well-established for commercial construction.

Brookline's Housing Authority and seven permitted 40Bs are already going all-electric without being required to do so because it is cost effective, even though there is not yet a legal requirement to do so.

Continuing to allow the installation of new fossil fuel infrastructure results in future displacement as well as far greater costs, since buildings must be retrofitted at some point down the line in order to achieve the goals of Massachusetts' Clean Energy and Climate Plan.

In short, it is fiscally irresponsible to be installing new gas infrastructure when the State has a legally binding target to eliminate fossil fuels from half of our buildings by 2030.

WA 15 will help us meet our climate goals.

The State has a legally binding obligation to reduce emissions 50% by 2030 and to be 100% net zero by 2050. Brookline has committed to net-zero by 2040.

It is impossible to meet our climate mandates without widespread building electrification. See Massachusetts 2050 Decarbonization Roadmap (pages 44-54). The Commission on Clean Heat came to the same conclusion, as did the Carbon Free Boston report.

WA 15 will not overburden the electric grid.

The proposed fossil fuel free (FFF) demonstration project, WA-15, affects only *new and major construction*, comprising about 0.5% of building emissions per year, and has virtually no impact on the State grid.

If adopted by the first 10 communities, which comprise less than 6% of the State's population, the effect on the grid would be 0.03% per year - in other words,

negligible. If also adopted by the four waitlist communities (including Boston at 10% of the State's population, Somerville, Salem, and Northampton), the gross population affected jumps to 17%, resulting in 0.085% added burden on the grid. If adopted by the entire State, as we hope will happen soon, the impact will be 0.5%. Even this figure isn't accurate, however, because some of that added electrification is inevitable, as new and major construction ADDS electrical burden *regardless of heating type*.

In addition, heat pumps are far more efficient than traditional HVAC - two to five times more efficient - and the new building code standards also produce much more efficient buildings.

Lastly, building electrification is REQUIRED and MANDATED by the State in order to meet our climate targets, far above and beyond the new construction covered in this Warrant Article, as we need to reduce our carbon emissions by 50% in the next seven years in order to keep below 2 degrees Centigrade warming.

Other Electrical Facts:

- **Modern electric heat is efficient and cost-effective.** Newly electrified heating systems employ heat pump technology, which is 2 to 5 times more efficient than gas boilers and furnaces and is used all over the world, including over 30 million square feet of net-zero construction already built in Massachusetts.
- **Fossil fuel backup heat is unnecessary**. Heat pumps operate efficiently down to -15 degrees F and have been proven by MassCEC not to need fossil fuel backup systems.
- **Electrification reduces input energy needs**. The efficiency gain alone due to switching from fossil fuel to electric vehicles and all-electric appliances almost cuts in half the amount of raw energy needed to fuel the economy.
- **Electricity is increasingly carbon-free**. Brookline's default electricity (Brookline Green) is 90% renewable today, and will be 100% in 2024. Furthermore, non-carbon-emitting energy sources currently serve over 50% of New England's overall electricity needs, and this is mandated to increase every year.
- **The grid is getting cleaner every year**. Beginning in 2024, the proportion of load served by renewables in Massachusetts will increase by 3% per year, and that is likely to accelerate quite a bit with legislation proposed to meet our state's greenhouse gas (GHG) emission objectives. The first large-scale offshore wind farm in North America is expected to be injecting power into New England's grid

by December 2023. And remember Brookline's electricity is already 90% renewable through our Community Choice Aggregation program.

- **Carbon emissions-free energy could make up as much of 90% of total U.S. electricity generation by 2030** according to a US DOE report analyzing recent policy changes.
- **The grid has ample supply to accommodate the State's electrification plans.** New England is currently operating about 20% below the all-time system electric peak demand of 2006. According to the Director of Transmission System Planning at Eversource (see slides 47-54), the grid has ample supply to accommodate the State's electrification plans. Additionally, according to their forecasts, minimal infrastructure beyond what has already been planned will be needed by 2035.
- **Resource adequacy planned to double by 2050**. Planning by the regional electric grid operator, ISO New England, envisions doubling the region's current 25 gigawatt (GW) capacity to 50 GW by 2050.
- **Additional supply already in the queue.** Of the 25 GW of additional supply needed regionally, 10 GW will be here by 2035. *That is the business as usual scenario, and it involves very little change to our current transmission grid***.**
- **The cost of renewable energy has been consistently and dramatically dropping for several decades.** Fossil fuel prices are unstable and are projected to continue to increase, leaving people vulnerable to unpredictable energy bills.
- **Gas *delivery* charges will continue to rise**. In terms of gas delivery costs, the costs of our GSEP program are now estimated to reach at least $40 billion dollars. These increased delivery costs have already begun to hit ratepayers, and will accelerate the inevitable transition of our gas system to a stranded asset. We have one of the oldest and leakiest gas pipe infrastructure in the country, leaking methane (25-80 times more potent than carbon) at a prodigious rate, and causing poor air quality and associated poor health outcomes. We need a plan to transition off this dirty system.
- **Utility rate impact.** Again, this project applies only to new construction and major renovations—a relatively small number of buildings—so it would not impact utility rates, even if it were enacted state-wide. New and major construction constitutes only 0.25-0.5% of annual construction activity in Brookline.

PLANNING BOARD RECOMMENDATION

Purpose of the Article
The passage of this Town General By-Law will allow Brookline to participate in a demonstration project to allow the exclusion of fossil fuels in building systems in the Town. Brookline would be one of ten municipalities designated by the Commonwealth through the MA Dept. of Energy Resources (MADOER) to participate in it. New construction and major renovations will be affected. This would be a direct continuation of the current Specialized and Opt-In Specialized Codes, which were adopted by Town Meeting in 2023. Under these building codes, fossil fuels are still permitted but with the goal of reaching Net Zero Emissions by 2050. This proposed demonstration project bylaw will allow Brookline to accelerate the elimination of fossibl fuel upon adoption. The project will be governed by regulations being published by MADOER. These regulations are currently in draft form.

Overview
The Demonstration Project under the Commonwealth is a direct outgrowth of the efforts of Brookline to develop effective Climate Policy to provide mechanisms in the Town to mitigate greenhouse gas emissions, the cause of the Earth's climate crisis. Since Brookline became a MA Green Community in 2010, the Town has been taking steps to become more energy efficient and less reliant on fossil fuels used in combustion for building heating and appliances. Adopting more energy efficient and environmentally driven building codes is part of that process. In 2023, the Commonwealth revised the Stretch Code, and in January 2023, Brookline Town Meeting voted to adopt the new MA Building Specialized Opt-In Stretch Code. The new code goes into effect on July 1, 2023. The MA DOER Demonstration Project will take the participating communities even further by allowing the cities and towns to adopt and amend general or zoning by-laws to eliminate the use of fossil fuels. The Specialized Stretch Code will <u>require</u> new building construction or major renovation projects (where over 50% of the building area being renovated is affected) to be fossil fuel free. This will mean no use of Coal, Oil, Natural Gas, or other Hydrocarbons (Synthetic or Fossil) for building systems. There is, however, an exemption for Medical and Laboratory Facilities.

Planning Board and ZBLC Comments
Because the goal of this warrant article is to adhere to State guidance as much as possible and not jeopardize the Town's participation in the project, both the Planning Board and Zoning By-Law Committee are supportive of it. The warrant article and bylaw is needed now because the majority of the greenhouse gasses generated in Brookline come from building generated systems for heat and hot water use. By participating in this project, Brookline will play an important role in crafting future climate and building code polices in the Commonwealth.

At its hearing on April 12th, the Planning Board saw a PowerPoint presentation by Brookline's Sustainability Director Thomas Barrasso on this warrant article. At the end of

the presentation, and after public comment and discussion by the two Boards, votes were taken in support of the warrant article.

The Planning Board voted (5-0) to recommend Favorable Action on Article XV, as submitted.

The roll call vote went as follows: Zarrillo – aye, Brue – aye, Chipimo– aye, Hamlin – aye, and Hines – aye. (Heikin was not present.)

SELECT BOARD'S RECOMMENDATION

Warrant Article 15 is a General By-Law warrant article. It continues the theme of energy efficiency and the transition to electrification to aid with climate change mitigation and the Town's climate action goals, in very much the same way as previous votes by Town Meeting regarding the Stretch Code and Specialized Energy Code. This warrant article allows Brookline to participate in a State of MA Demonstration Project through MA DOER that will allow a bylaw to eliminate multiple fuel pathways through restrictions in certain circumstances for buildings to be fossil fuel-free.

Transportation and buildings are the primary causes of emissions in the Town, and it is necessary to take steps to curb these emissions if Brookline is to meet its Net Zero goal of 2040. Stronger regulatory measures are needed now. Therefore, the Select Board supports this warrant article.

The Select Board voted FAVORABLE ACTION on the following motion:

MOVED: to amend Article 5.9 to document votes previously taken by Town Meeting regarding adoption of the Specialized Energy Code and Stretch Code as well as to clarify incorporate state regulation references, as follows:

c) Change the title of Article 5.9 from "Stretch Energy Code" to "Energy Codes"
d) Amend 5.9 as follows, **with additions underlined and deletions in strikeout**:

"Section 5.9.1 Stretch Energy Code and Municipal Opt-in Specialized Energy Code

d) Purpose: The purpose of this by-law and related state regulations ~~780 CMR 120.AA~~ 225 CMR 22 and 23 is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

e) Authority: Through Town Meeting action, the Town of Brookline has adopted the Stretch Energy Code and Specialized Energy Code, and both are

incorporated by reference into the Town of Brookline General By-Laws Article 5.9. These codes are enforceable by the Building Commissioner or their designated Building Inspector(s).

f) Definitions:

Specialized Energy Code – Codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, the Specialized Energy Code adds residential and commercial appendices to the Massachusetts Stretch Energy Code, based on amendments to the respective net-zero appendices of the International Energy Conservation Code (IECC) to incorporate the energy efficiency of the Stretch energy code and further reduce the climate impacts of buildings built to this code, with the goal of achieving net-zero greenhouse gas emissions from the buildings sector no later than 2050.

Stretch Energy Code - Codified by the combination of 225 CMR 22 and 231, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

~~Section 5.9.2 Definitions~~

~~a) International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.~~

~~b) Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 as may be amended from time to time.~~

~~Section 5.9.3 Applicability~~

~~This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.~~

~~Section 5.9.4 Authority~~

~~The Town of Brookline hereby adopts 780 CMR 120 AA in order to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR Appendix 120 AA and mandates adherence to said Appendix as may be amended from time to time.~~

~~Section 5.9.5 Stretch Code~~
~~The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Brookline General Bylaws, Article 5.9. The Stretch Code is enforceable by the Building Commissioner or their designated Building Inspector(s).~~"

2) Vote to amend Article 5.9 of the Town of Brookline General By-Laws by **adding** the following language for the purpose of restricting and prohibiting new building construction and major renovation projects that are not Fossil-Fuel Free, pursuant to the entirety of 225 CMR 24 Fossil Free Building Construction and Renovation Demonstration Project, which latest version is on file with the Town Clerk. This amendment shall only take effect if approved by the Massachusetts Department of Energy Resources (MA DOER) as a Participating Community pursuant to 225 CMR 24.

"Section 5.9.2 Fossil Fuel-Free Demonstration

g) Purpose: The purpose of this by-law and related state regulations 225 CMR 24, also referred to as the Fossil Fuel-Free Demonstration, is to restrict and prohibit new building construction and major renovation projects that are not fossil fuel-free.

h) Authority: Through this Town Meeting action, the Town of Brookline will adopt the Fossil Fuel Free-Demonstration. Upon approval by the Department of Energy Resources (DOER) of the necessary changes to the Specialized Energy Code, amendments to the Specialized Energy Code are adopted as listed in Section 5.9.2 (f) below. These changes are enforceable by the Building Commissioner or their designated Building Inspector(s) and will go into effect for any project seeking a permit after the effective date.

i) Applicability: This restriction applies to residential and commercial buildings that qualify as new construction or major renovation, as defined in 225 CMR 22 and 23. This restriction shall not apply to research laboratories for scientific or medical research, hospitals and medical offices regulated by the department of public health as a health care facility as defined in 225 CMR 24.

j) Definition of Fossil Fuel-Free Demonstration: Codified by the entirety of 225 CMR 24, the Fossil Fuel-Free Demonstration.

k) The effective date of this Section 5.9.2 is the latest of the following: (1) sixty days following approval by DOER of the necessary changes to the Specialized Energy Code and the Town's status as a Participating Community; (2) the effective date established by M.G.L. c. 40, s. 32; and (3) January 1, 2024.

l) Amendments to the Specialized Energy Code as part of the Fossil Fuel-Free Demonstration are as follows:

3) Low-rise Residential Code (225 CMR 22 Appendix RC):
Sections RC102 and RC101 "Zero Energy Pathway" and "Mixed Fuel Pathway" shall not be permitted for use for new construction or major renovations.

4) Commercial and All Other (225 CMR 23 Appendix CC)
Sections CC103 and CC105 "Zero Energy Pathway" and "Mixed-Fuel Pathway" shall not be permitted for new construction or major renovations, with the following exceptions:

(v) Research laboratories for scientific or medical research,
(vi) Hospitals regulated by the department of public health as a health care facility,
(vii) Medical offices regulated by the department of public health as a health care facility, and
(viii) Multi-family buildings over 12,000 square feet with permit application filed prior to January 1, 2027 may utilize gas or propane for domestic water heating as the only combustion equipment."

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation on this article will be included in the supplement.

XXX

ARTICLE 15

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on Article 15 by a vote of 23 in favor, 1 opposed, with 1 abstention.

Executive Summary:	Article 15 is being proposed by the Department of Planning and Community Development Article 15 would amend Article 5.9 Stretch Energy Code of the General Bylaws in two parts: • Part 1 amends Article 5.9 so that it is consistent with Town Meeting's adoption of the Specialized Energy Code on January 10, 2023. • Part 2 amends Article 5.9 to enable Brookline's participation in the Massachusetts Department of Energy Resources' (DOER) ten community Fossil Fuel Free (FFF) Building Construction and Renovation Demonstration Project.
Voting Yes will...	Allow Brookline to participate in the FFF Demonstration Project.
Voting No will...	Prevent Brookline from participating in the FFF Demonstration Project, with the likelihood that its place will be taken by another community.
Financial impact	There are reporting requirements that will need to be fulfilled by the Building Department. This added work is not expected to require additional staff or new systems or software.

Legal implications	As originally submitted Article 15 utilized the preliminary text that had been circulated by DOER in December 2022 because this seemed most straightforward and safe from a legal perspective. However, that text presented real issues that have now been addressed in how the law would apply to renovation projects. Many of the other Demonstration Project Communities are similarly making changes to DOER's template, and DOER has indicated that it is comfortable with this approach. A recent decision handed down in the Federal 9th Circuit Court of Appeals raised questions as to the legality of fossil-fuel prohibitions. However, Massachusetts is not under the jurisdiction of the 9th Circuit, and if there were a challenge it would likely be defended by the Commonwealth rather than by Brookline.

The Advisory Committee met first on 4/11/23. A recording of the meeting can be found here:
https://brooklinema.zoomgov.com/rec/share/Z9HSs3h_fkLoV16bPWcLp4cpAMfVJwwXqGVNhdxCXQqvNY69ZnbjhfLrbinhp4A.J3snWNG0jhALOUj7

The Advisory Committee met again on 5/9/23 to consider an amended version that addressed the renovation issues raised at the April 11 meeting. A recording of this meeting can be found here:
https://brooklinema.zoomgov.com/rec/play/f_sUBOCi5T6iA08z-0LJNfTvzWIaHthV4a03d5oATSPu7bk9AKxF57Zu2qVYwbSgIapDksR4AvFc4kDS.Rr9Q7yaE8D3R_pOV?continueMode=true

Introduction

Article 15 will amend General Bylaw 5.9 to prohibit the use of fossil fuels in all new construction (with exemptions outlined below) in Brookline. It will also prohibit the installation of any new Combustion Equipment in Major Renovation projects (but allow existing combustion Equipment to remain in service). Article 15 is very similar to the bylaw that was passed by Town Meeting in November, 2019 by a 211-3-6 vote but that was subsequently ruled unlawful by the Attorney General. Brookline's 2019 action arguably set in motion efforts by other communities and the State Legislature that have led to the creation of this ten-community Demonstration Project.

Brookline Town Meeting voted to "opt in" to the Stretch Energy Code in 2010, and then opted in to the Specialized Energy Code on January 10, 2023. Those codes, now promulgated by DOER as 225 CMR 22.00 (low-rise residential) and 225 CMR 23.00 (commercial including multi-family), are extensions of the "Base Energy Code" that set higher standards for performance and encourage the movement away from fossil fuel use. Both allow fossil fuel use in new construction and major renovation projects under either

a "Zero Energy Pathway" or a "Mixed Fuel Pathway", with both of those pathways requiring a range of additional measures compared with the "All-Electric Pathway".

Article 15 will add "Section 5.9.2 Fossil Fuel-Free Demonstration" to the General Bylaws, including 225 CMR 24.00. This further modifies the Specialized Energy Code requirements that were adopted in January, eliminating the Zero Energy and Mixed Fuel Pathways for new construction projects, with several exceptions including:

- Research laboratories for scientific or medical research, hospitals and medical offices are exempted;
- Multifamily buildings over 12,000 square feet with permit application filed prior to January 1, 2027 may utilize gas or propane for domestic water heating as the only combustion equipment.

The original version of Article 15 treated Major Renovation projects identically to new construction. However, the amended version before Town Meeting only prohibits the installation of new Combustion Equipment in Major Renovations.

Applicability to Renovation Projects

At the Advisory Committee's first meeting on April 11 Building Commissioner Dan Bennett explained that the energy code (including the Base Code as well as the Stretch and Specialized Codes) has one set of regulations for "low rise" residential buildings (single- and two-family buildings, attached "row homes", and also all multi-family building of three or fewer stories) and another for residential buildings four stories or taller. In the newest versions of the Stretch Code, "low-rise" is regulated by 225 CMR 22.00 and taller residential buildings are regulated under the "commercial" code 225 CMR 23.00. For residential renovation projects this has the particular effect of requiring compliance with the Stretch Code for any "dwelling unit" undergoing a Major Renovation if the building is three stories or less. For buildings four stories or taller compliance is only required if the entire building is undergoing a Major Renovation. The imposition of this Stretch Code requirement on individual dwelling units in larger three-story multi-family buildings in Brookline may create issues of infeasibility and hardship for owners seeking to renovate individual dwellings, particularly in condominium buildings where the unit owner does not control the "building envelope" (the walls, roof, windows, etc.) or the HVAC system that would probably need to be upgraded to comply with Stretch Code. So while Town Meeting cannot amend the Stretch Code, Article 15 has been amended so that this issue is not added to by extending the "dwelling unit" trigger to electrification.

Resolution of the "dwelling unit" issue: The amended version of Article 15 removes the dwelling unit issue by providing a definition of Major Renovation within the bylaw and deleting the reference to the definition in the Stretch Code. This is a significant simplification, because the trigger would be the same for all buildings, based on the single definition of Major Renovation. Under this definition the "Work Area" of a project would need to exceed 50% of the "Building Area" for the new requirements to apply. A definition of Work Area is also added.

Reduction of the electrification requirement for Major Renovations: The amended version of Article 15 reduces the compliance requirement for all Major Renovation projects to a prohibition of the installation of any new combustion equipment. As originally submitted, the article had included the following language: "***"Zero Energy Pathway" and "Mixed Fuel Pathway" shall not be permitted for use for new construction or major renovations.***" This meant that a Major Renovation would need to be all electric. The amended language reads "***"Zero Energy Pathway" and "Mixed Fuel Pathway" shall not be permitted for use for new construction, and Major Renovations shall not install any new Combustion Equipment.***" As revised, a Major Renovation project would not be allowed to replace a gas stove, gas/oil boiler or gas-fired hot water heater, but it could leave existing combustion equipment in service.

Addition of a waiver process: Thirdly, a waiver process has been added to the article, a provision that was also included in all previous FFF warrant articles. Several examples of these were reviewed by Building Commissioner Bennett (who will be the waiver authority), and the process included in Lexington's recently passed fossil fuel free bylaw was the one he favored and the one that has been added to Article 15.

Meeting the legislation's "housing eligibility threshold"

The housing eligibility threshold can be met in any one of three ways: meeting the 10% threshold (the "40B" measure) as of December 21, 2020, meeting the requirements of the MBTA CA, or having a valid Housing Production Plan that has been certified by DHCD. Brookline qualifies under the first of these criteria.

Reporting Requirements: how much additional work will this reporting be for the Building Department?

The Building Department will be required to report annually, "*in an accessible format as established by the Department, to the appropriate electric and gas distribution companies, or other designees as determined by the Department.*" According to the information that we have, each municipality will be able to deliver its report using forms and software that it already has, and won't be required to move data into new software or different formats.

Two types of information are listed:

"*(a) For each applicant for a building permit, the applicant's name, street address, building usage type, square footage, and estimated construction cost.*"

This (a) appears to be Building Permit data and nothing more.

"*(b) Electronic copies of any third-party energy reporting on new construction and Major Renovation projects that illustrate the expected energy use for each major end use. These include but are not limited to relevant sections of: final Home Energy Reporting System rating reports; Passive house certification reports; building energy modeling*

reports used to demonstrate commercial energy code compliance through ASHRAE 90.1 or Thermal Energy Demand Intensity (TEDI) building code compliance pathway."

This (b) appears to be a requirement to essentially forward submissions that are otherwise required under the Stretch Code.

Based on the above, the annual reporting requirements are an added burden, but do not appear to be difficult to comply with or requiring additional training or investments beyond the time it will take to gather and assemble the report materials. The responsibility of number crunching, analysis and reporting is placed on the utility companies serving the ten participating communities, and then on DOER.

Publication of Final Version of 225 CMR 24.00 and DOER Model Rule

On May 10, the day after the Advisory Committee met and voted its recommendation, DOER published its updates to 225 CMR 24.00 and the Model Rule, along with a "Response to Comments" document. These publications can be found at the following locations:

225 CMR 24.00 (CLEAN): https://www.mass.gov/doc/225-cmr-2400-5-10-23/download

225 CMR 24.00 (REDLINE): https://www.mass.gov/doc/225-cmr-2400-redline-comparison-5-10-23/download

Responses to Comments: https://www.mass.gov/doc/doer-response-to-comments-225-cmr-2400/download

Model Rule – Fossil Fuel Free Demonstration Project: https://www.mass.gov/doc/model-rule-fossil-fuel-free-demonstration-project/download

These documents have not been reviewed by the Advisory Committee.

On the issue of Major Renovations, DOER agreed in their "Responses to Comments" with many comments including Brookline's, and also added a definition of Major Renovation. This definition has been reviewed by Sustainability Director Tom Barrasso and by Associate Town Counsel Jonathan Simpson, and they have recommended staying with the amended version voted by the AC rather than incorporating the considerably longer and more complex definition in the just released Model Rule.

Recommendation: The Advisory Committee recommends FAVORABLE ACTION by a vote of 23 in favor, 1 opposed, with 1 abstention, on the following amended Article:

VOTED:

1) To amend Article 5.9 to document votes previously taken by Town Meeting regarding adoption of the Specialized Energy Code and Stretch Code as well as to clarify and incorporate state regulation references, as follows:

a. Change the title of Article 5.9 from "Stretch Energy Code" to "Energy Codes"

b. Amend 5.9 as follows, **with additions underlined and deletions in strikeout**:

"Section 5.9.1 Stretch Energy Code and Municipal Opt-in Specialized Energy Code

a. Purpose: The purpose of this by-law and related state regulations ~~780 CMR 120.AA~~ 225 CMR 22 and 23 is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

b. Authority: Through Town Meeting action, the Town of Brookline has adopted the Stretch Energy Code and Specialized Energy Code, and both are incorporated by reference into the Town of Brookline General By-Laws Article 5.9. These codes are enforceable by the Building Commissioner or their designated Building Inspector(s).

c. Definitions:

Combustion equipment. Any equipment or appliance used for space heating, service water heating, cooking, clothes drying and/or lighting that can use fuel gas, fuel oil or solid fuel and that is not a clean biomass heating system.

Fossil Fuel-free. An entire building that does not, in support of its operation after construction, utilize coal, oil, natural gas, other fuel hydrocarbons, including synthetic equivalents, or other fossil fuels.

Major Renovation. An alteration requiring a building permit, to a building in existence on the date of an application, and that includes the reconfiguration of space in which the Work Area is more than 50% of the aggregate area of the building, prior to the project.

Work Area. The aggregate area of those portions of a building affected by alterations for the reconfiguration of space as indicated in the drawings associated with a building permit application. Excluded from the calculation of Work Area are those portions of a building where only repairs, refinishing or incidental work occur

or where work not initially intended by the applicant is specifically required by an inspector from the Building Department pursuant to the applicable building code.

Specialized Energy Code – Codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, the Specialized Energy Code adds residential and commercial appendices to the Massachusetts Stretch Energy Code, based on amendments to the respective net-zero appendices of the International Energy Conservation Code (IECC) to incorporate the energy efficiency of the Stretch energy code and further reduce the climate impacts of buildings built to this code, with the goal of achieving net-zero greenhouse gas emissions from the buildings sector no later than 2050.

Stretch Energy Code - Codified by the combination of 225 CMR 22 and 23, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

~~Section 5.9.2 Definitions~~

~~a) International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.~~

~~b) Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 as may be amended from time to time.~~

~~Section 5.9.3 Applicability~~

~~This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.~~

~~Section 5.9.4 Authority~~

~~The Town of Brookline hereby adopts 780 CMR 120 AA in order to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR Appendix 120 AA and mandates adherence to said Appendix as may be amended from time to time.~~

~~Section 5.9.5 Stretch Code~~
~~The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein~~

~~incorporated by reference into the Town of Brookline General Bylaws, Article 5.9. The Stretch Code is enforceable by the Building Commissioner or their designated Building Inspector(s).~~"

2) To amend Article 5.9 of the Town of Brookline General By-Laws by **adding** the following language for the purpose of restricting and prohibiting new building construction and Major Renovation projects that are not Fossil-Fuel Free, pursuant to the entirety of 225 CMR 24 Fossil Free Building Construction and Renovation Demonstration Project, which latest version is on file with the Town Clerk. This amendment shall only take effect if approved by the Massachusetts Department of Energy Resources (MA DOER) as a Participating Community pursuant to 225 CMR 24.

"Section 5.9.2 Fossil Fuel-Free Demonstration

a. Purpose: The purpose of this by-law and related state regulations 225 CMR 24, also referred to as the Fossil Fuel-Free Demonstration, is to restrict and prohibit new building construction and Major Renovation projects that are not fossil fuel-free.

b. Authority: Through Town Meeting action, the Town of Brookline has adopted the Fossil Fuel Free-Demonstration. Upon approval by the Department of Energy Resources (DOER), amendments to the Specialized Energy Code are adopted as listed in Section 5.9.2 (f) below. These changes are enforceable by the Building Commissioner or their designated Building Inspector(s) and will go into effect for any project seeking a permit after the effective date.

c. Applicability: This restriction applies to residential and commercial buildings that qualify as new construction and/or Major Renovations. This restriction shall not apply to research laboratories for scientific or medical research, hospitals and medical offices regulated by the department of public health as a health care facility as defined in 225 CMR 24.

d. Definition of Fossil Fuel-Free Demonstration: Codified by the entirety of 225 CMR 24, the Fossil Fuel-Free Demonstration.

e. The effective date of this Section 5.9.2 is the latest of the following: (1) sixty days following approval by DOER of the necessary changes to the Specialized Energy Code and the Town's status as a Participating Community; (2) the effective date established by M.G.L. c. 40, s. 32; and (3) January 1, 2024.

f. Amendments to the Specialized Energy Code as part of the Fossil Fuel-Free Demonstration are as follows:

1. Low-rise Residential Code (225 CMR 22 Appendix RC):

Sections RC102 and RC101 "Zero Energy Pathway" and "Mixed Fuel Pathway" shall not be permitted for use for new construction, and Major Renovations shall not install any new Combustion Equipment.

2. Commercial and All Other (225 CMR 23 Appendix CC)

Sections CC103 and CC105 "Zero Energy Pathway" and "Mixed-Fuel Pathway" shall not be permitted for new construction, and Major Renovations shall not install any new Combustion Equipment, with the following exceptions:

i. Research laboratories for scientific or medical research,

ii. Hospitals regulated by the department of public health as a health care facility,

iii. Medical offices regulated by the department of public health as a health care facility, and

iv. Multi-family buildings over 12,000 square feet with permit application filed prior to January 1, 2027 may utilize gas or propane for domestic water heating as the only combustion equipment."

g. Waivers

1) The Building Commissioner may grant a waiver from the requirements of this Section in the event that compliance with the provisions of this Section makes a project financially infeasible or impractical to implement. Compliance with this Section may be considered infeasible if, without limitation:

(i) as a result of factors beyond the control of the proponent, the additional cost of the project over the long term, including any available subsidies, would make the project commercially unviable; or

(ii) technological or other factors would make the project unsuitable for its intended purpose.

2) Waivers from compliance with this Section may be subject to reasonable conditions established by the Building Commissioner. Where possible, waivers shall be issued for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Section, rather than entire projects.

3) As may be requested by the Building Commissioner or established by guidelines, waiver requests shall be supported by a detailed cost comparison, including available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans.

4) In considering a request for a waiver, the Building Commissioner may consider as a factor the requesting party's status as a non-profit or government-sponsored affordable housing entity.

5) The Building Commissioner's decision with respect to the granting of a waiver, the scope thereof, and any conditions imposed by a waiver, shall be appealable to the Select Board, or its designee, within thirty (30) days in accordance with policies established by the Select Board.

6) The Select Board may, prior to the Effective Date, issue, and may thereafter amend, guidance regarding the process for requesting and granting waivers, and describing reasonable conditions that may be placed on a waiver.

ARTICLE 15 ADVISORY COMMITTEE VOTES

Article Description	**Fossil Fuel Free Demonstration Project**
AC recommendation (Favorable Action unless indicated)	**23-1-1**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	A
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	
Kelly Hardebeck	Y
Amy Hummel	Y
Anita Johnson	Y
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	N
Carlos Ridruejo	Y

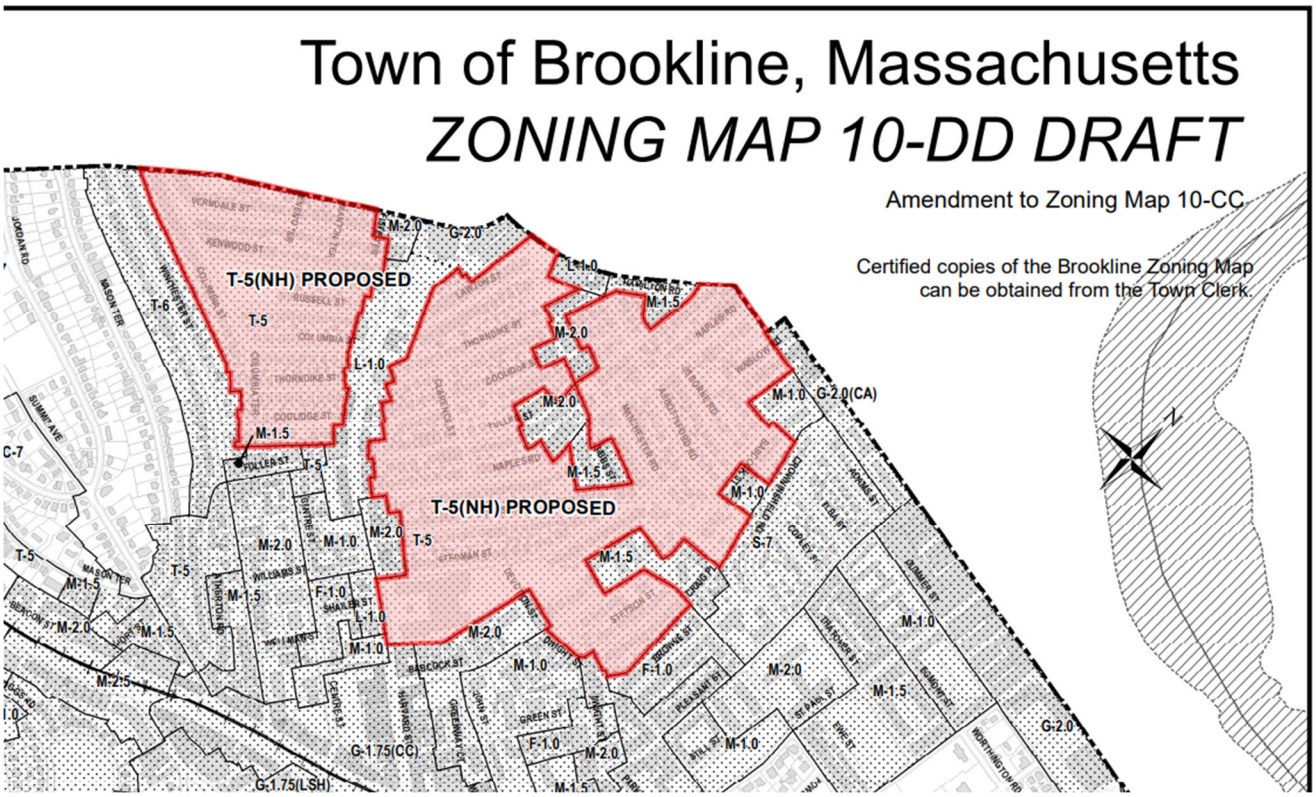
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

ARTICLE 16

SIXTEENTH ARTICLE
Submitted by: Department of Planning & Community Development

To see if the Town will amend the Zoning By-Law as follows:

1. Amend the Zoning Map to change the lots below from T-5 to T-5(NH)
   [Addresses and Block and Lots are listed in Exhibit A]



2. Add to Sec. 3.01 – Classification of Districts, under

   1 - Residence Districts
   c - Two-Family and Attached Single-Family (T)
   <u>3) T-5(NH) –Abutting Harvard Street North</u>

3. Add to Table 5.01- Table of Dimensional Requirements:

   Add <u>T-5(NH)[21]</u> to T-5 row 1 column 1
   Add footnote to Table 5.01:
   <u>21. Also see Section 5.93 – Massing Requirements for T-5(NH)</u>

Table 5.01 – Table of Dimensional Requirements		LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT [9] MAXIMUM (feet)	MINIMUM YARD [3, 10] (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE					Front [1,6]	Side [2]	Rear	Landsc.	Usable
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2-family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none [2]	30	10%	30%
T-5(NH)[21]	Any other structure or principal use	5,000	1.0	50	35	25	20	40	30%	none

4. Modify the last sentence of Section 5.43 as underscored below:

"…provided, however, that under this section the Board of Appeals shall not:

1. reduce the depth of a required front yard below 15 feet in M Districts; nor
2. increase the maximum Building Depth, as defined in Sec. 5.93, in T-5(NH) Districts."

5. Add a new Section 5.93 to follow Section 5.92 in Article V as indicated below:

Section 5.93 – Massing Requirements for T-5(NH)

The following specifications are required for Principal Structures in the T-5(NH) Zoning District:

Massing Requirements	
Building Depth (max)	50% of Lot Depth Sec. 5.43 shall not apply.
Story Height (min | max)	10 ft | 12 ft
Number of Stories (max)	2.5
Roof Types	Allowed: Gable, Hip Prohibited: Flat, Mansard, Gambrel
Dormer Specifications	See below.

DEFINITIONS

The Lot Depth shall be measured as the horizontal distance from the midpoint of the Front Lot line of the Primary Street to the midpoint of the Rear Lot Line. Primary Street is defined as the street onto which the Façade of the Principal Structure is oriented. Façade means the exterior wall of a Principal Structure that is the front face of the building. Principal Structure is the structure in which the principle use is conducted.

The Building Depth shall be measured perpendicularly from the Façade as the maximum length to the furthest exterior wall of a Principal Structure.

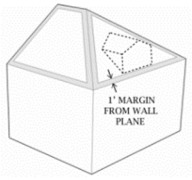
Half Story	A story having a maximum floor area of 40% of the area of the floor below
Story	The portion of a building located between the surface of a habitable floor and the surface of the habitable floor or roof next above
Ridge	The horizontal line on the roof where two planes intersect to create a peak or highest point on the roof
Wall Plane	The plane that extends from the ground to the top of the wall of a Structure
Roof, Flat	A roof with a slope that is less than 10 degrees
Roof, Gable	A roof sloped on two sides from a central ridge with an exterior wall enclosing each end
Roof, Gambrel	A compound, gabled roof with two slopes on each of its sides, where the lower has a steeper slope than the upper
Roof, Hip	A roof with four evenly sloping sides
Roof, Mansard	A roof having a double slope on all four sides, with the lower slope being much steeper
Roof, Shed	A roof with one slope

DORMER SPECIFICATIONS

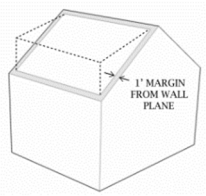
Standards

1. The face wall of a gable dormer shall not project beyond the exterior wall of the building and may not interrupt the eaves of the roof.
2. The cumulative width of a single, multiple, or attached combinations of dormers shall not exceed 50% of the eave length of the roof.
3. Dormers shall be centered and multiple dormers shall be equally spaced and centered.
4. Flat roofs are prohibited.

Dimensions

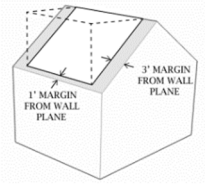


Hip roof



Gable roof

OR



Dormer Dimensions	
Face Width (min)	3.5 feet
Separation from Ridge (min)	1 foot
Separation from Wall Plane (min)	1 foot
Separation from Wall Plane (min), if separation from Ridge is 0	3 feet
Dormer separation (max)	50% of width of the largest dormer

…or act upon anything else thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Department of Planning and Community Development proposes a zoning amendment to address the Article 12 resolution, passed at Fall 2022 Town Meeting, which requested that the Planning Department study proposals to reduce the number of demolitions in Brookline. This zoning amendment would be a first step.

The amendment would create a new zoning district, called T-5 (NH), to encourage reuse of buildings and discourage demolitions. The new zoning district would have the same dimensional requirements as the T-5 district, but would prescribe massing standards for the build-out of attic spaces, third floors and additions, and would limit building depth on a lot. The proposed standards would (a) reduce the rapid pace of the demolition of existing housing stock, (b) encourage conversions of attic spaces and additions for greater living space, and

(c) reinforce the strong development pattern of the T-5 architecturally coherent neighborhoods for dormers, additions and new dwellings.

Over the past year and a half, there have been five demolition applications for replacement of primary structures with much larger two families, just in the T-5 districts, off of Harvard Street, north of Beacon Street. All of the proposals were for much larger structures that had a full three stories in contrast to the surrounding homes, which were primarily two-and-half stories with sloped roofs.

Staff preliminarily assessed that these demolitions are due to three factors:

(1) The majority of structures do not exceed a floor-area ratio (FAR) of about 0.70 in a district where the maximum FAR is 1.0,

(2) Having no massing standards for the attic level encourages build-out of three full floors that are out of scale with the surrounding 2.5-story structures,

(3) Waiving minimum yard setbacks under Sec. 5.43 results in sidewalls that are out-of-scale with the existing development pattern, where prevailing buildings depths are about half of the lot depths.

To impose conditions during project review, planning boards depend on specific design standards in the zoning by-law to ensure legally enforceable decisions. The Brookline Zoning By-law lacks standards specific to Brookline's varied neighborhood patterns, which may result in projects with unpredictable design outcomes. The unfortunate byproduct of these gaps in the bylaw is that existing dwelling units, many rental, are replaced with out-of-scale structures that do not add additional housing. Moreover, these new units are designed to be luxury units that supplant the relatively lower rents and prices of existing units.

In addition to maintaining the existing maximum height of 35 feet, an FAR of 1.0 and the other dimensional requirements for the T-5 districts in Table 5.01, some new massing standards would be set forth:

(1) A maximum number of stories at 2.5.

(2) Half-story defined as no more than 40% floor area of the floor below.

(3) Roof types are prescribed to reinforce the existing pattern of gable and hip roofs.

(4) Standards for dormer sizes and placement are consistent with existing roof massing patterns and ensure that habitable space at the attic level is feasible.

(5) Maximum building depth: no more than 50% of lot depth.

Staff's intention is to encourage conversions of attics to habitable floor space and/or additions to existing houses, while managing the overall scale of renovated structures. Where

new dwellings are built the goal is to have them be consistent with the surrounding massing, which in this T-5 district is primarily sloped roofs and usable open space in the rear yards.

This By-Law is submitted in an attempt to stem the number of proposed tear downs in one area of Town, north of Beacon Street, and where there are tear downs ensure that replacement dwellings are consistent with the prominent style of the surrounding neighborhood. If successful, this approach may be used in other areas of Town and in other zoning districts to address not only the dimensions of a building, but the form of the building, so that it is contextual with the character of the neighborhood.

PLANNING BOARD AND PRESERVATION COMMISSION RECOMMENDATION

This zoning warrant article was submitted by the Planning and Community Development Department. It proposes to change two areas north of Beacon Street, on both sides of Harvard Street, from T-5 zoning to T-5 (NH) zoning. The dimensional table for T-5 would remain unchanged but the zoning would have a new Section 5.93, which would have building massing requirements for these two-family districts. The hope is that these design standards would deter demolition and encourage reuse of existing structures. Projects meeting these standards would be allowed by right – that is, without requiring a Special Permit. Otherwise, existing zoning regulations would apply. This includes Warrant Article 13 from last Fall's Town Meeting, which requires design review and a Special Permit for any project town wide involving demolition and replacement of a structure deemed significant by the Preservation Commission.

This zoning warrant article was in response to a resolution approved by Fall 2022 TM asking the Planning and Community Development Department to begin researching ways that demolition could be deterred. The Planning Department has initiated the response to this request through the submittal of this zoning amendment to address the number of demolitions in these T-5 zones. The proposed zoning is in reaction to the proposal of several new homes that are modern three story boxes and not consistent with the style of the homes in the surrounding neighborhood, most of which are traditional and have peaked roofs. The lots in these T-5 areas are fairly consistent, long and narrow, with usable open space in the rear yard, and FARS of considerably less than the allowed FAR of 1.0. The new homes, some constructed and some proposed, are typically three stories, with flat roofs and long side walls. They also typically utilize all or almost all of the gross floor area allowed under the prevailing FAR of 1.0, which often results in structures significantly larger than those in the neighborhood.

In the initially submitted warrant article, the proposed massing requirements included limiting the roof style of a new building to a gable or hip roof, the depth of the building to no more than 50% of the length of the lot from front to back, and the number of stories to 2 ½, although the 35' height limit would remain unchanged. Dormers would be allowed but

would have to be sloped and set back at least 1' from the edge of the wall plane and all edges of the roof, including the ridge, and must not extend 50% of the eave length. A carve out allowing dormers to extend from the ridge if a 3' setback from the gable end is preserved was included to maintain consistency with the Preservation Commission's guidelines for avoiding triggering partial demolition. The third story was limited to 40% of the floor area below.

On April 12, 2023, the Planning Board (PB) held a joint hearing with the Zoning By-Law Committee (ZBLC) and took public comment. Some of the architects on both boards were hesitant to exclude all roof styles other than gable and hip roofs. Others acknowledged that the proposed zoning, although not perfect, would help deter demolitions and construction of three story flat roof buildings not in keeping with the predominant style of architecture in these two areas. Also discussed was whether a third dwelling unit should be allowed in these two family districts but it was agreed that this would need more public vetting and discussion before being seriously considered. After further discussion about the most appropriate dimensional requirements in the new T-5(NH) zoning district, the two boards voted on the proposed amendment.

The Zoning By-Law recommended Favorable Action on WA 16 (7-4, with 1 abstention), as submitted. The roll call vote was as follows: Greene – aye, VanScoyoc – aye, Benka – aye, Blood – aye, Brown – abstained, Goldstein – nay, Hamlin – nay, Hresko – nay, Pehlke – aye, Saltzman – aye, and Saner – nay, and Zarrillo – aye.
The Planning Board voted (2-2, with 1 abstention) to recommend Favorable Action on Article XIV, as submitted. The motion was a tie vote, and therefore failed.

The roll call vote went as follows: Zarrillo – aye, Brue – nay, Chipimo– abstained, Hamlin – nay, and Hines – aye. (Heikin was not present.)

Subsequent to the April 12th hearing, the Planning Board decided to reconsider its vote on Warrant Article 16. A subcommittee of representatives from the Planning Board (PB), Preservation Commission (PC) and the Advisory Committee's Subcommittee on Land Use Planning (AC Subcomm.) met with Planning and Community Development Staff to undertake further analysis of the most appropriate metrics for the new zoning district to encourage adaptive reuse of dwellings and deter demolitions. The hope was that all three committees could come to a consensus and support a revised version of warrant article 16.
On May 3rd, a joint public hearing of the PB, PC and AC Subcomm. was held to discuss and vote on warrant article 16. Power point presentations were given by Planning and Community Development staff, including illustrations of different third floor roof types and sizes. This generated much board and public comment. After further discussion, several revisions received consensus, including changing allowed maximum building depth from 50% to 60%, changing definition of half-story at the third story level from 40% to 70% of the floor area below, allowing flat roofs on first and second stories (and not just to the rear of the dwelling), and allowing gambrel roof styles, in addition to gable and hip roofs, above the second story. There was concern that allowing projects under this proposal to proceed by right, without design review, might result in some undesirable outcomes, but it was

determined that including a design review requirement (even without a Special Permit) was outside the scope of this warrant article.

The committees understood that the new T-5 (NH) zoning was meant to be a stop gap measure to provide time for public discussion of the idea of allowing a third dwelling unit in the T-5 district and allowing additional roof styles when architectural design standards were formulated for them. Planning Staff noted that some recent demolition proposals of two family homes were reconsidered as the result of the submittal of this zoning amendment, with the applicants deciding instead to renovate the existing homes to meet the new zoning amendment.

The Planning Board voted unanimously (6-0) to recommend Favorable Action on Art. XVI, with the below revisions. The roll call vote went as follows: Heikin – aye, Zarrillo– aye Hamlin– aye, Brue – aye, Chipimo – aye, and Hines – aye.

The Preservation Committee voted unanimously (4-0) to recommend Favorable Action on Art. XVI, with the below revisions. The roll call vote went as follows: Jack – aye, Panciera– aye, King – aye, Elperin – aye.

The Advisory Committee's Subcommittee on Land Use Planning voted unanimously (4-0, with 1 abstention) to recommend Favorable Action on Art. XVI, with the below revisions. The roll call vote went as follows: Pollack – aye, Ridruejo– aye, Johnson– aye, Pehlke – aye, Selwyn – abstained. [Correa not present.]

SELECT BOARD'S RECOMMENDATION

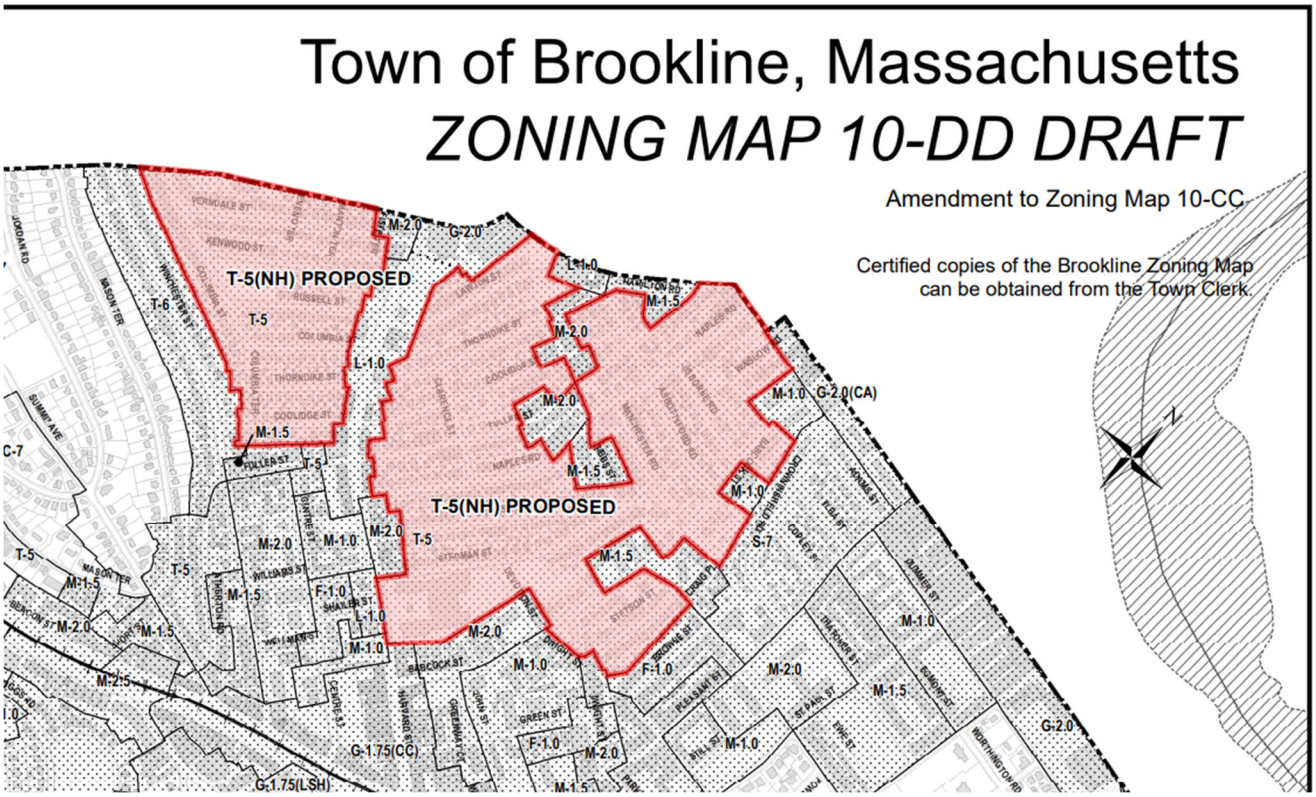
Warrant Article 16 was submitted by the Planning and Community Development Department. It proposes to rezone two residential areas north of Beacon Street that run behind the commercial buildings on either side of Harvard Street by changing the zoning in these two areas from T-5 to T-5 NH.

At Fall 2022 TM, a Resolution was passed asking the Planning and Community Development Department to explore ways to deter demolition in the Town. This proposed district change is a first step in trying to achieve this goal in this two-family neighborhood. If passed, the new zoning would make it less appealing to demolish a dwelling, and it would act as an incentive to retain the building through renovations by adding more floor space in the attic, possibly with dormers, and/or constructing additions to the rear of the dwelling. If demolition should occur, by requiring gable and hip roofs and limiting the dwelling to two and a half floors, new buildings will be more consistent with the architectural style of the surrounding neighborhood. Representatives of the Planning Board, the Preservation Commission, and the Advisory Committee's Subcommittee on Land Use Planning are currently working together to recommend revisions to the initial proposal as they review additional analysis by the Planning and Community Development Department.

The Select Board, after further discussion, voted FAVORABLE ACTION on the following motion:

MOVED: That the Town amend the Zoning By-Law as follows:

1. Amend the Zoning Map to change the lots below from T-5 to T-5(NH)
   [Addresses and Block and Lots are listed in Exhibit A]



2. Add to Sec. 3.01 – Classification of Districts, under

   1 - Residence Districts
   c - Two-Family and Attached Single-Family (T)
   <u>3) T-5(NH) –Abutting Harvard Street North</u>

3. Add to Table 5.01- Table of Dimensional Requirements:

   Add <u>T-5(NH)[21]</u> to T-5 row 1 column 1
   Add footnote to Table 5.01:
   <u>21. Also see Section 5.93 – Massing Requirements for T-5(NH)</u>

Table 5.01 – Table of Dimensional Requirements		LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT [9] MAXIMUM (feet)	MINIMUM YARD [3, 10] (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE					Front [1,6]	Side [2]	Rear	Landsc.	Usable
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2-family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none [2]	30	10%	30%
<u>T-5(NH)[21]</u>	Any other structure or principal use	5,000	1.0	50	35	25	20	40	30%	none

4. Modify the last sentence of Section 5.43 as underscored below:

   "…provided, however, that under this section the Board of Appeals shall not:

   1. reduce the depth of a required front yard below 15 feet in M Districts; nor
   2. increase the maximum Building Depth, as defined in Sec. 5.93, in T-5(NH) Districts."

5. Add a new Section 5.93 to follow Section 5.92 in Article V as indicated below:

Section 5.93 – Massing Requirements for T-5(NH)

The following specifications are required for Principal Structures in the T-5(NH) Zoning District:

Massing Requirements	
Building Depth (max)	~~50~~ **60**% of Lot Depth **A special permit under** Sec. 5.**43 is not** ~~shall not apply~~ **available**.
~~Story Height (min /Max)~~	~~10 ft / 12 ft~~
Number of Stories (max)	2.5
Roof Types **Above the second story**	Allowed: Gable, Hip, **Gambrel** Prohibited: Flat, Mansard, ~~Gambrel~~
Dormer Specifications	See below.
Rear Additions	
Number of Stories (max)	**2.5**[MM1]
Roof Types	[see above] ~~Allowed: Gable, Hip Exception: Flat Roof is allowed on 1- and 2-story Rear Additions~~
Margins	**1-**[MM2]**foot setback from exterior walls and ridge**

DEFINITIONS

The Lot Depth shall be measured as the horizontal distance from the midpoint of the Front Lot line of the Primary Street to the midpoint of the Rear Lot Line.

- Primary Street is defined as the street onto which the Façade of the Principal Structure is oriented.
- Façade means the exterior wall of a Principal Structure that is the front face of the building.
- Principal Structure is the structure in which the principle use is conducted.

The Building Depth shall be measured perpendicularly from the Façade as the maximum length to the furthest exterior wall of a Principal Structure. [MM3]**The Building Depth measurement shall not include Unenclosed Porches, balconies, and decks as defined in Zoning By-Law Sec. 2.16.2-1/2. An Enclosed Porch shall be included in the measurement for Building Depth.**

Rear Addition A rear addition is an extension from the rear wall of a Building.[MM4]

Half Story A story having a maximum floor area of ~~40%~~ **70%** [MM5]of the area of the floor below

Story The portion of a building located between the surface of a habitable floor and the surface of the habitable floor or roof next above

Ridge The horizontal line on the roof where two planes intersect to create a peak or highest point on the roof

Wall Plane The plane that extends from the ground to the top of the wall of a Structure

Roof, Flat A roof with a slope that is less than 10 degrees

Roof, Gable A roof sloped on two sides from a central ridge with an exterior wall enclosing each end

Roof, Gambrel A compound, gabled roof with two slopes on each of its sides, where the lower has a steeper slope than the upper

Roof, Hip A roof with four evenly sloping sides

Roof, Mansard A roof having a double slope on all four sides, with the lower slope being much steeper

Roof, Shed A roof with one slope

DORMER SPECIFICATIONS

Standards

1. The face wall of a gable dormer shall not project beyond the exterior wall of the building and may not interrupt the eaves of the roof.

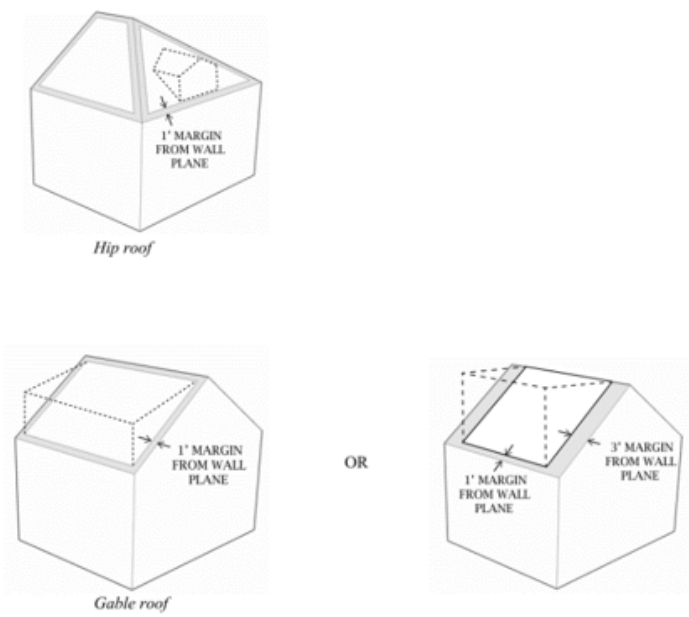
2. The cumulative width of a single, multiple, or attached combinations of dormers shall not exceed 50% of the eave length of the roof.

~~3. Dormers shall be centered and multiple dormers shall be equally spaced and centered.~~

3. Flat roofs are prohibited.

4. <u>It is encouraged but not required to center dormers, and in the case of multiple dormers to equally space and center them.</u>

Dimensions



Figure[MM1] 5.19 Dormer Specifications

Dormer Dimensions	
Face Width (min)	3.5 feet
Separation from Ridge (min)	1 foot
Separation from Wall Plane (min)	1 foot

Separation from Wall Plane (min), if separation from Ridge is 0	3 feet
Dormer separation (max)	50% of width of the largest dormer

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation will be included in the supplement.

XXX

EXHIBIT A - Proposed Zoning District T-5(NH) Parcels					
PARCEL_ID	BLOCK	LOT	PAR_ADD_NO_1	PAR_ADD_NO_2	PAR_ADD_ST_1
027 1701	027	17	149		BABCOCK ST
027 1702	027	17	153		BABCOCK ST
027 1703	027	17	157		BABCOCK ST
027 1800	027	18	163		BABCOCK ST
027 1900	027	19	167		BABCOCK ST
027 2000	027	20	173		BABCOCK ST
027 2700	027	27	195		BABCOCK ST
027 2800	027	28	199		BABCOCK ST
027 2900	027	29	205		BABCOCK ST
027 3000	027	30	209		BABCOCK ST
027 3100	027	31	215		BABCOCK ST
033 0100	033	01	53		DWIGHT ST
033 0200	033	02	57		DWIGHT ST
033 0300	033	03	91		BABCOCK ST
033 0400	033	04	95		BABCOCK ST
033 0503	033	05	99		BABCOCK ST
033 0600	033	06	105		BABCOCK ST
033 0700	033	07	109		BABCOCK ST
033 0800	033	08	113		BABCOCK ST
033 0900	033	09	121	125	BABCOCK ST
033 1000	033	10	40	46	STETSON ST
033 1200	033	12	34		STETSON ST
033 1300	033	13	30		STETSON ST
033 1400	033	14	26		STETSON ST
033 1500	033	15	24		STETSON ST
033 1600	033	16	16		STETSON ST
033 1700	033	17	12		STETSON ST
034 0100	034	01	77		BABCOCK ST
035 0100	035	01	7		STETSON ST
035 0200	035	02	9		STETSON ST
035 0300	035	03	15		STETSON ST
035 0400	035	04	19		STETSON ST
035 0500	035	05	23		STETSON ST
035 0600	035	06	27		STETSON ST
035 0700	035	07	31		STETSON ST
035 0800	035	08	35		STETSON ST
035 0900	035	09	39		STETSON ST
035 1000	035	10	43		STETSON ST
035 1100	035	11	47		STETSON ST
035 1200	035	12	51		STETSON ST
048 1300	048	13	345		HARVARD ST

049 0100	049	01	16		MANCHESTER RD
049 0200	049	02	12		MANCHESTER RD
049 0300	049	03	156		BABCOCK ST
049 0400	049	04	148		BABCOCK ST
049 0500	049	05	140		BABCOCK ST
049 0900	049	09	104		BABCOCK ST
049 1000	049	10	19		DEVOTION ST
049 1100	049	11	94		BABCOCK ST
049 1200	049	12	90		BABCOCK ST
049 1300	049	13	86		BABCOCK ST
049 1400	049	14	80		BABCOCK ST
049 1800	049	18	75		STEDMAN ST
049 1900	049	19	79		STEDMAN ST
049 2000	049	20	83		STEDMAN ST
049 2100	049	21	89		STEDMAN ST
049 2200	049	22	91		STEDMAN ST
049 2300	049	23	95		STEDMAN ST
049 2400	049	24	99		STEDMAN ST
049 2500	049	25	101	103	STEDMAN ST
049 2600	049	26	105		STEDMAN ST
049 2700	049	27	111		STEDMAN ST
049 2800	049	28	113		STEDMAN ST
049 2900	049	29	115		STEDMAN ST
049 3000	049	30	117	119	STEDMAN ST
049 3100	049	31	121	123	STEDMAN ST
050 0500	050	05	15		BEALS ST
050 0600	050	06	19		BEALS ST
050 0700	050	07	25		BEALS ST
050 0800	050	08	29		BEALS ST
050 0900	050	09	35		BEALS ST
050 1000	050	10	39		BEALS ST
050 1100	050	11	43		BEALS ST
050 1203	050	12	49		BEALS ST
050 1300	050	13	51		BEALS ST
050 1400	050	14	55		BEALS ST
050 1503	050	15	63		BEALS ST
050 1600	050	16	67		BEALS ST
050 1700	050	17	73		BEALS ST
050 1800	050	18	77	79	BEALS ST
050 1900	050	19	83		BEALS ST
050 2000	050	20	85		BEALS ST
050 2100	050	21	91		BEALS ST
050 2200	050	22	95		BEALS ST

050 2300	050	23	99		BEALS ST
050 2400	050	24	86		STEDMAN ST
050 2500	050	25	82		STEDMAN ST
050 2600	050	26	78		STEDMAN ST
050 2700	050	27	72		STEDMAN ST
050 2800	050	28	66		STEDMAN ST
050 2900	050	29	60	62	STEDMAN ST
050 3000	050	30	56	58	STEDMAN ST
050 3100	050	31	50		STEDMAN ST
050 3200	050	32	48		STEDMAN ST
050 3300	050	33	44		STEDMAN ST
050 3400	050	34	38	A	STEDMAN ST
050 3500	050	35	32		STEDMAN ST
050 3600	050	36	24		STEDMAN ST
050 3700	050	37	20		STEDMAN ST
050 3800	050	38	16		STEDMAN ST
050 3900	050	39	12		STEDMAN ST
051 0500	051	05	11		NAPLES RD
051 0600	051	06	15		NAPLES RD
051 0700	051	07	21		NAPLES RD
051 0800	051	08	23		NAPLES RD
051 0900	051	09	29		NAPLES RD
051 1000	051	10	33		NAPLES RD
051 1101	051	11	41		NAPLES RD
051 1102	051	11	43	45	NAPLES RD
051 1200	051	12	47		NAPLES RD
051 1300	051	13	51		NAPLES RD
051 1400	051	14	55		NAPLES RD
051 1500	051	15	59		NAPLES RD
051 1600	051	16	65		NAPLES RD
051 1700	051	17	69		NAPLES RD
051 1800	051	18	73		NAPLES RD
051 1900	051	19	79		NAPLES RD
051 2000	051	20	85		NAPLES RD
051 2100	051	21	89		NAPLES RD
051 2700	051	27	6		GIBBS ST
051 2800	051	28	100		BEALS ST
051 2900	051	29	96		BEALS ST
051 3000	051	30	92		BEALS ST
051 3100	051	31	88		BEALS ST
051 3300	051	33	80		BEALS ST
051 3400	051	34	74		BEALS ST
051 3500	051	35	70		BEALS ST

051 3600	051	36	66		BEALS ST
051 3700	051	37	60		BEALS ST
051 3800	051	38	58		BEALS ST
051 3900	051	39	56		BEALS ST
051 3901	051	39	54		BEALS ST
051 4000	051	40	50		BEALS ST
051 4100	051	41	44		BEALS ST
051 4200	051	42	40		BEALS ST
051 4300	051	43	38		BEALS ST
051 4400	051	44	36		BEALS ST
051 4500	051	45	34		BEALS ST
051 4600	051	46	30		BEALS ST
051 4700	051	47	26		BEALS ST
051 4800	051	48	22		BEALS ST
051 4900	051	49	16		BEALS ST
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052 0203	052	02	58		MANCHESTER RD
052 0400	052	04	48		MANCHESTER RD
052 0500	052	05	42		MANCHESTER RD
052 0600	052	06	34		MANCHESTER RD
052 0700	052	07	32		MANCHESTER RD
052 0800	052	08	28		MANCHESTER RD
052 0900	052	09	120		STEDMAN ST
052 1000	052	10	112		BEALS ST
052 1700	052	17	31		GIBBS ST
053 0100	053	01	162		BABCOCK ST
053 0200	053	02	11		MANCHESTER RD
053 0300	053	03	17		MANCHESTER RD
053 0400	053	04	23		MANCHESTER RD
053 0500	053	05	29		MANCHESTER RD
053 0600	053	06	33		MANCHESTER RD
053 0700	053	07	41		MANCHESTER RD
053 0800	053	08	47		MANCHESTER RD
053 0900	053	09	51	59	MANCHESTER RD
053 1000	053	10	127		NAPLES RD
053 1100	053	11	46		ABBOTTSFORD RD
053 1200	053	12	40		ABBOTTSFORD RD
053 1300	053	13	32		ABBOTTSFORD RD
053 1400	053	14	26		ABBOTTSFORD RD
053 1500	053	15	20		ABBOTTSFORD RD
053 1600	053	16	12		ABBOTTSFORD RD
053 1700	053	17	170		BABCOCK ST
054 0100	054	01	182		BABCOCK ST

054 0200	054	02	11		ABBOTTSFORD RD
054 0300	054	03	19		ABBOTTSFORD RD
054 0400	054	04	25		ABBOTTSFORD RD
054 0500	054	05	29		ABBOTTSFORD RD
054 0600	054	06	33		ABBOTTSFORD RD
054 0700	054	07	43		ABBOTTSFORD RD
054 0800	054	08	51		ABBOTTSFORD RD
054 0900	054	09	1		OSBORNE RD
054 1000	054	10	5		OSBORNE RD
054 1100	054	11	9		OSBORNE RD
054 1200	054	12	11		OSBORNE RD
054 1300	054	13	17		OSBORNE RD
054 1400	054	14	21		OSBORNE RD
054 1500	054	15	27		OSBORNE RD
054 1600	054	16	31		OSBORNE RD
054 1700	054	17	37		OSBORNE RD
054 1800	054	18	41		OSBORNE RD
054 1900	054	19	190		BABCOCK ST
054 2000	054	20	184		BABCOCK ST
055 0100	055	01	198		BABCOCK ST
055 0200	055	02	36		OSBORNE RD
055 0300	055	03	30		OSBORNE RD
055 0400	055	04	26		OSBORNE RD
055 0500	055	05	22		OSBORNE RD
055 0600	055	06	18		OSBORNE RD
055 0700	055	07	12		OSBORNE RD
055 0800	055	08	145		NAPLES RD
055 0900	055	09	149		NAPLES RD
055 1000	055	10	153		NAPLES RD
055 1100	055	11	157		NAPLES RD
055 1200	055	12	161		NAPLES RD
055 1300	055	13	165		NAPLES RD
055 1400	055	14	169		NAPLES RD
055 1500	055	15	173		NAPLES RD
055 1600	055	16	175		NAPLES RD
055 1701	055	17	1066		COMMONWEALTH AVE
055 1702	055	17	1056		COMMONWEALTH AVE
055 2200	055	22	23		WINSLOW RD
055 2300	055	23	27		WINSLOW RD
055 2400	055	24	31	35	WINSLOW RD
055 2500	055	25	41		WINSLOW RD

055 2600	055	26	45		WINSLOW RD
055 2701	055	27	51		WINSLOW RD
055 2702	055	27	53		WINSLOW RD
055 2801	055	28	210		BABCOCK ST
055 2900	055	29	204		BABCOCK ST
056 0200	056	02	44		WINSLOW RD
056 0300	056	03	28		WINSLOW RD
056 0400	056	04	24		WINSLOW RD
056 0500	056	05	22		WINSLOW RD
056 0600	056	06	18		WINSLOW RD
056 0700	056	07	16		WINSLOW RD
057 0100	057	01	186		NAPLES RD
057 0200	057	02	184		NAPLES RD
057 0300	057	03	182		NAPLES RD
057 0400	057	04	180		NAPLES RD
057 0500	057	05	178		NAPLES RD
057 0600	057	06	174	176	NAPLES RD
057 0700	057	07	172		NAPLES RD
057 0800	057	08	166		NAPLES RD
057 0900	057	09	162		NAPLES RD
057 1000	057	10	158		NAPLES RD
057 1100	057	11	150	154	NAPLES RD
057 1200	057	12	146		NAPLES RD
057 1300	057	13	140		NAPLES RD
057 1400	057	14	75		ABBOTTSFORD RD
057 1500	057	15	197		FULLER ST
057 1600	057	16	203		FULLER ST
057 1700	057	17	207	209	FULLER ST
057 1800	057	18	211		FULLER ST
057 1900	057	19	217		FULLER ST
057 2000	057	20	221		FULLER ST
057 2100	057	21	225	231	FULLER ST
057 2101	057	21	1106		COMMONWEALTH AVE
057 2102	057	21	1092		COMMONWEALTH AVE
057 2103	057	21	1086		COMMONWEALTH AVE
057 2104	057	21	1082		COMMONWEALTH AVE
059 0100	059	01	192		FULLER ST
059 0200	059	02	87	89	ABBOTTSFORD RD
059 0301	059	03	91		ABBOTTSFORD RD
059 0400	059	04	101	103	ABBOTTSFORD RD

059 0500	059	05	9		HAMILTON RD
060 0100	060	01	177		THORNDIKE ST
060 0200	060	02	171	173	THORNDIKE ST
060 0300	060	03	165	167	THORNDIKE ST
060 0400	060	04	161		THORNDIKE ST
060 1000	060	10	162	164	COOLIDGE ST
060 1100	060	11	166	168	COOLIDGE ST
060 1200	060	12	170		COOLIDGE ST
060 1300	060	13	176		COOLIDGE ST
061 0100	061	01	177		COOLIDGE ST
061 0200	061	02	176		FULLER ST
061 0300	061	03	165		COOLIDGE ST
061 1000	061	10	172		FULLER ST
062 0100	062	01	132		NAPLES RD
062 0200	062	02	122		NAPLES RD
062 0300	062	03	114		NAPLES RD
062 0400	062	04	47		GIBBS ST
062 0600	062	06	165		FULLER ST
062 0700	062	07	169		FULLER ST
062 0800	062	08	175		FULLER ST
062 0900	062	09	183		FULLER ST
062 1000	062	10	70		ABBOTTSFORD RD
063 0800	063	08	82		NAPLES RD
063 0900	063	09	74		NAPLES RD
063 1000	063	10	68		NAPLES RD
063 1100	063	11	64		NAPLES RD
063 1200	063	12	60		NAPLES RD
063 1300	063	13	54		NAPLES RD
063 1400	063	14	50		NAPLES RD
063 1500	063	15	103		FULLER ST
063 1600	063	16	107		FULLER ST
063 1700	063	17	111		FULLER ST
063 1800	063	18	115		FULLER ST
063 1900	063	19	119		FULLER ST
063 2000	063	20	123		FULLER ST
064 0100	064	01	46		NAPLES RD
064 0200	064	02	40		NAPLES RD
064 0300	064	03	36		NAPLES RD
064 0400	064	04	30		NAPLES RD
064 0500	064	05	24		NAPLES RD
064 0600	064	06	18		NAPLES RD
064 0700	064	07	12		NAPLES RD
064 0800	064	08	8		NAPLES RD

064 1200	064	12	67		FULLER ST
064 1300	064	13	73		FULLER ST
064 1400	064	14	77		FULLER ST
064 1500	064	15	83		FULLER ST
064 1600	064	16	87		FULLER ST
064 1700	064	17	91		FULLER ST
064 1800	064	18	93		FULLER ST
064 1900	064	19	95		FULLER ST
064 2000	064	20	97		FULLER ST
065 0100	065	01	101		COOLIDGE ST
065 0200	065	02	111	115	COOLIDGE ST
065 0300	065	03	119		COOLIDGE ST
065 0400	065	04	125		COOLIDGE ST
065 0500	065	05	127		COOLIDGE ST
065 0600	065	06	133		COOLIDGE ST
065 0700	065	07	137		COOLIDGE ST
065 0800	065	08	143		COOLIDGE ST
065 0900	065	09	147		COOLIDGE ST
065 1000	065	10	60		GIBBS ST
065 1100	065	11	148		FULLER ST
065 1800	065	18	120		FULLER ST
065 1900	065	19	116		FULLER ST
065 2000	065	20	112		FULLER ST
065 2100	065	21	108		FULLER ST
065 2200	065	22	102		FULLER ST
066 0100	066	01	98		FULLER ST
066 0101	066	01	90		FULLER ST
066 0300	066	03	88		FULLER ST
066 0400	066	04	84		FULLER ST
066 0500	066	05	82		FULLER ST
066 0600	066	06	78		FULLER ST
066 0700	066	07	74		FULLER ST
066 0800	066	08	68		FULLER ST
066 0900	066	09	62		FULLER ST
066 1200	066	12	69		COOLIDGE ST
066 1300	066	13	73		COOLIDGE ST
066 1400	066	14	79		COOLIDGE ST
066 1500	066	15	83		COOLIDGE ST
066 1600	066	16	87		COOLIDGE ST
066 1700	066	17	91		COOLIDGE ST
066 1800	066	18	95		COOLIDGE ST
067 0100	067	01	92		COOLIDGE ST
067 0200	067	02	88		COOLIDGE ST

067 0300	067	03	84		COOLIDGE ST
067 0400	067	04	78		COOLIDGE ST
067 0500	067	05	74		COOLIDGE ST
067 0600	067	06	70		COOLIDGE ST
067 1000	067	10	77		THORNDIKE ST
067 1100	067	11	81	83	THORNDIKE ST
067 1200	067	12	87		THORNDIKE ST
067 1300	067	13	91		THORNDIKE ST
067 1400	067	14	93		THORNDIKE ST
068 0400	068	04	136		COOLIDGE ST
068 0500	068	05	132		COOLIDGE ST
068 0600	068	06	128		COOLIDGE ST
068 0700	068	07	124		COOLIDGE ST
068 0800	068	08	120		COOLIDGE ST
068 0900	068	09	114		COOLIDGE ST
068 1000	068	10	110		COOLIDGE ST
068 1100	068	11	104		COOLIDGE ST
068 1200	068	12	100		COOLIDGE ST
068 1300	068	13	45		CLARENCE ST
068 1400	068	14	107		THORNDIKE ST
068 1500	068	15	111		THORNDIKE ST
068 1600	068	16	117		THORNDIKE ST
068 1700	068	17	121		THORNDIKE ST
068 1800	068	18	127		THORNDIKE ST
068 1900	068	19	131		THORNDIKE ST
068 2000	068	20	135		THORNDIKE ST
068 2100	068	21	141		THORNDIKE ST
068 2200	068	22	147		THORNDIKE ST
069 0700	069	07	148		THORNDIKE ST
069 0800	069	08	140		THORNDIKE ST
069 0900	069	09	136		THORNDIKE ST
069 1000	069	10	130		THORNDIKE ST
069 1100	069	11	126		THORNDIKE ST
069 1200	069	12	122		THORNDIKE ST
069 1300	069	13	116		THORNDIKE ST
069 1400	069	14	112		THORNDIKE ST
069 1500	069	15	106		THORNDIKE ST
069 1600	069	16	102		THORNDIKE ST
069 1700	069	17	98		THORNDIKE ST
069 1800	069	18	92		THORNDIKE ST
069 1900	069	19	88		THORNDIKE ST
069 2000	069	20	82		THORNDIKE ST
069 2100	069	21	78		THORNDIKE ST

069 2500	069	25	21		LAWTON ST
069 2600	069	26	27		LAWTON ST
069 2700	069	27	33		LAWTON ST
069 2800	069	28	39		LAWTON ST
069 2900	069	29	45		LAWTON ST
069 3000	069	30	53		LAWTON ST
069 3100	069	31	57		LAWTON ST
069 3200	069	32	63		LAWTON ST
069 3300	069	33	71		LAWTON ST
069 3400	069	34	79		LAWTON ST
069 3500	069	35	85		LAWTON ST
069 3600	069	36	93		LAWTON ST
069 3700	069	37	103		LAWTON ST
069 3800	069	38	105		LAWTON ST
069 3940	069	39	115		LAWTON ST
070 0300	070	03	116		LAWTON ST
070 0500	070	05	112		LAWTON ST
070 0600	070	06	108		LAWTON ST
070 0700	070	07	102		LAWTON ST
070 0800	070	08	96		LAWTON ST
070 0900	070	09	90		LAWTON ST
070 1000	070	10	84		LAWTON ST
070 1100	070	11	78		LAWTON ST
070 1200	070	12	74		LAWTON ST
070 1300	070	13	66		LAWTON ST
070 1400	070	14	60		LAWTON ST
070 1500	070	15	54		LAWTON ST
070 1600	070	16	48		LAWTON ST
070 1700	070	17	38		LAWTON ST
070 2325	070	23	1168		COMMONWEALTH AVE
070 2600	070	26	1158		COMMONWEALTH AVE
070 2700	070	27	1156		COMMONWEALTH AVE
071 0300	071	03	19		VERNDALE ST
071 0400	071	04	21		VERNDALE ST
071 0500	071	05	27		VERNDALE ST
071 0600	071	06	31		VERNDALE ST
071 0700	071	07	33		VERNDALE ST
071 0800	071	08	39		VERNDALE ST
071 0900	071	09	43		VERNDALE ST
071 1000	071	10	49		VERNDALE ST

071 1100	071	11	55		VERNDALE ST
071 1200	071	12	57		VERNDALE ST
071 1300	071	13	63	65	VERNDALE ST
071 1400	071	14	67		VERNDALE ST
071 1500	071	15	73		VERNDALE ST
071 1600	071	16	77		VERNDALE ST
071 1700	071	17	81		VERNDALE ST
071 1900	071	19	91		VERNDALE ST
071 2000	071	20	95		VERNDALE ST
071 2100	071	21	101		VERNDALE ST
071 2200	071	22	133		COLUMBIA ST
071 2300	071	23	139		COLUMBIA ST
071 2526	071	25	79		VERNDALE ST
071 2700	071	27	11		FENENO TER
071 2800	071	28	15		FENENO TER
071 2900	071	29	10		FENENO TER
071 3000	071	30	8		FENENO TER
071 3100	071	31	5		MANTON TER
071 3200	071	32	7		MANTON TER
071 3300	071	33	8		MANTON TER
071 3400	071	34	7		FISKE TER
072 0200	072	02	9		KENWOOD ST
072 0300	072	03	15		KENWOOD ST
072 0400	072	04	19		KENWOOD ST
072 0500	072	05	23		KENWOOD ST
072 0600	072	06	27		KENWOOD ST
072 0700	072	07	33		KENWOOD ST
072 0800	072	08	37		KENWOOD ST
072 0900	072	09	41		KENWOOD ST
072 1000	072	10	45		KENWOOD ST
072 1100	072	11	51		KENWOOD ST
072 1200	072	12	55		KENWOOD ST
072 1201	072	12	57		KENWOOD ST
072 1300	072	13	61		KENWOOD ST
072 1400	072	14	63	67	KENWOOD ST
072 1500	072	15	69		KENWOOD ST
072 1600	072	16	73	75	KENWOOD ST
072 1700	072	17	77		KENWOOD ST
072 1800	072	18	83		KENWOOD ST
072 1900	072	19	109		COLUMBIA ST
072 2000	072	20	96		VERNDALE ST
072 2100	072	21	90		VERNDALE ST
072 2200	072	22	86		VERNDALE ST

072 2300	072	23	78		VERNDALE ST
072 2400	072	24	76		VERNDALE ST
072 2500	072	25	70		VERNDALE ST
072 2600	072	26	64	66	VERNDALE ST
072 2700	072	27	60		VERNDALE ST
072 2800	072	28	56	58	VERNDALE ST
072 2900	072	29	50		VERNDALE ST
072 3000	072	30	46		VERNDALE ST
072 3100	072	31	42		VERNDALE ST
072 3200	072	32	36		VERNDALE ST
072 3300	072	33	32		VERNDALE ST
072 3400	072	34	28		VERNDALE ST
072 3500	072	35	24		VERNDALE ST
072 3600	072	36	20		VERNDALE ST
072 3700	072	37	16		VERNDALE ST
072 3800	072	38	12		VERNDALE ST
073 0300	073	03	11		RUSSELL ST
073 0400	073	04	15		RUSSELL ST
073 0500	073	05	21		RUSSELL ST
073 0600	073	06	25		RUSSELL ST
073 0700	073	07	31		RUSSELL ST
073 0800	073	08	33	35	RUSSELL ST
073 0900	073	09	39	41	RUSSELL ST
073 1000	073	10	43	45	RUSSELL ST
073 1100	073	11	89		COLUMBIA ST
073 1200	073	12	50		KENWOOD ST
073 1300	073	13	46		KENWOOD ST
073 1400	073	14	40		KENWOOD ST
073 1500	073	15	34		KENWOOD ST
073 1600	073	16	30		KENWOOD ST
073 1700	073	17	26		KENWOOD ST
073 1800	073	18	22		KENWOOD ST
073 1900	073	19	16		KENWOOD ST
073 2000	073	20	12		KENWOOD ST
074 0200	074	02	9	11	COLUMBIA ST
074 0300	074	03	15		COLUMBIA ST
074 0400	074	04	19		COLUMBIA ST
074 0500	074	05	25		COLUMBIA ST
074 0603	074	06	29	A	COLUMBIA ST
074 0700	074	07	33		COLUMBIA ST
074 0800	074	08	39		COLUMBIA ST
074 0900	074	09	45		COLUMBIA ST
074 1000	074	10	51		COLUMBIA ST

074 1100	074	11	61		COLUMBIA ST
074 1200	074	12	62		RUSSELL ST
074 1300	074	13	56		RUSSELL ST
074 1400	074	14	50		RUSSELL ST
074 1500	074	15	46		RUSSELL ST
074 1600	074	16	42		RUSSELL ST
074 1700	074	17	34	36	RUSSELL ST
074 1800	074	18	32		RUSSELL ST
074 1900	074	19	28		RUSSELL ST
074 2000	074	20	22		RUSSELL ST
074 2100	074	21	18		RUSSELL ST
074 2200	074	22	12		RUSSELL ST
075 0300	075	03	60		THORNDIKE ST
075 0400	075	04	54		THORNDIKE ST
075 0500	075	05	50		THORNDIKE ST
075 0600	075	06	46		THORNDIKE ST
075 0700	075	07	40		THORNDIKE ST
075 0800	075	08	36		THORNDIKE ST
075 0900	075	09	32		THORNDIKE ST
075 1000	075	10	26		THORNDIKE ST
075 1100	075	11	22		THORNDIKE ST
075 1200	075	12	18		THORNDIKE ST
075 1300	075	13	12		THORNDIKE ST
075 3600	075	36	144		COLUMBIA ST
075 3700	075	37	140		COLUMBIA ST
075 3800	075	38	136		COLUMBIA ST
075 3900	075	39	132		COLUMBIA ST
075 4000	075	40	128		COLUMBIA ST
075 4100	075	41	124		COLUMBIA ST
075 4200	075	42	120		COLUMBIA ST
075 4300	075	43	116		COLUMBIA ST
075 4400	075	44	112		COLUMBIA ST
075 4500	075	45	108		COLUMBIA ST
075 4600	075	46	104		COLUMBIA ST
075 4700	075	47	100		COLUMBIA ST
075 4800	075	48	96		COLUMBIA ST
075 4900	075	49	92		COLUMBIA ST
075 5000	075	50	88		COLUMBIA ST
075 5100	075	51	80		COLUMBIA ST
075 5200	075	52	76		COLUMBIA ST
075 5300	075	53	70		COLUMBIA ST
075 5400	075	54	66		COLUMBIA ST
075 5500	075	55	60		COLUMBIA ST

075 5600	075	56	1		COLUMBIA TER
075 5700	075	57	7		COLUMBIA TER
075 5803	075	58	50		COLUMBIA ST
075 5900	075	59	46		COLUMBIA ST
075 6000	075	60	40		COLUMBIA ST
075 6100	075	61	36		COLUMBIA ST
075 6200	075	62	30	32	COLUMBIA ST
075 6300	075	63	26		COLUMBIA ST
075 6400	075	64	22		COLUMBIA ST
075 6500	075	65	16		COLUMBIA ST
075 6600	075	66	12		COLUMBIA ST
076 0200	076	02	17		THORNDIKE ST
076 0300	076	03	21		THORNDIKE ST
076 0400	076	04	25		THORNDIKE ST
076 0500	076	05	29		THORNDIKE ST
076 0600	076	06	33		THORNDIKE ST
076 0700	076	07	39		THORNDIKE ST
076 0800	076	08	43		THORNDIKE ST
076 0900	076	09	49		THORNDIKE ST
076 1000	076	10	53		THORNDIKE ST
076 1100	076	11	57		THORNDIKE ST
076 1400	076	14	54		COOLIDGE ST
076 1500	076	15	48		COOLIDGE ST
076 1600	076	16	42		COOLIDGE ST
076 1700	076	17	40		COOLIDGE ST
076 1800	076	18	34		COOLIDGE ST
076 1900	076	19	30		COOLIDGE ST
076 2000	076	20	26		COOLIDGE ST
076 2100	076	21	20		COOLIDGE ST
076 2200	076	22	16		COOLIDGE ST
076 2300	076	23	8		COOLIDGE ST
077 0101	077	01	9		COOLIDGE ST
077 0300	077	03	21		COOLIDGE ST
077 0400	077	04	23		COOLIDGE ST
077 0500	077	05	31		COOLIDGE ST
077 0600	077	06	35		COOLIDGE ST
077 0700	077	07	41		COOLIDGE ST
077 0800	077	08	45		COOLIDGE ST
077 2500	077	25	15		COOLIDGE ST
077 2600	077	26	17		COOLIDGE ST

ARTICLE 16

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 16 as amended by a vote of 23-0-0.

Executive Summary:	WA 16, submitted by the Department of Planning and Community Development, adds massing requirements to two Two-Family zoning districts located north of Beacon St. to prevent the demolition of existing 2.5 story structures and their subsequent replacement with 3-story flat-roof structures. A total of 594 parcels are included in this change. The additional requirements seek to limit demolitions and encourage adaptive reuse by limiting the principal structure to 2.5 stories, prohibiting flat and certain other roof types and limiting the building depth to 60% of the lot depth. These new dimensional requirements were modeled off of the predominant features of the existing structures in these zoning districts. All underlying dimensional T-5 district requirements would remain the same.
Voting Yes will...	Impose additional massing restrictions in two T-5 districts north of Beacon St. These amended districts would be designated as T-5(NH) standing for North Harvard because of their proximity to the northern portion of Harvard St.
Voting No will...	Leave all T-5 zoning requirements unchanged.
Financial impact [if any]	The new massing requirements may add complexity to the review processes that the Building Department, Planning Department, Planning Board and Zoning Board of Appeals perform. However, with the addition of clearly defined design standards, the process of design review may well be simpler. Planning Department staff do not believe these new requirements will cause any increased costs or need for additional staff.

Legal implications [if any]	Two land use attorneys, Robert L. Allen, Jr and Jennifer Dopazo Gilbert sent a memo to the Town asserting that WA 16 "will result in the creation of non-conforming structures and the loss of equity in existing properties as these restrictions will limit the ability to utilize the allowable Gross Floor Area of 1.0." The Planning Department issued a response to these concerns asserting the public purpose of these additional regulations and providing data documenting the alignment between existing conditions and the proposed requirements in this WA. The Planning Department also eased the new massing restrictions (subsequent to receipt of that letter) in their amended version of WA 16.

Introduction

WA 16 is a response to WA 12 from Fall 2022 STM. WA 12 was a resolution (which was initially filed as a moratorium on demolitions) asking the Planning and Community Development Department to seek and propose solutions to the proliferation of demolitions happening town wide but especially frequently within our Two-family (T) zoning districts. The Planning Department has described WA 16 as a partial form-based zoning response and "a stop gap measure" because of the rash of recent projects where older, often historically significant homes are being demolished to make way for much larger box-like structures. WA 12 passed last Fall by a vote of 186-50-16, indicating a wide-spread desire among TMM's to reduce and slow down the rate of demolition of older homes in Brookline. It was also noted that this process of redevelopment often results in the same number of housing units, which are sold at price points 2x to 3x more expensive than the price of the original structure. When traditional two-families, where there is one owner-occupied unit and one rental unit are redeveloped in this way, we are losing a "moderately priced" rental and replacing it with a very expensive luxury condominium.

The primary factor driving T-zone demolitions is the fact that in the T-5 districts the size of existing homes is significantly below the allowed floor area ratio of 1.0 (meaning that on a 5,000 sf parcel a building with 5,000 sf of usable space is allowed). Current structures are predominately in the range of 0.5 to 0.7 floor area ratio. This disparity provides a strong financial incentive to developers to demolish existing structures and to rebuild larger structures.

The Article's massing standards as originally submitted are as follows. (Planning staff noted that they deliberately set these initial values at the “more restrictive” level because they could be changed to be less restrictive during the review process in advance of Town Meeting):

- A maximum number of stories at 2.5.
- Half-story defined as no more than 40% floor area of the floor below.
- Roof types are prescribed to reinforce the existing pattern of gable and hip roofs.

- Standards for dormer sizes and placement that are consistent with existing roof massing patterns and ensure that habitable space at the attic level is feasible.
- Maximum building depth: no more than 50%.

Evaluation Methodology/Research

- Planning staff documented 5 demolition applications in the past 1.5 year period that included plans for much larger replacement structures with 3 full stories within these T-5 districts near north Harvard St. north of Beacon St.
- Planning staff believe these demolitions are due primarily to the disparity between the as-built floor area ratio, (0.5 - 0.7) and the allowable FAR of 1.0.
- There are no massing standards for the attic level, only the height limit of 35'. Because of this the build-out of 3 full stories creates box-like structures that are out-of-scale to their context.
- Discretionary waivers of the minimum yard setbacks, and also redevelopment of deep lots, has resulted in extra deep building footprints that are much deeper than prevailing building depths, which are about 50% of the lot depth. This reduces our urban tree canopy and diminishes available usable open space.
- All current property owners affected by this proposed change received notification from the Town, which was mailed on March 23, 2023.
- The Article attempts to strike a balance between neighborhood design consistency and allowing sufficient flexibility for homeowners to allow additional living space via building out the attic and/or exterior additions.
- By encouraging renovation of and additions to existing structures this Article furthers the Town's sustainability goals by avoiding the negative carbon consequences of wasting structures' embodied carbon and the embodied carbon of building new.
- Planning staff noted that the Chief Assessor stated that are 1,000 two-family structures left in Brookline and that they are diminishing at a rate of 1% per year. The Assessor treats two-condominium buildings differently and those are excluded from this count.
- Planning staff presented their survey findings, documenting prevailing existing conditions, the data from which were used to develop the design standards proposed in the Article.

Discussion

At the April 3 public hearing, the AC Sub-Committee voted to table WA 16 for further consideration at a future date. The public comment was primarily positive for the aims of the Article, with many speakers mentioning the benefits of retaining existing structures and the benefits of retaining back yards including addressing the issues of embodied carbon and climate change resiliency. There was general agreement that the newer 3-story box like structures were not compatible within the neighborhood and that the loss of many existing structures was a loss for the Town.

Subsequent to the first Sub-Committee hearing and a separate public hearing of the Planning Board, staff made amendments to Article 16. Staff also met with the AC Subcommittee chair, the Planning Board chair, and the vice chair of the Preservation

Commission on two occasions to review their proposed changes. Those changes included expanding the maximum potential attic livable space limit to 70% (from the original 40%) of the floor area on the second floor, and increasing the limitation on the depth of the lot that the building could occupy to 60% (from the original 50%) of the lot depth.

At the joint public meeting of the full membership of these three committees, which was held on May 3, 2023, staff presented their survey findings and their version of the amended Article. After considerable discussion, two further amendments to the Article were made:
1) The allowable roof types list was expanded by adding Gambrel roofs.
2) Flat and Mansard roofs remain prohibited, but that prohibition is limited to roofs above the second story (this is to allow flexibility on the roof types for additions, porches and other projections.)

In the course of discussing this Article, many questions were raised both by the AC Sub-Committee, Planning Board, Preservation Commission, and members of the public. Comments focused on several themes:

1. Were the parameters of allowing only 40% of the 2nd floor area to be utilized within the half-story above the second floor adequate to allow sufficient expansion potential?
2. Was the requirement that the building footprint could not exceed 50% depth of the lot too restrictive to accommodate additions?,
3. General concern about regulating architectural style,
4. Acknowledgment that more prescriptive design standards were needed,
5. A desire from sub-committee members to see the examples and data on existing structures that formed the basis of these standards and
6. Concern that some of the restrictions on roof types and dormer dimensions were too prescriptive.

It was acknowledged that these zoning changes are considered a "stop gap" measure and experience and time may show that further refinements remain to be made. However, given recent history and extreme development pressures, all concerned felt it was important to take action to hopefully prevent further demolitions and in appropriate development outcomes.

The Full Advisory Committee held a public meeting on the amended Article on May 9, 2023. The recording of the Advisory Committee meeting can be seen here: https://brooklinema.zoomgov.com/rec/play/8y8LEdMiKwZjDoA1pYcCHYkdfhO7kzVNE0Pqb598Nz6bOt6oM1_kTyMs-pBIhbu6q3_X8nD-b7SbAF5o.ofNKSaAxG3C3iT_H?continueMode=true

Discussion at the Full Advisory Committee focused on the negative consequences in neighborhoods of demolitions and out-of-scale redevelopment. Members spoke to make it clear that this Article may help maintain existing "more affordable" rentals but otherwise does not positively affect the issues of housing supply or housing affordability.

There was also an objection raised to the amendment that limited the prohibition of flat roofs to "above the second floor". In previous version of WA 16 flat roofs were simply prohibited. However, it was noted that such appendages to the principal structure, such as covered porches or additions would likely have flat roofs and therefore, since the focus of the Article is to prohibit a full third story, the requirements for gable, hip and gambrel roofs was only relevant to the attic story.

The objection focused on the potential for a large footprint two story structure with a flat roof. It was thought that this build-out potential could be attractive to developers as a work around from the "above the second floor" flat roof prohibition. An amendment endeavoring to address this concern (by re-establishing a flat roof exception with some additional restrictions) failed by a vote of 2-17-4. (The failed language was "Exception: Flat Roof is allowed but not above the second story but only with respect to an appendage to the building where the roof does not exceed 30% of the total footprint of the building.")

Recommendation
The Advisory Committee recommends FAVORABLE ACTION on the following amended motion under WA 16 by a vote of 23-0-0.

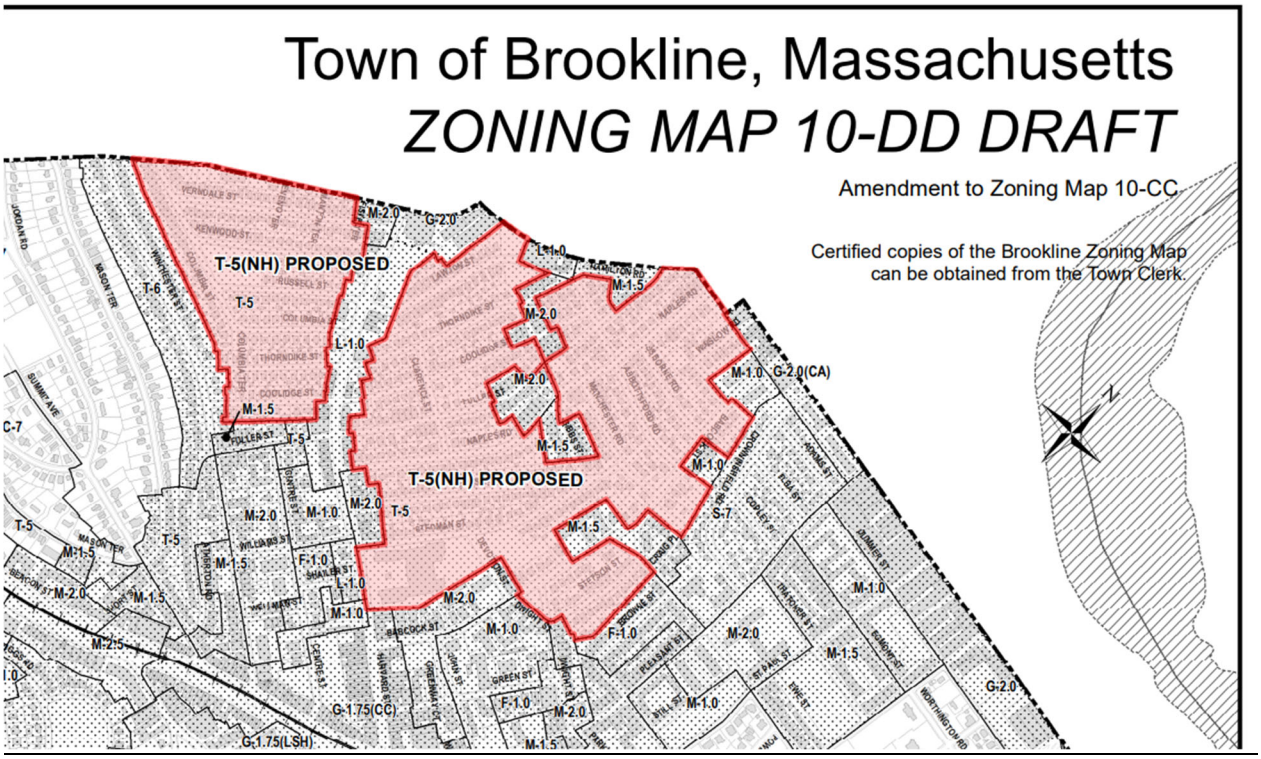
The Amended version of Article 16 (below) was unanimously voted Favorable Action by all three bodies at their joint public meeting held on May 3, the Planning Board, Preservation Commission and Advisory Sub-Committee (one AC sub-committee member abstained).

Article 16 as Amended

Zoning Warrant Article – Modification to T-5 District Surrounding Harvard Street north of Beacon Street
Petitioner – Department of Planning & Community Development
Article 16

VOTED**:** That the Town amend the Zoning By-Law as follows:

1. Amend the Zoning Map to change the lots below from T-5 to T-5(NH)
   [Addresses and Block and Lots are listed in Exhibit A]



2. Add to Sec. 3.01 – Classification of Districts, under

1 - Residence Districts
c - Two-Family and Attached Single-Family (T)
<u>3) T-5(NH) –Abutting Harvard Street North</u>

3. Add to Table 5.01- Table of Dimensional Requirements:

Add <u>T-5(NH)[21]</u> to T-5 row 1 column 1
Add footnote to Table 5.01:
<u>21. Also see Section 5.93 – Massing Requirements for T-5(NH)</u>

Table 5.01 – Table of Dimensional Requirements		LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT [9] MAXIMUM (feet)	MINIMUM YARD [3, 10] (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE					Front [1,6]	Side [2]	Rear	Landsc.	Usable
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2-family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none [2]	30	10%	30%
<u>T-5(NH)[21]</u>	Any other structure or principal use	5,000	1.0	50	35	25	20	40	30%	none

4. Modify the last sentence of Section 5.43 as underscored below:

"…provided, however, that under this section the Board of Appeals shall not:

1. reduce the depth of a required front yard below 15 feet in M Districts; nor
2. increase the maximum Building Depth, as defined in Sec. 5.93, in T-5(NH) Districts."

5. Add a new Section 5.93 to follow Section 5.92 in Article V as indicated below:

Section 5.93 – Massing Requirements for T-5(NH)

The following specifications are required for Principal Structures in the T-5(NH) Zoning District:

Massing Requirements	
Building Depth (max)	60% of Lot Depth A special permit under Sec. 5.43 is not available.
~~Story Height (min max)~~	~~10 ft- 12ft~~
Number of Stories (max)	2.5
Roof Types Above the second story	Allowed: Gable, Hip, Gambrel Prohibited: Flat, Mansard, ~~Gambrel~~
Dormer Specifications	See below.
Rear Additions	
Number of Stories (max)	2.5
Roof Types	[see above] ~~Allowed: Gable, Hip~~ ~~Exception: Flat Roof is allowed on 1- and 2-story Rear Additions~~
Margins	1foot setback from exterior walls and ridge

DEFINITIONS

The Lot Depth shall be measured as the horizontal distance from the midpoint of the Front Lot line of the Primary Street to the midpoint of the Rear Lot Line.

- Primary Street is defined as the street onto which the Façade of the Principal Structure is oriented.
- Façade means the exterior wall of a Principal Structure that is the front face of the building.
- Principal Structure is the structure in which the principle use is conducted.

The Building Depth shall be measured perpendicularly from the Façade as the maximum length to the furthest exterior wall of a Principal Structure. The Building Depth measurement shall not include Unenclosed Porches, balconies, and decks as defined in Zoning By-Law Sec. 2.16.2-1/2. An Enclosed Porch shall be included in the measurement for Building Depth.

Rear Addition A rear addition is an extension from the rear wall of a Building.

Half Story A story having a maximum floor area of 70% of the area of the floor below

Story The portion of a building located between the surface of a habitable floor and the surface of the habitable floor or roof next above

Ridge The horizontal line on the roof where two planes intersect to create a peak or highest point on the roof

Wall Plane The plane that extends from the ground to the top of the wall of a Structure

Roof, Flat A roof with a slope that is less than 10 degrees

Roof, Gable A roof sloped on two sides from a central ridge with an exterior wall enclosing each end

Roof, Gambrel A compound, gabled roof with two slopes on each of its sides, where the lower has a steeper slope than the upper

Roof, Hip A roof with four evenly sloping sides

Roof, Mansard A roof having a double slope on all four sides, with the lower slope being much steeper

Roof, Shed A roof with one slope

DORMER SPECIFICATIONS

Standards

1. The face wall of a gable dormer shall not project beyond the exterior wall of the building and may not interrupt the eaves of the roof.
2. The cumulative width of a single, multiple, or attached combinations of dormers shall not exceed 50% of the eave length of the roof.
3. Flat roofs are prohibited.
4. It is encouraged but not required to center dormers, and in the case of multiple dormers to equally space and center them.

Dimensions

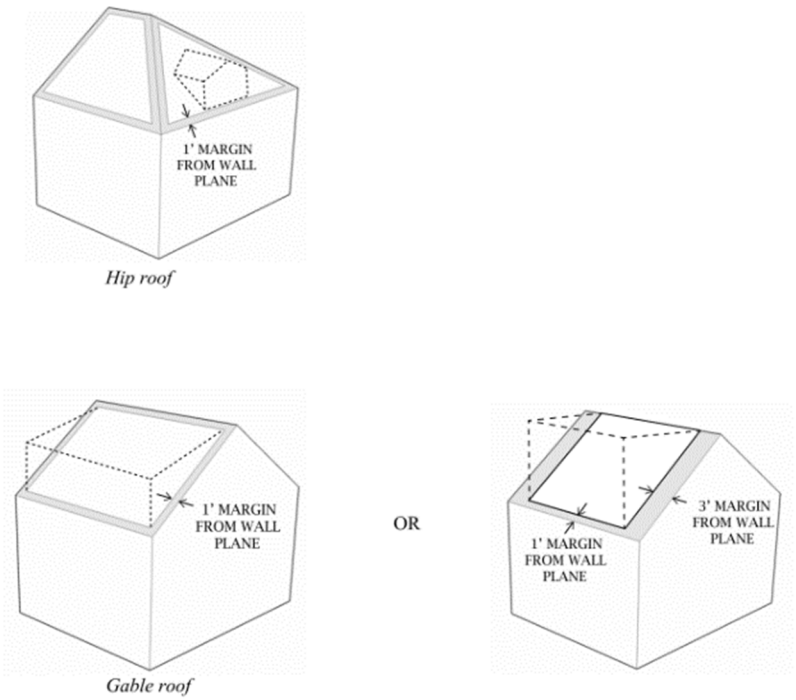


Figure 5.19 Dormer Specifications

Dormer Dimensions	

Face Width (min)	3.5 feet
Separation from Ridge (min)	1 foot
Separation from Wall Plane (min)	1 foot
Separation from Wall Plane (min), if separation from Ridge is 0	3 feet
Dormer separation (max)	50% of width of the largest dormer

ARTICLE 16 ADVISORY COMMITTEE VOTES

Article Description	**Modification to T-5 District Surrounding Harvard Street north of Beacon Street**
AC recommendation (Favorable Action unless indicated)	**23-0-0**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	
Kelly Hardebeck	Y
Amy Hummel	Y
Anita Johnson	Y
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	

Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

ARTICLE 17

SEVENTEENTH ARTICLE
Submitted by: Donelle S O'Neal Sr.

SECTION ONE
Section 8.37.2 of article 8.37, Marijuana Establishments, is hereby amended in the following ways:

To see if the Town will amend Section 8.37.4 of Article 8.37 of the Town's General ByLaws,
"CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR ~~MARIJUANA~~ **CANNABIS**
RETAILERS", as follows (additions are in bold, underlined text, and deletions are in bold, stricken text):

Section 8.37.4 CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR ~~**MARIJUANA**~~ **CANNABIS** RETAILERS

The Select Board shall **not** issue more ~~**Marijuana**~~ **Cannabis** Establishment licenses in each of the following categories of ~~**Marijuana**~~ **Cannabis** 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**~~ **Cannabis** Retailers, b) ~~**Marijuana**~~ **Cannabis** Delivery Operators, c) Social Consumption ~~**Marijuana**~~ **Cannabis** Retailers, and d) ~~**Marijuana**~~ Couriers. **The Select Board may increase the foregoing limitation in (a) by two (2) as to Storefront Cannabis Retailers in the event it is granting the additional license(s) to an Equity Applicant as defined in a Select Board Cannabis policy or regulation then in effect.**

or act on anything relative thereto.

SECTION TWO
Section 8.37.2 of article 8.37, Marijuana Establishments, is hereby amended by inserting after the last paragraph the following new paragraph:-

r. Cannabis – Marijuana as defined by this article, Massachusetts General Laws, chapters 94G and 94I, and the regulations promulgated thereunder, as they may be amended.

PETITIONER'S ARTICLE DESCRIPTION

In May 2018, Town Meeting passed Warrant Articles 17 and 18 relating to the Town's Zoning and General by-laws, exercising local control over the siting, density and number

of Cannabis Establishments within the Town. More specifically, Town Meeting approved the "default" cap on Cannabis Retailers at 20% of the number off-premise alcohol consumption. There are 20 Licenses issued as of 10/24/22. Recently The Select Board added a 21st. (21 x .20 = 4.2, which rounded up per our By-Law = 5)

The Board has expressed interest in diversifying the local cannabis industry and expanding the current cap on Cannabis retailers to achieve this goal. This Warrant Article proposes to achieve this goal by amending Article 8.37 of the Town's General
ByLaws to increase the cap on the number of Select Board licenses for Cannabis Retailers -- by two (2) additional license -- to be made available only to Equity Applicants, as defined by The New State Cannabis Law. Including but not limited to the Select Board policy or regulation. In the event Town Meeting approves this amendment and the Town receives interest in the newly-available two (2) additional Cannabis Retailer licenses from qualified Equity Applicants, the number of Cannabis Retailers in town would increase from four to six.

The two additional Cannabis Retail licenses would be subject to a new Cannabis
Retailer Equity Policy that is currently being considered by the Select Board. That is The proposed policy exclusively provides the two additional Cannabis Retail licenses proposed by this Warrant Article for Equity Applicants. Which is in line with The
New State Cannabis Legislation relative to Equity in the Cannabis Industry"
(Senate, No. 3096) According to the proposal the Select Board is considering, "Equity Applicants" consist of applicants with Disadvantaged Business Enterprises status from the Commonwealth of Massachusetts (DBEs), Social Equity Participant status from the Cannabis Control Commission (SEPs), and Economic Empowerment Applicant status from the Cannabis Control Commission (EEAs). Further, Equity Applicants that are also Brookline residents will receive priority.

The article seeks to amend the Town's by-laws to increase the cap on the number of Select Board licenses for Cannabis Retailers -- by two (2) additional license -- to be made available only to Equity Applicants. The Select Board's policy, which was adopted in August and further amended in November, defines equity applicants as entities that have received a designation as having either Cannabis Control Commission (CCC) Economic Empowerment Status or CCC Social Equity Status.
It's Brookline's responsibility and duty to comply with The New Massachusetts State Cannabis Legislation Senate No. 3096. Especially Section 11. Which reads.
"Said section 3 of said chapter 94G, as so appearing, is hereby further amended by adding the following subsection:-
(F) A city or town shall adhere to cannabis control commission regulations promulgated pursuant to section 4 regarding procedures and policies for host communities to promote and encourage full participation in the regulated Cannabis industry by people from communities that have been disproportionately harmed by Cannabis prohibition and enforcement and may establish additional procedures and policies to further this goal. The failure of a host community to adhere to such procedures and policies shall result in a Monetary penalty to the host community equal to the annual total of community impact

fees received from all marijuana establishments or medical marijuana treatment centers operating within the host community, to be deposited into the Cannabis Social Equity Trust Fund established in section 14A of chapter 94G."

SELECT BOARD'S RECOMMENDATION

Article 17 is a petition to amend the Town's General By-laws to change the word "marijuana" to "cannabis" and to allow the Select Board to increase the number of licenses for cannabis establishments, by up to two (2) more than the maximum number allowed under the by-laws, for the sole purpose of granting these additional licenses to an equity applicant. The Board expressed sentiment that the voters have already voiced their opinion on this issue by supporting the existing licensing structure with limits established by Town Meeting. This article would ensure that up to two equity applicants could still be granted a license in the event the by-laws would otherwise prohibit granting additional licenses for cannabis establishments.

A unanimous Select Board voted 4-0 for FAVORABLE ACTION on the motion offered by the petitioner.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation under Article 17 will be included in the supplement.

XXX

ARTICLE 17

MOTION OFFERED BY THE PETITIONER

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 of Select Board Licenses for Marijuana Retailers, as follows (additions are underlined and deletions appear in stricken text):

"CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR ~~MARIJUANA~~ CANNABIS RETAILERS

The Select Board shall not issue more ~~Marijuana~~ Cannabis Establishment licenses in each of the following categories of Marijuana Cannabis 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) ~~Marijuana~~ Cannabis Delivery Operators, b) Social Consumption ~~Marijuana~~ Cannabis Retailers, and c) ~~Marijuana~~ Cannabis Couriers.

The Select Board shall not issue more than four Storefront ~~Marijuana~~ Cannabis Retailer licenses. The Select Board may increase the foregoing limitation by one (1) as to Storefront Cannabis Retailers in the event it is granting the additional license(s) to an Equity Applicant as defined in a Select Board Cannabis policy or regulation then in effect.

AND

That the Town amend the General By-Laws, Part VIII – Public Health and Safety, Article 8.37, Marijuana Establishments, Section 8.37.2, Definitions, by inserting after the last paragraph the following new paragraph:

r. Cannabis – Marijuana as defined by this article, Massachusetts General Laws, chapters 94G and 94I, and the regulations promulgated thereunder, as they may be amended.

ARTICLE 17

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on Article 17, as amended by the Advisory Committee, by a vote of 15-1-7

Executive Summary:	Article 17 proposes two changes to the Town By-Laws regulating Marijuana: • Amend Section 8.37.4 to allow the Select Board to issue 2 additional Storefront Cannabis Retailer licenses for Equity Applicants as defined by the Select Board Cannabis Equity Policy • Amend Section 8.37.2 (Definitions) to include a definition for cannabis and, in Section 8.37.4, change references to marijuana to cannabis
Voting Yes will...	• Grant the Select Board the authority to issue up to 2 additional Storefront Cannabis Retailer licenses to equity applicants • Change marijuana to cannabis in Section 8.37.4 of the Town By-law and insert a definition for cannabis in Section 8.37.2
Voting No will...	Retain the existing number of retail storefront licenses and limit equity applicants to the available licenses for marijuana delivery operators or marijuana couriers.
Financial impact	If Brookline were found to be out of compliance with the state Cannabis Equity law, the Town could be fined the annual total community impact fees received. In FY22, the total amount collected was $1.86M.
Legal implications	Per Town Counsel, Brookline's obligation under the new state law is for the Town to establish policies and procedures to promote and encourage full participation in the regulated marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and to adhere to regulations promulgated by the state. The state has not yet promulgated the regulations describing the full extent of this obligation. However, Town Counsel believes there is a risk that the current storefront marijuana retailer license distribution – wherein only 4 such licenses are allowed and all have already been issued – will be ruled a failure to meet this obligation even though the Town has a social equity policy in place. Failing to meet this obligation could subject the Town to monetary penalties equal to the annual total of community impact fees received from all the Town's marijuana establishments.

Introduction

Warrant Article 17 seeks to diversify the local cannabis industry by increasing the cap of available Cannabis Retail licenses by 2 for equity applicants as defined by the Select Board's Cannabis Equity Policy. WA 17 also seeks to insert a definition for cannabis into the By-law and replace marijuana with cannabis in Section 8.37.4 of the Town's By-laws.

In August 2022, Massachusetts became the first state to mandate full participation in the legal cannabis industry by communities that have been disproportionately harmed by marijuana prohibition and enforcement. The state established a Social Equity Program to provide technical assistance and training and a Cannabis Equity Trust Fund. The Trust Fund is financed with 15% of recreational marijuana tax revenues and provides funding to Social Equity Program Participants. To comply with the new state law, the Select Board adopted a Cannabis Equity Policy to provide opportunities to local and diverse applicants for Marijuana Establishment licenses within Brookline. Specifically, the policy states the Select Board will exclusively accept and consider applications for Marijuana Establishment licenses from equity applicants for the next 3 years. An equity applicant is defined as an individual or entity that has received either Economic Empowerment Status or Social Equity Status from the state's Cannabis Control Commission.

	Proposed or Adopted Language	Time in Effect
Article 17	The Select Board may increase the foregoing limitation in (a) by two (2) as to Storefront Cannabis Retailers in the event it is granting the additional license(s) to an Equity Applicant as defined in a Select Board Cannabis policy or regulation then in effect.	In perpetuity or until by-law is modified by Town Meeting
Select Board Cannabis Equity Policy	For any available Marijuana Establishment license in any category, the Town will exclusively accept and consider applications for Host Community Agreements from Equity Applicants for the 3 years following the adoption of this policy.	Three years from adoption of policy or April 4, 2026
Ballot Question 3	Limit the number of Storefront Marijuana Retailer licenses to no more than four	In perpetuity or until by-law is modified by Town Meeting

Under the Select Board's policy, any type of license – Storefront Retailers, Delivery Operators, Couriers and Social Consumption Retailers – would be available to equity applicants exclusively for 3 years. Before the passage of Ballot Question 3, Brookline had 4 Storefront Cannabis Retailer licenses and had awarded licenses to 4 applicants –

NETA, Mission Massachusetts, Sanctuary and Comm Ave Canna. Because of the increase in off-premise liquor licenses, a 5th retail license would have become later this year, but for the passage of Question 3.

Thus, Brookline has only Marijuana Couriers and Delivery Operators licenses available for equity applicants through April 2026. It should be noted that the state (via the Cannabis Control Commission) has also limited Marijuana Courier and Marijuana Delivery Operator licenses to Social Equity Program Participants and Certified Economic Empowerment Priority Applicants for 36 months, starting May 28, 2021, and, per the regulations, "the Commission may vote to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(10)(b)4." So, until May 28, 2024, any Marijuana Courier or Marijuana Delivery Operator granted a license by the state will be an equity applicant regardless of Brookline's Select Board policy.

Discussion

Article 17 was created to ensure equity applicants have access to all categories of Marijuana Establishment licenses in Brookline. The petitioner believes that "full participation", as mandated by state law, includes Storefront Cannabis Retailers and the remaining options - Marijuana Courier and Delivery Operators - do not constitute full participation in Brookline's cannabis industry.

There are four pieces of legislation or policy that are relevant to the discussion of Article 17:

- Cannabis Equity legislation that establishes a Social Equity Program and the Cannabis Social Equity Trust Fund.
- Subsection f of Section 3 of Chapter 94G which regulates local control of the distribution of recreational marijuana and requires host communities to establish regulations that promote the full participation in the marijuana industry by people who have been disproportionately harmed by marijuana prohibition and enforcement.
- The Select Board's Cannabis Equity Policy
- Ballot Question 3 which caps Retail Storefront Marijuana Licenses at 4

The Advisory Committee focused its discussion on the legal requirements, financial impacts and potential legal issues related to Article 17 as well as how other towns and cities have approached equity in the cannabis industry. Boston has established an Equity Program and Cannabis Board in its efforts to foster racial equity and inclusion in its local cannabis industry. Boston's regulations also stipulate the city maintain an "equal or greater number of equity applicant licensees to licensees who do not qualify as equity applicants." In early 2019, Newton created a process for reviewing marijuana

establishment applicants that includes review by an Advisory Group that considers equity as part of the initial review.

Town Meeting has taken up the issue of equity in Brookline's cannabis industry several times before. In November 2021, the Select Board filed a warrant article to increase the number of available retail licenses specifically for equity applicants. The subject matter of that article was referred to a Moderator's Committee.

Since then, the state has passed the Cannabis Equity law that requires host communities to establish policies and procedures that promote the full participation of communities that have been disproportionately harmed by marijuana prohibition and enforcement. To comply with state law, the Select Board recently approved a Cannabis Social Equity Policy that states: "the Town will exclusively accept and consider applications for Host Community Agreements from Equity Applicants for the 3 years following the adoption of this policy." Under the policy, an equity applicant is defined as an individual or entity that has received Economic Empowerment Status or Social Equity Status by the Cannabis Control Commision. (See the Cannabis Control Commission's Overview of the Social Equity Program at https://masscannabiscontrol.com/equity/eea/ for details on eligibility.)

Questions were raised about the legality of authorizing additional licenses after the passage of Question 3 and Town Counsel confirmed Town Meeting has the authority to increase the number of Storefront Retail Cannabis licenses. Reducing the number of licenses to below 20% of the number of liquor licenses for off-premise consumption requires approval of the voters, but an increase does not.

Although the Town has policies and procedures that promote participation from disproportionately affected communities, Town Counsel does believe there is a risk that the current storefront marijuana retailer license distribution – wherein only 4 such licenses are allowed and all have already been issued – will be ruled a failure to meet this obligation even though the Town has a social equity policy in place. Failing to meet this obligation could subject the Town to monetary penalties equal to the annual total of community impact fees received from all the Town's marijuana establishments. In FY22, those fees totaled $1.86M. Fees are expected to decline in future years due to the new limits on community impact fees.

Advisory Committee members support increasing equity and diversity in the local cannabis industry, but, given the vote in favor of capping Retail Storefront Cannabis licenses at 4 and the limited legal and financial impact to the Town, the Advisory Committee amended Article 17 to remove the 2 additional Retail Storefront Cannabis licenses for equity applicants only and retain the language changes that replaced Marijuana with Cannabis.

Evaluation Methodology/Research

- Massachusetts General Laws establishing Cannabis Social Equity Trust Fund and Social Equity Program

(https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94G/Section14A)

- Massachusetts General Laws establishing requirement for host communities to establish policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and enforcement (https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94G/Section3)
- Select Board Cannabis Equity Policy as voted April 4, 2023 (https://meetings.brooklinema.gov/OnBaseAgendaOnline/Documents/Downloadfile/4.4.23_Select_Board_Meeting_1540_Agenda_Packet_4_4_2023_5_00_00_PM.pdf?documentType=5&meetingId=1540&isAttachment=True)
- Massachusetts Cannabis Control Commission Social Equity Program (https://masscannabiscontrol.com/equity/socialequityprogram/)
- CCC Social Equity Program eligibility requirements (https://masscannabiscontrol.com/equity/getting-started/)
- CCC Economic Empowerment Applicants (https://masscannabiscontrol.com/equity/eea/)
- Ordinance Establishing Equitable Regulation of the Cannabis Industry in Boston (https://www.boston.gov/sites/default/files/file/2019/12/Cannabis%20Ordinance%20with%20Criteria.pdf)
- Newton Host Community Agreement Policy (https://www.newtonma.gov/home/showpublisheddocument/40054/637369070957900000)
- Brookline Annual Town Election Ballot May 2, 2023 (https://www.brooklinema.gov/DocumentCenter/View/40894/Sample-Ballots-May-2-2023)
- Annual Town Election Official Results (https://www.brooklinema.gov/DocumentCenter/View/41390/Official-Annual-Town-Election-Results-May-2-2023-PDF)

Meeting Recording:
https://brooklinema.zoomgov.com/rec/play/SsVbBFWbbqzvHo2qioQcexU3OPvxly8CzG8Qd2YXmGl0R9D9J59cbbSJK7jypcRfLoPTRd1BDXRzJHCG.J1u2XIPzVDRpzknS

Recommendation: By a vote of 15-1-7, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 17, as amended by the committee.

VOTED:

SECTION ONE
Section 8.37.2 of article 8.37, Marijuana Establishments, is hereby amended in the following ways (additions are in bold, underlined text, and deletions are in bold, stricken text):

Section 8.37.4 CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR ~~MARIJUANA~~ **CANNABIS** RETAILERS
The Select Board shall **not** issue more ~~**Marijuana**~~ **Cannabis** Establishment licenses in each of the following categories of ~~**Marijuana**~~ **Cannabis** 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**~~ **Cannabis** Retailers, b) ~~**Marijuana**~~ **Cannabis** Delivery Operators, c) Social Consumption ~~**Marijuana**~~ **Cannabis** Retailers, and d) ~~**Marijuana**~~ **Cannabis** Couriers. ~~**The Select Board may increase the foregoing limitation in (a) by two (2) as to Storefront Cannabis Retailers in the event it is granting the additional license(s) to an Equity Applicant as defined in a Select Board Cannabis policy or regulation then in effect.**~~

SECTION TWO
Section 8.37.2 of article 8.37, Marijuana Establishments, is hereby amended by inserting after the last paragraph the following new paragraph:
r. Cannabis – Marijuana as defined by this article, Massachusetts General Laws, chapters 94G and 94I, and the regulations promulgated thereunder, as they may be amended.

ARTICLE 17 ADVISORY COMMITTEE VOTES

Article Description	**Increase storefront cannabis retail licenses for equity applicants**
AC recommendation (Favorable Action unless indicated)	**15-1-7**
Ben Birnbaum	Y
Harry Bohrs	
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	
Harry Friedman	N
David-Marc Goldstein	Y

Neil Gordon	Y
Susan Granoff	
Kelly Hardebeck	Y
Amy Hummel	A
Anita Johnson	Y
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	A
Carlos Ridruejo	A
Lee Selwyn	A
Alok Somani	A
Carolyn Thall	A
Christine Westphal	A
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

ARTICLE 17

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

At their May 16th meeting the Select Board considered the Advisory Committee motion under Article 17. The Advisory Committee's amendment makes changes to the terminology of the By-Law but does not make changes with respect to the number of licenses that are available.

Board member Warren spoke briefly on the overwhelming will of the voters on question three keeping the retail marijuana establishment cap at four.

The Select Board voted 4-1 FAVORABLE ACTION on the motion offered by the Advisory Committee.

ROLL CALL VOTE:

Aye:	No:
Greene	Aschkenasy
VanScoyoc	
Sandman	
Warren	

ARTICLE 18

EIGHTEENTH ARTICLE
Submitted by: Alec Lebovitz (TMM-8), Carolyn Goodwin (TMM-8), & Anthony Ishak (TMM-1)

To see if the Town will amend the Town's General By-laws as follows (language to be added appearing in underline):

ARTICLE 10.3
NON-CRIMINAL DISPOSITION

A violation of any provision of these by-laws, the violation of which is subject to a specific penalty under Section 10.1 or in the specific provision which has been violated, except when otherwise provided by law, or any rule or regulation of any municipal officer, board or department may be dealt with as a non-criminal offense in accordance with the provisions of General Laws, Chapter 40, section 21d. If not subject to a specific penalty in the following table, each violation shall be subject to a specific penalty of fifty ($50.00) dollars for each offense, unless a different penalty is provided in the specific by-law, rule or regulation provision being enforced. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense hereunder. Violations of this Article 10.3 may be enforced by any police officer of the town, by the department head or their designee as set forth with particular reference to specific articles in Article 10.2, above, and, when a violation involves a rule or regulation of any municipal officer, board or department, by that municipal officer or by that board or the head of that department, by their designee, and in all instances, in accordance with the requirements set forth in General Laws, Chapter 40, section 21d.

TABLE OF SPECIFIC PENALTIES UNDER ARTICLE 10.3

Article 5.1	Alarm Systems		
	Section 5.1.9	False Alarms	$100.00
	Section 5.1.10	Penalties	$100.00
Article 5.8	Sign By-Law		
	Section 5.8.9	Penalty For Violation	$100.00

Article 6.2	Alcoholic Beverages On Public Property		
	Section 6.2.2	Penalty	$100.00
Article 6.3	Grass Borders		$ 75.00
Article 6.4	Damage To Trees		$100.00
Article 6.5	Defacing Public Grounds		$ 75.00
Article 6.6	Discharging Firearms		$100.00
Article 7.1	Alcoholic Beverages		$100.00
Article 7.3	Construction In Streets		
	Section 7.3.3	Penalty	$100.00
Article 7.6	Newsrack Regulation		
	Section 7.6.5	Penalty	$ 25.00
Article 7.7	Removal of Snow and Ice From Sidewalks		

Section 7.7.5 Penalties

For Section 7.7.1 and 7.7.2

First Violation	$100
Second Violation	$150
Third and Subsequent Violations	$200

For Section 7.7.3

First Violation	$50
Second and Subsequent Violations	$100

For Section 7.7.4 $250

Article 7.8	Removal Of Vehicles From Streets	$ 25.00
Article 7.9	Snow Parking Ban	$100.00
Article 8.3	Dwelling Houses Used In Common	$100.00
Article 8.5	Disorderly Behavior	
	Section 8.5.5 Specific Penalty	$100.00
Article 8.6	Dog Control	
	Section 8.6.9 Penalty	
	First Violation	$ 15.00
	Second & Third Violations	$ 25.00
	Fourth & Subsequent Violations	$ 50.00
Article 8.7	Food Stores - Hours Of Operation	$ 50.00
Article 8.8	Food Establishments Handling Of Refuse	

Section 8.8.1 Penalty - Fines may be levied daily until compliance

First Violation	$100.00
Second Violation	$200.00
Third & Subsequent Violations	$300.00

Section 8.8.2 Penalty - Fines may be levied daily until compliance

First Violation	$100.00
Second Violation	$200.00
Third & Subsequent Violations	$300.00

Article 8.9	Toilet Facilities - Restaurants	$ 50.00

Article 8.23 Tobacco Control

Section 8.23.5
Violations & Penalties

For each violation under Article 8.23 –Three Hundred Dollars ($300.00.

Article 8.24 Water Supply Emergencies

Section 8.24.6
Penalties

First Violation $ 50.00

Second & Subsequent Violations $100.00

Article 8.25 Water System Backflow And Cross Connections

Section 8.25.6 Enforcement
$100.00

Article 8.26 Stormwater Management

First Violation
$100.00

Second Violation
$200.00

Third and Subsequent Violations
$300.00

Article 8.35 Drinking Water Access By-Law

Initial Violation
Warning

First Offense
$50.00

Second and Subsequent Offenses
$100.00

HEALTH DEPARTMENT REGULATIONS

Regulations Governing the Handling, Storage, Collection and Disposal of Waste

1. Violations and Penalties for Owners of Commercial Businesses, Corporations and Buildings Containing More Than Three Dwelling Units

First Violation	$100.00
Second Violation	$200.00
Third & Subsequent Violations	$300.00

2. Violations and Penalties for Owners of Single, Two and Three Unit Dwellings

First Violation	$25.00
Second Violation	$50.00
Third & Subsequent Violations	$150.00

PETITIONER'S ARTICLE DESCRIPTION

Over the last year, beginning with the near unanimous passage of Article 3 at the Second Special Town Meeting in November, 2022 and the development of the Rodent Control Action Plan (RCAP) by the Town Administrator in conjunction with Town departments, Brookline has taken aggressive action to reduce the rat population in Town.[1] These efforts have included setting smart traps, improving the ability of the Town to collect and dispose of trash, and expanding the capacity of Town departments to enforce refuse code violations by food vendors and residential owners.[2] These commendable actions have

[1] See Combined Reports for Second Special Town Meeting 2022 for Article 3 and a description of the development and content of the Rodent Control Action Plan: https://www.brooklinema.gov/DocumentCenter/View/37043/Combined-Reports-November-15-2022-Second-Special-Town-Meeting-with-Supplements-111022

[2] Details of these actions and other components of the RCAP were discussed at the 10/18/2022 Select Board meeting (agenda item 15):

come in response to a significant increase in rodent sightings and related complaints from Town residents.

Annual Rodent Related Complaints Received[3]

Department	2019	2020	2021	2022 (as of Sept. 2022)
Health Dept	116	107	139	180
DPW	59	85	224	252

This article would complement the ongoing rodent control efforts of the Department of Public Health and the Department of Public Works by amending the bylaws to increase the fines for violations of the refuse storage and disposal bylaws by both food vendors and owners of single, two-, and three-unit residences. The new fines would be structured to increase for repeated violations in order to provide a stronger enforcement tool for Town departments to bring frequent violators into compliance and to prevent an undue burden being placed on owners who are unaware of the bylaws or make an isolated mistake. This update to the established fines would also align the fines for food vendors with the existing fine schedule for commercial businesses.

The petitioners consulted with Town Counsel to ensure that this proposal does not conflict with state law. DPW Director Gallentine and DPH Director Reiss were also consulted during the development of this proposal. Suggestions from both Department Directors were incorporated into this article, including clarifying that the Departments should be given the option but not the obligation of enforcing daily fines against food vendors that remain out of compliance and the proposed amount of increase for the fines on residential violations.

MOTION OFFERED BY THE PETITIONER

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

ARTICLE 10.3
NON-CRIMINAL DISPOSITION

A violation of any provision of these by-laws, the violation of which is subject to a specific penalty under Section 10.1 or in the specific provision which has been violated, except

https://meetings.brooklinema.gov/OnBaseAgendaOnline/Documents/ViewDocument/10.18.22_Select_Board_Meeting_1505_Agenda_Packet_10_18_2022_6_00_00_PM.pdf?meetingId=1505&documentType=AgendaPacket&itemId=0&publishId=0&isSection=false

[3] Ibid.

when otherwise provided by law, or any rule or regulation of any municipal officer, board or department may be dealt with as a non-criminal offense in accordance with the provisions of General Laws, Chapter 40, section 21d. If not subject to a specific penalty in the following table, each violation shall be subject to a specific penalty of fifty ($50.00) dollars for each offense, unless a different penalty is provided in the specific by-law, rule or regulation provision being enforced. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense hereunder. Violations of this Article 10.3 may be enforced by any police officer of the town, by the department head or their designee as set forth with particular reference to specific articles in Article 10.2, above, and, when a violation involves a rule or regulation of any municipal officer, board or department, by that municipal officer or by that board or the head of that department, by their designee, and in all instances, in accordance with the requirements set forth in General Laws, Chapter 40, section 21d.

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Article 6.2	Alcoholic Beverages On Public Property		
	Section 6.2.2	Penalty	$100.00
Article 6.3	Grass Borders		$ 75.00
Article 6.4	Damage To Trees		$100.00
Article 6.5	Defacing Public Grounds		$ 75.00
Article 6.6	Discharging Firearms		$100.00

Article 7.1	Alcoholic Beverages		$100.00
Article 7.3	Construction In Streets		
	Section 7.3.3	Penalty	$100.00
Article 7.6	Newsrack Regulation		
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Article 7.7	Removal of Snow and Ice From Sidewalks		

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First Violation	$50
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Article 7.8	Removal Of Vehicles From Streets	$ 25.00
Article 7.9	Snow Parking Ban	$100.00
Article 8.3	Dwelling Houses Used In Common	$100.00
Article 8.5	Disorderly Behavior	
	Section 8.5.5 Specific Penalty	$100.00
Article 8.6	Dog Control	
	Section 8.6.9 Penalty	

	First Violation	$ 15.00
	Second & Third Violations	$ 25.00
	Fourth & Subsequent Violations	$ 50.00
Article 8.7	Food Stores – Hours Of Operation	$ 50.00

Article 8.8 Food Establishments Handling Of Refuse

Section 8.8.1 Penalty – Fines may be levied daily until compliance

	First Violation	$100.00
	Second Violation	$200.00
	Third & Subsequent Violations	$300.00

Section 8.8.2 Penalty – Fines may be levied daily until compliance

	First Violation	$100.00
	Second Violation	$200.00
	Third & Subsequent Violations	$300.00

Article 8.9	Toilet Facilities – Restaurants	$ 50.00

Article 8.23 Tobacco Control

Section 8.23.5
Violations & Penalties

For each violation under Article 8.23 –Three Hundred Dollars ($300.00.

Article 8.24 Water Supply Emergencies

Section 8.24.6
Penalties

First Violation $
50.00

Second & Subsequent Violations
$100.00

Article 8.25 Water System Backflow And Cross Connections

Section 8.25.6 Enforcement
$100.00

Article 8.26 Stormwater Management

First Violation
$100.00

Second Violation
$200.00

Third and Subsequent Violations
$300.00

Article 8.35 Drinking Water Access By-Law

Initial Violation
Warning

First Offense
$50.00

Second and Subsequent Offenses
$100.00

HEALTH DEPARTMENT REGULATIONS

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First Violation	$100.00
Second Violation	$200.00

Third & Subsequent Violations	$300.00

2. Violations and Penalties for Owners of Single, Two and Three Unit Dwellings

First Violation	$25.00
Second Violation	$50.00
Third & Subsequent Violations	$150.00

Comparison to petitioner's original Warrant Article:

This motion is identical to the language of the original warrant article.

DIRECTOR OF HEALTH AND HUMAN SERVICES REPORT

TOWN OF BROOKLINE
DEPARTMENT OF PUBLIC HEALTH

11 Pierce Street, Brookline, Massachusetts, 02445
Telephone: (617) 730-2300 Facsimile: (617) 730-2296
Website: www.brooklinema.gov/health

Sigalle Reiss, MPH, RS/REHS
Director of Public Health
& Human Services

To: Select Board
Advisory Committee

From: Sigalle Reiss, Commissioner of Public Health & Human Services

Date: May 1, 2023

Re: Spring 2023 Town Meeting Warrant Article 13: Create a new Article 3.12A of the Town's General By-Laws to establish an Office of Housing Stability

CC: Charles Carey, Town Administrator

Housing is one of the most important social determinants of health, and safe and stable housing is vital for individual and community well-being. The link between stable housing and public health is strong, as several studies have shown that unstable housing situations can increase the risk of chronic physical and mental illness. Poor living conditions resulting from homelessness, inadequate housing, and overcrowding can negatively affect health outcomes.

When people do not have access to safe and stable housing, they are more likely to experience a range of health problems. These problems include respiratory issues, mental health challenges, and infectious diseases such as tuberculosis. Additionally, children who grow up in unstable housing conditions are at a higher risk of developmental delays, behavioral issues, and poor educational outcomes. Stable housing is also critical to supporting mental health. For people experiencing homelessness, mental health issues often arise as a result of the stress and uncertainty of their living situation. Access to stable housing can reduce stress and provide a sense of security, leading to improved mental health outcomes.

The benefits of stable housing go beyond individual health outcomes. A lack of stable housing can also negatively impact the broader community's health. Homelessness can contribute to the spread of infectious diseases, particularly in crowded shelters. It can also increase the burden on emergency departments and hospitals, leading to higher healthcare costs. Providing stable housing solutions for individuals and families is, therefore, critical for promoting public health. This requires a multi-sectoral approach involving healthcare providers, social services, and housing authorities. We can improve overall health outcomes and build healthier, more resilient communities by addressing the root causes of unstable housing and providing support and resources to those in need.

In their presentation, the petitioners spoke about the high cost of rent in the metro Boston area. The Department of Housing and Urban Development (HUD) defines affordable housing as housing that costs less than 30% of a household's income. Approximately 45% of renters are cost-burdened in the metro Boston area, and black and Latino residents disproportionately experience the burden. To help support residents in need of stable housing, communities in the region have an office of housing stability, including Boston, Somerville, Revere, and Malden. Several communities created this new office in response to the pandemic using ARPA funds. Malden, in particular, used some of its ARPA funds to

partner with a local nonprofit HFI to establish their office of housing stability.[4]

Department of Public Health Staff, ACPH members, and members of the public raised several concerns regarding the warrant article. In particular, Brookline DPH staff and ACPH members wondered how much this warrant article would cost the town annually. Commissioner Reiss noted the Department's plan to complete a human services mapping assessment before adding additional staff to support housing needs. The Brookline Public Health & Human Services Department plans to hire a consultant to conduct this human services assessment to evaluate the resources and services available to Brookline residents. The project will be conducted in three phases. The team will identify all available resources and services, evaluate gaps in operations and barriers to accessing existing services, and convene stakeholders to identify recommendations to improve access to human services. Once completed, Brookline DPH will have an action plan to improve access to human services, identify systems to address identified obstacles, and promote existing successful programs.

On March 22nd, the Advisory Council on Public Health held a public hearing[5] on Warrant Article 13 for the Spring 2023 Brookline Town Meeting. After hearing from the petitioners' and Department of Public Health staff, the ACPH expressed their support for the Department's ongoing Community Health Assessment and human services mapping project. ACPH members expressed their strong support for the intention of the Warrant Article. They were happy that the petitioners included flexibility and that it did not dictate the precise manner to accomplish the goals of addressing housing needs in Brookline. The ACPH voted to recommend Warrant Article 13 to Town Meeting by a vote of 4 in favor, 0 opposed. Roll call in favor: Natalia Linos; Charles Homer; Leonard Jokubaitis; and Andy Epstein.

SELECT BOARD'S RECOMMENDATION

Article 18 is a petition to amend the Town's General By-laws to increase fines for improper handling of refuse, and to escalate these fines for repeated violations, for food establishments and owners of single, two, and three-unit residences up to the maximum amount allowable under state law. The article would not otherwise change the process for issuing citations. The Department of Public Works and Department of Public Health have developed a rodent control action plan that suggests reviewing the by-laws relative to handling of refuse. While these departments typically prioritize education on refuse

[4] https://advocatenews.net/malden/news/mayor-announces-new-office-of-housing-stability/
[5] Advisory Council on Public Health - Zoom (zoomgov.com)

handling over issuing citations, this article would specifically address violations for repeat offenders that may not have been receptive to the Town's cooperation in resolving these issues.

A unanimous Select Board voted 4-0 for FAVORABLE ACTION on the motion offered by the petitioner.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation will be included in the supplement.

XXX

ARTICLE 19

NINETEENTH ARTICLE
Submitted by: Adeniyi Ijanusi

To see if the Town will create a Brookline Black N Brown Commission:

ESTABLISHMENT

To Create a Brookline Black N Brown Commission.

FUNCTION AND PURPOSE

The function of the Commission shall be to:

(a) Act as a centralizing force in the Town of Brookline and the community which will deal with all Black and Brown issues providing information, referral, guidance, and coordination to educate and to offer and provide technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate systemic, racism prejudice and discrimination against a person because of the color of their skin and racial status as Black and Brown.

(b) Take such action as the Commission considers appropriate to advance the aims of the State Equal Rights Amendment to ensure the equal status of Black and Brown persons of every race, creed, color, national origin, age, gender identity or gender expression, and sexual orientation.

(c) The term "Black and Brown" in this Warrant Article shall include:

I. Black will refer to persons that are African, or African American, with emphasis on those descended from slavery.

II. Brown refers primarily to Latinx and Indigenous persons that suffer from the institutional harms of being racially marginalized, as well as other minorities that are similarly marginalized due to the color of their skin. This does not encompass all racial minorities, as not all racial minorities are marginalized in the same ways. This commission is to address the specific marginalization of these populations most disenfranchised in Brookline.

POWERS AND DUTIES

The powers and duties of the Commission shall include the following:

(a) To ensure equity in the status of Black and Brown people in Brookline.

(b) To design and implement programs that promote equity for all Black and Brown people in the Town of Brookline.

(c) To develop recommendations and recommend policy to all departments, divisions and agencies of the Town, including the Select Board.

(d) To act as liaison with all departments and divisions of Town government on issues affecting Black and Brown people

(e) To initiate and coordinate and monitor the enactment of legislation which promotes equal status of Black and Brown people on the Municipal, State, and Federal levels, and to assure that appropriate regulations are adopted and enforced pursuant to such legislation.

(I) To work with and assist the appropriate Town agencies in their investigation of incidents of discrimination against Black and Brown people.

(g) To obtain from Town departments, divisions, and agencies, information necessary to carry out the functions, purposes, programs, and activities of the Commission.

(h) To initiate public exhibits and media events in Town Hall, Town libraries, and other town-owned property as well as in other locations within and without the Town.

(i) To raise funds for the use of the Commission and to accept money, gifts and services for its exclusive use.

G) To recruit and recommend prospective Commissioners for subsequent appointment by the Select Board.

(k) To appoint task forces to assist the Commission in its operations.

(I) Such other powers and duties as may be agreed on by the Select Board and the Commission.

MEMBERSHIP, APPOINTMENT, TERM

(a) The Commission shall consist of thirteen members, 12 of whom shall be appointed via residents voting in the neighborhoods they reside in.1 will be appointed by the Town via the Select Board, to serve for a term of three years.

(b) The initial appointments shall be made by a voting process overseen by local community leaders. If any positions cannot be filled, or when a vacancy occurs, an appointment shall be made by the Commission to serve for the remainder of the term. A person is not precluded from serving more than one term. Commissioners must be residents of the Town of Brookline.

ELECTION OF CHAIR & BY-LAWS

The members of the Commission shall elect a Chair, vice chair, treasurer and secretary, from among its members, and shall adopt by-laws for the Commission.

ANNUAL REPORT

The Commission shall make an Annual Report of its program and activities to the Select Board.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

No explanation submitted.

SELECT BOARD'S RECOMMENDATION

Article 19 is a petition directing the Town to create a Black N Brown Commission.[1] The commission would consist of 13 members, with 12 appointed "via residents voting in the neighborhoods they reside in" and 1 appointed by the Select Board, with initial appointments to be "made by a voting process overseen by local community leaders." The purpose of the commission would be to ensure equity for Black and Brown residents of the Town by designing and recommending programs and policies in furtherance of such equity. The commission would be empowered to raise funds and solicit donations for its use.

At the public hearing for Article 19, the petitioner and supporters of the article described the commission as an attempt to address and rectify both historic and present discriminatory practices in Brookline, further indicating a belief that the current Select Board perpetuates such practices. A question was asked as to whether its proponents had considered incorporating such a commission as a 501(c)(4) organization, which would allow it financial and operational independence from the Town, as well as the ability to raise funds, advocate for political causes, and provide educational services to

[1] For the purposes of Article 19, "Black" means "persons that are African, or African American, with emphasis on those descended from slavery," while "Brown" means "primarily […] Latinx and Indigenous persons that suffer from the institutional harms of being racially marginalized, as well as other minorities that are similarly marginalized due to the color of their skin. This does not encompass all racial minorities, as not all racial minorities are marginalized in the same ways."

disadvantaged communities. Proponents responded that such a structure was considered, but that the current aim was to have the commission created by an act of the Town.

Ultimately, members of the Select Board indicated that they did not find proponents' arguments or the methods used to make them availing. With the foregoing discussion, and following a prior public hearing on the matter, at the Select Board meeting held on April 18, 2023, the Select Board voted 4-0 to recommend NO ACTION on Article 19.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation under Article 19 will be included in the supplement.

XXX

ARTICLE 19

REPORT OF THE COMMITTEE ON TOWN ORGANIZATION & STRUCTURE (CTO&S) ON WARRANT ARTICLE 19

Article 19 would amend the Town By-Laws to create a Brookline Black and Brown Commission. The purpose of the Commission would be to "[a]ct as a centralizing force" to address "all Black and Brown issues"; to provide "information, referral, guidance and coordination" to other public agencies, community organizations, and individuals engaged in "activities and programs intended to eliminate systemic racism, prejudice, and discrimination" based on racial status as Black or Brown; and to take appropriate actions to advance the aims of Art. 1 of the Declaration of Rights in the Massachusetts Constitution, the Commonwealth's equal protection clause.

The Town By-Laws provide for other Commissions similarly focused on other groups, such as the Commission for Women (Art. 3.9), the Commission on Disability (Art. 3.23), and the Council on Aging (Art. 3.10). Petitioners have modeled the powers and duties of the proposed Black and Brown Commission to largely track those of the Commission for Women. *See* By-law Article 3.9.3. Brookline would not be alone in the Commonwealth in establishing such a commission. In 2021, the City of Boston adopted a City Ordinance creating a Black Men and Boys Commission consisting of 21 members appointed by the Mayor, with one youth member.

Working with an *ad hoc* subcommittee of the Advisory Committee, the Petitioners have agreed to revisions that address, to CTOS's satisfaction, the organizational and structural concerns raised by the original article. In particular, the definitions of "Black" and "Brown" have been revised to be more inclusive of residents who may experience direct or indirect discrimination due to the color of their skin. The appointment of members to the Commission will be made by the Select Board, which will consult with the Office of Diversity, Inclusion and Community Relations and will receive input from the general public, including the Black and Brown community.

The Petitioners have expressed a view, and CTOS agrees, that the Commission is most likely to be successful if its composition includes members of the community that it is intended to serve. The composition of other town Commissions appears to reflect a similar belief. For example, the Town By-Laws require that the Commission on Disability have a majority of its members be persons with disabilities, and one member must be a person who is an immediate family member of a person with a disability. *See* By-Law Article 3.23.4. This composition is, in fact, required by state law. *See* G.L. ch. 40, Sec. 8J. Similarly, the Council on Aging, which the Select Board appoints after receiving recommendations from "public and private agencies concerned with the welfare of older persons," must have 51% be 60 years old or older. *See* By-Law Article 3.10.2. The Council on Aging is also a creature of state law, but the enabling statute does not specify the make-up of the Council. See G.L. ch. 40, Sec. 8B. The Housing Advisory Board must have three members who are low- or moderate-income tenants who reside in subsidized housing and

one must be a resident of a Brookline Housing Authority apartment or receive BHA-administered rent subsidies. *See* By-Law Article 3.13.2.

However, the original Article 19 proposed a process for appointing members to the Commission that would have used racial classifications. That process would have been subject to strict scrutiny review by courts, which it would not have likely survived. The revised Article 19 moved by the Advisory Committee contains no explicit or implicit requirements about the race of the Commission members or of anyone who participates in the selection of the members. Composition of the Commission rests in the discretion of the Select Board, with appropriate inputs from others.

In support of Article 19, the Petitioners spoke to CTOS about the need to increase the participation of Black and Brown residents in Town government. CTOS agrees. The Town's recent Updated Disparity Report (March 2022) provides support for this view. *See* Updated Disparity Report (March 2022) at 88 ("there are numerous systemic barriers that limit participation from Brookline's BIPOC communities"; "As a Town, we need to find better ways to engage those most impacted by the disparities contained in this report in the design and leadership of this work"; "It is necessary to provide meaningful and accessible opportunities to increase public participation within the Town"; "It is imperative to empower the diverse and often underrepresented residents of our community to participate civically in Brookline.").

CTO&S Recommendation

By a vote of 4-0-2, the Committee on Town Organization & Structure recommends "FAVORABLE ACTION" on the Advisory Committee's motion under Article 19.

ARTICLE 19

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: FAVORABLE ACTION on Article 19, as amended, by a vote of 23-0-2.

Executive Summary:	Article 19 was filed to create a Black and Brown Commission to serve as "a centralizing force in the Town of Brookline…which will deal with all Black and Brown issues." The Article proposes a 13-member Commission appointed by the Select Board to 3-year terms with input from both the Office of Diversity, Inclusion and Community Relations, and from the public and particularly members of the Black and Brown community. The Article as initially written faced legal challenges, in particular the conditioning of participation on the Commission on the basis of race, which would violate the Equal Protection Clause of the U.S. Constitution (14th Amendment). The Moderator reviewed the language of the Article and suggested modifications both within its scope and that would pass a "strict scrutiny" test.
Voting Yes will…	Create a Commission that would focus on issues specific to the Black and Brown community in Brookline.
Voting No will...	Keep the status quo, with the Office of Diversity, Inclusion, and Community Relations (OCDICR) and the Commission on Diversity, Inclusion, and Community Relations tasked with addressing the issues raised by the petitioners.
Financial impact [if any]	There will be some administrative support required, but the fiscal impact, if any, is not yet known.
Legal implications	None identified in Article 19 as recommended by the Advisory Committee. As noted below, there were several identified legal concerns with the Article as filed.

Background

Article 19 was based on an article that appeared in the Warrant for the Fall 2022 Town Meeting. That article, submitted by Arthur Conquest (TMM-6) was a Resolution asking the Town to form a Black and Brown Commission. The subcommittee that held the public hearing encouraged Mr. Conquest to rewrite it as a By-Law, and to consider using

the language of the By-Law establishing the Commission for Women as a guide. Article 19, however, was not rewritten and submitted by that petitioner. Instead, Article 19 was submitted by members of the Black and Brown community, including members of the Black N Brown Club, Inc., a non-profit incorporated in Brookline in 2022 and founded by low-income Black and Brown residents in Brookline seeking representation on issues concerning their community. The Club is a chapter of a national organization, Black N Brown, Inc. (BNB, Inc). A key goal of the proposed Black and Brown Commission under Article 19 is to give particular attention to this low-income demographic in Brookline so that they can better address their needs.

Evaluation Methodology/Research

- The Ad Hoc Subcommittee held several meetings, consulted with Town Counsel's Office and the Moderator, and reviewed the enabling legislation for other commissions in the Town of Brookline and the City of Boston.

- A public hearing was held on Monday, April 3, 2023, via Zoom. The hearing ran for over 2 ½ hours, during which time the petitioners presented their article and spoke to the issues they wanted to address through this petition to create a Black and Brown Commission for Brookline residents. The recording of that hearing is available here: https://brooklinema.zoomgov.com/rec/share/y2cm8N2Us4E28heFxGEmGhw33cNWwGLulu6uQsCY51WzoQpfXkNy3IQc5hkTpe2l.BrvOzo_h9nPGqDMQ

- A follow-up public meeting was held on Tuesday, April 18, 2023, for the Ad Hoc Subcommittee to discuss and vote on a Recommendation to the Advisory Committee. The recording of that hearing is available here: https://brooklinema.zoomgov.com/rec/share/mNZg_jBCx0tVEHDBkkQmwJ62IAHlna8YZQnS-Or-lCerUFDXl22eKltcRrH9EQ_M.a5FySan5akGTETqy

- A third public meeting was held on May 4, 2023, for the Ad Hoc Subcommittee to review a version of the warrant article that eliminated the problematic language within WA19 and was approved by Town Counsel, the Moderator and the petitioners to be brought to Town Meeting for a vote. The recording of that hearing is available here:

  https://brooklinema.zoomgov.com/rec/share/cvlgm5xXefT4JwWcYH0UoQ6SmoKZ2KYdqCWi_4RS4DrqJ_FHCBs22Pm9YETQKYq1.DG8qWOWJPyQf3uXz

- Town of Brookline General By-Laws. In particular Article 3.9 (Brookline Commission for Women). https://www.brooklinema.gov/DocumentCenter/View/25283/Brookline-Town-By-Laws

- City of Boston Ordinance Creating a Commission on Black Men and Boys. https://www.boston.gov/sites/default/files/file/2022/01/Commission-on-Black-Men-and-Boys-Ordinance.pdf

Introduction
During the public hearing, many of the petitioners spoke about their lives and experience living in Brookline and why creating a Black and Brown Commission was important to them.

Sana Hafeez, a lead petitioner, and Program Director for BNB, Inc., stated that the Commission "will create the town infrastructure for Black and Brown residents to advocate for themselves and have racial economic equity." She sees it as a necessary step towards an equitable Brookline. Many of the people making comments echoed that purpose and provided context by sharing their hopes for themselves and their children growing up in Brookline. A common thread through the conversation was that the Black and Brown Commission would be one step towards that goal.

The following statements offered by petitioners and other members of the public:

> "We are the best ones to fix the problems in our community because we are the ones most impacted."
>
> "I want a future where my son can be an agent of changing his own community as he sees me standing up for him and he can be able to stand for himself as well, and where he and the Black and Brown kids in this town can see themselves represented and their voices be heard. I want what every parent wants for their kids, but our community has been denied that in Brookline."

Several talked about the lack of child care options in the community and needing a platform to advocate for themselves and share the issues they face in Brookline.

> "We need to be empowered like other commissions."
>
> "We need a Commission. Community involves everybody – many times I was the only person in my class, sometimes the whole school, unless there were METCO students."
>
> "The people of color in Brookline want a voice and not just someone who is trying to be the advocate for them."
>
> "It's a commission that the people can finally trust because it's their own voices at the table."

Discussion
The language of the warrant article as filed was "To Create a Black N Brown Commission," which is nearly identical to the name of the Black N Brown Club, Inc., whose members are lead petitioners. A question was asked if the petitioners saw any formal or informal relationship between the Commission and the Black N Brown Club. In response, we heard that these are two separate organizations since the club is a non-profit; however, they serve the same demographic.

It was noted that within the By-Law itself the language used is Black and Brown, with each defined separately, and a recommendation to use "Black and Brown" for the Commission to avoid confusion, was accepted by the petitioners and is in current version of Article 19.

When asked how the petitioners saw themselves as different from, for instance, the Commission on Diversity, Inclusion and Community Relations (CDICR) which is tasked with working on issues related to all protected classes, including racial classes, and the Town's Office of Diversity, Inclusion and Community Relations, which was also created in part to address their needs, the petitioners expressed that there hasn't been adequate attention paid to looking at issues through an economic justice lens and felt that a Black and Brown Commission would be able to focus on that perspective.

There was a discussion about the definition of "Black" which was defined as "persons that are African, or African American with emphasis on those descended from slavery." The petitioners explained that all Black people, even those who have been nationalized through colonialism, identify as African first before their nationality. Changing the word "or" to "including", mentioning African heritage, and adding Afro-Caribbean was discussed. The current definition incorporates much of that discussion and reads as follows:

"Black will refer to persons that are of African heritage, including but not limited to: African, African American, Afrocaribbean [sic], those descended from chattel slavery and the trans atlantic [sic] slave trade."

In the discussion of the definition of "Brown," Ms. Hafeez explained that the term BIPOC doesn't accurately convey the way that minorities are marginalized in America. An example given was that Brown-skinned Asians are not given the same minority status as other Asians are and suffer different marginalization coming from "colorism." Article 19 emphasizes those who are marginalized because of their color, which is also related to their race. Language was modified to make it clear that the definition refers to discrimination on the basis of race and skin color.

"*Brown refers primarily to Latinx and Indigenous persons that suffer from the institutional harms of being racially marginalized, as well as other minorities that are* ~~*similarly*~~ *marginalized due to the color of their skin.* ~~*This does not encompass all racial minorities, as not all racial minorities are marginalized in the same ways. This*~~

~~*commission is to address the specific marginalization of these populations most disenfranchised in Brookline*~~.

The most problematic issue with the Article 19 as submitted, was found in the section on MEMBERSHIP, APPOINTMENT, TERM. The Article has gone through multiple revisions since it was placed on the warrant. The discussion on April 18th focused on the version received April 12th:

Under **"MEMBERSHIP, APPOINTMENT, TERM"**- [underline added for emphasis by the Advisory Committee)

- *(a) The Commission shall consist of thirteen members, 12 of whom shall be appointed by the Select Board with consideration of the results of a nomination process by Black and Brown residents, facilitated by the Office of Diversity, Inclusion and Community Relations to serve a term of 3 years. The nomination process will include: Black and Brown Residents showing proof of residency in Brookline and nominating who they desire to represent them and their interests. The Select Board will then appoint the individual(s) nominated by Black and Brown Residents to the Commission. 1 will be appointed by the Town via the 11 [sic] Select Board, to serve for a term of three years.*

- *(b) The initial appointments shall be made by the Select Board through a Black and Brown community nomination process overseen by the Office of Diversity and Inclusion to ensure that only black and brown residents are participating in the nomination process.*

- *(c) If any positions cannot be filled, or when a vacancy occurs, a majority of seven (7) Commission members shall be sufficient to appoint a replacement to serve for the remainder of the term. A person is not precluded from serving more than one term. Commissioners must be residents of the Town of Brookline.*

As articulated, this By-Law proposal would establish a system for appointing members to this Commission that sets up what could be interpreted as a local election process that is exclusive, not inclusive, and bars others from applying to serve based on their ancestry.

Under (a), an exclusive group of residents who (as written in the By-Law) would exclude people of other races and ethnicities, and, with candidates chosen based on their race, would choose amongst themselves who could serve on a Town Commission. No appointed Town board or commission works this way. The Select Board would then be compelled ("shall") to appoint those self-selected residents, superseding the Select

Board's legal authority to consider and appoint other qualified applicants who wish to serve on the commission.

Under (b), this provision is discriminatory and a violation of State and Federal civil rights laws by setting up a situation where the Town of Brookline allows only persons of certain racial classes to vote and serve on a Town Commission. A private organization has much more latitude in establishing its rules for membership than does a municipal body. With a private organization, it can set its own rules as to who can join, and who can run it. But with a *municipal body*, an entity authorized and run by the government, one cannot discriminate against anyone based on their race, which is subject to the highest bar of judicial scrutiny. There is no mention in the Commission for Women that says only women may serve on it, for example. Further, no Town entity that deals with race can legally be restricted in the ways the petitioners originally proposed.

Under (c), it gives the Commission the ability to by-pass the Select Board and put people on the Commission without Select Board approval, even though it is the Select Board that is the sole Appointing Authority in the Town. Exceptions are the School Committee and the Select Board, who are elected by the voters, get their authority from the State, and whose members may fill a temporary vacancy.

1st Assistant Town Counsel John Moreschi advised the Committee on the two legal concerns raised by this section, and particularly conditioning participation in the selection process on race, which is likely unconstitutional.

1. The appointment process could be read as an "election" which is not permitted under the Home Rule Amendment of the MA Constitution; and
2. Conditioning participation on the Commission on the basis of race would be unconstitutional and violate the Equal Protection Clause of the U.S. Constitution. (14th Amendment), as well as the State Constitution.

The critical legal issue here is "strict scrutiny". There are three levels of scrutiny: "Strict Scrutiny", "Intermediate Scrutiny" and "Rational Basis". "Strict Scrutiny" is the highest bar and race-based government actions are subject to strict scrutiny under both the state and U.S. Constitutions. According to Counsel Moreschi, "Strict scrutiny is an issue here so long as race is a criteria. Socioeconomic status is not a protected status, and is subject to only rational basis scrutiny. As a result, commission membership can likely be conditioned on socioeconomic status and be constitutional, so long as there's a reason for it. As soon as race is added to the qualifications, though, strict scrutiny will attach." In his view, that would be essentially impossible to meet with the By-Law as written.

The Advisory Committee, supportive of creating a Black and Brown Commission, chose to defer voting on Article 19 on April 27th, to give the petitioners another opportunity to meet with Town Counsel and to have the Moderator review the Article for scope and other legal issues. Although language cannot be added to a warrant article that expands

its scope, language can be removed. The Moderator reviewed the language of the Article and suggested modifications that were both within the scope of the article and would pass a "strict scrutiny" test. Additional language was recommended by Counsel Moreschi as follows (deleted language struck through, added language underlined):

MEMBERSHIP, APPOINTMENT, TERM

(a) The Commission shall consist of thirteen members, ~~12 of whom~~ who shall be appointed by the Select Board ~~with consideration of the results of a nomination process by Black and Brown residents, facilitated by~~ in consultation with the Office of Diversity, Inclusion and Community Relations and with input from the public, including, but not limited to the Black and Brown community, ~~The nomination process will include: Black and Brown Residents showing proof of residency in Brookline and nominating who they desire to represent them and their interests. The Select Board will then appoint the individual(s) nominated by Black and Brown Residents to the Commission. 1 will be appointed by the Town via the 11 Select Board~~, to serve for a term of three years.

~~(b) The initial appointments shall be made by the Select Board through a Black and Brown community nomination process overseen by the Office of Diversity and Inclusion to ensure that only black and brown residents are participating in the nomination process.~~

(b) ~~If any positions cannot be filled, or when a vacancy occurs, a majority of seven (7) Commission members shall be sufficient to appoint a replacement to serve for the remainder of the term.~~ A person is not precluded from serving more than one term. Commissioners must be residents of the Town of Brookline.

Recommendation

By a vote of 23-0-2 the Advisory Recommends Favorable Action on the following motion:

VOTED: That the Town will amend the General By-laws to add the following Article:

TICLE X.XX BROOKLINE COMMISSION FOR BLACK AND BROWN RESIDENTS

SECTION X.XX.1 ESTABLISHMENT

To Create a Brookline Black and Brown Commission.

SECTION X.XX.2 FUNCTION AND PURPOSE

The function of the Commission shall be to:

(a) Act as a centralizing force in the Town of Brookline and the community, which will deal with all Black and Brown issues, providing information, referral, guidance, and coordination to educate and to offer and provide technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate systemic, racism prejudice and discrimination against a person because of the color of their skin and racial status as Black and Brown.

(b) Take such action as the Commission considers appropriate to advance the aims of the State Equal Rights Amendment to ensure the equal status of Black and Brown persons.

(c) The term "Black and Brown" in this Warrant Article shall include:

I. Black will refer to persons that are of African heritage, including but not limited to: African, African American, Afro-Caribbean, those descended from chattel slavery and the transatlantic slave trade.

II. Brown refers primarily to Latinx and Indigenous persons that suffer from the institutional harms of being racially marginalized, as well as other minorities that are marginalized due to the color of their skin.

SECTION X.XX.3 POWERS AND DUTIES

The powers and duties of the Commission shall include the following:

(a) To ensure equity in the status of Black and Brown people in Brookline.

(b) To design and implement programs that promote equity for all Black and Brown people in the Town of Brookline.

(c) To develop recommendations and recommend policy to all departments, divisions, and agencies of the Town, including the Select Board.

(d) To act as liaison with all departments and divisions of Town government on issues affecting Black and Brown people.

(e) To initiate and coordinate and monitor the enactment of legislation which promotes equal status of Black and Brown people on the Municipal, State, and Federal levels, and to assure that appropriate regulations are adopted and enforced pursuant to such legislation.

(f) To work with and assist the appropriate Town agencies in their investigation of incidents of discrimination against Black and Brown people.

(g) To obtain from Town departments, divisions, and agencies, information necessary to carry out the functions, purposes, programs, and activities of the Commission.

(h) To initiate public exhibits and media events in Town Hall, Town libraries, and other town-owned property as well as in other locations within and without the Town.

(i) To raise funds for the use of the Commission and to accept money, gifts and services for its exclusive use.

(j) To appoint task forces to assist the Commission in its operations.

(k) Such other powers and duties as may be agreed on by the Select Board and the Commission.

SECTION X.XX.4 MEMBERSHIP, APPOINTMENT, TERM

(a) The Commission shall consist of thirteen members, who shall be appointed by the Select Board in consultation with the Office of Diversity, Inclusion and Community Relations and with input from the public, including, but not limited to, the Black and Brown community, to serve for a term of three years.

(b) A person is not precluded from serving more than one term. Commissioners must be residents of the Town of Brookline.

SECTION X.XX.5 ELECTION OF CHAIR & BY-LAWS

The members of the Commission shall elect a Chair, Vice Chair, Treasurer, and Secretary, from among its members, and shall adopt by-laws for the Commission.

SECTION X.XX.6 ANNUAL REPORT

The Commission shall make an Annual Report of its program and activities to the Select Board.

ARTICLE 12 ADVISORY COMMITTEE VOTES

Article Description	**Create Black and Brown Commission**
AC recommendation (Favorable Action unless indicated)	**23-0-2**
Ben Birnbaum	Y
Harry Bohrs	A
Cliff Brown	
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	A
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.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y

Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

ARTICLE 20

TWENTIETH ARTICLE
Submitted by: Rebecca Stone, TMM3, on behalf of the Brookline Commission for Women; Valerie Frias, TMM13; Scott Gladstone, TMM16; Anthony Ishak, TMM1; Janice Kahn, TMM15; Alec Lebovitz, TMM8; Arden Reamer, TMM8; Pam Roberts, TMM2; Felina Silver Robinson, TMM3; Chloe Zera, M.D., MPH

*To see if the Town will amend the General By-laws to add the following Article: [deletions are ~~crossed through~~; new language is in **bold face**]*

~~8.39 MENSTRUAL HYGIENE PRODUCT ACCESS BY-LAW~~

8.XX REPRODUCTIVE and GENDER HEALTH ACCESS & EQUITY

Section 8.XX.1 Intent and Purpose

This by-law codifies Brookline's commitment to access for all to safe, caring, and equitable reproductive and gender health care and establishes Brookline as a safe haven for anyone seeking or providing reproductive or gender-affirming health care, consistent with the amendments to G.L. chapters 12, 218, 223A, 233 set forth in Chapter 127 of the Acts of 2022, *An Act expanding protections for reproductive and gender-affirming care*. Reproductive and gender health protections in Brookline are specified as including, but not limited to, menstrual regulation or products, prevention or termination of pregnancy, gender-affirming care, and support for healthy pregnancy and childbirth.

Section 8.XX.2 MENSTRUAL HYGIENE PRODUCT ACCESS ~~BY-LAW~~
8.XX.2.i Definitions
8.XX.2.ii Access to Menstrual Hygiene Products
8.XX.2.iii Manner of Dispensing
8.XX.2.iv Green Products
8.XX.2.v Effective Date

Section 8.XX.3 SAFE ACCESS TO LEGALLY PROTECTED HEALTH CARE

8.XX.3.i Definitions

The terms 'Gender-affirming health care services', 'Legally protected health care activity', and 'Reproductive health care services' shall have the same meanings as under M.G.L. c. 9A, s. 1.

"Abusive litigation" means litigation or other legal action to deter, prevent, sanction or punish any person engaging in legally-protected health care activity that is: (i) filed or prosecuted in any state other than the Commonwealth where liability, in

whole or part, directly or indirectly, is based on legally protected health care activity that occurred in the Commonwealth, including any action in which liability is based on any theory of vicarious, joint or several liability derived therefrom; or (ii) an attempt to enforce any order or judgment issued in connection with any such action described in subsection (1), by any party to the action or any person acting on behalf of a party to the action. For purposes of this definition, the term "occurred in the Commonwealth" means any part of any act or omission which occurs or is initiated in the Commonwealth, that forms the basis of the litigation or other legal action described above, whether or not explicitly alleged or included in any of the pleadings.

"Client" means an individual who is inquiring about or seeking pregnancy-related or gender-affirming services.

"Health information" means any oral or written information in any form or medium that relates to health insurance or the past, present, or future physical or mental health or condition of a client.

"Town agent" means any employee of the Town of Brookline, whether full time or part time, regular or seasonal, any intern or volunteer when acting on behalf of the Town of Brookline, any contractor for the Town of Brookline while a contract between the Town of Brookline and said contractor is in effect, and any recipient of Town funding, grants, awards, or appropriations.

Section 8.XX.3.ii Protection from Abusive Litigation

a. **Acting in their capacity as a Town agent, no Town agent may furnish information, assistance, or aid to any person or jurisdiction when such information, assistance, or aid is knowingly intended for use in abusive litigation as defined in this article, except as so ordered by a court in the Commonwealth. Additionally, no Town resources, materials, or funds shall be so used.**

b. **Acting in their capacity as a Town agent, no Town agent may furnish information, assistance, or aid to any person or jurisdiction for the purposes of prohibiting, criminalizing, sanctioning, authorizing a person to bring a civil action against, or otherwise interfering with a person, entity or carrier that seeks, receives, causes, aids in access to, aids or abets or provides, or attempts or intends to seek, receive, cause, aid in access to, aid or abet, or provide reproductive health care services or gender-affirming health care services, if such services are legally protected health care activities. Additionally, no Town resources, materials, or funds shall be so used.**

c. **Pursuant to G.L. c. 147, § 63 no person, regardless of residency or citizenship status, shall be held in custody by the Brookline Police Department, nor remanded, transferred, or extradited to another**

jurisdiction for seeking, receiving, causing, aiding in access to, aiding or abetting or providing, or attempting or intending to seek, receive, cause, aid in access to, aid or abet, or provide reproductive health care services or gender-affirming health care services, if such services are legally protected health care activities, except as required by the order of a court of competent jurisdiction. This restriction shall not apply to any investigation or proceeding where the conduct that is subject to potential liability under the investigation or proceeding initiated in or by the other State would be subject to civil or criminal liability or professional sanction under the laws of the Commonwealth if committed in this Commonwealth.

Notwithstanding the general prohibition of this section, agencies and individuals acting on their behalf may provide information or assistance in connection with such an investigation or proceeding in response to the written request of a person who is the subject of such an investigation or proceeding.

d. **All Town agents shall comply with any state law or regulation pertaining to reproductive and gender-affirming health care not otherwise explicitly stated in this by-law.**

Section 8.XX.3.iii Violations

a. **Any Town employee/agent found to have violated this article shall be subject to the relevant discipline policies of the Town of Brookline, if applicable.**

b. **Any Town contractor found to have violated this article shall be subject to review and potential termination of contract.**

Section 8.XX.3.iv Severability

The sections, paragraphs, sentences, clauses, and phrases of this article are severable, and if any phrase, clause, sentence, paragraph, or section of this article shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this article.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The June 24, 2022, U.S. Supreme Court opinion in *Dobbs v. Jackson Women's Health Organization* returned the issue of abortion access to the states, and shortly after the *Dobbs* decision, new and so-called "trigger" laws in 26 states meant that as many as 33 million persons capable of being pregnant do not or will not have access to safe abortion services. At the same time, many of the states restricting abortion have also passed laws banning or restricting gender-affirming care.

In response, the Governor of Massachusetts in July 2022 signed the law "An Act Expanding Protections for Reproductive and Gender-Affirming Care." That Act, put forward by the ROE Coalition of Reproductive Equity Now, Planned Parenthood, and the ACLU and building on the advances of the previously passed ROE Act, anticipated the influx of pregnant people from abortion-banning states seeking care in Massachusetts and, crucially, protects abortion providers and patients from out-of-state lawsuits and extradition.

While many are confident that, with those Acts, Massachusetts is a "safe haven" for abortion and for gender-affirming care, even here we still have challenges from anti-abortion individuals and organizations, as well as a vocal and hostile population opposed to gender-affirming care. Municipalities have therefore been urged, if possible, to take local action affirming a local commitment to reproductive and gender-affirming care. The city of Salem, MA, has done so with a local ordinance, and this proposed by-law borrows from the Salem ordinance's language.

Petitioners believe the Town has a compelling governmental interest in promoting public health and protecting people seeking or providing reproductive health care services against harassment and legal penalties from states where such services have been curtailed, eliminated, and/or criminalized. We chose to express this with a by-law, instead of a non-binding and therefore weaker resolution, in order to have Brookline be unequivocal in its commitment to enforcing the state's safe haven provisions and also, crucially, to include language about the consequences of violations. Additionally, we see this act as a natural partner to Brookline's first-in-the-nation 2019 by-law ensuring free access to menstrual products, so this new proposed by-law puts these provisions together in a single by-law addressing reproductive and gender-related health care and equity of access, explicitly including transgender and gender-diverse communities. A stand-alone "safe haven" resolution would not accomplish those goals.

The new proposed by-law language incorporates comments from Town Counsel so that it conforms with the language in relevant Mass General Laws, in particular those referenced above. Petitioners have also relied substantially on Reproductive Equity Now's Action Tool-Kit, created to help municipalities like ours take productive, actionable steps to support competent, compassionate care for both patients and providers in our midst. We

are confident, therefore, that it is very likely to pass muster with the Attorney General's office when it is reviewed.

DIRECTOR OF HEALTH AND HUMAN SERVICES REPORT

TOWN OF BROOKLINE
DEPARTMENT OF PUBLIC HEALTH

11 Pierce Street, Brookline, Massachusetts, 02445
Telephone: (617) 730-2300 Facsimile: (617) 730-2296
Website: www.brooklinema.gov/health

Sigalle Reiss, MPH, RS/REHS
Director of Public Health
& Human Services

To: Select Board
Advisory Committee

From: Sigalle Reiss, Commissioner of Public Health & Human Services

Date: May 1, 2023

Re: Spring 2023 Town Meeting Warrant Article 20 - Amend the Menstrual Hygiene Product Access By-Law of the Town's General By-Laws, currently Article 8.39, to change the Article's duplicative numbering and add provisions relative to reproductive and gender health care.

CC: Charles Carey, Town Administrator

The intersection of public health, gender, health equity, access to menstrual hygiene products, and reproductive healthcare has become much more complex in light of recent legal developments in the US. In June of 2022, the US Supreme Court ruled that a Mississippi law banning abortions after 15 weeks of pregnancy was constitutional.[1] This decision led to trigger laws banning or restricting access to reproductive healthcare

[1] 19-1392 Dobbs v. Jackson Women's Health Organization (06/24/2022) (supremecourt.gov)

being enacted in more than a dozen states across the US impacting millions of women.[2]

During the discussion at ACPH's March 22nd meeting, the petitioners for Warrant Article 20 stressed the importance of reaffirming Brookline's support for reproductive and gender health equity in light of recent legal developments. The Presenting Petitioner, Rebecca Stone (TMM Precinct 3), explained Warrant Article 20 was to clarify the Town's commitment to support and protect those seeking full-spectrum, compassionate, and safe pregnancy and gender-affirming care, including legal abortion. In addition, the Warrant Article sets up a local accountability structure enforcing consequences for those who violate policies protecting reproductive and gender-affirming rights. This Warrant Article will protect people from out of state who are provided care and providers in Brookline from being prosecuted by other state law enforcers.[3] The Petitioners noted Walgreens' decision to discontinue the sale of mifepristone an over-the-counter abortion pill, in nearly two dozen states including several where abortion remains legal.[4] Both ACPH members and Department staff expressed their support for reaffirming the importance of gender and health equity through access to menstrual hygiene products and reproductive healthcare.

On March 22nd, the Advisory Council on Public Health held a public hearing[5] on Warrant Article 20 for the Spring 2023 Brookline Town Meeting. After hearing from the petitioners' and Department of Public Health staff, the ACPH voted to recommend Warrant Article 20 to Town Meeting by a vote of 4 in favor, 0 opposed. Roll call in favor: Natalia Linos; Charles Homer; Leonard Jokubaitis; and Andy Epstein.

SCHOOL COMMITTEE STATEMENT

On April 27, 2023, the School Committee voted unanimously (6-0-0) to recommend passage of WA20. Voting in favor were Mr. Pearlman (Chair), Dr. Liu (Vice Chair), Ms. Charlupski, Dr. Ehrenberg, Ms. Federspiel and Ms. Nobrega. Further, the School Policy Review Subcommittee, at their March 31, 2023 meeting, voted unanimously to recommend passage of WA20. Voting in favor were Mr. Pearlman and Ms. Frias.

The School Committee supports this new by-law as part of the Town of Brookline's commitment to reproductive and gender health and equity for all residents. Massachusetts

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[2] Abortion Laws by State - Center for Reproductive Rights
[3] Microsoft Word - ACPH Agenda Minutes MAR 22 2023 (brooklinema.gov)
[4] Walgreens won't sell abortion pills in red states that threatened legal action : NPR
[5] https://brooklinema.zoomgov.com/rec/share/0EL69gqRSNRlkB4PCy9PNJrRwP6rCQVRSiPqY9YQg4SEw97yBl2F3texdzH04Hzo.KgtWWOUf5lJ0s9jH?startTime=1679520188000

has some of the strongest reproductive health access laws in the nation, but enforcement of those laws relies upon the informed cooperation of those on the municipal level. As integral members of the Brookline community, we strongly affirm our commitment to the health and safety of all residents, including students, teachers and staff in the Public Schools of Brookline, through the passage of Warrant Article 20.

SELECT BOARD'S RECOMMENDATION

Article 20 is a petition to amend the Town's General By-laws to reaffirm the Town's commitment to reproductive and gender health access and equity including by establishing the Town as a "safe haven" for access to reproductive and gender-affirming health care. Article 20 also amends section 8.39 of the General Bylaws, Menstrual Hygiene Product Access By Law, by changing the section number to place it within the new proposed by-law sections.

Due to a recent U.S. Supreme Court decision that ruled certain abortion bans constitutional, laws in several states restricting access to reproductive health have come into effect that would criminalize both seeking and providing access to abortion care including when that care takes place in a different state. Article 20 would protect people coming to Brookline from out of state to seek abortion care and protect providers in Brookline from being held in custody or extradited for providing reproductive or gender-affirming health care services. The Article would also enforce consequences for any Town agent or employee found to be in violation of these provisions. The Commonwealth of Massachusetts has already established itself as a safe haven for reproductive care access, following the signing into law of "An Act Expanding Protections for Reproductive and Gender-Affirming Care" by the Governor in July 2022, but this Article would make a clear and unambiguous commitment to enforcing the State's safe haven laws in the Town of Brookline.

A unanimous Select Board voted 4-0 for FAVORABLE ACTION on the motion offered by the Advisory Committee.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION, on Article 20 as amended by the Advisory Committee and agreed to by the Petitioners, by a vote of 23-1-1.

Executive Summary	Article 20 creates a section in the general bylaws for reproductive and gender health and related policies, incorporating the Menstrual Produce Access bylaw, and adding a new section that protects anyone seeking or providing full spectrum, safe, compassionate pregnancy and gender-affirming care, including legal abortion, from abusive litigation, and outlines consequences for non-compliance.
Voting Yes will...	Commit Brookline to enforcing protections outlined in state law for medical providers and for patients seeking pregnancy and gender-affirming care, including legal abortion, from abusive litigation.
Voting No will...	Maintain the status quo
Financial impact	None
Legal implications	None

Introduction
According to the petitioners, there is a growing threat to safe, established reproductive care in Massachusetts in spite of the recent passage of two state statutes: a) the Roe Act in 2020 which protects access to abortion in Massachusetts, and b) in 2022, *An Act expanding protections for reproductive and gender-affirming care*, which provides legal protections to abortion providers and out-of-state patients, expands access to contraception, and allows women to receive care in Massachusetts to treat dangerous late-term pregnancies.

A local bylaw is necessary, petitioners assert, because of the unexpected nature of so many new challenges to all aspects of reproductive and gender-affirming care. Building strong local laws now will establish guardrails against what may come next.

- Petitioners note Brookline's related history, recalling that in 1994, Brookline was the location of shootings at two local clinics, acts that permanently changed reproductive health care for women in Brookline and in Massachusetts.

- They also argue that the use of local "safe haven" statutes to support state statutes has a precedent in immigration law with the creation of sanctuary cities.

Health providers joining as petitioners feel particularly strongly that the article specifies accountability for non-compliance, giving it more teeth than a resolution of support.

Evaluation Methodology/research

- The Human Resources Subcommittee of the Advisory Committee conducted a public hearing by Zoom on this warrant article on March 31, 2023.
  Hearing Recording:
  https://brooklinema.zoomgov.com/rec/share/H70cngqdM77TbQSNovRTbJqwFHg5dj8LAu7KZpRlAis9qSiS0Qhs4oXk1Q37M0gi.pcu_5G5-A1mLyWLm
- Town Counsel Jonathan Simpson was consulted by petitioners when drafting the language of this warrant article.
- The warrant article was vetted by the director of Human Resources. The director stated during the full Advisory Committee meeting on April 27 that she supported the Committeee's proposed addition of the word "knowingly" in the Violations section of the article and, with that amendment, has no objections to the article's requirements for town employees.

Discussion

The discussion was centered on two concerns, the first, regarding the language of the By-Law in relation to town employees, and second, was a bylaw the correct approach.

The Committee expressed the concern that a town employee could be censured for simply doing their job as they understood it and proposed, with the approval of the Petitioners, ensuring that only "knowing" violations of the new By-Law would be subject to any action. After joining the Advisory Committee meeting, and vetting the article, the director of Human Resources stated that she had no objections to the amended version of the article with respect to the requirements imposed by this warrant article on town employees.

The arguments given against a local bylaw were that the behavior of town employees is already regulated by the state statute, and that town employees were subject to town employment policies which require town employees to enforce state laws.

The arguments given for a local bylaw supported petitioners' statements regarding unforeseen challenges to reproductive freedom and the need for a local response with teeth. Further, that by creating local accountability, that this By-Law would strengthen enforcement, and that it would provide further support an employee might need to

withstand pressure from family, friends or faith-based organizations to facilitate litigation from out of state.

An Advisory Committee member used the example of an employee receiving a phone call or an email requesting information about local health care practitioners, the existence of or address for local clinics or information regarding the availability of certain medications at local pharmacies to support the argument for a local By-Law. This information may appear innocent, but it could be used by entities in another state to build a legal case against a local resident, local health care practitioner, or against a person who was receiving medical care or was accompanying someone who was receiving medical care in Massachusetts.

Recommendation
By a vote of 23 in favor, 1 opposed, and 1 abstention, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 20, as amended by the committee and agreed to by the petitioners. The full text of the motion is included below:

VOTED: That the Town will amend the General By-laws to add the following Article: [deletions are ~~crossed through~~; new language is in **bold face**; amended language from the AC is in ***bold italic***]

~~8.39 MENSTRUAL HYGIENE PRODUCT ACCESS BY-LAW~~

8.XX REPRODUCTIVE and GENDER HEALTH ACCESS & EQUITY

Section 8.XX.1 Intent and Purpose

This by-law codifies Brookline's commitment to access for all to safe, caring, and equitable reproductive and gender health care and establishes Brookline as a safe haven for anyone seeking or providing reproductive or gender-affirming health care, consistent with the amendments to G.L. chapters 12, 218, 223A, 233 set forth in Chapter 127 of the Acts of 2022, An Act Expanding Protections for Reproductive and Gender-affirming Care. Reproductive and gender health protections in Brookline are specified as including, but not limited to, menstrual regulation or products, prevention or termination of pregnancy, gender-affirming care, and support for healthy pregnancy and childbirth.

Section 8.XX.2 MENSTRUAL HYGIENE PRODUCT ACCESS ~~BY-LAW~~
8.XX.2.i Definitions
8.XX.2.ii Access to Menstrual Hygiene Products
8.XX.2.iii Manner of Dispensing
8.XX.2.iv Green Products
8.XX.2.v Effective Date

Section 8.XX.3 SAFE ACCESS TO LEGALLY PROTECTED HEALTH CARE

8.XX.3.i Definitions

The terms 'Gender-affirming health care services', 'Legally protected health care activity', and 'Reproductive health care services' shall have the same meanings as under M.G.L. c. 9A, s. 1.

"Abusive litigation" means litigation, *criminal prosecution*, or other legal action to deter, prevent, sanction or punish any person engaging in legally-protected health care activity that is: (i) filed or prosecuted in any state other than the Commonwealth where liability, in whole or part, directly or indirectly, is based on legally protected health care activity that occurred in the Commonwealth, including any action in which liability is based on any theory of vicarious, joint or several liability derived therefrom; or (ii) an attempt to enforce any order or judgment issued in connection with any such action described in subsection (i), by any party to the action or any person acting on behalf of a party to the action. For purposes of this definition, the term "occurred in the Commonwealth" means any part of any act or omission which occurs or is initiated in the Commonwealth, that forms the basis of the litigation or other legal action described above, whether or not explicitly alleged or included in any of the pleadings.

"Client" means an individual who is inquiring about or seeking pregnancy-related or gender-affirming services.

"Health information" means any oral or written information in any form or medium that relates to health insurance or the past, present, or future physical or mental health or condition of a client.

"Town agent" means any employee of the Town of Brookline, whether full time or part time, regular or seasonal, any intern or volunteer when acting on behalf of the Town of Brookline, any contractor for the Town of Brookline while a contract between the Town of Brookline and said contractor is in effect, and any recipient of Town funding, grants, awards, or appropriations.

Section 8.XX.3.ii Protection from Abusive Litigation

a. Acting in their capacity as a Town agent, no Town agent may furnish information, assistance, or aid to any person or jurisdiction when such information, assistance, or aid is knowingly intended for use in abusive litigation as defined in this article, *and no Town resources, materials, or funds shall be so used, except as so ordered by a court in the Commonwealth.*

b. Acting in their capacity as a Town agent, no Town agent may furnish information, assistance, or aid to any person or jurisdiction for the purposes of prohibiting, criminalizing, sanctioning, authorizing a person to bring a civil action against, or otherwise interfering with a person, entity or carrier that seeks, receives, causes, aids in access to, aids or abets or provides, or attempts or intends to seek, receive, cause, aid in access to, aid or abet, or provide reproductive health care

services or gender-affirming health care services, if such services are legally protected health care activities. Additionally, no Town resources, materials, or funds shall be so used.

c. Pursuant to G.L. c. 147, § 63 no person, regardless of residency or citizenship status, shall be held in custody by the Brookline Police Department, nor remanded, transferred, or extradited to another jurisdiction for seeking, receiving, causing, aiding in access to, aiding or abetting or providing, or attempting or intending to seek, receive, cause, aid in access to, aid or abet, or provide reproductive health care services or gender-affirming health care services, if such services are legally protected health care activities, except as required by the order of a court of competent jurisdiction. This restriction shall not apply to any investigation or proceeding where the conduct that is subject to potential liability under the investigation or proceeding initiated in or by the other State would be subject to civil or criminal liability or professional sanction under the laws of the Commonwealth if committed in this Commonwealth.

Notwithstanding the general prohibition of this section, agencies and individuals acting on their behalf may provide information or assistance in connection with such an investigation or proceeding in response to the written request of a person who is the subject of such an investigation or proceeding.

d. All Town agents shall comply with any law or regulation *of this Commonwealth* pertaining to reproductive and gender-affirming health care not otherwise explicitly stated in this by-law.

Section 8.XX.3.iii Violations

a. Any Town employee/agent found to have *knowingly* violated this article shall be subject to the relevant discipline policies of the Town of Brookline, if applicable.

b. Any Town contractor found to have *knowingly* violated this article shall be subject to review and potential termination of contract.

Section 8.XX.3.iv Severability

The sections, paragraphs, sentences, clauses, and phrases of this article are severable, and if any phrase, clause, sentence, paragraph, or section of this article shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this article.

ARTICLE 20 ADVISORY COMMITTEE VOTES

Article Description	**Reproductive and Gender Health Access & Equity**
AC recommendation (Favorable Action unless indicated)	**23-1-1**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
Patty Correa	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	A
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	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	N
Carlos Ridruejo	
Lee Selwyn	Y
Alok Somani	Y
Carolyn Thall	
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 21

TWENTY-FIRST ARTICLE

Submitted by: Jonathan Davis, TMM17, Bruce Levin, TMM17, Jonathan Margolis, TMM7

To see if the Town will amend the Town General By-Laws by adding the following at the end of Part VIII as follows:

8.XX.1 As used in this Article 8.XX the term "Hotel" means a hotel as defined in the Zoning By-Law, section 2.08(5). The term "Hotel" also means a limited service hotel as defined in the Zoning By-Law, section 2.12(1). As used in this Article 8.XX, the term "sex trafficking" means commercial sex induced by force, fraud and/or coercion, and also means commercial sex by a minor for the financial benefit of another person, regardless of how induced. As used in this Article 8.XX, the term "Employee" means (a) any employee of the Innholder who works at least 16 hours in any week provided that such employee's principal work-site is the Hotel for which the license is issued and provided further that such employee's principal responsibilities involve physical presence with Hotel guests and/or physical presence in Hotel guest rooms, (b) any employee of a third party, which employee, if employed by the Innholder, would be described in (a), above, and (c) any individual who is an independent contractor who, if the individual were employed by the Innholder, would be described in (a), above.

8.XX.2 The Innholder of a Hotel shall provide each of its Employees as hereabove defined with training to identify signs of possible sex trafficking in the Hotel and how to respond appropriately when such signs are observed. Such training shall be provided by a reputable anti-human trafficking entity, whether an agency of the Commonwealth of Massachusetts or of the United States, a not-for-profit organization, or a for profit entity (including, by way of example and not as a limitation, a national hotel brand). Training shall not be at any cost, expense, or reduction in wages or other compensation to any Employee. In the case of an Innholder that, at the time of a license application, already holds an in-force license for the same Hotel, which license was issued after enactment of this Article 8.XX, the Innholder shall provide the Select Board or its designee with a true and complete list of all Employees as hereabove defined who received the training since the issue of the current license and the job titles or job descriptions of such Employees, the identity of the training agency, organization or entity, a brief description of the training, the date or dates of such training, and, also, a true and complete list of all Employees as hereabove defined, and their job titles or job descriptions, who did not receive the training.

8.XX.3 Each Innholder shall cause anti-sex trafficking notices to be prominently posted and continually maintained in its Hotel in all locations where Employees are typically present but where the Hotel discourages or prohibits guests from entering – for example, staff locker rooms, staff lounges, staff snack rooms, staff lavatories, Hotel linen laundries, administrative offices, and supply rooms. The notices may be such as are provided by an

anti-human trafficking agency, organization or entity that provides training as set forth in 8.XX.2, whether or not the agency, organization or entity has provided training to the Employees. Each Innholder shall provide the Select Board and the Police Department with a true copy of the notice or notices to be posted and a list of all locations where such posting occurs. The Police Department may, at any reasonable time when the Hotel is open for business, enter the Hotel to examine the posting and maintenance of such notices and shall report concerns about insufficient posting and maintenance to the Innholder and to the Select Board or its designee .

8.XX.4 In the case of an Innholder that, at the time of a license application, already holds an in-force license for the same Hotel, which in-force license was issued after enactment of this Article 8.XX, the Innholder shall provide the Select Board or its designee with a true and complete report of when Employees are required to physically enter guest rooms other than to render service requested by a room occupant, and when Employees are required to look into guest rooms from an open doorway other than to respond to a request by a room occupant.

8.XX.5 This Article 8.XX shall take effect upon enactment.

8.XX.6(a) No provision of this By-Law shall apply where prohibited or preempted by state or federal law.

(b) If any provision of this By-Law, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this By-Law which can be given effect without the invalid provisions or application, and to this end the provisions of this By-Law are severable.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Human trafficking in hotels, most often sex trafficking, is an international problem, and the United States is not immune. The U.S. Department of Homeland Security has an initiative to counter sex trafficking in the hotel industry (called "Blue Campaign"), as do the American Hotel and Lodging Association, several non-profits (e.g. ECPAT (End Child Prostitution and Trafficking)-USA, and the Polaris Project), and some hotel chains.

Several brochures about the problem, and combatting it, are attached.

States (including Massachusetts) have criminal laws against sex trafficking and also have civil laws that permit victims to recover monetary damages. The Massachusetts Attorney

General's office has a human trafficking division where suspected human trafficking can be reported.

Nevertheless, sex trafficking in hotels often goes unnoticed and is not prosecuted, commonly because hotel staff and management are unaware of the signs of possible sex trafficking.

Under the Article an Innholder for a hotel must provide training for certain kinds of workers ("Employees") at the hotel in identifying signs of sex trafficking and responding appropriately to the signs – these are workers who have worked at least 16 hours in any week, whose principal work-site is the hotel and whose principal responsibilities involve physical presence with hotel guests and/or physical presence in guest rooms. It is up to the Innholder to decide upon and engage the training entity, which must be a reputable anti-human trafficking entity as more detailed in the text of the Article. Where an applicant for an Innholder license already holds an Innholder license for the same hotel and the existing license was issued after enactment of the Article (in other words, where the applicant is seeking renewal of a license issued after enactment of the Article), the applicant must provide the Select Board or its designee with a report naming the entity providing the training, the dates of the training, a brief description of the training, a list of the workers and their job descriptions or job titles required to be trained during the existing license period who were trained, and the workers and their job descriptions or job titles required to be trained who were not. It is up to the Select Board to determine what, if anything, to do with this information in considering the application for renewal of the existing Innholder license, and the Select Board may take such action as it thinks advisable. In effect, an Innholder's license renewal is at risk if the Innholder licensee does not comply with the Article. Because the required reporting can only occur when a licensee already holds a license that was issued after the Article was enacted and the licensee is essentially applying for renewal of the existing license the licensee has a year before applying for renewal to provide the required training and to acquire the information needed to make the required report to the Select Board or its designee.

The petitioners have been told that all licensed hotels in Brookline currently require or will require staff training to a greater or lesser extent. But, there is no legal requirement – statewide or local – that requires training. **Currently, an applicant for a new Innholder license may decide not to provide training; and the holder of an existing license may decide to discontinue training. It's a business decision.**

Some of Brookline's hotels are required by their "flag" – that is, the brand under which they operate (for example, Hilton or Marriot) – to provide training. **However, whether or not to operate under a flag is a business decision for an Innholder licensee; and there is no legal requirement that a flag, itself, require training.**

The Article also requires hotels to post prominently and maintain anti-sex- trafficking notices in places not usually open to hotel guests. The notices may be such as are provided by anti-sex- trafficking entities that provide training (including entities that don't provide

training to the particular hotel that posts them). The notices are required to be posted in what the hotel industry calls "back of the house" - places where staff is present but Hotel guests are discouraged or prohibited from entering (for example, staff locker rooms, staff lounges, staff snack rooms, staff lavatories, Hotel linen laundries, administrative offices, and supply rooms). The reason for the notices is to remind staff of the problem and of their training. The Innholder must provide the Select Board or its designee and the Police Department with true copies of the notices to be posted and their locations. The Police Department may enter hotels at reasonable times during hotel business hours to examine posting and maintenance of required notices and must report its concerns about insufficient posting and maintenance to the Innholder licensee and to the Select Board or its designee. In the case of this requirement, Police Department reporting is not dependent on whether the existing Innholder license was issued after the enactment of the Article or whether the existing Innholder is applying for license renewal because posting and maintaining notices should not take a year to learn and it can be quickly performed and deficiencies can be quickly remedied. **Currently, there is no legal requirement that a hotel post informational reminders for staff about hotel sex-trafficking, even "back of the house". It's a business decision.**

Training hotel workers will be of limited effectiveness if they cannot observe the condition of guest rooms. Some "flags" require frequent staff entry or, at least observation, of guest rooms (for example, after two or three days). But, apart from "flag" requirements, hotels may not require observation at all, or require observation only after many days and nights – it's a business decision. The Article requires that the holder of an Innholder license issued after enactment of the Article who is applying for a license (in effect seeking a license renewal) provide the Select Board or its designee with a report of when "Employees" (as defined in the Article) are required to physically enter guest rooms (other than when providing occupant-requested service) or observe guest rooms from open guest room doorways (other than when responding to occupant requests). It is up to the Select Board to determine what, if anything, to do with this information in considering the application for renewal of the existing Innholder license. If it appears to the Select Board that a particular hotel is an outlier among its peers in not requiring staff entry or observation (or in requiring infrequent staff entry or observation), or does not follow best practices, the Select Board may take such action as it thinks advisable.

These requirements are intended to try to prevent sex trafficking, and to contribute positively to public safety, public health, and the preservation of human rights and human dignity.

To petitioners' knowledge there is no similar law in Massachusetts - either at the state level or the municipal level. Bills requiring training were introduced in the 2019-2020 and the 2021-2022 legislative sessions but were not enacted.
For an ECPAT-USA survey by state and municipality of anti-sex-trafficking laws with respect to the hospitality industry google: Unpacking+Human+Trafficking+Vol+4.2022.pdf

[Note – while the Warrant was open Volume 5 of the survey, the 2023 edition, had not yet been published.]

SELECT BOARD'S RECOMMENDATION

Article 21 is a petition to amend the Town's by-laws to introduce requirements for hotel innholders to train staff to identify signs of possible sex trafficking and post anti-sex trafficking notices in all locations where employees are typically present but guests are not. It further requires innholders to report compliance with the new requirements to the Select Board when seeking relicensing, as well as information about when employees are required to physically enter or look into guest rooms other than upon the request of an occupant.

In debating Article 21, the Select Board noted that it appeared similar to an article proposed but not moved at a Special Town Meeting held in November of 2022. The Select Board questioned whether the Brookline Chamber of Commerce had approved of the article and received a response from petitioners that the Chamber's innholder members had no objection. The Select Board further requested and received word from counsel for various innholders that there was no objection to the article. Finally, the Select Board questioned whether the article was propounded in response to the prior activities of a relatively recent innholder licensee; petitioners responded that the article was developed in response to the proposed practices of that licensee in their new hotel, not any past behavior on the licensee's part.

With the above discussion, and following a prior public hearing on the matter, at a meeting held on April 25, 2023, the Select Board voted 4-0 to recommend FAVORABLE ACTION on the Advisory Committee's motion under Article 21.

ROLL CALL VOTE:

Aye:
Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Article 21, as amended by the Advisory Committee and agreed to by the Petitioners, by a vote of 15-5-3.

Executive Summary:	Article 21 seeks a new By-Law that would impose requirements on hotels to deter sex trafficking at their locations. These requirements are fourfold: 1. Training of certain hotel staff to recognize the signs of sex trafficking; 2. Posting notices in various locations in the hotel to remind workers of their training and obligations; 3. Reporting on when employees are required to enter a guest's room other than when requested by the guest; and 4. Reporting information to the Select Board or its designee regarding each of the three preceding categories.
Voting Yes will...	Amend the By-Law by adding a new section to Article 8 that would require 1. Training of certain hotel staff to recognize that sex trafficking is occurring within their hotel; 2. Posting notices in at least six prominent "back of house" hotel locations to remind workers of their training and obligations; 3. Reporting on when employees are required to enter a guest's room other than when requested by the guest; and 4. Reporting information to the Select Board or its designee regarding each of the three preceding categories.
Voting No will...	Make no change to the By-Laws.
Financial impact	None.
Legal implications	None.

Introduction

Sex trafficking is a national and international problem. The U.S. Department of Homeland Security has an initiative to counter sex trafficking in the hotel industry (called "Blue Campaign"), as do the American Hotel and Lodging Association, several non-profits (e.g. ECPAT (End Child Prostitution and Trafficking)-USA, and the Polaris Project), and some hotel chains.

States (including Massachusetts) have criminal laws against sex trafficking and also have civil laws that permit victims to recover monetary damages. The Massachusetts Attorney General's office has a human trafficking division where suspected human trafficking can be reported.

Nevertheless, sex trafficking in hotels often goes unnoticed and is not prosecuted, commonly because hotel staff and management are unaware of the signs of possible sex trafficking.

Brookline currently has six hotels that fall within the definition of the proposed Article and subject to licensing by the Town. A seventh, at 30 Webster Place, is on the way.

Article 21, as amended by the Advisory Committee, would create a new By-Law that would impose requirements designed to discourage and deter sex trafficking at hotels. These requirements are fourfold:

1. Training of all hotel staff, whether employees or independent contractors, who work 16 or more hours per week, and whose principal work-site is the hotel and whose principal responsibilities involve physical presence with hotel guests and/or physical presence in guest rooms. This training, which must be by a reputable anti-human trafficking entity, must teach the staff to identify signs of sex trafficking and respond appropriately to the signs.

2. Posting and maintaining notices in at least six prominent locations in the hotel not usually open to guests ("back of the house" locations). The reason for the notices is to remind staff of the problem and of their training.
3. Because training hotel workers will be of limited effectiveness if they cannot observe the condition of guest rooms, the Article requires reporting on when employees are required to enter a guest's room other than when requested by the guest.
4. Reporting information to the Select Board or its designee (and in the case of the notices, to the Police Department as well) regarding each of the three preceding categories.

To Petitioners' knowledge, Brookline would be the first community in Massachusetts to adopt such an ordinance, as there are no similar laws in Massachusetts - either at the state level or the municipal level. Bills requiring training were introduced in the 2019-2020 and the 2021-2022 state legislative sessions but were not voted on.

Currently, four states mandate training in the hospitality industry, and twenty states have various mandatory signage laws. For a summary, *see* ECPAT-USA, "Unpacking Human Trafficking, A Survey of State Laws Targeting Human Trafficking in the Hospitality Industry,"
https://www.ahla.com/sites/default/files/Unpacking%20Human%20Trafficking-v4.pdf.

Evaluation Methodology/Research

Petitioners consulted with the Police Department and Town Counsel in developing their warrant article.

- Paul Saner, Co-Chair of the Brookline Economic Development Advisory Board (EDAB), emailed the chair of the Human Services Subcommittee on March 22 that "EDAB will not be hearing this. Staff and co-chairs have heard from most of the hotels in Town that the requirements of this article are not a concern to them. Hotels already conduct training of their own accord and signage in employee spaces will not affect guests/customers. The concerns raised prior to the last Town Meeting are moot and we believe the hotels have no objections."
- The Brookline Chamber of Commerce, by letter dated April 5, 2023, indicated its express support of the Article.
- A public hearing was held on September 30, 2022, via Zoom on the article's predecessor, Article 32, which was submitted on the Fall 2022 Town Warrant. (Due to numerous concerns raised at the public hearing, Article 32 was not moved at Town Meeting by Petitioners.) The recording of that hearing is available here: https://brooklinema.zoomgov.com/rec/share/aaO1_9IL72cu8NgsWTLJAhoQ-qagYxMTC3fwEBOlYpey6W9-5eSJaQnRmu7zGPbE.s9rAtKIdMD5yI2DQ
  Passcode: u!H8#9Qd
- A public hearing was held on March 28, 2023, via Zoom on Article 21, which is a revised version of Fall 2022's Article 32. The recording of that hearing is here: https://brooklinema.zoomgov.com/rec/share/ScWeGJTGwCHChSJqxJjFxJEp4icof35oa0FwLfo27BZD1nFouTcIZQUSAMoCyBtT.Ib8FbwHiF2tQmEYa

Discussion

Petitioners had placed Article 32 on the Fall 2022 Town Warrant. Article 32 had also attempted to influence the behavior of hotel operators to act in ways that proactively deterred sex trafficking. While no one expressed opposition to the training requirements, because of numerous other issues identified by the Police Department, the Human Services Subcommittee, and the Town's local hotels during the Subcommittee's hearing on September 30, 2022, the Petitioners decided not to move Article 32, either as originally submitted or as amended, and the Advisory Committee did not vote.

Article 21 addresses all of the key concerns of the various parties, such that there is no opposition from either the Police Department or the hotels, and the Brookline Chamber of Commerce expressly supports it. This By-Law should not require any additional staff time by the Police Department because BPD already periodically inspects all hotels for compliance with other legal signage posting requirements.

There is no available evidence that sex trafficking, defined in the Article as "commercial sex induced by force, fraud and/or coercion, and also … commercial sex by a minor for the financial benefit of another person, regardless of how induced," is a problem in Brookline

hotels. However, it was argued that, because of the nature of the problem, we also just don't know.

Even in the apparent absence of a current problem, a large majority of Advisory Committee members believe that the Article is nonetheless necessary both to deter the development of sex trafficking at the hotels and to help expose it, should it develop. Far better to act now before sex-trafficking becomes a problem than to act reactively once it becomes one. Although the proposed By-Law does not require that the Select Board take any action based on the information required to be reported, the Advisory Committee trusts that the reports to the Select Board will be one of the factors that the Select Board considers when deciding on whether to renew an Innkeeper's annual license.

Those Advisory Committee members who opposed the Article did so primarily because they believed that a new By-Law was unnecessary and that the goals of the Article could be better achieved by including the proposed requirements as conditions in the hotel license renewal process rather than in the By-Laws. One Advisory Committee member also expressed their opposition to the Article because in their view it continued a distressing societal trend of creating unwarranted suspicion and reporting.

The Human Services Subcommittee of the Advisory Committee, at the March 28 public hearing, adopted two amendments that concerned 1) the number of notices a hotel must post; and 2) the privacy of employee names and data. Petitioners agreed to these amendments. This was the version of the Article that the Advisory Committee voted on, a copy of which appears at the end of this report.

<u>Amendment #1</u>
As originally written, Article 21 required the posting of anti-sex trafficking notices "in all locations where Employees are typically present but where the Hotel discourages or prohibits guests from entering…." The Subcommittee believed this unlimited number was both excessive and would tend to trivialize the message. The amendment is to the first sentence of para. 8.XX.3 as follows (deletions marked with ~~strikeout~~, additions in **bold**):

> Each Innholder shall cause anti-sex trafficking notices to be ~~prominently~~ posted and continually maintained in its Hotel in ~~all~~ **at least six prominent** locations where Employees are typically present but where the Hotel discourages or prohibits guests from entering – for example, staff locker rooms, staff lounges, staff snack rooms, staff lavatories, Hotel linen laundries, administrative offices, and supply rooms.

<u>Amendment #2</u>
As originally written, Article 21 also required that, among other things, the hotel provide the Select Board or its designee with "a true and complete list of all Employees" who

received and did not receive the required training. To protect against the public disclosure of employee names, this language was deleted and replaced with a requirement that only the number of employees who did and did not receive the training be reported. The amendment is to the last sentence of para. 8.XX.2 as follows (deletions marked with ~~strikeout~~, additions in **bold**):

> In the case of an Innholder that, at the time of a license application, already holds an in-force license for the same Hotel, which license was issued after enactment of this Article 8.XX, the Innholder shall provide the Select Board or its designee with ~~a true and complete list~~ **the number** of all Employees as hereabove defined who received the training since the issue of the current license and the job titles or job descriptions of such Employees, the identity of the training agency, organization or entity, a brief description of the training, the date or dates of such training, and, also, ~~a true and complete list~~ **the number** of all Employees as hereabove defined, and their job titles or job descriptions, who did not receive the training.

<u>"Scrivener's error"</u>
A scrivener's error was corrected in the third sentence of para. 8.XX.3. With the exception of this sentence, whenever information is required to be reported to the Select Board, the information is reported to "the Select Board or its designee." To avoid confusion, this third sentence has been corrected to include a similar reference to "or its designee." This language corrected the third sentence of para. 8.XX.3 as follows (addition in **bold**):

> Each Innholder shall provide the Select Board **(or its designee)** and the Police Department with a true copy of the notice or notices to be posted and a list of all locations where such posting occurs.

Recommendation: By a vote of 15-5 with 3 abstentions, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 21, as amended by the Advisory Committee and agreed to by the Petitioners. The full amended motion follows.

VOTED: That the Town amend the Town General By-Laws by adding the following at the end of Article 8 as follows:

8.XX.1 As used in this section 8.XX the term "Hotel" means a hotel as defined in the Zoning By-Law, section 2.08(5). The term "Hotel" also means a limited service hotel as defined in the Zoning By-Law, section

2.12(1). As used in this section 8.XX, the term "sex trafficking" means commercial sex induced by force, fraud and/or coercion, and also means commercial sex by a minor for the financial benefit of another person, regardless of how induced. As used in this section 8.XX, the term "Employee" means (a) any employee of the Innholder who works at least 16 hours in any week provided that such employee's principal work-site is the Hotel for which the license is issued and provided further that such employee's principal responsibilities involve physical presence with Hotel guests and/or physical presence in Hotel guest rooms, (b) any employee of a third party, which employee, if employed by the Innholder, would be described in (a), above, and (c) any individual who is an independent contractor who, if the individual were employed by the Innholder, would be described in (a), above.

8.XX.2 The Innholder of a Hotel shall provide each of its Employees as hereabove defined with training to identify signs of possible sex trafficking in the Hotel and how to respond appropriately when such signs are observed. Such training shall be provided by a reputable anti-human trafficking entity, whether an agency of the Commonwealth of Massachusetts or of the United States, a not-for-profit organization, or a for profit entity (including, by way of example and not as a limitation, a national hotel brand). Training shall not be at any cost, expense, or reduction in wages or other compensation to any Employee. In the case of an Innholder that, at the time of a license application, already holds an in-force license for the same Hotel, which license was issued after enactment of this Article 8.XX, the Innholder shall provide the Select Board or its designee the number of all Employees as hereabove defined who received the training since the issue of the current license and the job titles or job descriptions of such Employees, the identity of the training agency, organization or entity, a brief description of the training, the date or dates of such training, and, also, the number of all Employees as hereabove defined, and their job titles or job descriptions, who did not receive the training.

8.XX.3 Each Innholder shall cause anti-sex trafficking notices to be posted and continually maintained in its Hotel in at least six prominent locations where Employees are typically present but where the Hotel discourages or

prohibits guests from entering – for example, staff locker rooms, staff lounges, staff snack rooms, staff lavatories, Hotel linen laundries, administrative offices, and supply rooms. The notices may be such as are provided by an anti-human trafficking agency, organization or entity that provides training as set forth in subsection 8.XX.2, whether or not the agency, organization or entity has provided training to the Employees. Each Innholder shall provide the Select Board (or its designee) and the Police Department with a true copy of the notice or notices to be posted and a list of all locations where such posting occurs. The Police Department may, at any reasonable time when the Hotel is open for business, enter the Hotel to examine the posting and maintenance of such notices and shall report concerns about insufficient posting and maintenance to the Innholder and to the Select Board or its designee.

8.XX.4 In the case of an Innholder that, at the time of a license application, already holds an in-force license for the same Hotel, which in-force license was issued after enactment of this section 8.XX, the Innholder shall provide the Select Board or its designee with a true and complete report of when Employees are required to physically enter guest rooms other than to render service requested by a room occupant, and when Employees are required to look into guest rooms from an open doorway other than to respond to a request by a room occupant.

8.XX.5 This section 8.XX shall take effect upon enactment.

8.XX.6(a) No provision of this By-Law shall apply where prohibited or preempted by state or federal law.

(b) If any provision of this By-Law, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this By-Law which can be given effect without the invalid provisions or application, and to this end the provisions of this By-Law are severable.

ARTICLE 21 ADVISORY COMMITTEE VOTES

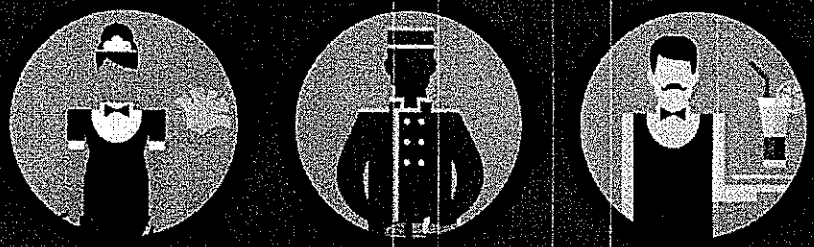
Article Description	**License requirements to deter sex trafficking in hotels**

AC recommendation (Favorable Action unless indicated)	**15-5-3**
Ben Birnbaum	Y
Harry Bohrs	
Cliff Brown	A
Patty Correa	Y
John Doggett	Y
Katherine Florio	
Harry Friedman	A
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	N
Amy Hummel	N
Anita Johnson	N
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	
Joslin Murphy	N
Donelle O'Neal, Sr.	
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	Y
Carlos Ridruejo	A
Lee Selwyn	Y
Alok Somani	N
Carolyn Thall	Y
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

XXX

BLUE CAMPAIGN

One Voice. One Mission. End Human Trafficking.®



HOSPITALITY

TOOLKIT

Who We Are

The Blue Campaign is the unified voice for the U.S. Department of Homeland Security's (DHS) efforts to combat human trafficking. Working with law enforcement, government, and non-governmental and private organizations, the Blue Campaign strives to protect the basic right of freedom and bring those who exploit human lives to justice.

What's Inside?

This **toolkit** offers tips and resources that can help you inform and educate your employees about human trafficking.

It includes **posters** of human trafficking warning signs for four groups of employee:

- Hotel and Motel Staff
- Housekeeping, Maintenance and Room Staff
- Concierge, Bellman, Front Desk, Security and Valet Staff
- Food and Beverage Staff

These posters can be displayed in common areas of your business where employees congregate (such as staff break, laundry and maintenance rooms).

BLUE CAMPAIGN
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What is Human Trafficking?

Human trafficking is modern-day slavery and involves the use of force, fraud or coercion to obtain labor or commercial sex. Every year, millions of men, women and children are trafficked in countries around the world, including the United States.

There are different types of human trafficking:

- **Sex Trafficking**
  Victims of sex trafficking are manipulated or forced to engage in sex acts for someone else's commercial gain. Sex trafficking is not prostitution.

  Anyone under the age of 18 engaging in commercial sex is considered to be a victim of human trafficking. **No exceptions.**
- **Forced Labor**
  Victims of forced labor are compelled to work for little or no pay, often manufacturing or growing the products we use and consume every day.
- **Domestic Servitude**
  Victims of domestic servitude are forced to work in isolation and are hidden in plain sight as nannies, housekeepers or domestic help.

Human trafficking and the hospitality industry

Traffickers often take advantage of the privacy and anonymity offered by the hospitality industry. They can operate discreetly because staff and guests may not know the signs of human trafficking.

You may have employees who are victims of forced labor. If a third party applied for a position on behalf of an individual or if employees are not receiving their own paychecks, these could be signs of human trafficking.

Hotels and motels are also major locations where traffickers force sex trafficking victims to provide commercial sex to paying customers. Victims may be forced to stay at a hotel or motel where customers come to them, or they are required to go to rooms rented out by the customers.

What actions can I take at my business to help stop human trafficking?

You play a significant role in helping to stop this terrible crime by:

- Knowing the signs of human trafficking.
- Designing a plan of action to respond to reports of human trafficking in your business.
- Partnering with agencies that provide services to victims of human trafficking. In the case of lodging, consider offering vouchers to victims. Immediate housing for victims plays a vital role in beginning a victim's healing process.
- Providing employee training to help them understand and identify signs of human trafficking.
- Distributing and posting the fact sheets in this kit to your employees.

Information on additional resources, literature, materials, and training offered by the Blue Campaign can be found at www.dhs.gov/bluecampaign.

BLUE CAMPAIGN
One Voice. One Mission. End Human Trafficking.

SIGNS OF HUMAN TRAFFICKING

For Housekeeping, Maintenance, and Room Service Staff

Housekeeping, maintenance, and room service staff typically have the most access to guest rooms where signs of human trafficking may be apparent. By being conscious of human trafficking indicators, you can help identify possible human trafficking activities and victims.

GENERAL INDICATORS

- "Do Not Disturb" sign used constantly.
- Requests room or housekeeping services (additional towels, new linens, etc.), but denies hotel/motel staff entry into room.
- Refusal of cleaning services for multiple days.
- Excessive amounts of cash in a room.
- Smell of bodily fluids and musk.
- Presence of multiple computers, cell phones, pagers, credit card swipes, or other technology.
- The same person reserving multiple rooms.
- Individuals leaving room infrequently, not at all, or at odd hours.
- Children's items or clothing are present but no child registered with the room.
- Individuals loitering in hallways or appearing to monitor the area.
- Excessive amounts of alcohol or illegal drugs in rooms.
- Evidence of pornography.
- Minors left alone in room for long periods of time.
- Excessive number of people staying in a room.
- Extended stay with few or no personal possessions.
- Provocative clothing and shoes.
- Constant flow of men into a room at all hours.
- Excessive amounts of sex paraphernalia in rooms (condoms, lubricant, lotion, etc.).
- Rooms stocked with merchandise, luggage, mail packages, and purses/wallets with different names.

Each indicator alone may not necessarily mean a person is being trafficked.

WHAT TO DO IF YOU SUSPECT HUMAN TRAFFICKING

- Do not at any time attempt to confront a suspected trafficker directly or alert a victim to your suspicions.
- Call 9-1-1 for emergency situations—threats of violence, physical assault, emergency medical needs, etc.
- Follow your corporate protocol, such as by notifying management and security.
- Call 1-866-DHS-2-ICE (1-866-347-2423) to report suspicious criminal activity to federal law enforcement. Highly trained specialists take reports from both the public and law enforcement agencies. Submit a tip at www.ice.gov/tips.
- To get help from the National Human Trafficking Resource Center (NHTRC), call 1-888-373-7888 or text HELP or INFO to BeFree (233733).

www.dhs.gov/bluecampaign

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SIGNS OF HUMAN TRAFFICKING

For Concierge, Bellman, Front Desk, Security, and Valet Staff

Concierge, bellman, front desk, security, and valet staff are typically the first to see guests when they enter the hotel. When checking in or requesting hotel amenities, a guest may exhibit behavior indicating human trafficking.

GENERAL INDICATORS

- Patrons checking into room appear distressed or injured.
- The same person reserving multiple rooms.
- Few or no personal items when checking in.
- Room paid for with cash or pre-loaded credit card.
- Excessive use of hotel computers for adult oriented or sexually explicit websites.
- Patrons not forthcoming about full names, home address or vehicle information when registering.
- Minor taking on adult roles or behaving older than actual age (paying bills, requesting services).
- Patron appears with a minor that he or she did not come with originally.
- Rentals of pornography when children are staying in the room.
- Individuals dropped off at the hotel or visit repeatedly over a period of time.
- Individuals leaving room infrequently, not at all, or at odd hours.
- Minor with a patron late night or during school hours (and not on vacation).
- Individuals checking into room have no identification.
- Room is rented hourly, less than a day or for long-term stay that does not appear normal.
- Patrons request information or access to adult services or sex industry.
- Room rented has fewer beds than patrons.
- Individuals selling items to or begging from patrons or staff.
- Individuals enter/exit through the side or rear entrances, instead of the lobby.
- Car in parking lot regularly parked backward, so the license plate is not visible.

Each indicator alone may not necessarily mean a person is being trafficked.

WHAT TO DO IF YOU SUSPECT HUMAN TRAFFICKING

- Do not at any time attempt to confront a suspected trafficker directly or alert a victim to your suspicions.
- Call 9-1-1 for emergency situations—threats of violence, physical assault, emergency medical needs, etc.
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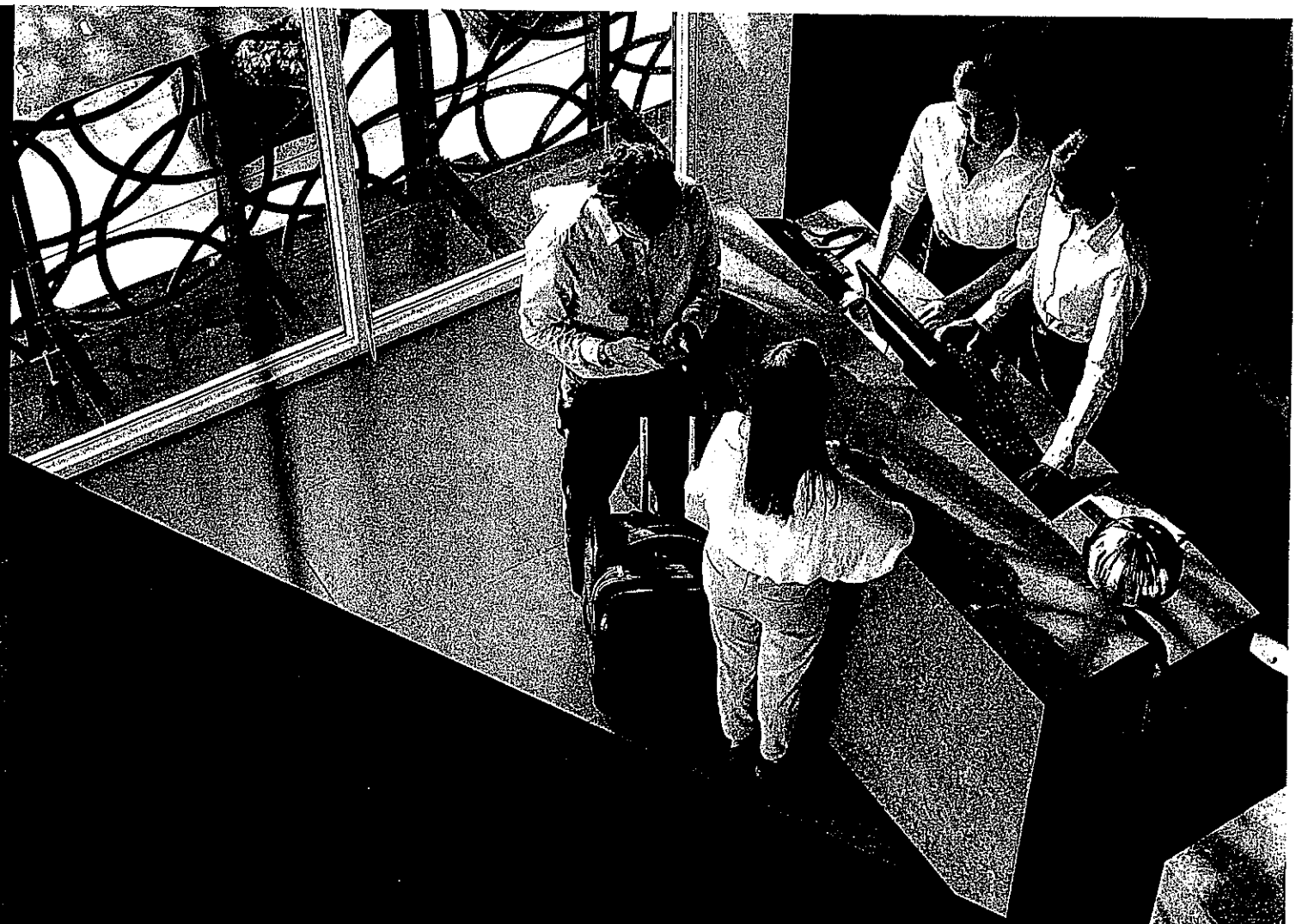


NO ROOM FOR TRAFFICKING

AN AHLA CAMPAIGN

No Room For Trafficking Member Resource Guide

AHLA

THE AMERICAN HOTEL & LODGING ASSOCIATION

NO ROOM FOR TRAFFICKING MEMBER RESOURCE GUIDE

The American Hotel and Lodging Association's (AHLA) No Room for Trafficking campaign builds on long-standing efforts to raise awareness around human trafficking prevention, identify best practices and provide educational resources, and train employees on ways they can play a role in preventing human trafficking.

Combatting human trafficking requires commitment and engagement by the entire hotel industry. This resource guide outlines several available tools and resources to train your employees to comply with applicable state laws. The resource guide also provides opportunities for you to take action and join us in raising awareness about human trafficking prevention.

The No Room for Trafficking campaign seeks to bring the hotel industry together to further build upon our unified efforts through four key goals:

1. Elevate: Raise issue awareness by fostering an ongoing and up-to-date understanding of human trafficking indicators through increased education, resources and training for all hotel employees.
2. Assess: Conduct ongoing reviews and updates of protocols, procedures and technologies to confirm training effectiveness and employee vigilance.
3. Educate: Develop strategic intervention and disruption strategies that equip hotel employees with innovative tools to work alongside partners and law enforcement to identify and report suspected trafficking situations.
4. Support: Further our partnerships with leading national human trafficking prevention and law enforcement organizations to establish industry standards and support human trafficking survivors.

NO ROOM FOR TRAFFICKING
AN AHLA CAMPAIGN

As part of the hotel industry's continued efforts to end human trafficking, AHLA launched the No Room for Trafficking campaign to expand on current training and efforts to educate employees on the signs and indicators of human trafficking.

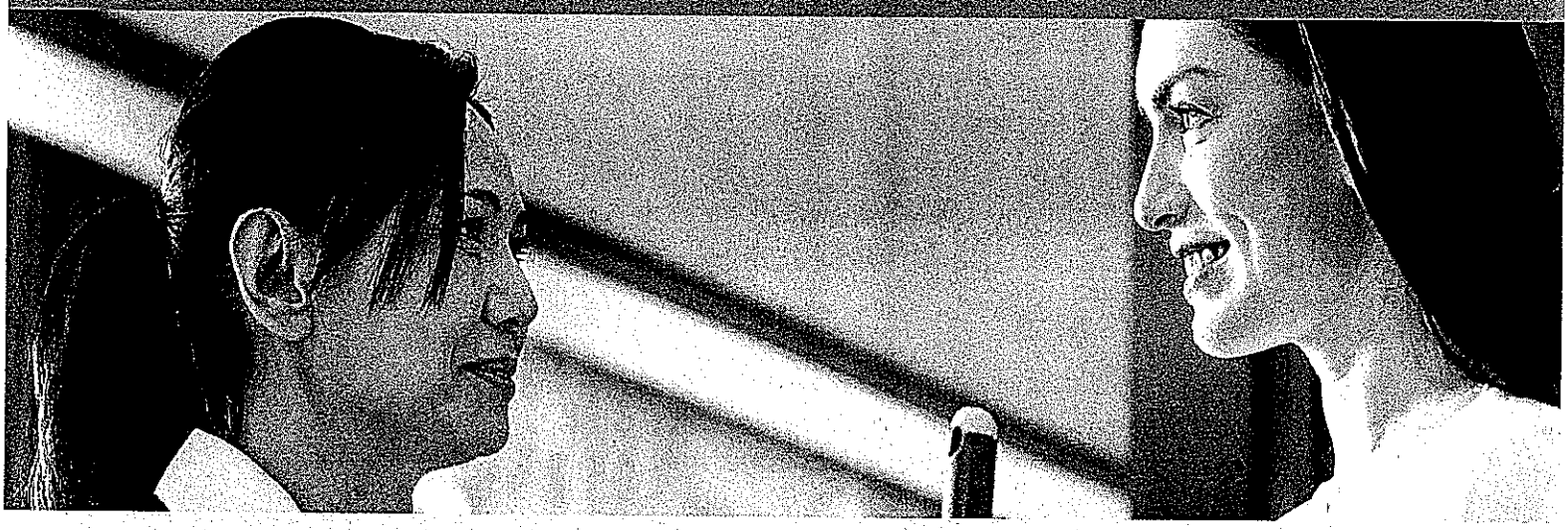
For additional information, please visit AHLA.com/NoRoomForTrafficking

ACTION PLAN

With research, industry data and recommendations from national human trafficking prevention leaders, AHLA has developed an industry action plan, in partnership with our partners Polaris and ECPAT-USA with the following five components:

1. **Training staff on what to look for and how to respond.**
2. **Displaying human trafficking indicator signage.**
3. **Establishing a companywide policy.**
4. **Ongoing coordination with law enforcement.**
5. **Sharing success stories and best practices.**

For additional industry recommendations from our partners click here: ECPAT-USA's Hotel Tools and Resources, Polaris Hotel Checklist, DHS Hospitality Toolkit.



1. Training Staff On What To Look For & How To Respond

Hotel employees who have undergone training are more aware of trafficking when it happens – and are more willing to report it – than those who have not been trained. That is why hotels across the country are continuously expanding training tools and resources to ensure employees remain vigilant and have a deep understanding of the most up-to-date indicators to spot human trafficking.

Your Role in Preventing Human Trafficking: The American Hotel and Lodging Educational Institute's long-standing online training program, available through AHLEI by the AHLA partnership with Marriott International, ECPAT-USA and Polaris, addresses the issue of human trafficking and discusses the intersections between human trafficking and the hospitality industry. The training is available in 17 languages to ensure that global hospitality organizations can share this important program as widely as possible.

- To customize the training for your hotel or brand, visit: AHLEI.org/program/human-trafficking.
- For additional training programs, visit Polaris, ECPAT-USA and BEST.

ARTICLE 22

TWENTY-SECOND ARTICLE
Submitted by: C. Scott Ananian, on behalf of the Ranked Choice Voting Study Committee

To see if the Town will authorize the Select Board to petition the General Court for a special act providing for the use of ranked choice voting in Brookline municipal elections, in the following form, and authorize the General Court to make any revisions that are necessary or appropriate to the form of such bill.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

"AN ACT RELATIVE TO RANKED CHOICE VOTING IN THE TOWN OF BROOKLINE" SECTION 1. RANKED CHOICE VOTING

(a) For the purposes of this section, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Batch elimination" is the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

"Concluded ballot," a ballot that does not rank any continuing candidate or contains an overvote at the highest-ranked continuing candidate, or contains *2 or more* sequential skipped rankings before its highest-ranked continuing candidate.

"Continuing candidate," a candidate who has not been defeated or elected.

"Election threshold," the number of votes sufficient for a candidate to be elected in a multi-seat election. It is calculated by dividing the total number of votes counting for continuing candidates in the first round by the sum of the number of seats to be elected and 1, disregarding any fractions, and then adding 1.

"Highest-ranked continuing candidate," the continuing candidate with the highest ranking on a voter's ballot.

"Last-place candidate," (i) the candidate with the lowest vote total in a round of the ranked-choice voting tabulation; or (ii) a candidate that is defeated in batch elimination.

"Overvote," a circumstance in which a voter ranks more than 1 candidate at the same ranking.

"Plurality voting," the voting system in which the candidate receiving the most votes is declared the winner, even if such candidate does not receive a majority of the votes cast in the election.

"Ranked choice voting," a method of casting and tabulating ballots in which voters

rank candidates for office in order of preference.

"Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number 1 shall be the highest ranking, ranking number 2 shall be the next-highest ranking, and so on.

“Skipped ranking”, a circumstance in which a voter does not use a ranking and ranks a candidate with a subsequent ranking.

“Surplus fraction,” the number equal to the difference between an elected candidate’s vote total and the election threshold, divided by the candidate’s vote total.

“Transfer value,” the proportion of a vote that a ballot will count to its highest-ranked continuing candidate. Each ballot shall begin with a transfer value of 1. If a ballot counts to the election of a candidate under subsection (d)(1), it receives a lower transfer value.

(b) All town-wide offices and Town Meeting Members shall be elected by ranked choice voting at the annual election, and in any special election called pursuant to MGL Chapter 41 Section 10.

Ranked choice voting shall apply to a single-seat office only when the number of candidates exceeds 2 and to a multi-seat office only when the number of candidates exceeds the number of seats to be elected. Plurality voting should be used when ranked choice voting cannot be conducted.

(c) In any single-seat election, each round shall begin by counting the number of votes for each continuing candidate. Each ballot shall count as 1 vote for its highest-ranked continuing candidate. Concluded ballots shall not be counted for any continuing candidate. Each round shall proceed sequentially as follows:

(1) If there are 2 continuing candidates, the candidate with the most votes shall be elected, and tabulation shall be complete.

(2) Otherwise, the last-place candidate shall be defeated, or the last-place candidates shall be defeated in batch elimination, and a new round shall begin.

(d) In any multi-seat election, each round shall begin by counting the number of votes for each continuing candidate. Each ballot shall count, at its current transfer value, for its highest-ranked continuing candidate. Concluded ballots shall not count for any continuing candidate. In the first round only, the election threshold shall then be calculated. Each round shall proceed sequentially as follows:

(1) If the sum of the number of elected candidates and continuing candidates is equal to the number of seats to be filled, then all continuing candidates shall be elected, and tabulation shall be complete.

(2) If at least 1 continuing candidate has more votes than the election threshold, then all such candidates shall be elected. If the number of elected candidates is equal to the number of

seats to be filled, then tabulation shall be complete. Otherwise, each ballot counting for an elected candidate shall be assigned a new transfer value by multiplying the ballot's current transfer value by the surplus fraction for the candidate. Each elected candidate shall be deemed to have a number of votes equal to the election threshold in all future rounds, and a new round shall begin.

(2) Otherwise, the last-place candidate shall be defeated, or the last-place candidates shall be defeated in batch elimination, and a new round shall begin.

(e) Batch elimination shall apply to the largest possible group of continuing candidates such that the sum of the votes of candidates in the group is less than the individual number of votes of every continuing candidate not in the group, and provided that the number of continuing candidates not in the group is at least 1 more than the remaining number of positions to elect.

(f) The Town Clerk, subject to approval by the Board of Registrars, will establish a method of tiebreaking that will be used if 2 or more last-place candidates are tied and batch elimination does not apply. The results of any such tiebreaking events must be recorded and reused in the event of a recount. The method for tiebreaking may be amended from time to time, but shall not be amended during the course of an election, including any and all recounts.

(g) When a skipped ranking or repeat candidate ranking is encountered on a ballot, that vote shall count towards the highest continuing ranking. In the case of an overvote involving two or more continuing candidates, the overvote candidates and all subsequently ranked candidates will be disregarded. If any vote cannot be advanced because no further continuing candidates are ranked on that ballot, that ballot shall be declared concluded for that contest.

(h) As used in section 4 of chapter 43A, the "order of votes received" by candidates in a ranked choice voting election shall mean the order in which candidates are elected. If multiple candidates are elected in the same round, the respective order of elected candidates in that round shall mean the order of votes received by those candidates at the end of the round.

(i) The Town Clerk, subject to approval by the Board of Registrars, may make any changes to the ranked choice voting ballot and tabulation process necessary to ensure the integrity and smooth functioning of the election, provided that ranked choice voting shall still be used and the fewest number of changes are made to achieve such purpose.

(j) In any election conducted using Ranked-Choice Voting, as may be authorized by the State, the Town Clerk shall publish election results that show the tabulations by rounds, along with any additional information that may be required by the Town bylaws.

(k) The Town Clerk shall provide educational materials to voters in accordance with any applicable Town bylaws.

(l) Not sooner than four years after acceptance of this section, a proposal to discontinue

the use of Ranked Choice Voting may be put on the Warrant for Town Meeting by a petition signed by at least ten registered voters of Brookline. In the alternative, not sooner than four years after acceptance of this section, the question may be so placed on said ballot when a petition signed by at least ten per cent of the registered voters of Brookline requesting such action is filed with the registrars, who shall have seven days after receipt of such a petition to certify the signatures. Upon passage in Town Meeting or upon certification of the signatures, the Town Clerk shall cause the question to be placed on the ballot at the next regular municipal election held more than thirty-five days after such passage or certification. Upon the defeat by the voters of the above described ballot question, another proposal to discontinue the use of Ranked Choice Voting may not be placed on the ballot for four years thereafter. Not sooner than four years after a successful vote to discontinue the use of Ranked Choice Voting, the procedures in the paragraph above may be used to resume the use of Ranked Choice Voting.

SECTION 2.
Notwithstanding the provisions of applicable provisions of chapters 53 and 54 of the general laws, Ranked-choice voting ballots for use in the Town of Brookline municipal elections shall be prepared according to a format meeting the below requirements and otherwise consistent with state law.
a) To the extent possible, a ranked choice voting ballot shall allow voters to rank as many choices as there are candidates. If the voting equipment is unable to reasonably accommodate a number of rankings on the ballot equal to the number of candidates, the Board of Registrars of Voters may limit the number of choices a voter may rank to the maximum number allowed by the voting equipment. A ranked choice voting ballot shall not interfere with a voter's ability to rank at least 1 write-in candidate.
b) The ballot must indicate the number of seats to be filled for each contest.
c) For each election where Ranked Choice Voting is used and the number of candidates exceeds two, the Board of Registrars shall randomly draw lots prior to the printing of ballots so as to determine the order in which the names of candidates shall appear on the ballot. To the name of a candidate for Town office who is an elected incumbent thereof shall be added the words 'Candidate for Reelection'.

d) The ballot must comply with all otherwise applicable provisions of the General Laws and the regulations promulgated thereunder.

SECTION 3. If any part of this Act is declared unconstitutional by a court of competent jurisdiction, the remaining parts shall survive in full force and effect. If a conflict arises between this Act and any other provision of law, the policies and purposes of this Act shall govern.

SECTION 4. This act shall take effect upon the acceptance by the Town of Brookline by the affirmative vote of a majority of voters at any regular or special election at which the question of acceptance is placed on the ballot.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is filed on behalf of the Ranked Choice Voting Study Committee,[1] charged by the Select Board on Jan 25, 2022 pursuant to Warrant Article 18 of the November 2020 Town Meeting which passed 187-34-10.[2] The committee was charged "to study the potential options for adoption of Ranked-Choice Voting (RCV) for Town Elections. The goal of the committee should be to recommend best practices for Ranked-Choice Voting in Town and to explore the different options for RCV including benefits and challenges." This warrant article embodies the committee's recommendations on several of its charged tasks, including:

- "specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for each Town-wide office"
- "specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for Town Meeting Member elections"
- "a process to be used for multi-winner elections, whether iterated one-winner election, a proportional system, or another"
- "specific recommendations on implementation via Home Rule Petition"
- implicitly, "a time frame for potential implementation"

The committee's charge included the requirement to conduct a public hearing at which its recommendations were presented and comments from the public were solicited. This hearing took place on February 13, 2023, and the recording is available on the Town's website.[3]
The committee is also charged with producing a final report. The final report will incorporate feedback from the warrant article review process and Town Meeting.

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[1] Voting members of the committee: C. Scott Ananian (chair), Cathleen Cavell (through Oct 2022), Joan Lautenschleger, Alexander Neary, Joan Sawyer, Isaac Silberberg, Jay Sweitzer-Shalit, Mike Sandman (Select Board representative), Ben Kaufman (Town Clerk). Additionally members of Town Meeting and a representative of Voter Choice MA attended many meetings.
[2] A competing amendment sought to modify the charge to "whether or not to adopt Ranked Choice Voting"; this amendment was defeated 88-139-4. Accordingly, this report and these warrant articles present the committee's recommendations regarding the best way for the Town to adopt RCV; it is up to Town Meeting to debate "whether or not" by passing, or not, these warrant articles.
[3] https://www.brooklinema.gov/2077/Ranked-Choice-Voting-Study-Committee

History

In November 2020, "Massachusetts Question 2", a ballot initiative for state-wide RCV,[4] failed statewide but Brookline voted 70% in favor of the measure. Not long thereafter, Warrant Article 18 was brought before the November 2020 Town Meeting, and passed 187-34-10. Warrant Article 18 asked for the Ranked Choice Voting Study Committee to be formed. After some delays, on Jan 25, 2022 the Select Board passed the charge to the committee, and in June and July of 2022 interviewed and then named the members of the committee. The Ranked Choice Voting Study Committee (hereafter, the "Committee") held its first official meeting August 25, 2022,[5] and has been meeting roughly weekly since.

Procedure

The Committee began by assembling similar warrant articles and home rule petitions from Arlington (H.4207), Northampton (H.4885), Easthampton (S.2331), Concord (HD.5329) and Amherst (H.777). Draft legislation was also contributed by Greg Dennis of Voter Choice MA. From commonalities and differences in these articles, as well as committee member suggestions, the committee drew up a list of essential topics for consideration and decisions to make, as well as a draft legislation skeleton combining all the language alternatives from similar articles.

In the Committee's weekly meetings it has progressed methodically through this list to discuss the pros and cons of the alternatives and come to consensus on the language presented to Town Meeting in this article.

The committee does not have complete unanimity on one point. The application of RCV specifically to the election of Town Meeting Members was not recommended unanimously, although it was recommended by a majority of the Committee. The Discussion section contains further details.

Background

Under RCV, voters rank the candidates in order of preference. Votes are counted in successive rounds; in each round, candidates with the fewest first choice votes are eliminated and those ballots for these candidates are distributed to each voter's next preference until each person elected receives a proportional majority of the vote.

Advantages of RCV are that it

- promotes majority support in elections with more than two candidates for a single seat because the ultimate winner must have received more than 50% of the vote;
- promotes reflective representation in multi-winner contests by allowing diverse groups of voters to elect candidates of choice;
- promotes diversity and encourages more third-party participation by reducing concern that vote splitting by either third-party candidates or similar candidates of the same party will lead to an undesirable outcome;

[4] Restricted to single-winner contests in primary and general elections for statewide offices, state legislative officers, and congressional offices.

[5] Committee members attempted to meet on August 14, 2022 but due to organizational oversights the members had not been sworn in and an official meeting was not held.

- allows voters to vote for their preferred candidates without worry that they are either wasting their vote or reducing the electoral chances of their next-preferred candidate
- reduces negative campaigning and polarization by broadening the base candidates must capture to win.

As noted by the Advisory Committee during the 2020 debate, an added benefit is that it preserves the second or third choice of a voter whose top candidate leaves the race between the onset of early voting and Election Day.
Disadvantages of RCV are that it

- requires additional tabulation to determine election winners when compared to 'first past the post' voting methods.
- multi-winner elections require voters to order their preferences for individual candidates, rather than simply selecting the candidates they wish to support.

The proposed article implements RCV for municipal elections only; that is, the elections that are held annually on the first or second Tuesday of May.
Implementation of RCV is possible using the Town's current voting machines, which were replaced in Winter 2022. The recently-purchased machines are capable of performing a Ranked-Choice election.

Key features of the proposed article
In order to adopt RCV in municipal elections, a Home Rule Petition is necessary. This is a request to the state legislature to pass a law that would allow Brookline to change the manner of its elections. The Home Rule Petition must first be passed by Town Meeting. After passage the Select Board must send it to the legislature, which must then pass the proposed law before it can take effect. In the proposed article, after passage by the state legislature, a Town-wide vote must be taken and RCV will become effective for municipal elections *only* if it receives a majority vote in favor of adoption.
The proposed home rule petition has the following key features:

- All town-wide elections are to use RCV. This includes both single-winner elections (like for Town Clerk or Moderator) as well as multi-winner elections (School Committee or Library Trustees).[6]
- Additionally, Town Meeting Member elections are to use RCV, according to the submitted text. This includes redistricting years, when there may be up to 15 winners per precinct. (See Discussion below.)

[6] The Select Board is a single-winner contest in 1 of every 3 years, and a 2-winner contest in the other 2 years.

- The Home Rule petition requires a Town-wide vote to ratify the adoption of municipal RCV. In addition to being democratically sound, this ensures a predictable timeline for the first elections using RCV, instead of being tied to the unpredictable schedule of the state legislature.
- Multi-winner elections are to be conducted using a proportional voting system.
- The order of the candidates on the ballot will be randomized.
- Discretion is given to the Clerk and the Board of Registrars in the handling of ties and ballot size issues.

In addition, the RCV Study Committee will make recommendations to the Town Clerk regarding publication of results and voter education, which the Clerk has indicated is acceptable. The Committee decided not to seek enforcement of these recommendations via a Town bylaw, preferring to provide flexibility to the Town Clerk. However, bylaws could be adopted in the future to enforce provisions of these natures if a future Town Meeting sees fit.

Discussion

The RCV committee did not reach a consensus on whether Town Meeting Members should be included in RCV. Discussion centered on RCV's ability to discover the 'consensus candidates' in elections that are sometimes decided by small numbers of votes, and would reduce vote splitting by similar Town Meeting Member candidates. Concerns were brought up that, in Census years, the next of which is 2032, many candidates would be on the ballot, which could make it challenging for voters to select their preferences among 15 or more candidates. The Committee decided to leave the Home Rule Petition as broad as possible with the inclusion of Town Meeting Members to give Town Meeting the ability to revise the Home Rule Petition during debate. Ultimately the Committee voted 7-0-1 to include the language in the submitted Warrant Article (with the Clerk abstaining), but only 6-1-1 to recommend that RCV be used to elect Town Meeting Members.

At the February 13th public hearing, feedback was provided to the Committee that candidate order on the RCV ballot has a potential to influence election outcomes through 'ballot-order effects' and the RCV committee should mitigate these effects if possible. Election research points to a significant increase in votes for candidates listed first on a ballot order, even in races with as few as two candidates. Many US states, such as New Hampshire and Rhode Island, and Massachusetts localities, such as Newton and Boston, have some form of ballot order lottery or rotation to mitigate the arbitrary advantages of ballot-order effects. The RCV committee, responding to this public feedback, voted to include language that mitigates ballot-order effects, referencing Newton's Article 8-1 election order procedure as a template.

After evaluation of several potential RCV options, the Committee selected a Proportional RCV method. Standard forms of Proportional RCV are currently in use in Cambridge and selected by Amherst, Concord and Northampton. Other options reviewed were Sequential RCV and Bottom-up RCV, which were noted to less fairly represent voter base intentions. The Committee reviewed commonplace methods of transferring Proportional RCV votes

from eliminated candidates to continuing candidates, including random assignment, which is simple but can skew outcomes, and fractional-transfer, which requires a spreadsheet to calculate results, but produces outcomes which are transparent and traceable. Weighing evidence that surveys showed voters in municipalities which use RCV understand how it works, the committee concluded that traceability of voting results was important, and recommended the fractional-transfer method. Further discussion of the merits and opposition to proportional RCV are discussed in the next section.

The committee weighed discussion that many localities that currently use RCV choose to publish the Cast Vote Records (CVR) for each election. The CVR is an electronic data record of each ranking marked on each ballot cast (but is not a digital image of each ballot). Such a record is currently accessible for public audit through a Public Records Request. Publication of CVRs is done to ensure full transparency of election results, but may risk inadvertent de-anonymization of voter choices. After hearing feedback that Cast Vote Record requests made through the current Public Records Request process have established safeguards and will result in technical and legal assistance from the Secretary of State when needed, the Committee decided that publication of the CVR would be a recommendation to the Clerk, but not mandatory.

SELECT BOARD'S RECOMMENDATION

The passage of Warrant Article 18 of November 2020 Special Town Meeting led to the formation of the Ranked-Choice Study Committee to study the potential pathways for adopting ranked-choice voting (RCV) procedures for Town Elections. The Committee was charged with several tasks including examining feasibility and best practices for implementation of RCV as well as issuing a specific recommendation for RCV in Brookline in the form of a home-rule petition.

Article 22 asks Town Meeting to authorize the Select Board to file a home rule petition that would implement ranked-choice voting procedures as recommended by the Ranked-Choice Study Committee. Approval of the home rule petition and a subsequent successful vote at a Town Election would be required to implement RCV. Under the procedure recommended by the Ranked-Choice Study Committee, voters would mark their ballots in order of preference (ex. 1st choice, 2nd choice, 3rd choice) and votes for each candidate on the ballot would be counted starting from highest ranking preference to lowest ranking preference until a candidate receives a majority of votes. If one candidate receives a majority of first choice votes, then they would be declared the winner. If not, then the candidate with the fewest first choice votes would be eliminated and second choices would be counted. This process would continue until one candidate (or more if for a multi-seat election) receives a majority of the votes cast.

The Ranked-Choice Study Committee concluded that RCV: ensures majority support for each winning candidate by preventing the possibility of a candidate winning with less than a majority of votes; expands voter choice by preventing the need for voting strategically if a voter's favored candidate is projected to lose; disincentivizes negative campaigning; and helps to equalize the political playing field for under-represented groups in the community based on research into RCV implementation in other states and communities. The Committee held public meetings and incorporated a number of suggestions from the public including the addition of language that would allow the Town to vote to end use of RCV without another home rule petition. The Committee did not come to a consensus on whether RCV should be used for election of Town Meeting members.

The Board discussed the proposed election system at length without reaching consensus on the potential benefits or downsides of RCV. Two board members expressed support, stating that RCV ensures each voter's intention is preserved in the event their top ranked candidate drops out of the race or fails to secure enough votes. In this way, the members also felt that RCV could benefit candidates in the political minority that may otherwise have difficulty securing support compared to politically mainstream candidates. One board member felt RCV was a solution in search of a problem, while another concurred citing that several competing candidates with a shared base could work out amongst themselves who should run for election to have the highest chance of success under the existing election system. The dissenting board members also felt that RCV could be difficult for some voters to comprehend and would add unnecessary complexity to the election process.

The Select Board did not come to a consensus with an unsuccessful vote of 2-2 for favorable action on Article 22.

ROLL CALL VOTE:

Aye:	No:
Aschkenasy	Greene
Sandman	VanScoyoc

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: NO ACTION on Article 22 as amended by the petitioners, by a vote of 1-23-3. Additionally, the Advisory Committee has a recommendation regarding a possible amendment; see the discussion below.

Executive Summary:	This Warrant Article, submitted by C. Scott Ananian on behalf of the Ranked Choice Voting Study Committee, asks that the Town authorize the Select Board to petition the General Court for a special act providing for the use of ranked choice voting in all Brookline municipal elections, including those for Town Meeting. Ranked choice voting requires the voter to rank, in order of preference, each candidate in a multi-candidate field when 1) in a single seat race, there are more than two candidates; and 2) in a multi-seat race, the number of candidates exceed the number of seats available. These preferences are then used to determine the winner(s). If the Warrant Article is approved by both Town Meeting and the Legislature, it would then be subject to a Town-wide ballot for final approval. The Town Clerk would be responsible for voter education and developing methods to resolve ties. The Article also proposes a change to address an issue not unique to ranked choice voting: the randomization of the order of candidates' names on the ballot for each position, to neutralize the bias that may occur from alphabetical listing on the ballot.
Voting Yes will...	Ask the legislature of the Commonwealth to approve a Home Rule Petition that (i) all votes in all Brookline municipal elections should be tabulated using Rank Choice Voting, or (ii) if amended, all votes in all Brookline Town-wide municipal elections should be tabulated using Rank Choice Voting.
Voting No will...	Make no change to how votes are currently tabulated.
Financial impact	Under $10,000 for new election machine software, training and potentially larger ballots, and unspecified amounts if manual hand recounts are required. Recently-acquired voting machines, with appropriate software, are capable of tabulating the results of RCV elections.
Legal implications	None.

Introduction

This Article is submitted by C. Scott Ananian on behalf of the Ranked Choice Voting Study Committee ("RCV Committee"). The RCV Committee was created by the Select Board on January 25, 2022, pursuant to Warrant Article 18 of the November 2020 Town Meeting. WA 18 passed 187-34-10. This vote came in the wake of "Massachusetts Question 2," a ballot initiative for state-wide RCV in state and federal elections, in November 2020. Although the initiative failed state-wide, Brookline voted 70% in favor of it.

The RCV Committee was charged "to study the potential options for adoption of Ranked-Choice Voting (RCV) for Town Elections. The goal of the committee should be to recommend best practices for Ranked-Choice Voting in Town and to explore the different options for RCV including benefits and challenges." (A competing amendment voted at Town Meeting sought to modify the charge to "whether or not to adopt Ranked Choice Voting"; this amendment was defeated 88-139-4. Accordingly, the proposed article presents the RCV Committee's recommendation regarding the best way for the Town to adopt RCV, if it chooses to do so.)

Additional charges to the RCV Committee included:

- "specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for each Town-wide office"
- "specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for Town Meeting Member elections"
- "a process to be used for multi-winner elections, whether iterated one-winner election, a proportional system, or another"
- "specific recommendations on implementation via Home Rule Petition"
- implicitly, "a time frame for potential implementation"

The RCV Committee was also charged with producing a final report. The report has not yet been completed, but the RCV Committee has completed a seven-page Article explanation.

The RCV Committee stated in its Article explanation that:

> After evaluation of several potential RCV options, the Committee selected a Proportional RCV method. Standard forms of Proportional RCV are currently in use in Cambridge and have been selected by Amherst, Concord and Northampton. Other options reviewed were Sequential RCV and Bottom-up RCV, which were noted by the RCV Committee to less fairly represent voter base intentions. The Committee reviewed commonplace methods of transferring Proportional RCV votes from eliminated candidates to continuing candidates, including random assignment, which is simple but can skew outcomes, and fractional-

> transfer, which requires a spreadsheet to calculate results, but produces outcomes which are transparent and traceable. Survey evidence indicates that voters in municipalities actually using RCV understand how it works, and the committee concluded that traceability of voting results was important and recommended the fractional-transfer method.

The RCV Committee identified in its Article Explanation the following advantages of RCV relevant to Brookline's local, non-partisan elections:

- promotes majority support in elections with more than two candidates for a single seat because the ultimate winner must have received more than 50% of the vote;
- promotes reflective representation in multi-winner contests by allowing diverse groups of voters to elect candidates of choice;
- allows voters to vote for their preferred candidates without worry that they are either wasting their vote or reducing the electoral chances of their next-preferred candidate
- reduces negative campaigning and polarization by broadening the base candidates must capture to win
- preserves the second or third choice of a voter whose top candidate leaves the race between the onset of early voting and Election Day.

In Proportional RCV, the ballot is the same as in single-winner RCV. Voters rank candidates from first to last. The only thing that differs is the method of determining winners.

The necessary proportional majority of the vote for each race is called the "election threshold." The election threshold is defined in the Article as

> the number of votes sufficient for a candidate to be elected in a multi- seat election. It is calculated by dividing the total number of votes counting for continuing candidates in the first round by the sum of the number of seats to be elected and 1, disregarding any fractions, and then adding 1.

To illustrate, here are the election threshold numbers (number of votes necessary to win) in scenarios likely to occur in Brookline, assuming 100 total votes/ballots cast:

Number of open seats	**Number of Votes Needed (election threshold)**
2	34
3	26

4	21
5	17
15	7

RCV would apply to any single seat election in which there were more than two named candidates on the ballot, and any multi-seat election in which the named candidates on the ballot exceeded the number of open seats. Each voter's ballot would allow the voter to rank the candidates in order of preference. Votes are counted in successive rounds; in each round, candidates with the fewest first choice votes and who could not mathematically win are eliminated and the preferences on those ballots where the candidate has been eliminated are distributed to each voter's next preference until each person elected receives a proportional majority of the vote (i.e., crosses the election threshold). In addition, the preferences of any ballots whose candidate has exceeded the election threshold (i.e., won election in that round), are also proportionally redistributed to the remaining candidates.

This proportional redistribution involves some math, which is now handled by election software. In an appendix to this report are some detailed examples of the application of the proposed RCV in a hypothetical Select Board election.

The RCV Committee noted that "[o]ver the last 17 years in Brookline Town Elections, there have been three contested S[elect]B[oard] races with one open seat, and only once has a winner gained more than 50% of the total vote; there were nine contested SB races with two open seats and only three times both winners gained the proportional multi-seat majority of 33%."

Other Massachusetts municipalities -- Arlington, Northampton, Easthampton, Concord and Amherst -- have adopted similar warrant articles and home rule petitions, which the RCV Committee considered in drafting the Article. Arlington's petition applies only to Town-wide positions and exempts town meeting members from RCV. Acton also has RCV on its spring Town Meeting warrant. RCV is also in the draft charter of the City of Somerville, which the city plans to submit as home rule legislation by the end of the year. Cambridge has been using RCV for its nine seat City Council since the late thirties.

According to Fair Vote (https://fairvote.org/resources/data-on-rcv/), of the 63 cities, counties, and states in the United States that use RCV in the United States:

- 4 exclusively use Proportional RCV (aka multi-winner RCV or single transferable vote) in city council and/or school board elections: Cambridge, MA, Arlington, VA, Arden, DE, and Albany, CA.

- 4 use a combination of single-winner and Proportional RCV: Portland, ME, Minneapolis, MN, Palm Desert, CA, and Amherst, MA.
- 9 cities in Utah use a combination of single-winner RCV and a multi-winner method called sequential RCV.
- The rest [46, or almost three-fourths] exclusively use single-winner RCV (aka instant runoff voting).

Implementation of RCV is possible using the Town's current voting machines, which were purchased in Winter 2022 and are compatible with Ranked-Choice elections.

Prior to the Subcommittee's votes, Petitioners amended the Article in response to suggestions from Town Counsel. The amended version is attached at the end of this report.

Evaluation Methodology/Research

- The RCV Committee held multiple hearings, reviewed RCV proposals from other jurisdictions, and consulted with RCV experts and Town Counsel in developing the warrant article.
- A joint public hearing with the RCV Committee and the Public Safety Subcommittee was held on March 22, 2023, via Zoom. The recording of that hearing is available here: https://brooklinema.zoomgov.com/rec/share/8-fAD65MTJp2GQNJBmwC0uNwbX-b1S83zu_4A927KASXUSLY1LbFshOwni4kUVtt.KDgLXvzoX7Gdx9zj?startTime=1679519758000

- Another public hearing was held March 30, 2023, via Zoom. The recording of that hearing is available here: https://brooklinema.zoomgov.com/rec/play/xhUy-fXXOUgS7MlNlT1Ei4j74lwm9uOjOFZ6hDR4cTsA7dE7cOo_6FOWet2Qqu2RXBreXRyMtobT5n70.lLplIjq12Pk21HAY?continueMode=true

Discussion
Opposition from members of the Advisory Committee to the use of Ranked Choice Voting in all town elections was nearly unanimous. While the RCV Committee was commended for its extensive, thoughtful, and diligent work in carrying out its mandate, the overwhelming sentiment from the Committee was that RCV is not needed in Brookline.

Many members believed that Brookline does not experience the type of problem that RCV, in its popular depiction, is often designed to address. This is the problem of single-winner elections where two similar candidates split the vote and allow an extremist from

another party to win with a relatively small plurality of the vote. No one spoke against the use of RCV in such national elections. Brookline, however, has very few single-winner elections, let alone single-winner elections with more than two candidates, one of whom is polarizing.

Other concerns included:

1. The difficulty, if not impossibility, of ranking candidates in multi-seat elections such as Town Meeting, Library Trustee, and School Committee elections by both voters and the various town organizations that endorse candidates.

2. While RCV can, in various scenarios, incentivize candidates to broaden their outreach, RCV can also have the opposite effect. For example, in a five seat Town Meeting election with eight candidates, a candidate could win with just 17% of the first-choice votes and no support from any of the remaining 83% of the voters.

3. Some members believed that RCV could, because of its perceived complexity, dampen turnout and/or, because of the incentive to broaden outreach, lead to more expensive elections that would favor well-heeled candidates.

4. Whether the results would be deterministic if the RCV algorithm were run on a set of ballots multiple times. This RCV algorithm is deterministic.

5. Whether the average voter would be able to understand the results once published given that proportional excess vote redistribution is cumbersome to do by hand.

The Committee considered the possibility that some of these concerns could be alleviated by limiting the application of RCV only to Townwide offices (e.g., not for the election of Town Meeting Members). While this approach was preferable to some on the Advisory Committee, the resulting motion continued to fail overwhelmingly.

Recommendation: The Advisory Committee by a vote of 1-23-3 recommends NO ACTION on the following motion for Warrant Article 22. Additionally, were the Article to be amended to remove its application to Town Meeting elections, the Advisory Committee recommends NO ACTION by a vote of 5-19-3.

Brookline Ranked Choice Voting Warrant Article 22
as approved by RCV Study Committee 2023-04-19

MOVED: That the Town authorize the Select Board to petition the General Court for a special act providing for the use of ranked choice voting in Brookline municipal elections, in the following form, and authorize the General Court to make any revisions that are necessary or appropriate to the form of such bill.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

"AN ACT AUTHORIZING RANKED CHOICE VOTING IN THE TOWN OF BROOKLINE"

SECTION 1. RANKED CHOICE VOTING

(a) For the purposes of this section, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Batch elimination" is the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

"Concluded ballot," a ballot that does not rank any continuing candidate or contains an overvote at the highest-ranked continuing candidate, or contains *2 or more* sequential skipped rankings before its highest-ranked continuing candidate.

"Continuing candidate," a candidate who has not been defeated or elected.

"Election threshold," the number of votes sufficient for a candidate to be elected in a multi-seat election. It is calculated by dividing the total number of votes counting for continuing candidates in the first round by the sum of the number of seats to be elected and 1, disregarding any fractions, and then adding 1.

"Highest-ranked continuing candidate," the continuing candidate with the highest ranking on a voter's ballot.

"Last-place candidate," (i) the candidate with the lowest vote total in a round of the ranked-choice voting tabulation; or (ii) a candidate that is defeated in batch elimination.

"Overvote," a circumstance in which a voter ranks more than 1 candidate at the same ranking.

"Ranked choice voting," a method of casting and tabulating ballots in which voters rank candidates for office in order of preference.

"Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's relative preference for that candidate. Ranking number 1 shall be the highest ranking, ranking number 2 shall be the next-highest ranking, and so on.

"Skipped ranking", a circumstance in which a voter does not use a ranking and ranks a candidate with a subsequent ranking.

"Surplus fraction," the number equal to the difference between an elected candidate's vote total and the election threshold, divided by the candidate's vote total.

"Transfer value," the proportion of a vote that a ballot will count to its highest-ranked continuing candidate. Each ballot shall begin with a transfer value of 1. If a ballot counts to the election of a candidate under subsection (d)(1), the ballot receives a lower transfer value.

(b) All town-wide offices and Town Meeting Members shall be elected by ranked choice voting at the annual election, and in any special election called pursuant to MGL Chapter 41 Section 10.

Ranked choice voting shall apply to a single-seat office only when the number of candidates printed on the ballot exceeds 2 and to a multi-seat office only when the number of candidates printed on the ballot exceeds the number of seats to be elected.

(c) In any single-seat election, each round shall begin by counting the number of votes for each continuing candidate. Each ballot shall count as 1 vote for its highest-ranked continuing candidate. Concluded ballots shall not be counted for any continuing candidate. Each round shall proceed sequentially as follows:

(1) If there are 2 or fewer continuing candidates, the candidate with the most votes shall be elected, and tabulation shall be complete.

(2) If there are more than 2 continuing candidates, the last-place candidate shall be defeated, or the last-place candidates shall be defeated in batch elimination, and a new round shall begin.

(d) In any multi-seat election, each round shall begin by counting the number of votes for each continuing candidate. Each ballot shall count, at its current transfer value, for its highest-ranked continuing candidate. Concluded ballots shall not count for any continuing candidate. In the first round only, the election threshold shall then be calculated. Each round shall proceed sequentially as follows:

(1) If the sum of the number of elected candidates and continuing candidates is equal to the number of seats to be filled, then all continuing candidates shall be elected, and tabulation shall be complete.

(2) If at least 1 continuing candidate has more votes than the election threshold, then all such candidates shall be elected. If the number of elected candidates is equal to the number of seats to be filled, then tabulation shall be complete. Otherwise, each ballot counting for an elected candidate shall be assigned a new transfer value by multiplying the ballot's current transfer value by the surplus fraction for the candidate. Each elected candidate shall be deemed to have a number of votes equal to the election threshold in all future rounds, and a new round shall begin.

(3) Otherwise, the last-place candidate shall be defeated, or the last-place candidates shall be defeated in batch elimination, and a new round shall begin.

(e) Batch elimination shall apply to the largest possible group of continuing candidates such that the sum of the votes of candidates in the group is less than the individual number of votes of every continuing candidate not in the group, and provided that the number of continuing candidates not in the group is at least 1 more than the remaining number of positions to elect.

(f) Prior to the first election conducted using Ranked Choice Voting the Town Clerk, subject to approval by the Board of Registrars, will establish a method of tiebreaking that will be used if 2 or more last-place candidates are tied and batch elimination does not apply. The results of any such tiebreaking events must be recorded and reused in the event of a recount. The method for tiebreaking may be amended from time to time, but shall not be amended during the course of an election, including any and all recounts.

(g) When a skipped ranking or repeat candidate ranking is encountered on a ballot, that vote shall count towards the highest continuing ranking. In the case of an overvote involving two or more continuing candidates, the overvote candidates and all subsequently ranked candidates will be disregarded. If any vote cannot be advanced because no further continuing candidates are ranked on that ballot, that ballot shall be declared concluded for that contest.

(h) As used in section 4 of chapter 43A, the "order of votes received" by candidates in a ranked choice voting election shall mean the order in which candidates are elected. If multiple candidates are elected in the same round, the respective order of elected candidates in that round shall mean the order of votes received by those candidates at the end of the round.

(i) The Town Clerk, subject to approval by the Board of Registrars, may make any changes to the ranked choice voting ballot and tabulation process necessary to ensure the integrity and smooth functioning of the election, provided that ranked choice voting shall still be used and the fewest number of changes are made to achieve such purpose.

(j) In any election conducted using Ranked-Choice Votingthe Town Clerk shall publish election results that show the tabulations by rounds, along with any additional information that may be required by the Town bylaws.

(k) The Town Clerk shall provide educational materials to voters subject to any applicable Town bylaws.

SECTION 2.
Notwithstanding the provisions of applicable provisions of chapters 53 and 54 of the general laws, Ranked-choice voting ballots for use in the Town of Brookline municipal elections shall be prepared according to a format meeting the below requirements and otherwise consistent with state law.

a) To the extent possible, a ranked choice voting ballot shall allow voters to rank as many choices as there are candidates printed on the ballot. If the voting equipment is unable to reasonably accommodate a number of rankings on the ballot equal to the number of candidates, the Board of Registrars of Voters may limit the number of choices a voter may rank to the maximum number allowed by the voting equipment. A ranked choice voting ballot shall not interfere with a voter's ability to rank at least 1 write-in candidate.

b) The ballot must indicate the number of seats to be filled for each contest.

c) For each election where Ranked Choice Voting is used and the number of candidates exceeds two, the Board of Registrars shall randomly draw lots prior to the printing of ballots so as to determine the order in which the names of candidates shall appear on the ballot. To the name of a candidate for Town office who is an elected incumbent thereof shall be added the words 'Candidate for Reelection'.

d) The ballot must comply with all otherwise applicable provisions of the General Laws and the regulations promulgated thereunder.

SECTION 3. If any part of this Act is declared unconstitutional by a court of competent jurisdiction, the remaining parts shall survive in full force and effect. If a conflict arises between this Act and any other provision of law, the policies and purposes of this Act shall govern.

SECTION 4. Not sooner than four years after acceptance of this act, a proposal to resume or discontinue the use of Ranked Choice Voting may be put on the Warrant for Town Meeting by a petition signed by at least ten registered voters of Brookline. In the alternative, not sooner than four years after acceptance of this act, the question may be so placed on said ballot when a petition signed by at least ten per cent of the registered voters of Brookline requesting such action is filed with the registrars, who shall have seven days after receipt of such a petition to certify the signatures. Upon passage in Town Meeting or upon certification of the signatures, the Town Clerk shall cause the question to be placed on the ballot at the next regular municipal election held more than thirty-five days after such passage or certification. Upon the defeat by the voters of the above described ballot question, another proposal to resume or discontinue the use of Ranked Choice Voting may not be placed on the ballot for four years thereafter. Not sooner than four years after a successful vote to discontinue the use of Ranked Choice Voting, the procedures in this section may be used to resume the use of Ranked Choice Voting.

SECTION 5. This act shall be submitted for acceptance by the voters of the town of Brookline at the next regular municipal or state election following the effective date of this act; provided, however, that if the deadline to put a question on the ballot for the next regular municipal or state election has passed, the question shall be placed on the ballot for the following regular municipal or state election. This act shall be submitted for acceptance in the form of the following question:

Shall an act passed by the general court in the year 2023 entitled 'An Act authorizing ranked choice voting in the town of Brookline' be accepted?"

Below the question shall appear a fair and concise summary of the act prepared by town counsel and approved by the select board. If the majority of the votes in answer to the question is in the affirmative, this act shall take effect, but not otherwise.

ARTICLE 22 VOTES

Article Description	**RCV in Brookline municipal elections**	**RCV in Brookline if amended to exclude Town Meeting elections**
AC recommendation (Favorable Action unless indicated)	**1-23-3**	**5-19-3**
Ben Birnbaum	N	N
Harry Bohrs	N	Y
Cliff Brown	Y	Y
Patty Correa	A	A
John Doggett	N	N
Katherine Florio	N	N
Harry Friedman	N	N
David-Marc Goldstein	N	N
Neil Gordon	N	N
Susan Granoff	N	N
Kelly Hardebeck	N	N
Amy Hummel	N	N
Anita Johnson	N	N
Alisa Jonas	N	Y
Janice Kahn	N	A
Pam Lodish	N	N
Joslin Murphy	N	N
Donelle O'Neal, Sr.	N	A
Linda Olson Pehlke	N	N
Markus Penzel	N	Y
David Pollak	A	Y

Stephen Reeders	N	N
Carlos Ridruejo	N	N
Lee Selwyn	N	N
Alok Somani	N	N
Carolyn Thall	A	N
Christine Westphal	N	N
Dennis Doughty *		
* Chairperson does not vote except to break a tie		

Appendix

Here are some examples of the application of the proposed RCV in a Select Board election in which there are 3 candidates running for two seats and 3,000 votes cast. (The election threshold is 1,001, which is 3,000/(2+1) +1.)

1. A gets 1,200 first place votes, B gets 1,100, and C gets 700. A and B both win in first round, because each exceeded the election threshold of 1,001.

2. A gets 2,300 first place votes, B gets 0, and C gets 700. B gets the proportional excess of all of A's 2d choice votes ((2,300 -1,001)/2,300 * 2,300 = 1,299). A wins in the first round, and B wins in the second round with 1,299.

3. A gets 2,000 first place votes, B gets none, and C gets 1,000, and B gets the proportional excess of all but one of A's 2d place votes, which goes to C.

First round: A wins

Second round: Excess votes (999) are transferred from A (2,000 -1,001). B gets 998/2000 * 1999 additional votes, while C gets 1/2000 * 1 additional votes. B has 997.5 votes, while C has 999 and 1/2000 votes. As no candidates are over the threshold, the lowest remaining candidate is eliminated, in this case B. C wins as the only remaining candidate.

4. A gets 2,000 first place votes, B gets none, and C gets 1,000, and B gets the proportional excess of all of A's 2d place votes.

First round: A wins;

Second round: 999 excess votes are transferred from A (2,000 – 1,001). B gets 999/2000 * 2000 votes. B gets 999 additional votes. B has 999 votes, while C still has 1000 votes. As no candidates are over the threshold, the lowest remaining candidate is eliminated, in this case B. C still wins.

5. A gets 1002 votes, B gets 999 votes, and C gets 999 votes. 502 voters rank A first then B second, while 500 votes rank A first then C second.

First round: A wins

Second round: Excess votes (1) are transferred from A (1,002 -1,001). B gets 1/1002 * 502 additional votes, while C gets 1/1002 * 500 additional votes. B has 999 and 502/1002 votes, while C has 999 and 500/1002 votes. As no candidates are over the threshold, the lowest remaining candidate is eliminated, in this case C. B wins as the only remaining candidate.
(If 501 voters rank B second and the other 501 rank C second, B and C tie, which would be broken by rules developed by the Town Clerk.)

XXX

ARTICLE 23

TWENTY-THIRD ARTICLE
Submitted by: Donelle S. O'Neal Sr., TMM4/AC

To see if the Town will adopt the following:
RESOLUTION PERTAINING TO THE ADOPTION OF AN IN-CAR VIDEO AND BODY WORN CAMERA POLICY FOR THE BROOKLINE POLICE DEPARTMENT.

WHEREAS, In-Car Video ("ICV") and Body Worn Cameras ("BWC") are considered to be effective law enforcement tools that reinforce the public's perception of police professionalism and preserve factual representations of officer-civilian interactions; and

WHEREAS, ICV and BWC may be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of incidental evidence or contraband; and

WHEREAS, ICV and BWC are expected to enhance the Police Department's ability to document and review statements and events during the course of an incident, and preserve video and audio information and evidence for investigative and prosecutorial purposes; and

WHEREAS, although ICV and BWC recordings may provide only a limited perspective of encounters and incidents, and thus should be considered with all other available evidence, such as witnesses' statements, officer interviews, forensic analysis, and documentary evidence, studies have shown that ICV and BWC are a contributing factor in reducing complaints against police officers, increasing police accountability, and enhancing the public trust; and

WHEREAS, the policy of the Brookline Police Department is to respect the legitimate privacy interests of all persons in Brookline, while ensuring professionalism in its workforce, and therefore, Brookline Police Officers should only use ICV and BWC within the context of existing and applicable federal, state, and local laws, regulations, and the Department's rules and policies;

NOW THEREFORE, be it resolved, that Town Meeting requests the Select Board, along with the Town Administrator and Human Resources Director or their designees, to work promptly, constructively, and collaboratively with the appropriate members of the Brookline Police Department to adopt a policy pertaining to the use of ICV and BWC by Brookline Police Officers, and that the use of such equipment be implemented as soon as practicable. Be it further resolved that funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment be included in the Brookline Police Department Fiscal Year 2023-2024 Budget.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This is not just a local issue. This is part of the discussion on all three levels and is currently being addressed locally, statewide and nationally.

This Article calls for the expedient development and adoption of a policy pertaining to the use of In-Car Video and Body-Worn Cameras by Brookline Police Officers and the implementation of such equipment in the Brookline Police Department. Which is needed and wanted by our Brookline Police Department. The current tension in regards to Police and Citizen interactions across our nation makes it imperative that we "Boost Transparency" and Accountability within the Police Department and Community.

SELECT BOARD'S RECOMMENDATION

Article 23, as amended by the Advisory Committee, is a resolution calling for the Select Board, in consultation with the Police Commissioners Advisory Committee ("PCAC"), to "work promptly, constructively, and collaboratively" with the Police Department and its union to implement a policy for the use of police-worn body cameras and in-car video.

In debating Article 23, the Select Board noted the issues of adopting body-worn cameras and in-car video were then the subject of pending contract arbitration between the union and the Town.[1] They further noted that money to implement the adoption of the technology had been set aside in the Capital Improvements Plan ("CIP") for the coming fiscal year. The Board expressed its own desire to move expeditiously on implementing the technology as soon as the arbitration concluded.

With the above discussion, and following a prior public hearing on the matter, at a meeting held on April 25, 2023, the Select Board voted 4-0 to recommend FAVORABLE ACTION on Article 23 as amended by the Advisory Committee.

ROLL CALL VOTE:

Aye:
Greene

---

[1] A determination on this arbitration was issued on May 2, 2023, subsequent to the Select Board's vote on the subject. The determination permits the Town to implement recording technology policies.

Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 23, as amended, by a vote of 14-1-6.

Executive Summary:	WA 23, if passed, would serve as Town Meeting affirmation for the Brookline Police to establish and implement a policy for the use of In-Car Video ("ICV") and Body-Worn Cameras ("BWC"). $200,000 in funding for the deployment of cameras is already included in the proposed Capital Improvements Program ("CIP") for FY24. At this time, the Town Administration and the Brookline Police Union are in arbitration, which is addressing, among other issues, establishing terms for the deployment of cameras.
Voting Yes will...	Voting Yes will demonstrate Town Meeting support for the use of ICV and BWC by the Brookline Police. This showing of support will encourage the Town Administration and the Brookline Police Union to agree to a policy for using cameras, and also encourage its implementation.
Voting No will...	Voting No will send a message to the Town Administration and the Brookline Police that ICV and BWC is not supported by many members of the community, and so may dissuade the Town from continuing to work on developing this law enforcement tool.
Financial impact	If the Town Administration and the Police Union can agree to the terms for the use of ICV and BWC, their deployment is expected to cost the Town approximately $200,000/year.
Legal implications	By its very nature as a new tool of law enforcement, it has legal implications. Recordings will be used in trials and investigations. Implementation of an ICV/BWC system needs to be crafted in accordance with State regulations as well as compliance with constitutional guidance, especially as developed under the 4th amendment. Given the role of cameras as a tool of our law enforcement, it has the potential to result in civil litigation for a variety of reasons, for example, inadequate redaction of private information when footage is provided in response to a public records request or improper handling of video while it is in storage.

Introduction
Usage of cameras as a law enforcement tool is already widespread in the United States. About half of all local police departments in the country use some form of body cameras, while an even greater percentage use some form of dashboard cameras. Several states require all local law enforcement agencies within their jurisdiction to use body cameras. The police killing of George Floyd in 2020 has resulted in greater interest in the use of cameras to provide increased transparency and accountability by municipalities that had previously not approved cameras for police departments.

In Massachusetts, the Legislature established the Law Enforcement Body Camera Task Force as part of the police reform law passed in 2020. The Task Force was charged with developing regulations for the use of body cameras by local law enforcement departments. The Task Force submitted its Recommended Regulations in August 2022. See https://www.mass.gov/doc/law-enforcement-body-camera-final-report/download. Boston has been using body cameras for several years already, and in Cambridge, the City Manager announced in February that the City will be implementing body cameras in the near future, a decision spurred by a fatal police shooting in January.

In Brookline, the implementation of body and dashboard cameras has been a subject of discussion for several years. In September 2020 the Town Administration and the Police Union entered a Memorandum of Agreement that provided a one-year retroactive cost-of-living increase for police employees. The MOA also explicitly committed the Union to accepting without negotiations the Town's authority to deploy, at its discretion, body cameras, dashboard cameras, and GPS, with the union reserving the right to bargain over the terms and conditions.

Currently the Town and the union are in arbitration to once again obtain an agreement for a retroactive wage increase, and, among other matters, to develop the terms and conditions for the implementation of ICV/BWC, with the arbiter's decision expected within a few weeks. The Police Department has identified a vendor that will provide the system for approximately $200,000/year for a four year period. The Capital Improvements Program includes the $200,000 in funding for the first year of the contract in its proposed FY24 budget.

The Petitioner has filed this warrant article because a Town Meeting vote to endorse the use of ICV and BWC will support implementation of their use by the Police Department. He believes that cameras are an important tool of law enforcement for the following reasons:

1. To increase accountability and transparency, which has become more urgent given the current climate of tensions between the Brookline police and the public following the George Floyd incident in 2020.

2. To both foster and demonstrate the professionalism of the Town's Police Department, which in turn will improve police/community relations; with studies showing a reduction in complaints against the police in other municipalities when camera deployment is implemented.
3. To provide a useful tool for investigations and evidence collection, serving to preserve documentation of what has occurred at crime and accident scenes.

Discussion
Several concerns were raised during the Advisory Committee meeting on this warrant article:

- The impact on individuals' right to privacy. For instance, police officers often must enter people's homes. This will be documented on video. Also, bystanders and witnesses could unwittingly be caught on camera.
- As the capacity to alter videos increases, there is a risk that police footage might be hacked and altered.
- Cameras are not always able to accurately capture what has occurred during an event. A camera might document what has occurred from one angle, but how the incident actually played out may only be obvious from another angle.
- Studies have shown that cameras are used for prosecutions more than for police oversight.
- Our society has deeper and more fundamental issues with regard to crime and policing, which the use of cameras by the police will not resolve.

In addressing these concerns, the following points were made:

- Regarding footage of bystanders, State law requires that such footage be redacted to protect such individuals from being identified.
- Regarding the possibility that footage from police cameras could be hacked and altered, that risk exists for others who might have an interest in showing an alternative story, and at least police footage is stored by a third party with security precautions in place.
- Regarding the possibility that cameras might not accurately capture what occurred or who the involved parties are; the recollections of eye witnesses, if they are present, are susceptible to both inaccuracy and bias.
- Camera footage also reduces the need to rely on judging who is telling the truth in "he said, she said" situations when only the parties in dispute are present.

A committee member questioned whether the $200,000 annual amount budgeted in the CIP would cover all costs of implementing the program. According to information provided by Acting Police Chief Paster and Deputy Superintendent Campbell, the four year contract with the vendor they have identified is all-inclusive, covering the cost of the equipment and associated software, digital storage, redaction work, training, maintenance

and equipment replacement. The Town will own all the rights to the data that is collected.

Overall, the majority of Advisory Committee members were supportive of the warrant article, agreeing that the use of cameras is a useful tool for the reasons provided by the Petitioner. Funding is already included in the CIP and no opposition to cameras has been expressed by either the Union or the Acting Police Chief. It will be important, however, to develop a comprehensive policy to address the numerous complications and concerns that come along with the use of ICV/BW. As Deputy Superintendent Campbell noted in the subcommittee hearing, the Town will be able to make use of already-existing policies from other municipalities in the State and an ACLU prototype, as well as the standards and procedures identified in the Recommended Regulations of the State's Police Reform Task Force.

The Advisory Committee made two minor amendments to the Article, and the Petitioner has approved of both:

1. The Article's "Therefore" clause directs that funding for the implementation of cameras "be included in the Brookline Police Department Fiscal Year 2023-2024 Budget." The FY24 budget will already be approved before this resolution is voted on, however. The amendment thus removes that directive in the "Therefore" clause and instead adds the following Whereas clause: WHEREAS, funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment is included in the FY 24 CIP budget for the Brookline Police Department;

2. The Article's "Therefore" clause requests that the Select Board, Town Administrator, Human Resources Director, and Police Department work together to draft the ICV /WBC. Given the advisory role of the Police Commissioners Advisory Committee (PCAC) to the Select Board, the amendment explicitly calls for PCAC participation in an advisory capacity to the Select Board as it drafts the policy.

Recommendation
The Advisory Committee recommends FAVORABLE ACTION on the following amended motion, by a vote of 14 in favor, 1 opposed, with 6 abstentions.

(New language appearing in **bold/underline**, deleted language appearing in strikeout.)

VOTED: That the Town adopt the following resolution:

WHEREAS, In-Car Video ("ICV") and Body Worn Cameras ("BWC") are considered to be effective law enforcement tools that reinforce the public's perception of police professionalism and preserve factual representations of officer-civilian interactions; and

WHEREAS, ICV and BWC may be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of incidental evidence or contraband; and

WHEREAS, ICV and BWC are expected to enhance the Police Department's ability to document and review statements and events during the course of an incident, and preserve video and audio information and evidence for investigative and prosecutorial purposes; and

WHEREAS, although ICV and BWC recordings may provide only a limited perspective of encounters and incidents, and thus should be considered with all other available evidence, such as witnesses' statements, officer interviews, forensic analysis, and documentary evidence, studies have shown that ICV and BWC are a contributing factor in reducing complaints against police officers, increasing police accountability, and enhancing the public trust; and

WHEREAS, the policy of the Brookline Police Department is to respect the legitimate privacy interests of all persons in Brookline, while ensuring professionalism in its workforce, and therefore, Brookline Police Officers should only use ICV and BWC within the context of existing and applicable federal, state, and local laws, regulations, and the Department's rules and policies;

WHEREAS, funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment is included in the FY 24 CIP budget for the Brookline Police Department;

NOW THEREFORE, be it resolved, that Town Meeting requests the Select Board, **with the advice of the Police Commissioners Advisory Committee (PCAC),** along with the Town Administrator and Human Resources Director or their designees, to work promptly, constructively, and collaboratively with the appropriate members of the Brookline Police Department to adopt a policy pertaining to the use of ICV and BWC by Brookline Police Officers, and that the use of such equipment be implemented as soon as practicable. ~~Be it further resolved that funding for the purchase, maintenance, and storage of ICV, BWC and recordings from such equipment be included in the Brookline Police Department Fiscal Year 2023-2024 Budget.~~

ARTICLE 23 ADVISORY COMMITTEE VOTES

Article Description	**Establish policy for Body Worn Cameras**
AC recommendation (Favorable Action unless indicated)	**14-1-6**
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	
Patty Correa	Y
John Doggett	A
Katherine Florio	
Harry Friedman	A

David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	
Amy Hummel	N
Anita Johnson	A
Alisa Jonas	Y
Janice Kahn	Y
Pam Lodish	Y
Joslin Murphy	A
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	Y
David Pollak	Y
Stephen Reeders	A
Carlos Ridruejo	
Lee Selwyn	A
Alok Somani	
Carolyn Thall	
Christine Westphal	
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

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ARTICLE 24

TWENTY-FOURTH ARTICLE
Submitted by: Neil Gordon; Richard Benka; John Doggett; Jane Gilman; Nancy Heller; Jonathan Margolis; Linda Olson Pehlke; Marty Rosenthal

To see if the Town will adopt the following Resolution:

WHEREAS the Massachusetts Department of Housing and Community Development ("DHCD") has enacted guidelines that impose a December 31, 2023, compliance deadline for MBTA "Rapid Transit" communities such as Brookline to present zoning plans complying with the so-called "MBTA Communities Act" ("MBTA-CA"), G.L. ch. 40A, § 3A, as determined by application of a DHCD "Compliance Model; and

WHEREAS Brookline's Planning and Community Development Department ("Planning Department") has developed a single strategy that would involve substantial rezoning of a 48-acre district centered on the Harvard Street corridor as well as neighboring streets, but other options should be considered; and

WHEREAS while it has been repeatedly claimed that there is no "up-zoning" contemplated, the Harvard Street strategy, in order to comply with DHCD guidelines, assumes the elimination of all parking requirements for new developments along Harvard Street, the elimination of any requirement for commercial or other publicly accessible space (e.g., retail, restaurant, personal services, professional services) even on the first floor, the elimination of floor area ratio restrictions on density, and a 48-foot height limit rather than the existing staggered building height limits; and

WHEREAS all of these factors contribute to significant increases in permissible density from redevelopment that could seriously threaten existing businesses, commercial vitality and existing moderately priced housing; disrupt neighborhoods; and ignore the need for open space and the critical need to increase our tree canopy; and

WHEREAS the Harvard Street strategy is focused solely on pursuing MBTA-CA compliance with the single 48-acre zoning district (which could, in fact, have to expand even further into neighboring streets), although the DHCD guidelines do not require a single area; and

WHEREAS the number of actual, existing multi-family (3-plus) units in Brookline already far exceeds the MBTA-CA "capacity" requirements, a fact not recognized by the DHCD guidelines; and

WHEREAS unlike the Harvard Street strategy, utilizing multiple areas in Town to comply with the MBTA-CA, including existing three-family and other multi-family districts or portions of other corridors, would not require the Town to impose potentially negative

changes on the Harvard Street corridor and would not concentrate the potential for additional multi-family housing and the potential impacts on school population on only three elementary schools (Ridley, Lawrence and Pierce); and

WHEREAS recent successful rezoning efforts have been guided by resident committees with staff and consultant support, where the committees reflect appropriate technical skills along with representation from affected constituencies, to increase the credibility of their recommendations and the likelihood of acceptance by Town Meeting; and

WHEREAS the Harvard Street strategy and the chosen process raise significant concerns that could well result in the defeat of that strategy at the November 2023 Town Meeting and it would be imprudent for the Town to "put all its eggs in one basket" without having the option of fully considering other options for complying with the MBTA-CA; and

WHEREAS it is prudent to establish a resident-guided process that will, to the extent possible, ensure the development of alternative strategies for MBTA-CA compliance that could be utilized by themselves or in conjunction with a modified form of the Harvard Street strategy, and that will involve public engagement and analysis of potential impacts of not only the Harvard Street strategy but also alternative strategies;

NOW, THEREFORE, BE IT RESOLVED that Town Meeting

A. Requests the Select Board and the Town's legislative delegation to initiate or continue efforts to seek appropriate modifications to the DHCD deadline and guidelines; and further

B. Requests the Moderator to appoint a committee to identify additional potential options for complying with the MBTA Communities Act; and further,

C. Requests the Select Board to direct the Planning Department to provide staff support to said Moderator's Committee in analyzing both the Harvard Street strategy's potential impacts, including impacts on Town and School services and risks to existing businesses, and other potential options for MBTA-CA compliance, including without limitation applying the DHCD Compliance Model and developing appropriate site plan review standards.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

1. Brookline is not required to create a "mega district" to comply with the MBTA-CA

The DHCD guidelines require Brookline to have a "minimum land area" of 41 acres with "multi-family unit capacity" of 6,990 units (25% of the Town's current number of units) as determined by a DHCD "Compliance Model." In response, the Harvard Street strategy has identified a single 48-acre district encompassing the entire length of Harvard Street from Station Street to Verndale Street (interrupted only for a block at Coolidge Corner). Moreover, because properties along Harvard Street -- even with the substantial zoning changes contemplated by the Harvard Street strategy – apparently yield only 5,400 of the required 6,990 unit "capacity," the Planning Department has actually included contiguous portions of Stearns Road, Littell Road, Alton Court, St. Paul Street, Webster Place, Kent Street, Station Street, Stedman Street and Beals Street in the so-called "Harvard Street" plan.

The Town, however, is not required to concentrate the impact of the MBTA-CA on only one "mega district." The DHCD guidelines actually state, for example, that

- "[i]f an MBTA community has <u>two or more zoning districts</u> in which multi-family housing is allowed as of right, then <u>two or more districts may be considered cumulatively</u> to meet the minimum land area and minimum multi-family unit capacity requirements";
- "no <u>portion</u> of the district that is less than 5 contiguous acres [of] land will count toward the minimum [land] size requirement"; and
- "at least half of the multi-family zoning district land <u>areas</u> must comprise contiguous lots of land."

DHCD guidelines also allow the inclusion of areas that are already developed and do not limit "capacity" calculations to lots that are vacant. Thus, the guidelines make clear that

- "[n]othing … should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target";
- "capacity" simply means "that a sufficient number of multi-family housing units could be added to <u>or replace existing uses and structures over time</u> – even though such additions or replacements may be unlikely to occur soon"; and
- all privately owned property, even if already developed, can be included in calculating "capacity" unless development is prohibited to protect private or public water supplies or the property is used for institutional uses such as a hospital, utility, or private school, college or university.

Furthermore, DHCD guidelines expressly allow "site plan review" with by-laws that impose conditions on "the appearance and layout" of specific projects, including the regulation of matters such as vehicular access and circulation, screening of adjacent properties, and the "architectural design of a building." Because the door is open to utilizing site plan review and to considering multiple areas in Town, including multiple commercial areas and existing three-family and multi-family zones, MBTA-CA compliance could generate fewer negative impacts than a single-minded pursuit of the Harvard Street strategy.

2. It is erroneous to argue that the Harvard Street strategy is not up-zoning

It has been repeatedly argued that the Harvard Street strategy provides the potential for growth "without up-zoning," that "[n]o up-zoning [is] required" and that the strategy will "facilitate infill for both housing/commercial without up-zoning."

Planopedia, a source of recognized urban design terms, defines "upzoning" as options "to create new development capacity," including "increas[ing] the floor-area ratios," "[i]ncreased height restrictions, lower parking requirements, or density bonuses." The Harvard Street strategy includes

- replacing maximum floor-area ratios (currently 1.0 to 1.75 in most of the area) with "form-based zoning," thus eliminating (not merely increasing) the allowable floor-area ratios and, with the proposed increase in height limits, essentially tripling the allowable density of properties in the area;
- increasing height restrictions to 48 feet (from 40 feet in most of the area), a 20% increase;
- eliminating various setback and open space requirements in favor of "form-based zoning;"
- eliminating the requirement for publicly accessible first floor space;
- and eliminating (not just reducing) parking restrictions.

The assertion that there would be no "upzoning" is erroneous.

3. The DHCD guidelines are particularly troublesome when applied to the entirety of the existing Harvard Street commercial corridor

Choosing a single, huge 48-acre land area, rather than doing the additional work of objectively pursuing ways in which the MBTA-CA could be achieved with other less disruptive approaches, will focus potential enrollment impacts on only three of the Town's eight elementary schools and potentially disrupt a vibrant commercial corridor.

First of all, the ironic choice of a commercial corridor as the venue for compliance triggers State DHCD guidelines that flatly prohibit the Town from requiring publicly accessible, commercial activities on the ground floor, or, indeed, anywhere in a building. The threat to commercial viability and to local business is clear. The Town has offered two responses, both of which would likely create further problems:

- First, the Town has apparently suggested, or will suggest, that DHCD remove this restriction. The problem, of course, is that the Harvard Street "mega district" could become even larger than 48 acres, or the "canyonization" of Harvard Street even greater, if the Town's request for changes to the DHCD guidelines were allowed. Thus, if the Town were permitted to require first-floor commercial space, the "as of right" multi-family housing floor area in buildings would be reduced and the "capacity" target of 6,990 units could be reached only by further

expanding the district into even more neighboring streets, or by increasing the height limit and thus density even further beyond the contemplated 48 feet.

- Second, the Planning Department has said that it could provide "incentives" for developers to include commercial uses to avoid dead, publicly inaccessible first-floor spaces in the critical Harvard Street commercial area. The "incentives," however, would likely require either financial support from the Town in the form of tax abatement agreements, a reduction in the Town's affordable housing requirements, or zoning incentives allowing even greater density and the resulting "canyonization" beyond that already contemplated by the Harvard Street strategy.

Second, because the DHCD model deducts space required for parking in calculating housing "capacity," the Planning Department's Harvard Street strategy reaches a "capacity" of 5,400 units on Harvard Street, and 6,990 units in the entire MBTA-CA district, only by eliminating <u>all</u> required parking for new development in the district:

- The absence of <u>any</u> minimum on-site parking requirements imposes potential negative impacts on potential patronage in the Harvard Street commercial area (if any commercial activity is able to survive), on surrounding neighborhoods, and even on the residents of any new multi-family housing. Is it realistic to proceed on the assumption that no residential parking is needed?
- Including <u>any</u> on-site parking requirement to avoid congestion and impacts on neighborhood streets and municipally owned parking lots would require that building heights be increased even more or that the MBTA-CA district be expanded even further into surrounding neighborhoods to achieve the desired "capacity."

Thus, the focus on a single huge area, and a commercial area to boot, creates problems under the DHCD guidelines that could potentially be avoided. Indeed, these problems would, as discussed below, exacerbate other inequities generated by the application of the MBTA-CA.

4. <u>Brookline's already-existing multi-family units far exceed the MBTA-CA "capacity" guidelines</u>

The DHCD guidelines identify Brookline as one of twelve "Rapid Transit" communities -- Braintree, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Milton, Newton, Quincy, Revere, and Somerville – that are required to have a "minimum multi-family unit capacity" equivalent to 25% of the total number of housing units in the community according to the 2020 U.S. Census.[1]

[1] https://www.mass.gov/doc/compliance-guidelines-for-multi-family-zoning-districts-under-section-3a-of-the-zoning-act/download

The Town's already-existing multi-family units, according to the 2021 U.S. Census American Community Survey, are already 66.8% of the Town's housing units.

- The percentage of multi-family units in the twelve "Rapid Transit" communities ranges from 10.8% to 71.9%.
- Brookline is one of only three of the twelve communities, along with Chelsea and Cambridge, where multi-family housing already constitutes more than 2/3 of the total housing units.
- Thus, Brookline's actual, already-existing multi-family inventory is more than 2 ½ times the MBTA's "capacity" goal.[2]
- It has also been stated that an even higher percentage (75%) of the units in Brookline's Green Line service area are multi-family, more than three times the MBTA-CA "capacity" goal.[3]

But whether the multi-family percentage of Brookline's existing housing units is 2/3 or 3/4, Brookline far exceeds the MBTA-CA 25% "capacity" standard and cannot credibly be accused of excluding multi-family housing.

5. The MBTA-CA expects other municipalities to subsidize Boston and Cambridge and commercial developers in those cities

Over the past decade, as set forth in more detail in Appendix "A,"

- Boston and Cambridge have effectively shifted to other communities the cost of providing housing and related municipal services, including public education, for the households of workers attracted by commercial development in those two cities.
- Those two cities have gained tens of millions (Cambridge) or hundreds of millions (Boston) of dollars of additional property tax levies from commercial development, a windfall they do not share with other communities. On a per capital basis, Boston's tax levy increase from commercial development is 5 times that of Brookline, and that of Cambridge is 7 times Brookline's.
- More specifically, in the decade after 2010, Boston added 124,800 new jobs but provided only 29,200 additional housing units (only 23% of the new jobs); Cambridge added 35,500 new jobs but provided only 6,600 additional housing units (only 19% of the new jobs); and Brookline added 1,200 new jobs while providing 1,500 additional housing units (25% more units than the number of new jobs).
- Studies conducted by Boston and Cambridge themselves confirm the fact that other municipalities already house the vast majority of new workers attracted to those cities. Those studies further confirm that the housing "linkage payments"

[2] https://censusreporter.org/data/table/?table=B25024&geo_ids=16000US2509210,05000US25021,31000US14460,04000US25,01000US&primary_geo_id=16000US2509210#valueType|estimate
[3] Boston Globe, March 4, 2023, p.A-9 (Linda Olson Pehlke; Readers' Forum).

paid by developers in those two cities are a trivial percentage of the additional housing costs imposed by commercial development (without even accounting for the costs of municipal services necessitated by additional housing).

- And, as with their commercial property tax windfalls, the housing linkage payments received by Boston and Cambridge are not shared with the municipalities actually housing the vast majority of new workers from those two cities.

6. Residential taxpayers in Brookline bear the brunt of providing Town and School services

As further set forth in Appendix "A," because of Brookline's relatively small commercial tax base and limited commercial growth compared to Boston and Cambridge,

- Residential properties in Brookline pay a much larger percentage of Brookline's property tax levy – twice the share paid by Boston's residential properties and almost 2 ½ times the share paid by residential properties in Cambridge.
- Brookline, like other "bedroom" communities, has faced multiple operating overrides and debt exclusion votes, primarily to meet school needs.
- The taxes on residential properties have already increased dramatically, even without including the impact of the debt exclusion for fire station rehabilitation voted in 2022 and the pending 2023 operating override and Pierce School debt exclusion.
- In contrast, Boston and Cambridge, with their commercial property tax growth and offloading of housing and municipal service responsibilities to other communities, have had NO operating overrides or debt exclusions in at least 35 years, if ever.[4]

And, as a final irony, Boston is totally excluded from any obligation under the MBTA-CA to provide multi-family housing capacity.

7. A closing comment

Despite the obvious negative fiscal impacts of Brookline's already sparse commercial development and despite the fact that DHCD guidelines preclude the Town from requiring space for commercial activity, the Harvard Street strategy utilizes a major corridor defined by commercial activity along almost its entire length as the location for efforts to satisfy the MBTA-CA.[5]

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[4] https://www.mass.gov/lists/reports-relating-to-property-tax-data-and-statistics#proposition-2-1/2-referendum-data-

[5] Indeed, as noted above, even if the DHCD guidelines prohibiting commercial mandates were relaxed, any mandate to include commercial activity would likely either require that the zone be expanded even further

The Harvard Street strategy, under external time pressure,[6] proposes changes that will have potentially serious and irreversible impacts enduring for decades. Plunging ahead with this single strategy would leave the Town with no viable alternatives that might be acceptable.[7] Town Meeting should not be so severely hamstrung in its future decision making. The more prudent course would examine available alternatives for complying with the MBTA-CA. This resolution is an effort to start that process.

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into adjoining neighborhoods or that the proposed zoning be changed to allow even greater density and "canyonization" through increased height limits.

[6] The Town and other municipalities are apparently seeking an extension of the December 31, 2023 deadline for submitting final plans. Even if that time is not extended, the Boston Globe reported on December 16, 2022, that DHCD on or about December 14, 2022 issued a letter stating that "Once a community comes back into compliance, the housing authority funding will be restored." https://www.bostonglobe.com/2022/12/16/business/state-soften-budget-cuts-towns-that-dont-comply-with-new-mbta-housing-law/

[7] In its MBTA-CA Action Plan, the Planning Department recognized "the fears of obliterating our small commercial tenants"; that "[w]ithout having the ability to require commercial use on the ground floor in our core commercial districts along Harvard Street, we may not be able to secure a majority vote at Town Meeting"; that "we are usure whether Town Meeting will agree to no parking minimums by right"; and that "[w]hile no parking minimums by right may seem an obvious policy solution, it may prove to not be a politically palatable outcome." https://www.mass.gov/doc/submitted-section-3a-action-plans/download

APPENDIX "A"

Commercial New Growth over the Past Decade

Boston:

- Has averaged an increase of over $50 million of "new growth" annually in its property tax levy limit from Commercial, Industrial and Personal Property (e.g., laboratory equipment) ("CIP") development.
- This bonanza that has not abated even after the pandemic, with an additional $69.3 million property tax levy increase from CIP new growth in the most recent Fiscal Year 2023.[8]

Cambridge:

- Has averaged an increase of over $13.3 million annually in its property tax levy limit from CIP development.
- As in Boston, this has not abated even after the pandemic, with an additional $21.1 million CIP new growth increase in Fiscal Year 2023.[9] Each annual increase becomes part of the permanent tax levy limit for all future years, being aggregated year after year and further increased by 2 ½% annually under Proposition 2 ½.

Brookline, in contrast:

- Has had an increase averaging only $0.9 million annually in its property tax levy limit from CIP development
- And, in fact, this number fell after the pandemic, with only a $792,628 CIP new growth tax levy increase in Fiscal Year 2023.[10]

In per capita terms:

- Over the past decade the annual per capita new growth in the tax levy limit from CIP development in Boston has been 5 times that of Brookline, and the increase in Cambridge has been more than 7 times that of Brookline.
- And none of the increased CIP property taxes collected by Boston and Cambridge are shared with other communities.
- This discrepancy would not be troubling if Boston and Cambridge were in fact housing the additional workers and their households and providing the costs attendant on that housing, including the costs of providing municipal services and public education. As shown below, however, that is not the case.

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[8] https://dlsgateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=NewGrowth.NewGrowth_dash_v2_test
[9] Ibid.
[10] Ibid.

"Off-loading" of Housing and Municipal Service Responsibilities by Boston and Cambridge to Other Communities.

State and federal data:

- Between the 4th quarter of 2010 and the 4th quarter of 2019 (before pandemic distortions), Boston added 124,800 new jobs, Cambridge added 35,500 new jobs, and Brookline added 1,200 new jobs.[11]
- The U.S. Census shows a growth in housing units between 2010 and 2020 in Boston of 29,200 units (only 23% of the new jobs), in Cambridge of 6,600 units (only 19% of the new jobs), and in Brookline of 1,500 units (25% more units than the new jobs added in Brookline).[12]

Boston's own 2016 study:

- Found that only 24% of new workers in Boston commercial developments seek housing in Boston.
- Also found that a linkage payment of $85.55 per square foot of CIP development – in 2016 dollars -- would be needed to provide housing for low-, moderate- and middle-income workers among just the 24% of additional workers seeking housing in Boston.[13]
- Extrapolated to the communities that provide housing for the other 76% of workers, that $85.55 figure would be $360 per square foot, even without accounting for increases in costs between 2016 and 2023.
- Yet in contrast to that required $360 per square foot – in 2016 dollars -- Boston currently collects a trivial housing linkage fee of only $13.00 per square foot (and only for developments over 100,000 square feet), and none of that is shared with the communities that are providing housing for 76% of the workers generated by Boston's commercial development.
- Proposed increases of the housing linkage fee to approximately $25.85 per square foot for laboratory space and $19.40 per square foot for other commercial uses[14] would still be a trivial part of the $360 per square foot of housing costs – in 2016 dollars -- imposed by commercial development, and none of that amount would be shared with the other communities such as Brookline providing housing for 76% of the workers attracted by Boston CIP development.

Cambridge's own 2019 study:

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[11] https://lmi.dua.eol.mass.gov/LMI/EmploymentAndWages
[12] https://data.census.gov/cedsci/all?q=boston%20ma%20housing%20units (Boston); https://data.census.gov/cedsci/all?q=cambridge%20ma%20housing%20units (Cambridge); https://data.census.gov/cedsci/all?q=housing%20units%20brookline%20ma (Brookline)
[13] https://www.bostonplans.org/getattachment/b883ad7f-fc1f-4c83-ac88-1334e519742d
[14] 84% of the increased fees, with the remaining 16% going to job training.

- Found that only 13% of new workers in Cambridge commercial developments seek housing in Cambridge.
- Found that a linkage payment of $55.27 per square foot of CIP development – in 2019 dollars – would be needed to provide housing for low-, moderate- and middle-income workers among just the 13% of additional workers seeking housing in Cambridge.[15]
- Extrapolated to the communities that provide housing for the other 87% of workers, that $55.27 figure would be $415 per square foot, even without accounting for increases in costs between 2019 and 2023.
- In contrast to that required $415 per square foot – in 2019 dollars -- Cambridge currently collects a trivial housing linkage fee of only $20.10 per square foot (and only for developments over 30,000 square feet), and none of that is shared with the communities that are providing housing and the attendant public services for 87% of the workers generated by Cambridge's commercial development.

To make matters even worse, the MBTA-CA:

- Excludes Boston, one of the principal beneficiaries of commercial development taxes, from the mandate to provide multi-family housing.[16]
- Under the DHCD guidelines, actually places a "cap" on affordable housing requirements, stating that, in the absence of an "economic feasibility analysis" by a "third party acceptable to DHCD, and using a methodology and format acceptable to DHCD," zoning cannot require more than 10 percent of the units in a project to be affordable, and the income cap cannot be less than 80% of the area median income (so that a municipality cannot, for example, choose a cap on income that is less than $112,150 for a household of four).

Impact on Residential Taxpayers in Brookline, Boston and Cambridge

Burden of paying local property taxes:

- Brookline residential properties pay 83.5% of the total property tax levy.
- Boston residential properties pay only 41.7%.
- Cambridge residential properties pay only 34.2%.[17]

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[15] https://www.cambridgema.gov/-/media/Files/CDD/Housing/incentivezoning/hsg_Incentive_Zoning_Nexus_Study_20191211.pdf

[16] And Cambridge has stated in its MBTA-CA Action Plan that its "most likely" zoning strategy to comply with the MBTA-CA is essentially the status quo: "An existing zoning district or districts that might already comply with the Section 3A Guidelines." https://www.mass.gov/doc/submitted-section-3a-action-plans/download

[17] https://dlsgateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=Dashboard.TrendAnalysisReports.TaxLevyByClass

Overrides and debt exclusions:

- Brookline, like other "bedroom communities" without the extensive commercial growth of Boston and Cambridge, has required increasingly frequent operating overrides, largely to fund school expenses (1994; 2008 ($6.2 million); 2015 ($7.665 million); 2018 ($6.6 million); proposed 2023 (approximately $12 million)).
- Brookline has likewise had multiple debt exclusions primarily to meet school needs (1990, new Lincoln School; 1995, High School renovation; 2015, new Ridley ($120 million); 2018, renovate and expand High School ($238 million); 2019, new Driscoll ($120 million); 2022, fire station life safety and gender equity ($65 million); proposed 2023, new Pierce ($173 million expected Town share)).
- In contrast, Boston and Cambridge have had no operating overrides or debt exclusions in at least 35 years, if ever.

The impact on residential property taxes, without the impact of the $65 million 2022 fire station debt exclusion (which has not yet affected property taxes) or the potential impacts of the proposed 2023 $173 million Pierce School debt exclusion and 2023 $12 million operating override:

- With the owner-occupied property tax exemption, from FY18 to FY23, taxes have already increased as follows (including the CPA surcharge):
    - On the median single-family home, from $11,882 to $17,160;
    - On the median condominium, from $3,933 to $4,659;
    - On the median 2-family home, from $12,420 to $17,749; and
    - On the median 3-family home, from $13,607 to $18,753.
- Taxes on the median apartment building have increased from $27,201 to $36,767.[18]

ECONOMIC DEVELOPMENT ADVISORY BOARD RECOMMENDATION

On April 3rd, the Economic Development Advisory Board (EDAB) held a public hearing on Warrant Article 24. After a presentation of the article by the petitioner, several comments from members of the public, and comments from EDAB members and Town staff, EDAB voted 8-0-3 in favor of the following motion:

[18] https://www.brooklinema.gov/DocumentCenter/View/37282/FY2023-Classification-Hearing-Presentation?bidId= (adjusted for actual residential exemption of 20%, commercial tax shift of 1.745, and CPA surcharge per conversation with Chief Assessor); https://meetings.brooklinema.gov/OnBaseAgendaOnline/Documents/ViewDocument/Select_Board_948_Agenda_Packet_11_27_2018_6_30_00_PM.pdf?meetingId=948&documentType=AgendaPacket&itemId=0&publishId=0&isSection=false

To recommend no action on Warrant Article 24, in recognition of the fact that: the process of identifying and evaluating alternative concepts for MBTA Communities Act compliance is underway, including a series of community engagement activities and public workshops; that the Select Board and Town Administrator are working with the petitioners and others to advance this process well in advance of the May Town Meeting, including the potential appointment of a committee for this purpose; and that this collaborative approach may result in Warrant Article 24 becoming moot prior to Town Meeting.

PLANNING BOARD RECOMMENDATION

Warrant Article 24 is a resolution by citizen petition asking the Moderator to appoint a committee to explore alternatives ways for the Town to comply with the MBTA Communities Act (MBTA CA) that is a different approach from the Planning and Community Development Department's study of form-based zoning for Harvard Street. The MBTA CA, which became law in 2022, must be met by December 31, 2023.

The Planning Board hearing on Warrant Article 24 was held on April 12, 2023. Dick Benka, one of the petitioners, gave a presentation on the proposed resolution, after which the Planning Board heard public comment. The Planning Board then asked questions and made comments.

It was noted that since the Select Board had recently appointed a committee to look at options for meeting the MBTA CA, a Moderator's Committee to do the same thing was unnecessary.

Planning Board members made the following comments:

- the proposed article should be tabled or the Planning Board should vote on it and recommend No Action.

- the proposed article should not be supported; instead the focus should be on the Harvard Street Study, which is a good approach. There would be opportunities for the Town to adjust any recommendations.

- it was premature to vote in favor of WA 24.

- the Town may have already met the MBTA Act if the Beacon Street Corridor is used as an option; therefore WA 24 should be supported.

Mark Zarrillo stated that the Select Board Committee should be given the opportunity to explore alternatives and report back on them. He felt that opinions were divided on how to meet the MBTA CA. Many people did not like one particular alternative vs. the other. He mentioned that there would be a series of community engagement activities and public

workshops where the Harvard Street study and different alternatives would be discussed. This would help Town Meeting members decide how to vote.

Mark Zarrillo, therefore, moved to recommend No Action on Article 24. Blair Hines seconded the motion.

The Planning Board voted 4-0-1 in favor of the motion to recommend No Action on Article 24. The roll call vote went as follows: Zarrillo – aye, Chipimo– aye, Hamlin – aye, Hines – aye and Brue – abstained. (Heikin was not present.)

SELECT BOARD'S RECOMMENDATION

Article 24 is a resolution asking for the Moderator to form a committee to evaluate potential models for compliance with Chapter 40A, Section 3A of the Massachusetts General Laws, commonly known as the "MBTA Communities Act." The Act requires communities with access to state-financed public transit to create a zoning district of "reasonable size" where multi-family housing is permitted "as of right." Expressing concern that the proposal developed by the Planning Department at the request of the Select Board might not pass Town Meeting, Article 24's petitioners further asked that the Moderator request the Select Board require the Planning Department to provide staffing support to the Moderator's committee.

On April 18, 2023, in response to the concerns raised by Article 24, the Select Board named an eight-person committee to evaluate additional MBTA Communities Act compliance options. The Select Board's charge required the new committee to develop at least two proposals for such compliance, at least one of which must be reasonably calculated to lead to the potential development of at least 10% of the housing units the state believes Brookline could accommodate under the Act. The charge was reviewed by the Article 24 petitioners, and their suggestions were taken into account in revising it. Several petitioners of Warrant Article 24 now serve on the Select Board committee, which is staffed by the Planning Department.

No petitioners appeared to argue in favor of Article 24 to the Select Board at its public hearing on the matter on April 25, 2023, and a member of the Select Board indicated at that time that the petitioners were divided as to whether to continue to press for a Moderator's committee. Noting that the Advisory Committee had voted favorable action on the Article despite the Select Board's proactive efforts to satisfy the Article's underlying policy aims, the Select Board closed its public hearing and voted 4-0 to recommend NO ACTION on Article 24.

ROLL CALL VOTE:

Aye:

Greene
Aschkenasy
VanScoyoc
Sandman

ADVISORY COMMITTEE'S RECOMMENDATION

Recommendation: FAVORABLE ACTION on Warrant Article 24 by a vote of 11-6-4.

Executive Summary	Effective 2021, the Massachusetts legislature amended Mass. Gen. Laws Chapter 40, Section 3A, to require "MBTA communities" such as Brookline to create at least one zoning district of "reasonable size" within 0.5 miles of a transit station that permits multi-family housing as of right. Known as the "MBTA Communities Act ("MBTACA", or "Act"), the Act directed the State's Department of Housing and Community Development ("DHCD") to "promulgate guidelines" detailing criteria for its determination of compliance. DHCD's MBTACA guidelines require compliance by December 31, 2023, the end of this year. (As of this writing, DHCD has not responded to the Select Board's March 28, 2023 request for a longer timeline and certain substantive changes to the guidelines). As of this writing, the Planning Department's proposal for compliance is through zoning changes in the vicinity of the Town's Harvard St. corridor, with a stated goal of publicly releasing a draft warrant article in late June 2023, and of filing a final article in early September deadline for the November 2023 Special Town Meeting. The Petitioners' resolution asks for a Moderator's Committee to "identify additional potential options" for compliance with the Act beyond the Planning Department's current proposal, with Planning Department staff and other support. On April 18, 2023, the Select Board appointed a committee of its own charged with identifying, developing and analyzing options to the Planning Department's Harvard St. proposal. The Select Board committee's roster includes Article 24 Co-Petitioner Richard Benka (Chair) and Co-Petitioner Linda Olson Pehlke. For further information, see the Select Board's April 18 charge and slate. (Item 16A, pp. 456-457)
Voting Yes will...	Ask the Moderator to appoint a Moderator's Committee with Planning Department staff support that will "identify additional potential options" to the Planning Department's current proposal for timely compliance with the MBTACA.
Voting No will...	Refrain from asking the Moderator to appoint such a committee.

Financial impact	There are no direct costs associated with the appointment of a volunteer Moderator's Committee. There could be burdens on Planning Department staff resulting from such an appointment, particularly given the April 18, 2023 appointment of the Select Board's committee and the need for Planning Department support of both committees (since the options review each would be undertaking requires access to the State's electronic compliance model). In addition, the Act includes a sanction for non-complying communities consisting of the loss of certain funding, which, in the Town's case, would mean loss of approximately $225,000 in Local Capital Projects funding for the Brookline Housing Authority (BHA). In addition, DHCD's Guidelines state that it and other state agencies may consider a community's non-compliance in making discretionary decisions on grant applications or funding.
Legal implications	There are no direct legal implications posed by the establishment of a Moderator's Committee. On March 15, 2023, the Massachusetts Attorney General released written MBTACA Guidance stating that non-complying communities may be "subject to civil enforcement action" by the AG. In a memorandum dated March 3, 2023, Town Counsel identified legal risks posed by failure to timely comply. The memorandum states that the remedies a judge could order for noncompliance include the imposition of a compliant zoning district on the Town, as well as an award of attorneys' fees/costs to any prevailing plaintiff in a civil lawsuit.

Introduction

Petitioners Neil Gordon, Richard Benka, John Doggett, Jane Gilman, Nancy Heller, Jonathan Margolis, Linda Olson Pehlke, and Marty Rosenthal filed Warrant Article 24, which asks the Moderator to appoint a committee to "identify potential options" to the Planning Department's current proposal for compliance with the December 31, 2023, deadline. That deadline is established by the Guidelines of the Massachusetts Department of Housing and Community Development ("DHCD") that DHCD implemented pursuant to the MBTA Communities Act ("Act", or "MBTACA"), Massachusetts General Laws Chapter 40A, Section 3A. Currently, the Planning Department's proposal focuses on the Harvard St. corridor. Extensive background information, including but not limited to the foregoing and following, is available on the Town's website entitled "Multi-family Zoning Requirements for Compliant MBTA Communities".

A. The MBTA Communities Act and the DHCD Guidelines

Section 18 of "An Act Enabling Partnerships for Growth", 2020 Mass. Acts ch. 358, created a new Section ("s.") 3A of the State's Zoning Act, Massachusetts General Laws

("MGL") Chapter 40A. Section 3A requires "MBTA communities" such as Brookline to create at least one zoning district of "reasonable size" within 0.5 miles of a transit station that permits multi-family housing as of right. The Act directed the State's Department of Housing and Community Development ("DHCD") to "promulgate guidelines" defining when a community is in compliance. DHCD's Guidelines list some of their guiding principles. These include that communities benefiting from having the State's transit network within their borders have an obligation to facilitate the creation of denser housing around those transit stations, and that generally, multi-family housing should be facilitated in locations with easy access to transit stations for pedestrians and bicyclists.

According to the Guidelines, the Act does not require actual housing production; it only requires that a community create a zoning district where it is possible and permissible to build "multi-family housing".

The State Zoning Act defines "multi-family housing" as buildings with at least 3 units, or lots with at least two buildings, each building having at least 2 units. (MGL c. 40A, s. 1A). The Act and DHCD's current iteration of the Guidelines together establish complex and detailed parameters for Brookline's MBTACA-compliant district that include the following requirements:

- The zoning district must permit "multi-family housing" as of right; the zoning district's rules may not condition a multi-family housing project on approval through discretionary decision-making such as a special permit process. (MGL s. 40A, s. 3A; Guidelines, s. 4)
- The Town may not impose zoning requirements on the multi-family housing zoning district that it does not generally impose on other uses (e.g., single and two-family residential), such as required ground-floor retail. (Guidelines, s. 4C)
- A "reasonably sized" zoning district must be of "neighborhood scale"; based on its "developable land", Brookline's zoning district must be at least 41 acres in size (1.5% of "developable land"). (Guidelines, s. 5(a) and App. 1 p. 1).
- 90% of this zoning district must be within 0.5 miles of an MBTA stop. (Guidelines, s. 8, App. 1 p. 1)
- At least 50% of the zoning district's land area must be comprised of contiguous lots. (s. 5)
- If in more than one area, each portion of the zoning district must be at least 5 acres in size. (s. 5)
- The required minimum density of the zoning district is 15 units/acre. (MGL c. 40A, s. 3A) Non-residential uses (such as parking) **are counted** toward the density calculation, except for rights of way and public land for non-residential uses. (Guidelines, s. 6(a)) Municipalities may establish sub-districts with different density requirements so long as the district as a whole supports a density of 15 units/acre. (Guidelines, s. 6(b))

- The zoning district's required multi-family unit capacity is 6,990 housing units (25% of the Town's 27,961 housing units counted in the 2020 US Census). (Guidelines, s. 5(b) and App. 1 p. 1) This is theoretical capacity only; the zoning rules must allow for the production of this number of units by right on the 41 acres, but DHCD does not require any housing production at all. Moreover, the Guidelines ignore the actual existence of housing and treat land theoretically as undeveloped. (Guidelines, s. 5(b)).
- The Town may have a sole zoning district of less than 5 acres that is compliant with the unit capacity and density requirements if it is comprised of entirely contiguous lots. (Guidelines, s. 5(a))
- Units that count toward compliance may not have age or size restrictions, and they may not cap the number or size of bedrooms or the number of occupants. (Guidelines, s. 7)

By December 31, 2023, the Town must demonstrate compliance through a unit capacity count and GIS "shapefile" for the zoning district, using DHCD's electronic compliance model. DHCD's compliance model uses the Town Assessor's geospatial tax parcel data hosted by MassGIS and reflects any excluded land area and local regulatory and dimensional features that impact unit capacity. (Guidelines, s. 9, App. 2) The Town must also provide proof that, at a minimum, the Town Clerk has submitted the zoning district to the Attorney General for approval, and it must provide a certified copy of the Town's Zoning By-Law.

Following compliance, the Town must continue to notify DHCD of any proposed or enacted zoning change affecting the multi-family housing district, and of any local rule that limits multi-family housing development within it. The Guidelines list a host of factors that could prompt DHCD to rescind the determination of compliance, including zoning action that "materially alters" the zoning district's land area or unit capacity. (Guidelines, s. 10)

B. Town's Recent Compliance Steps

Please see the Town's website for a more complete description of Town staff's and volunteer board's work related to achieving MBTACA compliance to date.

Briefly, in late 2022, the Planning Department released its initial compliance proposal that focuses on the Harvard St. area with form-based zoning. In January 2023, some members of the community voiced written concerns to the Select Board about an MBTACA compliance approach that focused on Harvard St.

In April, the Planning Department is holding/has held three public meetings to educate the public about the MBTACA requirements and to seek public input and discussion about alternatives to the Harvard St. proposal, with recordings and slides posted on the Town website. The Planning Department is to report back to the Select Board about these discussions at the Select Board's April 28, 2023, meeting. On March 28, 2023, the Select Board wrote to DHCD asking for certain clarifications about and changes to the Guidelines, and asking for a phased-in and extended timeline for compliance through the end of 2026.

On April 18, 2023, the Select Board appointed a committee charged with reviewing alternatives to the Planning Department's Harvard St. proposal. The Select Board committee members include Article 24 Co-Petitioners Richard Benka (as Chair) and Linda Olson Pehlke. For further information, see the Select Board's April 18, 2023, charge and slate.

C. The Housing Choice Act and Simple Majority Zoning Bylaw Approval

Section 19 of same 2021 legislation that enacted the MBTACA, which is separately known as the "Housing Choice" act, amended Section 5 of Chapter 40A to provide for Town Meeting approval of a zoning bylaw by a **simple majority** in certain circumstances.

As amended by the Housing Choice act, Section 5 now allows for simple majority approval where a zoning provision permits specified housing by right, including:

- "multi-family housing" (see above definition) or mixed use (defined as residential and non-residential uses in the same development) in "eligible locations", and
- accessory dwelling units.

State guidance under the Housing Choice legislation defines "eligible locations" to presumptively, but not exclusively, include areas within 0,.5 miles of a transit station. The State's website on the Housing Choice legislation describes a mechanism for a community to seek an advisory opinion on "eligible locations" and provides a detailed guidance document on the Housing Choice act.

Section 5 also now allows for simple majority approval for certain other zoning by-law measures allowed by special permit, including reductions in the amount of required parking for housing or mixed-use development.

Section 5 contains an important caveat to the above, namely, that a zoning provision that "requires a simple majority vote shall not be combined with [a provision] that requires a two-thirds majority vote."

Discussion

At the April 10, 2022, Subcommittee's hearing/meeting, several of the Co-Petitioners explained the reasons for Article 24. Some of their major points were that Harvard St. is a poor choice for MBTACA compliance because it is a commercial corridor and the DHCD guidelines do not permit zoning rules requiring ground floor retail. They expressed concern that zoning rules that permit construction of buildings without ground floor retail could threaten existing businesses and inhibit the corridor's economic vitality. Planning Director Kara Brewton did not express a view of Article 24, except to add that the State is willing to pre-review (before Town Meeting) a proposal, but that it must have received Select Board sign off. (For a more complete account of the Co-

Petitioners' remarks and of the hearing, please see the Subcommittee's report to the full Advisory Committee.)

The full Advisory Committee's April 20, 2022, meeting included a discussion with Co-Petitioners Linda Olson Pehlke and Neil Gordon concerning whether the Co-Petitioners intended to move Article 24, given the Select Board's creation of an "alternatives" committee and Co-Petitioner Pehlke's participation in it (along with Co-Petitioner Richard Benka, Chair).

Co-Petitioner Gordon said that a Moderator's Committee could be redundant of the Select Board committee. He added that had the Moderator appointed the slate of individuals who are on the Select Board committee, the Co-Petitioners would have been happy with the membership. He said that the Co-Petitioners are happy with the Select Board's charge.

Co-Petitioner Pehlke said that she is not sure that all of the Co-Petitioners would agree with Mr. Gordon. She said that she had a slight concern about a comment she heard from the Town Administrator that seemed to contemplate that just one proposal would come out of the Select Board committee, when the Co-Petitioners envisioned the possibility of more than one. She agreed that there was no need for redundant efforts, but given the uncertainties, she could not say with certainty that none of the Co-Petitioners would want to move the Article. Mr. Gordon added that a non-Petitioner would also be free to move the Article.

In response to a committee member's question, Planning Director Brewton stated that the Town will be able to change the MBTACA zoning that Town Meeting approves in the fall, so long as the Town's zoning remains compliant. She also expects DHCD to modify its guidelines over time, as it has with other new laws. In response to another question, she said that the Housing Choice Act permits a majority Town Meeting vote when a zoning measure facilitates the creation of multi-family housing. Other types of zoning changes would require the usual two-thirds Town Meeting vote. Town Counsel will be consulted for advice on the quantum of the vote needed for any future proposed changes to the Town's MBTACA-compliant zoning bylaw.

Comments in support of the minority position favoring no action on Article 24 included the following:

- It would be counter-productive to have dueling committees.
- Expressed high satisfaction with the roster of the individuals appointed to the Select Board committee and the range of views they will represent.
- Town Meeting's role is to vote up or down the executive branch's proposal. Glad that the executive stepped up and addressed concerns by appointing a Select Board committee.

Comments in support of the majority position for favorable action on Article 24 included:

- Expressed unhappiness with some of the individuals appointed to the Select Board committee.
- The Town Administrator attempted an end run to avoid a Town Meeting discussion by trying to make it moot. The Article should go to Town Meeting for its consideration and discussion.
- The executive was attempting to cut Town Meeting out of the discussion, which is not appropriate given the many interests at stake.

The recording of the Advisory Committee's April 20, 2023, 7 pm meeting and vote can be found here: Advisory Committee Hearing and Meeting - Zoom (zoomgov.com).

Meeting materials, including the Subcommittee's report to the full Advisory Committee (on Land Use, Zoning and Sustainability) detailing its April 10, 2023, public hearing and Q&A with the Co-Petitioners, can be found here.

Recommendation

By a vote of 11-6 with 4 abstentions, the Advisory Committee voted FAVORABLE ACTION on Article 24.

ARTICLE 24 ADVISORY COMMITTEE VOTES

Article Description	**MBTACA Resolution**
AC recommendation (Favorable Action unless indicated)	**11-6-4**
Ben Birnbaum	N
Harry Bohrs	N
Cliff Brown	
Patty Correa	N
John Doggett	Y
Katherine Florio	
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	A
Susan Granoff	A
Kelly Hardebeck	
Amy Hummel	Y
Anita Johnson	N
Alisa Jonas	Y
Janice Kahn	Y

Pam Lodish	Y
Joslin Murphy	Y
Donelle O'Neal, Sr.	Y
Linda Olson Pehlke	Y
Markus Penzel	N
David Pollak	N
Stephen Reeders	A
Carlos Ridruejo	
Lee Selwyn	Y
Alok Somani	A
Carolyn Thall	
Christine Westphal	
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

XXX

ARTICLE 24

MOTION OFFERED BY THE PETITIONER

Voted that the Town adopt the following Resolution:

WHEREAS, the Massachusetts Department of Housing and Community Development ("DHCD") has enacted guidelines that impose a December 31, 2023, compliance deadline for MBTA "Rapid Transit" communities such as Brookline to present zoning plans complying with the so-called "MBTA Communities Act" ("MBTA-CA"), G.L. ch. 40A, § 3A, as determined by application of a DHCD "Compliance Model; and

WHEREAS, Brookline's Planning and Community Development Department ("Planning Department") developed a strategy that would involve substantial rezoning of a 48-acre district centered on the town's commercial and residential Harvard Street corridor, as well as neighboring streets; and

WHEREAS, the Harvard Street corridor strategy of complying with DHCD guidelines presumes the elimination of parking minimums for new development along Harvard Street, and the elimination of any requirement for commercial or other publicly accessible space including, in particular, on the first floor; and

WHEREAS, these factors could threaten existing businesses, commercial vitality and existing moderately priced housing, and

WHEREAS, the Harvard Street corridor strategy is focused solely on pursuing MBTA-CA compliance with the single 48-acre zoning district; and

WHEREAS, utilizing multiple areas in town to comply with the MBTA-CA, including existing three-family and other multi-family districts or portions of other corridors, would not require the Town to impose changes on the Harvard Street corridor; and

NOW, THEREFORE, BE IT RESOLVED, that Town Meeting

A. Requests the Select Board and the Town's legislative delegation to continue efforts to seek appropriate modifications to the DHCD guidelines; and further

B. Requests the Select Board or any designee or designees to initiate or continue efforts to examine practical alternative means of complying with the MBTA-CA, while remaining mindful of the interest in protecting our vibrant commercial areas, our interest in complying with the policies embodied in the Act, and its interest in promoting an economically and otherwise diverse community; and further

D. Requests the Select Board continue to direct the Planning Department to provide staff support to the Select Board's Committee in analyzing options for MBTA-CA compliance, including without limitation applying the DHCD Compliance Model and developing appropriate site plan review standards.

PETITIONERS' SUPPLEMENTAL ARTICLE DESCRIPTION

The MBTA Community's Act (the "Act") does not require Brookline to rezone Harvard Street. It does not mandate letting developers replace, as of right, Harvard Street businesses with luxury housing. It does not prohibit building truly affordable and more-affordable housing on Harvard Street. Only the so-called "Harvard Street strategy," as has been proposed by the Planning Department, does that.

Yielding to no one in wanting a more diverse, affordable, and climate-sensitive community, Article 24 was petitioned in order to better achieve, among others, these objectives:

(i) protection of our Harvard Street business districts, clearly lacking if we adopt the Harvard Street strategy;
(ii) the production of more affordable housing, in transit-rich zones, than would be allowed by following the Harvard Street strategy; and
(iii) dispelling the myth that compliance with the Act requires adoption of the Harvard Street strategy.

No doubt in response to the filing of Article 24, and at the direct urging of Article 24's petitioners, the Select Board, subsequent to the closing of the Annual Town Meeting warrant, established the MBTA-CA Multifamily Permitting Committee (the "Committee"). In lieu of the Moderator's committee contemplated by Article 24, the Select Board has, smartly, accelerated a rational, deliberative Act-compliance process. The Select Board's Committee (which has, to date, met three times) is charged with identifying, developing, and analyzing potential options for complying with the Act, so that Town Meeting can be presented with credible and meaningful alternatives in considering how best to comply with the Act's requirements and guidelines. The Committee will also focus on developing potential options that could, but need not include, portions of the Harvard Street strategy study area. These potential options will:

(i) seek to minimize any adverse impact to commercial districts and existing businesses;
(ii) include at least one option likely to incentivize the creation of additional housing units that are suitable for all stages of life and income levels; and

(iii) take into consideration the location of additional housing relative to available capacity and proximity to open space, schools, amenities and other public infrastructure.

The Committee, with the support of the Planning and Community Development Department, will make recommendations to the Select Board on proposed solutions by July 14, 2023, sufficiently in advance of the closing of the warrant for Fall Town Meeting.

Much has changed since the warrant for this Annual Town Meeting closed, and the Resolution offered as petitioners' motion has changed, accordingly. Petitioners now ask only for the following:

(i) That the Select Board and the Town's legislative delegation continue efforts to seek appropriate modifications to the DHCD guidelines; and

(ii) That the Select Board or any designee or designees (i.e., the Committee), with staff support, initiate or continue efforts to examine practical alternative means of complying with the ACT, while remaining mindful of our interest in protecting our vibrant commercial areas, complying with the policies embodied in the Act, and promoting an economically and otherwise diverse community.

ARTICLE 25

TWENTY-FIFTH ARTICLE

Reports of Town Officers and Committees

Town of Brookline

PFAS Moderator's Committee

DRAFT Report

Submitted: May 17, 2023

Brookline, MA

Jesse Hefter
Anita Johnson
Alisa Jonas, Chair
John Pergantis
Clint Richmond
John Kleschinsky, Brookline DPH, Ex Officio

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Background

Warrant Article 22 of Brookline's Spring 2022 Town Meeting proposed a ban on the sale of those products that contain fluorinated hydrocarbons (PFAS) within certain categories of goods (personal care and cosmetics, foods packaged in bulk, non-stick cookware and fabric treatments, as well as any other PFAS-containing products identified by the Town's Select Board, to be specified in regulations. The warrant article was intended to mirror what many states are now doing to restrict PFAS, and to provide support for any legislation being considered at the state level in Massachusetts, with the overarching purpose of reducing the risk of exposure to people and the environment of this harmful chemical.

Each of the PFAS product categories encompasses many different products and product lines, and there is no requirement that the product labels identify whether a product contains PFAS. More frequently than not, the product packaging carries little or no information; and manufacturers, when contacted, do not always provide accurate information. Thus, Brookline's retailers, and particularly the smaller stores, would lack the ability to identify which of the many items for sale within these categories contain the prohibited chemicals. Moreover, Brookline's Department of Public Health and Human Services has limited staffing, which makes enforcement difficult to do properly, given the range of potentially banned products and the challenges in identifying them.

Sigalle Reiss, the Director of the Department of Public Health and Human Services, recommended that a first step might be to narrowly target products or businesses that expose people to the highest concentrations of fluorinated hydrocarbons. Another approach suggested by Reiss is to educate the public about the dangers of fluorinated hydrocarbons prior to implementing restrictions on the sale of products that include them.

Given the concerns about compliance and enforceability of the Warrant Article and the option of other approaches, Town Meeting voted to establish a Moderator's Committee to evaluate whether and if so, what types of restrictions are feasible to implement and enforce at the Town level. See the next section to read the Charge by the Moderator to the Moderator's Committee on PFAS. The 2022 Warrant Article 22 can be found in Appendix 1.

This preliminary report, which is being submitted to the Spring 2023 Town Meeting, is to be followed by a final report and possibly also a warrant article for the 2023 Fall Town Meeting.

Moderator's Charge

Article 22 of Brookline's May 2022 Annual Town Meeting sought to amend Article 8 of Brookline's Health and Public Safety By-Laws to restrict the sale and distribution of products containing fluorinated hydrocarbons or PFAS (Per- and Polyfluorinated Alkyl Substances) in Brookline, including:

- Over-the-counter cosmetic or personal care products
- Bulk packaged items, including food ware products
- New non-stick cookware
- Fabric-treatment products

Article 22 was referred to a Moderator's Committee (hereinafter the "PFAS Moderator's Committee") to determine whether it is possible to develop a workable and effective by-law restricting the sale and distribution of PFAS products in Brookline.

Issues to be considered by the PFAS Moderator's Committee shall include, but are not limited to, the following:

1. Given that product packaging does not always identify whether a product contains fluorinated hydrocarbons, what reasonable measures can be taken to identify non-labelled products?
2. Who should be responsible for identifying non-labelled products containing fluorinated hydrocarbons?
3. If restrictions on the sale and distribution of products containing fluorinated hydrocarbons are imposed, how should these restrictions be enforced and by whom?
4. Should penalties be imposed on entities that violate a Town bylaw restricting the sale or distribution of products containing fluorinated hydrocarbons? Who will monitor compliance and enforce penalties? How will this be funded?
5. What exemptions should be applied (e.g., for the food service industry) to any restrictions on the sale and distribution of products containing fluorinated hydrocarbons?

The PFAS Moderator's Committee shall prepare a Preliminary Report to Brookline Town Meeting by the May Annual 2023 Meeting summarizing its preliminary conclusions relating to possible restrictions on the sale and distribution of products

containing fluorinated hydrocarbons. It shall submit a Final Report to Town Meeting by the November 2023 Special Town Meeting containing its final conclusions and recommendations regarding possible restrictions on the sale and distribution of products containing fluorinated hydrocarbons in Brookline. In addition, if the Final Report recommends amendments to Town bylaws, the Final Report shall include one or more proposed warrant articles relating to these recommended amendments.

Kate Poverman
Brookline Town Moderator
August 28, 2022

What are PFAS chemicals?

Per- and poly-Fluoroalkyl Substances (PFAS), a class of thousands of human-made substances, contain at least one fully fluorinated methyl or methylene carbon atom (NIH, 2023). These subtances were first created in the 1930s and commercialized in the 1940s and 1950s. PFAS are often used to manufacture a broad spectrum of products to make them non-stick, water- and stain-resistant, and fire-retardant. According to the Agency for Toxic Substances and Disease Registry, PFAS are in a variety of consumer products including firefighting foam; fast food containers/wrappers; nonstick cookware; fabrics with stain resistant coatings that are often in carpeting and furniture; water resistant clothing; cleaning products; personal care; cosmetics; and paints (2021).

PFAS can enter the environment through production, waste streams and the air, and are very persistent in the environment. Because these chemicals persist and are water soluble, they can be found in contaminated drinking water and soil. Not only can PFAS enter the body by drinking contaminated water, but also by eating fish from contaminated bodies of water. They can also enter the body by inhalation and dermal exposure to products that contain PFAS (United States Environmental Protection Agency, 2021). Another area of exposure is to workers who manufacture or work with products containing PFAS (e.g., chemical manufacturers (Heydebreck, et al., 2016), firefighters (Rotander et al., 2015), and ski wax technicians (Freberg et al., 2010)).

Due to the strong bonds between the carbon and fluoirine atoms within PFAS chemicals, they break down very slowly, and it is this attribute that has made them so useful. But these strong bonds also result in their accumulation and persistence in the body and in our environment. For this reason, PFAS are often referred to as “forever chemicals.”

Bioaccumulation of PFAS within the human bloodstream has been associated with a number of adverse chronic health outcomes. Current research evidence suggests a high certainty of the association between PFAS exposure and delayed mammary gland development, reduced response to vaccines, low birth weights, thyroid disease, increased cholesterol levels or metabolic disease, liver damage, kidney cancer, and testicular cancer (CDC, 2023). Additionally, there is developing but inconclusive evidence that shows potential for PFAS exposure to be linked to obesity, early puberty onset, low sperm count and mobility, breast cancer, irritable bowel syndrome and ulcerative colitis (IBS), increased time to pregnancy, and pregnancy induced hypertension or preeclampsia (ATSDR, 2021).

Previously it was thought that only “long-chain” PFAS (those with higher numbers of carbon atoms) were harmful to the body. The most common of these, PFOA and PFOS, are no longer use in manufacturing in the United States – though they are still used in some other countries - and often replaced with “short-chain” PFAS, i.e., those with fewer carbon atoms. These PFAS compunds, termed “PFAS-light,” were thought to

be less harmful. Current research has shown, however, that these forms of PFAS are also harmful.

PFAS Products

There are a wide range of products on the market that contain organofluorine chemicals, also known as fluorinated hydrocarbons, a large subclass of which are known as PFAS. Example of fluorinated chemicals that are not generally considered a PFAS:

- Aerosol spray propellants (such as 1,1-Difluoroethane also known as hydrofluorocarbon-152a);
- Refrigerants used in refrigerators or air conditioners (such as Difluoromethane and Pentafluoroethane).

Fluorochemical products are used by all types of customers such as industrial, commercial/institutional, and consumer. There are two ways that PFAS chemicals end up in final products: either intentionally added, such as when waterproofing is desired; or unintentionally, such as contamination from manufacturing or packaging.

The Town departments, such as Schools Food Services, Public Buildings, and Public Works, are commercial product customers. Our charge has been for products available to individual consumers, especially those items that are sold by Brookline retailers. Consumer product categories that may use organofluorines include air conditioners, cosmetics, non-stick cookware, apparel treatments, lubricants, and sealants.

Whether or not PFAS is an ingredient of a product may or may not be provided by a manufacturer. When the information is provided, it would be in one of the following three forms:

- The ingredient list on the package.
- Safety data sheet (SDS - formerly MSDS). This applies mainly to potentially hazardous materials, usually liquids or sprays, that might be exposed to humans when applied or spilled.
- The PFAS is in the product name (for example, “Thread Sealant With PTFE”).

A PFAS chemical may be listed as an ingredient in either of two ways on the package or an SDS:

- a specific chemical (such as perfluorodecalin, PTFE or PCBTF).
- a chemical category is listed (usually with the prefix “fluoro-” as in “fluoro-resin”).

However, many if not most products that intentionally contain PFAS do not list it as an ingredient because the manufacturer wants to protect trade secrets or because the amounts are a very small percentage of the product's ingredients. Paints and paper products, for example, do not appear to list any fluorocarbons as an ingredient.

Identifying PFAS products will become easier as Maine implements its new statute that requires suppliers to publicly disclose all PFAS products. Maine intends to use a public database to list these products.

Products with intentionally added fluorinated chemicals can be used or sold by a variety of retail businesses. Stores and services providers that *use* PFAS products include food establishments and nail salons. Stores that *sell* products containing fluorinated chemicals include hardware stores, pharmacies, beauty salons, and locksmiths.

Appendix 2 lists some representative retail products that are available in Brookline stores or online.

DPH Initiatives

The Town of Brookline Department of Public Health and Human Services aims to limit resident's PFAS exposure through community education and consumer awareness. The Department is currently focused on making information on PFAS easily accessible in order to provide residents with the knowledge they need to make informed decisions about their health and how to limit their exposure. As part of its efforts, DPH has done the following:

- DPH has created a series of education content pieces that include flyers, videos, and social media infographics that are aimed to engage and educate a broad audience.
- DPH has launched a webpage on the Town website that contains PFAS information and resources, which is continuously developing.
- DPB is collaborating with local organizations and public health professionals to participate in information session webinars discussing PFAS and its potential harms. This allows for a more in-depth PFAS presentation where attendees are provided with expert answers to questions and concerns regarding PFAS, exposure, and health outcomes.
- DPH plans to work with the Economic Development Department to conduct a business survey. The findings will inform future PFAS education and outreach efforts through flyers and webinars cohosted by DPH and Economic Development.

Discussions with Town Departments

The Committee decided that it would be useful to address PFAS exposure in products used by the Town and whether there are actions that can be taken to lower such exposure in the future. We compiled a list of departments that would most likely have products that contain PFAS and we met with the following department heads and the Town Chief Procurement Officer, whose division does purchasing for several departments.

- John Sullivan, Chief, Fire Department
- Sasha Palmer, Director, School Food Services
- Charlie Simmons, Director, Public Buildings
- David Geanakakis, Chief Procurement Officer, Purchasing Division

The Committee hope to meet with some other departments, but these will not occur prior to submission of this Preliminary Report.

Presented below are some of the findings from our meetings, as well as information learned from a tour of some of the kitchens and storage areas used by the School Food Services. Appendix 4 provides the general list of questions we discussed. Recommendations derived from the discussions are presented in the Recommendations section of this report.

Fire Department

The products containing PFAS that have been most frequently regulated in other states are those used by fire departments. There are two major classes of products that use PFAS:

- Fire-fighting foam; and
- Personal protective gear.

Fire-fighting foam has included PFAS, as has the personal protective gear worn by firefighters. There are two types of foam – Class A and Class B. Class A foam is used to fight most fires that occur in Brookline. It contains a detergent-like substance that makes water better able to penetrate combustible material. This foam has not contained PFAS. Class B foam is used for hydrocarbon fires, which are combustible liquid fires,

such as those involving flammable petroleum products, and are most frequently used at highway and airport fires. These products do not mix with water and so require a different mechanism to extinguish the fire. For this reason, Class B foam has had PFAS as an ingredient, allowing the foam to smother a fire. Since the early 2000's, fire departments have switched from PFOA and PFOS to different types of PFAS (sometimes called "PFAS-light" foams), but recent research indicates that these PFAS foams are also harmful.

Massachusetts has not provided any regulatory or statutory restriction on the use of PFAS, either in foams or in personal protective gear, and to date there is no personal protective gear without PFAS that meets standards for safe use in fire-fighting situations, although non-PFAS Class B foams are available.

The firefighting industry has been working hard to create alternative protective clothing, and as soon as they become available, Chief Sullivan will work to replace the current PFAS-containing gear. To do so, however, will be costly – the estimated to cost is $7,000 per firefighter. In the meantime, modifications have been implemented to reduce the possible exposure to PFAS. Firefighters no longer wear their PFAS-containing gear when they are responding to EMT calls, and when firefighters return from a fire, their gear is washed in an extractor, whereas in the past, such gear would not have been washed. Firefighters then take long showers to remove the hazardous contaminants from their bodies, of. which PFAS is only one. The showers in the current fire stations, however, have porous floors in which PFAS molecules can be trapped. This will no longer be the case in the new stations. An additional problem from the perspective of overall contamination is that the contaminated water from the extractors and showers goes directly into the sewer system.

The Class B foam used by the department has contained PFAS. It is very infrequent, however, that firefighters will be called to a Class B fire. In the past 30 years, there were apparently only two such fires. PFAS-containing foam had been used for training purposes on a regular basis, but this is no longer the case. Although it has not been used for training for several years, it is possible that the soil near the training facility may be contaminated. The soil has not been tested to determine whether this is the case.

Following the Committee's meeting with Chief Sullivan, he was able to locate some funding in his budget to enable the purchase of Class B foam that is PFAS-free. This means that firefighters will no longer use PFAS-containing foams for any purpose. The legacy PFAS foam nonetheless must still be stored by the fire department, the cost of disposing of it is expensive. Moreover, according to Chief Sullivan, the only facility to which PFAS foam can be sent to have it destroyed is located in Canada, and there is

huge demand for its services. The Town, like others in Massachusetts, is hoping that the federal government will enact legislation to again fund disposal by municipalities.

Brookline Public Schools Food Services

Food preparation, storage and serving all can benefit from the attributes of PFAS that have made the chemical so popular, in particular, flame retardance, water and grease resistance, and surfactant qualities. This has meant that many products used in food services contain PFAS. BPS Food Services (FS) has worked hard to minimize the use of such products for such purposes, working together with both Mothers Out Front and environmental student organizations. FS has also recently obtained a one-year grant for a sustainability coordinator to implement sustainability goals, including maximizing the use of compostable and reusable products.

All baking and cooking, apart from pizza provided to one of our schools, is done in-house, and the cookware is almost all made of stainless steel or aluminum. This has meant that we do not have to be concerned with the packaging of food prepared elsewhere, apart from the one school's pizza delivery containers. Pan liners made of parchment are used for cooking and baking, and the Director thinks that they are PFAS-free, but she will have to confirm this.

During the period when COVID forced the Town to take extraordinary sanitary measures, reusable dishware and silverware were not used by FS. More recently, FS has been working hard to use only reusable dishes and silverware for food eaten in the cafeterias. To be able to use reusable dishware and silverware requires the availability of adequate dishwashers and the employment of enough kitchen staff to operate the dishwashers. FS obtained a grant to help purchase dishwashers, though Pierce still does not have a functioning one. The biggest challenge continues to be the hiring of staff to man the dishwashers.

In addition to serving meals that are eaten in the cafeterias, PBS FS offers "Grab and Go" food items. These are provided in recyclable or compostable containers. The Director has worked with Mothers Out Front to locate trays and dishes that are compostable. Many of them are certified compostable by the Biodegradable Products Institute (BP), which is the premier organization to certify compostability; but only those products that underwent the certification process starting on January 1, 2020 are also certified to be PFAS-free. We do not know which of the items currently in stock were certified after that date.

Most food storage containers are made of aluminum, though there are still some plastic storage containers being used. Some of these are recyclable and some are BPI-certified compostable, but as with Grab and Go products, we do not know which of those currently in stock were certified after January 1, 2020 and so certified PFAS-free. In addition, some storage containers are neither recyclable or compostable.

Cleaning products used by FS should all be PFAS-free, since all Town departments are required to purchase only those cleaning products that are Green Seal certified. Prior to June 2022, Green Seal standards prohibited all long-chain PFAS to be certified, but starting at that time, certified products have had to be free of all forms of PFAS, whether long or short chain.

The biggest obstacle for the Director in ensuring that all FS products are PFAS-free, as well as either reusable or compostable is the restriction on sourcing options. Brookline is in a consortium with 300 other school systems – the "Massachusetts Buying Group" and we must purchase products from vendors with which the consortium has contracts. Brookline appears to be ahead of many of the other municipalities in the consortium when it comes to seeking out sustainable products. With less demand by others for such products, finding such products is difficult and purchasing is costly. The Director is working to get more municipalities interested in obtaining such products.

The Director has identified a potential vendor in western Massachusetts who, she was informed, would be able to provide whatever types and quantities of BPI-certified products that our FS would request. The company is providing a demonstration of their work for Brookline, and the Director is inviting other school systems to attend.

Public Buildings Division of the Building Department

Public Buildings is responsible for the construction and maintenance of many of the Town's buildings, using products that likely have PFAS. The issue of PFAS, however, is a relatively new concern for the department, and has also not been a topic of discussion in the Director's meetings with corresponding departments in other municipalities. The Director contacted his colleagues in Wellesley and Newton, and neither have taken specific measures regarding PFAS.

The Town had been purchasing hand soap that contained PFAS. It was discovered from the Safety Data Sheet (SDS) form on the packaging of the soap, and so that soap has now been replaced by a non-PFAS containing soap.

In preparation for the meeting with the Committee, the Director contacted numerous suppliers to determine the extent to which PFAS is used in the construction and maintenance of our buildings. Cleanco, the cleaning supplies company used by the Town, may not yet be providing cleaning supplies that have up-to-date Green Seal certification and so may not necessarily be PFAS-free. This must still be determined, and if the certification for a product is not up to date and it does contain PFAS, replacements should be pursued. Floor wax and floor strippers have contained PFAS.

According to our paint supplier, none of the paint the Department purchases contain PFAS, including those paints from Sherwin Williams and Benjamin Moore. The supplier is based in California and so is aware of PFAS because of that State's recent legislation to ban many products that contain PFAS.

Some of the carpeting and flooring does contain PFAS, and our supplier will investigate the possibilities for PFAS-free carpeting.

Fire extinguishers are purchased for new buildings and replaced every 6-12 years. The Director reached out to Keene Fire and Safety, the company that provides the fire extinguishers for the Town to see whether any of the fire extinguishers provided to the Town, use PFAS-containing foams. At the time of the meeting, the information was not yet available, but subsequently the Director learned that none of the Town's fire extinguishers – whether in buildings or in garages – contain PFAS.

A variety of other construction and maintenance products may also have PFAS, for example, roofing and window coatings, about which the Committee does not yet have information.

The Department is starting to do some masonry work at Lincoln School. The Director will investigate whether the sealant used contains PFAS. He also will also inquire as to whether any of the flooring or carpeting being used for the Driscoll project contains PFAS. If so, we could use different products for new school projects. It was noted that the Town, in general, is using less carpeting and more hard flooring.

Harvard University has recently implemented a policy to prohibit the use of products containing PFAS as part of the construction and maintenance of the university's buildings. To comply with this new policy, Harvard's Building Department is purchasing custom-made products. The Director will find out which of the products Harvard is now purchasing and the associated cost, which will presumably be high for those products that are custom-made.

Purchasing Department

According to Dave Geanakakis, the Town's Chief Procurement Officer, in all likelihood, every one of the Town's departments is purchasing components containing PFAS, given the many purposes for which PFAS are useful, for example, in waterproofing. The biggest challenge to procuring products that are PFAS-free is the lack of information available to be able to identify which products do and do not contain PFAS. At the time of our meeting, Mr. Geanakakis had only discussed this issue with the Fire Chief. He pointed out that it is easy to find out information on whether firefighting foam and other fire-fighting equipment has PFAS, but this is not the case for other areas of purchasing.

To his knowledge, no municipality in the State has passed legislation to restrict the use of PFAS.

Mr. Geanakakis is aware of pending legislation at the State level to restrict the use of PFAS, and he, like other procurement officers in the State, are looking to this legislation to lead the way on the PFAS issue.

In the meantime, it was suggested that for those products that have an attached Safety Data Sheet (SDS), these could be examined to try to ascertain whether PFAS is an ingredient. It may not be obvious from the ingredients list on a product's SDS whether the product contains PFAS, but if certain components are listed, they likely would be PFAS. For example, any ingredient with "fluoro" as part of the name is most likely a PFAS chemical.

While Driscoll furniture purchases have already been done, Mr. Geanakakis suggested that he could contact WB Mason, the Town's local supplier of furniture to obtain some basic information and use that information to make purchasing decisions for Pierce School furniture, assuming the new Pierce School is approved.

Mr. Geanakakis has informed all the Town's suppliers of cleaning materials that they must be Green Seal certified to comply with our Town's by-laws. And now any company contracting with the State is no longer allowed to provide non-Green Seal certified products if they are available. Because Green Seal certified products need not have been PFAS-free until only recently, the Town would have to ask suppliers whether the Green Seal certification for individual products is a recent one.

Brookline purchases products in bulk together with other of the State's municipalities. If Brookline works together with other towns to request PFAS-free products, or if the State does so, that will encourage a change in production by manufacturers. With volume comes more power to ask for change in the types of components used. Mr. Geanakakis said he would bring this up in his quarterly meeting with other procurement officers.

The Committee learned that the town of Barnstable uses RFPs that ask for information about the inclusion of PFAS in its products. It was suggested that Brookline's procurement process incorporate the same practice when issuing RFPs.

Survey of Legislative Activities across the US

Awareness of the dangers of PFAS exposure have spurred many states over the last several years to enact legislation to reduce PFAS in products. Massachusetts has not yet passed any legislation in this area although bills have been submitted. There is a submitted bill in the 2023 legislative session that addresses PFAS exposure and management.

One of the most active states in addressing the PFAS exposure issue is Maine. The following paragraph is from the Maine Department of Environmental Protection (https://www.maine.gov/dep/spills/topics/pfas/PFAS-products/):

> In July 2021, Public Law c. 477, An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution (LD 1503, 130th Legislature) was enacted by the Maine Legislature. This new law requires manufacturers of products with intentionally added PFAS to report the intentionally added presence of PFAS in those products to the Department beginning January 1, 2023. The law also prohibits the sale of carpets or rugs, as well as the sale of fabric treatments that contain intentionally added PFAS beginning on January 1, 2023. Effective January 1, 2030, any product containing intentionally added PFAS may not be sold in Maine unless the use of PFAS in the product is specifically designated as a currently unavoidable use by the Department.

Among the key drivers in the PFAS effort in Maine are levels of these substances in drinking water, surface waters, agricultural sites, and landfills.

Among the sources of PFAS that many states, including Maine, have identified are firefighting foam, fabric and rug treatments, and some cosmetic and personal care products.

Although the Maine legislation was to have become effective on January 1, 2023, one-thousand nine-hundred (1,900) companies received an extension in December 2022. More information about the extension (and the full list of companies) is provided here (https://www.mainepublic.org/environment-and-outdoors/2023-01-03/maine-has-given-hundreds-of-companies-more-time-to-report-pfas-in-products).

The US Environmental Protection Agency maintains a listing of what states are doing to manage and mitigate the effects of PFAS. The informational link is provided here (https://www.epa.gov/pfas/us-state-resources-about-pfas). At the current time, there are twenty (20) states listed that have passed PFAS legislation of some type.

A website provided by UL Solutions (formerly Underwriter's Laboratories) provides a list of twenty-two (22) states with some PFAS legislation (Massachusetts is absent). The table lists progress in these states in three (3) areas:

- Use of Class B firefighting foam for training or testing
- Use of Class B firefighting foam for real use
- Food packaging

Note: Class B firefighting foam is used for ignitable liquids including gasoline, oil, and other petroleum-based spills. The Michigan PFAS Action Response Team (https://www.michigan.gov/pfasresponse/investigations/firefighting-foam) provides an excellent resource on PFAS and firefighting foams.

The states with legislation passed for all three areas include CO, HI, MD, NY, VT, and WA. The earliest legislation (for Class B firefighting foam used for training) became effective in 2018 in WA.

A summary of PFAS legislation across the United States:

California

Effective January 1, 2023, restricts the distribution, sale, or offer for sale of PFAS-containing food packaging (Assembly Bill 1200 - https://legiscan.com/CA/text/AB1200/id/2435956). The bill would require a manufacturer to use the least toxic alternative when replacing regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS in food packaging to comply with this requirement. The bill would define "food packaging," in part, to mean a nondurable package, packaging component, or food service ware that is composed, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers. "Food packaging" means a nondurable package, packaging component, or food service ware that is intended to contain, serve, store, handle, protect, or market food, foodstuffs, or beverages, and is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers. "Food packaging" includes food or beverage containers, take-out food containers, unit product boxes, liners, wrappers,

serving vessels, eating utensils, straws, food boxes, and disposable plates, bowls, or trays.

This bill would require, beginning January 1, 2024, a manufacturer, as defined, of cookware, as defined, sold in the state that contains one or more intentionally added chemicals, as defined, present on a designated list, as defined, in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages to list the presence of those chemicals on the product label, as defined, and include a statement on the product label and on the product listing for online sales, in both English and Spanish, regarding how a consumer can obtain more information about the chemicals in the cookware, as provided.

Further, as of January 1, 2025, the manufacture, sale, delivery, hold, or offer for same of any cosmetic product that contains intentionally-added PFAS ingredients will be prohibited (except under specified circumstances).

Colorado

House Bill 22-1345 (https://leg.colorado.gov/bills/hb22-1345) deals with the distribution, sale, or offer for sale of food packaging and juvenile products (the legislation lists 25 product categories), oil and gas products, carpets or rugs, and fabric treatments containing intentionally-added PFAS ingredients. These restrictions become effective as of January 1, 2024.
Further, as of January 1, 2025, cosmetics, indoor textile furnishings, and indoors upholstered furniture with intentionally-added PFAS chemicals become prohibited. An exception for medical offices was included for the indoor upholstered furniture. Outdoor textile furnishings and outdoor upholstered furniture become prohibited as of January 1, 2027.

Connecticut

Based upon Public Act 21-191, effective December 21, 2023, no food packaging to which PFAS has been intentionally introduced during manufacturing or distribution shall be offered for sale or used for promotional purposes.

Hawaii

Based upon BH 1644 and effective July 1, 2022, the bill bans the manufacture, sale, or distribution for sale of certain food containers (wraps and liners, plates, food boats,

pizza boxes) and firefighting foams that contain perfluoroalkyl and polyfluoroalkyl substances, in certain circumstances.

Maryland

Effective January 1, 2024, based upon House Bill 275, prohibits a person from manufacturing, selling, or distributing rugs or carpets that contain intentionally added PFAS; a manufacturer or distributor from manufacturing, selling, or distributing food packaging that contain intentionally added PFA intended and that will have direct food contact, and Personal Protective Equipment (PPE) containing PFAS that is sold in the state, the seller must provide written notice to the purchaser at the time of the sale that the personal protective equipment contains pfas chemicals; and the reason for the PFAS being contained in the equipment.

House Bill 642, effective January 1, 2025, would prohibit a person from knowingly manufacturing, selling, delivering, holding a cosmetic product that contains itemized types of PFAS; providing that a person is not in violation of the Act if the cosmetic includes a technically unavoidable trace quantity of a prohibited chemical. The Act is to be construed in a manner that is consistent with the prohibition of the same intentionally added ingredients in cosmetics enacted by the European Union under European Parliament and Council Regulation No. 1223/2009.

Minnesota

Law S.F. 73 would prohibit packaging for cannabis flower, cannabinoid products, and hemp-derived consumer products from containing or being coated with any PFAS.

Law H.F. 359, enacted in 2019, would ban the manufacture and sale of halogenated, phosphorus-based, nitrogen-based, and nanoscale flame retardants in residential upholstered furniture, children's products, and residential and business textiles. The legislation also prohibits the manufacture and sale of PFAS-containing firefighting foam.

On May 9, 2023, AP News reported that Minnesota is preparing for a near-total ban on non-essential uses of “forever chemicals”. Amara’s Law” (named for a young woman who developed liver cancer (partly due to toxic drinking water and died just shy of her 21st birthday) will “allow only limited exceptions to the ban, such as firefighting foam used at airports and oil refineries and in protective clothing for firefighters. It also will require companies to disclose if the products they sell in Minnesota contain the chemicals. The ban would take effect in 2025 for a long list of products including carpets, cleaning products, cookware, cosmetics, dental floss, fabrics and fabric

treatments, furniture, products for children, menstruation products and ski wax." (https://apnews.com/article/minnesota-legislature-environment-pfas-cancer-7a194069979e3b91a45afd37849a5521)

Nevada

Assembly Bill #97, as amended by Amendment 497 and effective as of July 1, 2022, prohibits , with certain exceptions, the knowing manufacture, sale, or distribution for use of the following products containing any flame-retardant organohalogenated chemical in any product component in amounts greater than 1,000 parts per million:

- Children's products
- Upholstered residential furniture
- Residential or business textiles
- Mattresses

New Hampshire

Legislations including rulemaking Nos. He-P 2101.01, He-P 2102.02, He-P 2102.5, He-P 2107.01 would require bottled water manufacturers to report PFAS levels, among other chemicals, in water when applying for or renewing beverage licenses, based on standards under federal regulations.

New York

Based upon the following legislation: Food Packaging (12/31/2022) - Senate Bill S8817, this bill would ban the entire class of PFAS chemicals from food packaging containers used in New York. Washington State signed similar legislation into law in April 2018. Further, no person shall distribute, sell or offer for sale in this state food packaging containing perfluoroalkyl and polyfluoroalkyl (pfas) substances as intentionally added chemicals.

Rhode Island

Based upon S.2044/H.7438, the sale or promotional distribution of any food package containing perfluoroalkyl and polyfluoroalkyl substances (PFAS) is prohibited effective January 1, 2024. Further, effective January 1, 2024, no food package to which PFAS have been intentionally introduced during manufacturing or distribution in any amount shall be offered for sale or for promotional purposes by its manufacturer or distributor in the state. There shall be no detectable PFAS in any food package or food packaging component.

Vermont

Effective October 1,2023, based upon Chapter 33B and 33C of Act Number 36, a manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package to which PFAS chemicals have been intentionally added and are present in any amount: Chapter 33b. PFAS in rugs, carpets, and aftermarket stain and water resistant treatments, Chapter 33c. PFAS in ski wax.

Washington

Food packaging, based upon Law 70A.222.070, effective January 1, 2022 would initiate the prohibition to control the manufacture, sale, or distribution of certain food packaging. The planned process is for the Department of Ecology to research safer alternatives followed by publication of findings, followed by a Report to the legislature that would then lead to the development of prohibition effective dates contingent on findings.

Legislation under Consideration in Massachusetts

Senator Julian Cyr (D-Cape and Islands) and Representative Kate Hogan (D-3rd Middlesex - Bolton, Hudson, Maynard, Stow) co-chaired a state PFAS Task Force (https://budget.digital.mass.gov/summary/fy21/outside-section/section-98-pfas-task-force). In 2022, the PFAS Interagency Task Force released a report with 30 recommendations in the areas of:

- funding PFAS detection and remediation,
- supporting environmental justice communities,
- phasing out PFAS from consumer goods,
- expanding the regulation of PFAS,
- encouraging private well PFAS testing and remediation,
- supporting firefighters and fire departments,
- addressing accountability for PFAS contamination, and
- enhancing public awareness of PFAS (2022).

Senator Cyr and Representative Hogan are sponsoring a bill: An Act to Protect Massachusetts Public Health from PFAS, S. 1356 / H.2197, that is based in part on the work of the PFAS Task Force. The bill is summarized by the Massachusetts Breast Cancer Coalition (https://mbcc.org/pfas-an-act-to-protect-massachusetts-public-health-from-pfas/) as follows:

"Toxic per- and polyfluoroalkyl substances (PFAS) are widely used in consumer products and industrial applications. These substances are in the blood of almost every American tested and are in Massachusetts water, soil, and wildlife. This bill:

- Phases out PFAS in all products by 2030,
- Sets an earlier deadline (January 1, 2026) for the elimination of PFAS in food packaging, children's products, fabric treatments, carpets and rugs, upholstered furniture, personal care products, cookware, and firefighters' personal protective equipment,
- Establishes a PFAS Remediation Trust Fund to help communities address PFAS contamination in soil, groundwater, and drinking water,
- Directs the Department of Environmental Protection (DEP) to restrict industrial releases of PFAS,
- Limits certain uses of PFAS-containing firefighting foam."

The bill has been referred to the Joint Committee on Public Health and is awaiting a hearing (as of May 15, 2023).

Some other states also have proposed legislation, and the remainder may be waiting for federal guidelines or legislation.

Recommendations

The Town can consider addressing PFAS reduction through the following methods:

- Town Purchasing
- Education and Outreach
- Town regulation of Sales

Purchasing by Town Departments

Fire Department

- Monitor for approval of PFAS-free firefighting gear. Once approved, funding will be needed to replace the old gear containing PFAS.

- Monitor for state-funded programs to remove old PFAS-contaminated foam currently stored by our fire department; and/or monitor for more reasonably priced options for the Town itself to eliminate this stored foam than is currently available.

- Evaluate soil near the training site on Hammond Street to determine the current extent of PFAS contamination, and if warranted, remove the contaminated soil. (Such a project would not necessarily be under Fire Department purview.)

Schools Food Services

- Check to what extent the BPI-certified compostable products currently used by FS were certified after 2019, which is when BPI started requiring products to be PFAS-free to qualify for certification.

- Ensure that the still-to-be-hired Sustainability Coordinator is well-informed about PFAS and include as part of their responsibilities the review all products used by FS to determine which might have PFAS and could be replaced by PFAS-free products and the research regarding sources that can provide such products.

- Continue to work with FS in other communities within our consortium to use vendors that can provide compostable and PFAS-free products.

- Determine which of the plastic storage containers contain PFAS and whether the parchment used as pan liners and the paper trays used by FS are PFAS-free.

- Determine whether the uniforms worn by kitchen staff have PFAS as an ingredient, and if so whether it is possible to obtain PFAS-free uniforms that meet safety requirements from the perspective of fire-retardancy.

- Replace any black plastic serving spoons with stainless steel.

Public Buildings

- Follow up on Harvard University's implementation of its PFAS-free policy for the construction and maintenance of its buildings.

- Follow-up with CleanCo, which supplies cleaning products to the Building Department, to determine which products have been Green-Seal certified under the more recent certification standards, and if not, to provide alternative Green Seal certified products if they are available.

- Work with the Purchasing Division, the BPS Buildings director, and the Director of the Town's Sustainability Office to determine which products used in the construction and maintenance of buildings and furniture contain PFAS (e.g., flooring types, furniture, cleaning supplies, sealants, wax, roofing, window coatings, etc.) and investigate alternatives. Consider the use of non-fluorinated refrigerants where available.

Purchasing Division

- Meet with other departments to educate them about PFAS and work together to find ways to minimize the purchasing of products containing PFAS.

- Follow up on contacting suppliers of furniture purchased recently by the Town to ascertain which have PFAS and whether there are PFAS-free alternatives for future purchases.

- Follow up on discussing PFAS-free purchasing with other municipalities at the quarterly meetings of municipal Procurement Officers, and work with colleagues

in those communities that are also interested in PFAS-free purchasing, such as Newton, Cambridge, and Somerville.

- Include language in municipal purchasing documents to request PFAS-free products.

Education and Outreach

Department of Public Health

- Provide training to Town Department staff regarding PFAS chemicals, their possible use in products currently used by different departments, and options for alternative products.
- Support other town departments in identifying PFAS-free products.
- Provide training, possibly in coordination with the Planning Department, to sellers and service providers on PFAS, including the means of identifying products containing PFAS and resources for the wholesale purchase of PFAS-free equivalent products (e.g., toxicfreefuture.org, which provides guidance for retailers).
- Continue to share updated factsheets for consumers that provide resources (e.g., websites such as greensciencepolicy.org) to help consumers in their purchasing decisions.

Restrictions on Sales of Consumer Products that Contain PFAS

To provide guidance on the most appropriate proposal for a future Warrant Article that restricts sales of consumer products containing PFAS in Brookline, the Committee researched what other states have done. The Committee was interested in surveying what other communities have done, but to date we have not found any activity underway at the local level. The Committee also has looked at websites and databases that could help identify which products might be sensible to ban, and we have asked for recommendations from others, including the Office of State Representative Kate Hogan, which has filed the current state legislation that would require a broad restriction on products that contain PFAS. The Committee is still deciding, based on its research, whether to recommend a Warrant Article, and if so, which restrictions should be included.

Appendices

Appendix 1 - Warrant Article 22 of the Spring 2022 Town Meeting

ARTICLE 22
TWENTY-SECOND ARTICLE

Submitted by: Clint Richmond TMM6, Claire Stampfer, Deane Coady

To see if the Town will amend the General Bylaws by adding the following Article:

ARTICLE 8.X FLUORINATED CHEMICALS REDUCTION BY-LAW

ARTICLE 8.X.1 DEFINITIONS

Bulk packaging: Packages of more than one of the same item.

Fabric treatment: a substance usually liquid applied by a consumer to fabric, carpets, rugs, shoes or textiles to impart characteristics, including, but not limited to, stain resistance or water resistance.

Fluorinated hydrocarbons: chemicals that contain fluorine and carbon. These include certain propellants (such as 1,1-Difluoroethane also known as hydrofluorocarbon-152a) and PFAS.

PFAS: Per- and Polyfluorinated Alkyl Substances, a large class of synthetic industrial chemicals defined as containing at least one fully fluorinated carbon atom. PFAS are a subset of fluorinated hydrocarbons.

ARTICLE 8.X.2 RESTRICTIONS

(a) No retailer shall sell or distribute:

(1) Over-the-counter cosmetic or personal care products to which fluorinated hydrocarbons have been intentionally added in any amount.

(2) Food ware products packaged in bulk to which fluorinated hydrocarbons have been intentionally added in any amount. Any fiber or plastic product marketed as Compostable must be certified by the Biodegradable Product Institute.

(3) New non-stick cookware that contain fluorinated hydrocarbons.

(4) Fabric treatment products that contain fluorinated hydrocarbons.

(b) No retailer shall sell or distribute any products containing fluorinated hydrocarbons as may be identified in regulations promulgated by the Select Board to further the purposes of this Bylaw, following a duly noticed public hearing.

ARTICLE 8.X.3 EXCLUSIONS

(a) This by-law does not regulate prescription products. May 24, 2022 Annual Town Meeting 22-2

(b) This by-law does not apply to businesses that are primarily service businesses such as restaurants, medical and dental offices, and hair and nail salons.

ARTICLE 8.X.4 ENFORCEMENT

The Brookline Department of Public Health shall be responsible for enforcement and any regulation. This by-law shall not be enforced prior to January 1, 2023.

ARTICLE 8.X.5 SEVERABILITY

If any provision(s) of this article is held to be invalid, such provision(s) shall be severable and the remaining sections shall be valid. And amend section 10.2 PROSECUTIONS AND ENFORCEMENT as follows:

DIRECTOR OF HEALTH & HUMAN SERVICES
Part VIII-Public Health & Safety
Articles 8.1, 8.2, 8.3, 8.4, 8.6, 8.7, 8.8, 8.9, 8.10,8.11, 8.12,8.13, 8.14, 8.15, 8.16, 8.22, 8.23, 8.32, 8.37, 8.38

By adding this article number to the list of Articles following “8.38”.

And amend section 10.3 NON-CRIMINAL DISPOSITION to include the following enforcement schedule:

ARTICLE 8.X FLUORINATED CHEMICALS REDUCTION BY-LAW

Per product:

Initial Violation Warning
First Offense $50.00
Second and Subsequent $100.00

or act on anything relative thereto.

[For more information and analyses, refer to Spring 2022 Town Meeting Combined Reports.]

Appendix 2 - Consumer Products with PFAS Identified by the Committee

Manufacturer	Product Name	Fluorinated ingredient	Retailer
SC Johnson	*Kiwi/Meltonian Suede & Nubuck Cleaner Aerosol-US*	PCBTF (1-Chloro-4 (Trifluoromethyl)-Benzene)	Walgreens
SC Johnson	*KIWI® SHOE POLISH*	PCTBF	
Swift Response	*FLEX SEAL CLEAR*	PCTBF	CVS
KEEPDRY	*Water + Stain Repellent Spray*	Fluoro-resin	
3M	*Fabric Water Shield*	Fluorochemical Urethane	
Finish Line	*Extreme Fluoro Grease Syringe*	"Mixture" of DuPont fluorinated ingredients including PFPAE (perfluoropolyalkylether)	
DuPont	*Easy Entry Lock Lubricant with Teflon Fluoropolymer with Rust Protection*	Teflon	Brookline Lock
Sandstrom Products	*Poxylube CP-200*	Fluorotelomer	
Permatex	*THREAD SEALANT WITH PTFE*	PTFE	O'Reilly's Auto Parts (Watertown)

LOCTITE	*PTFE Thread Sealing Tape*	PTFE	
Scott's Liquid Gold Inc.	*Scott's Liquid Gold Floor Restore*	Fluorosurfactant	Amazon, Walmart
Zep, Inc.	*Zep Stain Resistant Floor Sealer*	Fluorosurfactant	
Betco	*Hard As Nails® Floor Finish*	Partially fluorinated alcohol surfactant	Amazon, Lowes, Office Depot
Pixi	*Pixi Endless Silky Eye Pen*	Perfluorononyl Dimethicone	Walgreens
Cremo	*Concentrated Shave Cream*	Perfluorodecalin	Walgreens, CVS
Thriving Brands	*Right Guard FRESH*	Difluoroethane (Hydrofluorocarbon 152A)	CVS

Appendix 3 - General Questions regarding PFAS Usage Shared and Discussed with Town Department Heads

- Which products or product categories purchased by the Department may contain PFAS?
- Are you aware of any products used in the Department that do contain PFAS?
- Have any changes been made in the Department's purchasing to reduce PFAS-containing products?
- If so, have you found any tools to identify alternative products?
- Has there been any discussion within the Department or with other departments re how to reduce purchases of PFAS-containing products?
- Are you aware of any steps taken in other communities to reduce the use of PFAS-containing products for the purposes they are used in Brookline?
- Has the issue come up in your discussions with your colleagues in other communities?

Appendix 4 - Department of Public Health Fact Sheet on PFAS

TOWN OF BROOKLINE
DEPARTMENT OF PUBLIC HEALTH

11 Pierce Street, Brookline, Massachusetts, 02445
Telephone: (617) 730-2300 Facsimile: (617) 730-2296
Website: www.brooklinema.gov/health

Sigalle Reiss, MPH, RS/REHS
Director of Public Health
& Human Services

PFAS FACT SHEET

BACKGROUND

Per- and polyfluoroalkyl substances (PFAS) are a group of extremely persistent human-made chemical substances. Due to their inability to easily break down in the environment, they are often referred to as "forever chemicals". As a result, levels of PFAS are commonly found in our water and our bloodstreams. Exposure to PFAS may occur through a variety of consumer products and have been associated with several adverse health outcomes.

EXPOSURE

It is possible to be exposed to PFAS through a variety of everyday PFAS containing consumer products. Some common sources of exposure are:

- Cosmetic and personal care products (makeup, shampoo, soaps, dental floss etc.)
- Non-stick cookware (Teflon)
- Grease resistant food packaging (to-go containers, fast food wrappers, pizza boxes, etc.)
- Waterproof and stain resistant fabrics
- Paints
- **Water supplies**–*PFAS easily enters and accumulates in our water supplies when we rinse our faces of PFAS containing cosmetics, wash PFAS containing non-stick cookware, or wash PFAS containing fabrics. Because of this, exposure to PFAS through water ingestion is extremely common.*

HEALTH RISKS

There is no proven safe level of PFAS. Laboratory testing has provided evidence for several negative health outcomes associated with PFAS exposure including:

- Decreased liver function
- Increased cholesterol levels
- Altered immune function
- Interference with the body's natural hormones
- Hypertension during pregnancy
- Decrease response to vaccines among children
- Delayed puberty

WHAT YOU CAN DO

Some alternatives and suggestions for limiting everyday PFAS exposure include:

- Bringing your own reusable to-go containers (limit PFAS exposure while limiting your single-use waste!)
- Avoid Teflon-based nonstick cookware
- Pop your own popcorn over the stove or pop loose kernels in a covered bowl or paper bag in the microwave (PFAS coats the inside of popcorn bags!)
- Look for PFAS free brands for household items such as dental floss, cleaning products, shampoo, cosmetics, cookware, and kitchen appliances

Source DPH Fact Sheet:
https://www.brooklinema.gov/DocumentCenter/View/34221/Brookline-DPH-PFAS-fact-sheet-2022

Dear Town Meeting Colleagues: The Planning Process Study Committee is pleased to share our draft Request For Proposals for a comprehensive planning process with you. With just a few finishing touches remaining on the RFP and then the bid review and consultant selection processes to come, we anticipate a late Fall 2023 launch for the Comprehensive Planning process. The zoning reform process to immediately follow will be bid separately. I want to thank the Planning Department staff: Kara Brewton, Victor Panak and especially Emily DeHoog for all their hard work putting this together, along with all of the members of the PPSC Committee. Please see the PPSC webpage for Committee membership, meeting recordings and all other committee materials. https://www.brooklinema.gov/2483/Planning-Process-Study-Committee

Linda Olson Pehlke, TMM P17 and Chair, Planning Process Study Committee

This is the Request for Proposals draft as of 5-17-23 for the Town of Brookline's Comprehensive Plan.

Background (under construction)

The Town of Brookline's most recent Comprehensive Plan is the 2005-2015 Comprehensive Plan, approved in 2005. Although there has not been a Comprehensive Plan in eighteen years, the Town has produced many different plans and studies since the last Comprehensive Plan that include goals and recommendations that are still relevant and should be incorporated into the new Comprehensive Plan if consistent with community input. Previous planning documents should be integrated in background data and the plan recommendations. A contact for each plan/study/process will brief the selected consultant team so that key recommendations can be efficiently carried forward in the new Comprehensive Plan[1].

Climate and Sustainability

- Climate Vulnerability Assessment & Action Plan (2018)

Public Space & the Natural Environment (includes hazard mitigation)

- Open Space & Recreation Plan (2018)
- Brookline Urban Forest Climate Resiliency Master Plan (2021)
- Hazard Mitigation Plan (2015)
- Historic Districts [link]
- Neighborhoods [link]

Housing

- Housing Production Plan (2016, 2023)
- Community Development Block Grant (CDBG) Consolidated Plan (FY 2021-2025)

Infrastructure

- Department of Public Works Strategic Plan (2022-2023)

Economic Commercial Development

- Perspectives and Opportunities for Brookline's Commercial Areas (2018)

Transportation & Mobility

- Complete Streets Policy (2016)
- Route 9 East Visioning Study (2015)
- Brookline Green Routes Bicycle Network Plan (2022)
- Massachusetts Bay Transit Authority lines [link]
- Washington Street Complete Streets Plan/Study
- Bridle Path Plan/Study

Other

[1] See webpage X for list of background reports

- Community Major Parcel Study (2018)
- Strategic Asset Plan (2018)
- MBTA Communities Plan (ongoing)
- Boylston Street Corridor (ongoing)
- Community Preservation Act- Preservation Plan (ongoing)

Guiding Principles & Processes

The Plan should integrate the framework and organizing principles as identified by the American Planning Association's (APA) Sustaining Places Initiative (APA PAS Report 578 Sustaining Places: Best Practices for Comprehensive Plan"; January 2015). The consultant's process and product should reflect an understanding and incorporation of the key principles, processes, and attributes identified in Section 2 of the APA Report, with particular importance placed on the processes of Authentic Participation and Accountable Implementation and the principles of Livable Built Environment, Resilient Economy, and Interwoven Equity[2].

Required Principles for the Comprehensive Plan[3]:

1. **Livable Built Environment:** Ensure that all elements of the built environment, including land use, transportation, housing, energy, and infrastructure, work together to provide sustainable, green places for living, working, and recreation, with a high quality of life.

2. **Harmony with Nature:** Ensure that the contributions of natural resources to human well-being are explicitly recognized and valued and that maintaining their health is a primary objective.

3. **Resilient Economy:** Ensure that the community is prepared to deal with both positive and negative changes in its economic health and to initiate sustainable urban development and redevelopment strategies that foster green business growth and build reliance on local assets.

4. **Interwoven Equity:** Ensure fairness and equity in providing for the housing, services, health, safety, and livelihood needs of all citizens and groups.

5. **Healthy Community:** Ensure that public health needs are recognized and addressed through provisions for healthy foods, physical activity, access to recreation, health care, environmental justice, and safe neighborhoods.

6. **Responsible Regionalism:** Ensure that all local proposals account for, connect with, and support the plans of adjacent jurisdictions and the surrounding region.

Required Processes:

1. **Authentic Participation:** Ensure that the planning process actively involves all segments of the community in analyzing issues, generating visions, developing plans, and monitoring outcomes.

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[2] https://www.brooklinema.gov/DocumentCenter/View/36599/Sustaining-Places--Best-Practices-for-Comprehensive-Plans

[3] From SUSTAINING PLACES: BEST PRACTICES FOR COMPREHENSIVE PLANS

We define authentic participation to include:

a. Shared Vision for the Future
b. Dialogue to Balance Competing Goals
c. Plan for and protect public investments
d. Decision-making guidance
e. Effective Outreach and Consultation
    i. Framing questions for meaningful feedback
    ii. Sharing knowledge – data on existing conditions and trends
    iii. Collect and synthesize feed back
    iv. Utilize existing networks and build on them
    v. Go to where people are
    vi. Provide multiple ways to engage in a variety of mediums

2. **Accountable Implementation:** Ensure that responsibilities for carrying out the plan are clearly stated, along with metrics for evaluating progress in achieving desired outcome

Required Attributes:

To be effective, plans must be coherent and well presented, while articulating persuasive visions and clearly communicated goals and ideas. The following two attributes embody these traits:

1. **Consistent Content**
    a. Assess strengths, weaknesses, opportunities, and threats.
    b. Establish a fact base.
    c. Develop a vision of the future.
    d. Set goals to support the vision.
    e. Set objectives in support of the goals.
    f. Set policies to guide decision making.
    g. Define actions to carry out the plan.
    h. Use clear and compelling features to present the plan.

2. **Coordinated Characteristics**
    a. Be comprehensive in the plan's coverage.
    b. Integrate the plan with other local plans and programs
    c. Be innovative in the plan's approach
    d. Be persuasive in the plan's communications.
    e. Be consistent across plan components.
    f. Coordinate with the plans of other jurisdictions and levels of government.
    g. Comply with applicable laws and mandates.
    h. Be transparent in the plan's substance.
    i. Use plan formats that go beyond paper.

Community Engagement

Respondents to the RFP should provide a proposed Community Engagement Plan. The plan should incorporate elements of Brookline's Community Engagement Plan[4] where applicable and the Plan should also, at a minimum, incorporate the elements below. The consultant should detail how they propose to create feedback loops from community outreach activities and display how that information will impact the Comprehensive Plan on the website and social media. The selected consultant will be provided with a preliminary list of community groups and contacts to facilitate the organization of community events.

The successful consultant will have completed multiple projects that included innovative public engagement opportunities to reach residents that typically do not participate in town government but have strong feelings about the future of their town with regard to development, equity, infrastructure, and sustainability. Public engagement is considered central to the process, as opposed to an add-on. It should draw from residents' hopes and concerns for the Town's future and ensure that all voices are heard. Input from engagement will be synthesized into a clear set of choices, gaining feedback from Team Brookline 2040, staff, and public surveys. Selected options will ultimately lead to goals, strategies, and objectives.

1. **Equity and Inclusion**

   The Town is seeking a consultant team that will establish a racial and economic equity framework or lens within the Community Engagement Plan. This will be applied to engagement and the review of existing policies that guide the town's growth and development, engagement efforts in the planning process, and in the evaluation of potential recommendations that come out of the planning process.

   The equity analysis should incorporate inclusionary best practices described in APA's Sustaining Places report, APA's Planning for Equity Policy Guide (APA Policy Guide; June 2019), racial equity tools published by the Government Alliance on Race and Equity (www.racialequityalliance.org and Brookline's Office of Diversity, Inclusion and Community Relations[5]), and other relevant tools.

   There should also be intentional outreach to populations not typically involved in town processes including (but not limited to): low-income populations, racial and ethnic minorities, renters, residents of public housing, college students, school-aged students, families with children, people with low mobility, people with technological challenges, and people who have low proficiency in English or people in which English is not their primary language. Experience with working with diverse populations is highly advantageous.

2. **Role of Team Brookline 2040**

   The Comprehensive Plan process will be handled primarily with support and guidance from the consultant team, the Department of Planning and Community Development (DPCD), and a steering committee named "Team Brookline 2040". This group will be comprised of representatives of all

[4] https://www.brooklinema.gov/DocumentCenter/View/33669/CE-Plan---v3-formatted

[5] Resources under "Government Alliance on Race and Equity" at https://www.brooklinema.gov/545/Diversity-Inclusion-Community-Relations

segments of the Brookline community such that all feel represented by someone or a group on the committee. A facilitator from the consulting team will work directly with the team captain of Team Brookline 2040 and DPCD's project manager.

Part of the consultant's Community Engagement Plan should include defining a clear role for Team Brookline 2040 that ensures that the Team will be properly integrated into the consultant's process. The Town invites the consultant to propose options for Team member appointments, roles, and responsibilities. However, Team Brookline 2040 will be expected to contribute, at a minimum, the following elements to the Comprehensive Plan process:

- Provide assistance in ensuring everyone in the Brookline community is represented in the process
- Provide guidance on community engagement events
- Option to volunteer to facilitate community events
- Review and give feedback to consultants on deliverables
- Review and consider varied scenarios developed by the consultant
- Host bi-monthly listening sessions
- The Team Brookline 2040 Chair will be part of any discussions with Boards, Commissions, and Committees for continuity purposes and as a representative of the Team.

2. Bi-Monthly Comprehensive Plan Listening Sessions

The Town's Select Board, Planning Board, and representatives from Team Brookline 2040 will meet every other month. At these meetings, the consultant team will provide updates on the Comprehensive Planning process. These meetings will also serve as public listening sessions for feedback on the process. The Planning Board must adopt the Comprehensive Plan at the end of the process according to state law. Additionally, the goal is that the Select Board also endorse the Comprehensive Plan to indicate support in overall Town goals and priorities.

3. Accommodations

Evaluate the need for accommodations for specific engagement activities and coordinate with staff to provide services when appropriate. Accommodations include language translation, American Sign Language interpreters, refreshments, childcare, compensation, and transportation to meetings.

4. Outreach Tools (not limited to)

- Comprehensive Plan Webpage (detailed in the following section)
- Online Surveys
- Social media: engagement activities and advertising events
- Community meetings, possibly hosted by Town Meeting members
- Opportunities for community members to provide visions of Brookline's future
- Other innovative mechanisms designed by the consultant for robust community participation

Process Phases and Deliverables

The Town of Brookline is targeting a twenty-four month time frame for completion of the project from notice to proceed. Respondents to the RFP should provide a proposed project schedule. The plan will be based on a 15-year planning horizon. For reference only, below is our estimate of proportional cost for different segments of the Comprehensive Plan and an estimated timeline. ***We invite proposals that vary from the information provided below.***

Pre-Planning- 15%

1. **Deliverable: Final Work Plan (Fall 2023)**
   The first draft of the work plan must be included in the bid response. The consultant team will work with the Planning and Community Development Department staff and Team Brookline 2040 to further refine the work plan after the notice to proceed is issued. A clear work plan (with key dates, activities, and milestones) will be finalized and signed off on by the Select Board and Planning Board.

2. **Deliverable: Final Community Engagement Plan (Fall 2023)**
   The first draft of the community engagement plan must be included in the bid response. The consultant team will work with the Planning and Community Development Department staff and Team Brookline 2040 to further refine the work plan after the notice to proceed is issued. A clear engagement plan (with an equity framework/lens, key dates, activities, and milestones) will be finalized and signed off on by the Select Board and Planning Board.

3. **Meet with all Departments and Town Administrator to understand work underway, current issues and opportunities, recent plans, and current and long-term Town priorities. (Fall 2023)**
   A list of recent plans and contacts is included here. Leads on each plan will meet with the consultant team and brief them on the plan.

4. **Deliverable: Comprehensive Plan Webpage (Fall 2023)**
   - Displays key background data graphically (maps and visual data)
   - Shows upcoming events
   - Updated weekly or promptly following significant milestones
   - Hosts ongoing engagement utilizing tools such as: interactive map, surveys, and feedback tools
   - Reports on results of engagement efforts, meeting summaries, and identification of any next steps
   - Topic specific pages will be produced during the "Topic-Based Recommendations" phase
   - Set up a clear, accessible, and dynamic webpage on consultant's own platform. Access/licenses will be given to staff to post content on the primary landing page if urgent information changes are needed, but the consultant team will be responsible for this webpage, including any responses to community member inquiries or ideas.

5. **Deliverable: Challenges and Opportunities Analysis (Fall or Winter 2023)**

Generate demographic data and trends, regional and local growth scenarios, and fiscal pressures of municipal government. Assess challenges and opportunities based on this information. Utilize and share key background data to develop a shared understanding for vision recommendations. Share report on the website.

Visioning- 15%

1. **Plan Kick-Off (Fall or Winter 2023)**
   Event and/or an engagement campaign to signal the start of planning process. Event and/or an engagement campaign to signal the start of planning process. Among other things, this kick-off event should provide the public with a general summary of key findings learned during the various pre-planning tasks (demographics, issues/opportunities, Town priorities, etc.), a general roadmap of the Comprehensive Plan process, and a clear set of expectations and opportunities for future public engagement options. Utilize Brookline Interactive Group to create multi-media and videos for outreach and engagement.

2. **Visioning Engagement Campaigns and Events (Fall & Winter 2023)**
   Social media engagement, surveys, events, and pop-ups. Train and work with Team Brookline 2040 to help with outreach efforts and events. Community engagement events should be organized in a manner that intentionally captures, or maximizes access for, marginalized groups. When possible, pop-up stalls and community engagement events should be coordinated with existing Town events to maximize participation. Utilize Brookline Interactive Group to create multi-media videos for outreach and engagement.

3. **Small Group Conversations: (Fall & Winter 2023)**
   Visioning focus groups to engage specific groups of people and key stakeholders. Intentionally includes individuals and groups typically not involved in Town processes but should also include recognized civil associations such as merchant associations and civic groups.

4. **Deliverable: Produce Vision Statements (Winter 2023)**
   The Comprehensive Plan's Vision Statements should capture the aspirations of Brookline residents for the future of the Town. Vision Statements should be very broad in their scope but clear enough that the key topics of importance to the Town are clearly stated in the Vision Statements and that numerical goals and strategies for action can be generated from them with further community input. Get feedback from Team Brookline 2040 on the vision statements and incorporate the feedback into the draft.

5. **Present final vision statements during listening session to the public, Planning Board, and Select Board (Winter 2023 & Spring 2024)**

Topic-Based Recommendations- 30%

1. **Topic Based Engagement Campaigns and Events (Spring & Summer 2024)**

Social media engagement, surveys, events, and pop-ups. In the development of the topic sections, the consulting team will need to help the community set goals in the presence of different (and sometimes conflicting) interests. Get input from the public about the thematic map. Train and work with Team Brookline 2040 to help with outreach efforts and events.

2. **Consult small groups of stakeholders about pertinent topics (Spring & Summer 2024)**
   Topic-based focus groups to engage key stakeholders and applicable groups. Intentionally include groups and individuals typically not involved in Town processes.

3. **Consult Town Departments about pertinent topics. (Spring & Summer 2024)**

4. **Deliverable**: **Set Goals and Topic Sections (Summer 2024)**
   Base goals to address critical issues raised from topic sections, Town visions, Challenges & Opportunities, and community feedback. At least one measurable objective should be included in each Topic Section. Get feedback from Team Brookline 2040 and during listening session.

5. **Deliverable**: **Propose Strategies (Summer 2024)**
   Identify strategies based on Town vision statements, goals, and to address Challenges & Opportunities. Get feedback from Team Brookline 2040 and during listening session.

6. **Deliverable: Thematic Map (Summer 2024)**
   Develop areas of the Town to Conserve, Enhance, Transform based on staff and community engagement. Get feedback from Team Brookline 2040 and during listening session.

7. **Deliverable: Growth and Change Scenario Testing Analysis (Fall 2024)**
   a. Test trade-offs for strategies to respond to future population growth and anticipated changes.
   b. Test tools and strategies in areas identified in the Thematic Map. Utilize modeling techniques in Transform, Conserve, and Enhance areas to test and get feedback from staff and the public.
   c. Use future projection data to analyze and address conditions in the next 15 years such as population and climate impacts change.
   d. Show estimates of implications or impacts of strategies on Town infrastructure and expenditures/capital investments where appropriate.
   e. If appropriate, propose alternative strategies based on the testing analysis.

8. **Deliverable: Draft of Topic Sections with Goals, Strategies, and Objectives (Winter 2024)**
   In each topic section, include the topic-specific barriers, gaps, and opportunities between existing policies/regulations as compared to the topic's defined long-term goals and objectives. Examples may include: a prioritized list of new zoning tools and other changes; identify key urban design principles that should guide new development for various settings in the city; identify policy changes or other steps that will be necessary to realize the plan recommendations; identify new programs and programmatic changes that will facilitate the vision.

Each topic section should cross multiple master plan elements as defined by the State. To be consistent with Massachusetts General Law Ch. 41, s. 81-D[6], the Plan should highlight one-page summaries of each state-required element either within topic sections or in the appendix.

9. **Get feedback from Team Brookline 2040 on draft. (Winter 2024)**
   Incorporate the feedback into the draft.

10. **Presentation to public on Topic Sections, Scenario Testing Analysis, and the Map (Winter 2024)**

11. **Presentation of Final Section draft and Scenario Testing Analysis, and Map to Select Board, Planning Board, and appropriate boards and commissions (Winter 2024 & Spring 2025)**

12. **Incorporate feedback into final topic section draft (Spring 2025)**

13. **Get approval on the Topic Sections from the Select Board & Planning Board (Spring 2025)**

Implementation- 35%

1. **Deliverable: Implementation Plan Draft (Spring 2025)**
   - Strategy and Phasing: Budget Implications: Estimate an order-of-magnitude costs of capital projects and the budget implications of operational initiatives; identify potential funding sources at the local, state and federal level, including third party sources.
   - Roles and Responsibilities: Identify leaders and other participants who will be responsible for each action step, both within Town government and with outside partners.
   - Development of Indicators: Develop a set of Indicators that are specific to the goals and objectives resulting from the town wide plan to allow the Town to effectively measure plan performance, implementation, or need for re-evaluation over time. This includes the establishment of baseline measurements based on previous research. Monitoring methods should be described and visualization and reporting methods to present indicators to the public and elected officials.

   Get feedback from Team Brookline 2040 on the draft.

2. **Deliverable: Action Plan Document (Spring 2025)**
   Translate the vision and plan recommended goals and objectives into specific action steps with short, medium, and long-term projects and initiatives, taking into consideration current

[6] MA General Law Ch. 41, s. 81-D standard master plan elements: Goals and Policies Statement, Land Use Plan Element, Housing Element, Economic Development Element, Natural and Cultural Resource Element, Open Space and Recreation Element, Services and Facilities Element, Circulation Element, and Implementation Program Element.

priorities, funding, and capacity of Town and other partners. Phasing should include targeted progress towards each measurable goal.

3. **Meet with all impacted Departments and Town Administrator to discuss the Implementation Plan and Action Plan. (Spring 2025)**

4. **Deliverable: Comprehensive Plan Summary (1-3 pages) (Spring 2025)**

5. **Deliverable: Produce Engagement Section (with documentation in appendix) (Summer 2025)**
   Get feedback from Team Brookline 2040 on the draft.

6. **Deliverable: Webpage for tracking progress (Summer 2025)**
   Design a webpage that is set up to track progress on the Comprehensive Plan implementation. This will be set up by Town staff on a Town-hosted webpage and template. The consultant will provide all text, graphics and linked materials.

7. **Deliverable: Complete Comprehensive Plan Document and Appendices, native files (GIS, PDF, photos, Adobe files, engagement responses, data, contacts) (Summer 2025)**
   The document should include all the previous deliverables.

8. **Deliverable: Reevaluation Schedule and Guidance (Summer 2025)**
   Establish a schedule for re-evaluation of strategies and objectives over the 15 year time horizon of the plan.

9. **Get feedback from Team Brookline 2040 and Brookline staff on the tracking webpage and re-evaluation plan. (Summer 2025)**

10. **Presentation to the public on implementation (Summer 2025)**

11. **Presentation of draft to Select Board, Planning Board, and appropriate Boards and Commissions (Summer & Fall 2025)**

12. **Incorporation of input in implementation draft (Fall 2025)**

13. **Seek approval of the Comprehensive Plan from the Planning Board (Fall 2025)**

14. **Town to submit to the state for approval (Fall 2025)**

Final Report of the Ranked Choice Voting Study Committee

Approved May 11, 2023

Introduction

The Ranked Choice Voting Study Committee[1] (the "Committee") was charged by the Select Board on Jan 25, 2022 pursuant to Warrant Article 18 of the November 2020 Town Meeting, which passed 187-34-10.[2] The committee was charged "to study the potential options for adoption of Ranked-Choice Voting (RCV) for Town Elections. The goal of the committee should be to recommend best practices for Ranked-Choice Voting in Town and to explore the different options for RCV including benefits and challenges." The full charge is included as Appendix A to this report.

As part of its charge, the Committee submitted Warrant Article 22 to the May 2023 Town Meeting,[3] along with an explanation of the article[4] which contained the committee's recommendations on several of its charged tasks. The article as moved at Town Meeting, along with the filed explanation, is included as Appendix B. The committee's charge included the requirement to conduct a public hearing at which its recommendations were presented and comments from the public were solicited. This hearing took place on February 13, 2023, and the recording is available on the Town's website.[5]

The committee was also charged with producing this final report on its work.

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[1] Voting members of the committee: C. Scott Ananian (chair), Cathleen Cavell (through Oct 2022), Joan Lautenschleger, Alexander Neary, Joan Sawyer, Isaac Silberberg, Jay Sweitzer-Shalit, Mike Sandman (Select Board representative), Ben Kaufman (Town Clerk). Additionally, members of Town Meeting and Greg Dennis, a representative of Voter Choice MA attended many meetings; we are grateful for their input.

[2] A competing amendment sought to modify the charge to "whether or not to adopt Ranked Choice Voting"; this amendment was defeated 88-139-4. Accordingly, this report and these warrant articles present the committee's recommendations regarding the best way for the Town to adopt RCV; it is up to Town Meeting to debate "whether or not" by passing, or not, these warrant articles.

[3] The warrant article was approved by the Committee in a vote of 6-0-1 (the Town Clerk abstaining) on March 8, 2023 and submitted as a petitioned article by the chair. Amendments were subsequently approved by the Committee on March 29, 2023 (incorporating feedback from Town Counsel), and April 19, 2023 (incorporating feedback from Advisory Committee).

[4] The explanation accompanying the article was approved by the Committee in a vote of 5-0-0 on March 15, 2023.

[5] https://www.brooklinema.gov/2077/Ranked-Choice-Voting-Study-Committee

WHY RANKED CHOICE VOTING?

In Ranked Choice Voting, voters rank the candidates from their favorite to their least favorite, allowing all voters to fully state their opinions. Using these rankings, Ranked Choice Voting elects candidates with the greatest support from voters.

Under RCV, voters mark their ballots to rank the candidates in order of preference. Votes are counted in successive rounds; in each round, candidates with the fewest first choice votes are eliminated and those ballots for these candidates are distributed to each voter's next preference until each person elected receives a proportional majority of the vote.

Advantages of RCV are that it

- Promotes majority support in elections with more than two candidates for a single seat because the ultimate winner must have received more than 50% of the vote;
- Promotes reflective representation in multi-winner contests by allowing diverse groups of voters to elect candidates of choice;
- Promotes diversity and encourages more third-party participation by reducing concern that vote splitting by either third-party candidates or similar candidates of the same party will lead to an undesirable outcome;
- Allows voters to vote for their preferred candidates without worry that they are either wasting their vote or reducing the electoral chances of their next-preferred candidate
- Reduces negative campaigning and polarization by broadening the voter base that candidates must capture to win.
- It preserves the second or third choice of a voter whose top candidate leaves the race between the onset of early voting and Election Day.[6]

Disadvantages of RCV are that it

- Requires additional tabulation to determine election winners when compared to 'first past the post' voting methods.
- Multi-winner elections require voters to order their preferences for individual candidates, rather than simply selecting the candidates they wish to support.

[6] This benefit was noted by the Advisory Committee during the 2020 debate on WA18.

Today, 64 American jurisdictions have RCV in place, reaching approximately 13 million voters. This includes two states, two counties, and 60 cities and towns. Military and overseas voters cast RCV ballots in federal runoff elections in six states. In Massachusetts, four cities and towns have submitted home rule petitions for RCV in the current legislative session: Amherst, Arlington, Concord, and Northampton. Like Brookline, Acton has RCV on its spring Town Meeting warrant. RCV is also in the draft charter of the City of Somerville, which the city plans to submit as home rule legislation by the end of the year. Lastly, RCV is under discussion by activists and elected officials in at least a dozen other communities around the state.

For additional questions, please see linked Brookline RCV FAQ.[7]

Summary of Plurality Voting versus Ranked Choice Voting

Topic	Ranked Choice Voting	Plurality Voting
Requires candidates in single-winner elections to have more than than 50% voter approval	Yes	No
Reduces strategic voting	Yes	No
'Spoiler' candidates can cause uncertainty and perceptions of illegitimacy in election results	No	Yes
May discourage independent and minority candidates from running for office	No	Yes
Increases voter turnout	Mixed evidence[8]	No
Quick and simple to tabulate	No	Yes

[7] https://docs.google.com/document/d/1H1sZyX8kj4HADotYWheDq5hr5aG5_g6XfgS9ON3v5ig/edit?usp=sharing
[8] https://www.newamerica.org/political-reform/reports/what-we-know-about-ranked-choice-voting/the-voting-experience/

Topic	Ranked Choice Voting	Plurality Voting
Evidence shows voters consider the voting method an improvement over the status quo	Yes	N/A
Encourages choosing preferred individuals rather than parties and groups	Yes	No
Incorrect voter markings can invalidate a ballot	Yes for both	
Influences money in politics	No impact	
Evidence shows voters understand the method	Yes for both	

History & Context

In November 2020, "Massachusetts Question 2", a ballot initiative for state-wide RCV,[9] failed statewide although Brookline voted 70% in favor of the measure. Not long thereafter, Warrant Article 18 was brought before the November 2020 Town Meeting and passed 187-34-10. Warrant Article 18 asked for the Ranked Choice Voting Study Committee to be formed. After some delays, on Jan 25, 2022 the Select Board passed the charge to the committee, and in June and July of 2022 interviewed and then named the members of the committee. The Ranked Choice Voting Study Committee (hereafter, the "Committee") held its first official meeting August 25, 2022,[10] and met roughly weekly thereafter.

The Committee began by assembling similar warrant articles and home rule petitions from Arlington (H.4207), Northampton (H.4885), Easthampton (S.2331), Concord (HD.5329) and Amherst (H.777). Draft legislation was also contributed by Greg Dennis of Voter Choice MA. From commonalities and differences in these articles, as well as committee member

[9] Restricted to single-winner contests in primary and general elections for statewide offices, state legislative officers, and congressional offices.

[10] Committee members attempted to meet on August 14, 2022 but due to organizational oversights the members had not been sworn in and an official meeting was not held.

suggestions, the Committee drew up a list of essential topics for consideration and decisions to make, as well as a draft legislation skeleton combining all the language alternatives from similar articles.

In the Committee's weekly meetings it has progressed methodically through this list to discuss the pros and cons of the alternatives and come to consensus on the language presented to Town Meeting in this article.

The Committee does not have complete unanimity on one point. The application of RCV specifically to the election of Town Meeting Members was not recommended unanimously, although it was recommended by a majority of the Committee.

The subsequent sections of this report will progress through the tasks assigned to the committee in its charge: to study the equipment required to implement RCV; to make specific recommendations on the use, or not, of RCV for Town-wide and Town Meeting Member selections; to study the design of ballots; to recommend a process for multi-winner elections; to make specific recommendations for implementation via Home Rule Petition; to recommend a time frame; and to provide budget guidance for implementing and then using RCV in Town.

Equipment Requirements for Ranked Choice Voting

At the time of the initial passage of the article calling for the creation of the Committee, in November 2020, Brookline had identified the need to replace its aging voting machines but had not yet done so. Since that time, Brookline acquired new voting machines, from the vendor Election Systems & Software (ES&S), which are capable of conducting an RCV election.[11] Currently, tabulation of the results for a given machine occurs in the precinct, and then centralized aggregation of all precinct results is done at Town Hall using software provided by ES&S. With RCV there would be an additional round of central tabulation of the rankings at Town Hall. The software to do so is open source and sponsored by the Ranked Choice Resource Center; MK Election Services would provide support for this software to the Town Clerk's office. This software has been certified in combination with ES&S voting machines to scan, count, and tabulate ballots.[12] This software will also accommodate a manual recount if needed.

If the State certifies other equipment for RCV, perhaps in connection with a bill providing a state-wide local option for RCV, Brookline would follow the State's guidance.

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[11] The State of Maine uses ES&S machines to run its RCV elections; in Massachusetts, the Town of Concord has approved a home rule petition for RCV and also uses ES&S machines.

[12] This certification includes the mechanisms used to deal with skipped rankings and concluded ballots written into the Committee's Warrant Article; if the article were amended to alter those we would likely need to operate without that certification.

Which Races Ranked Choice Voting Should Be used For

The Committee reviewed Brookline's town-wide elected offices, the recent history of contested races, and the use of staggered terms. The Committee also looked at the offices proposed to be elected with RCV in other Massachusetts municipalities. The consensus was to apply ranked choice voting consistently to all Town-wide offices, in order to set consistent voter expectations and provide an accurate representation of the voters' voices and the other benefits of RCV to as many races as possible, without trying to predict the future in terms of which races were more or less likely to be contested.

The Committee then turned to a discussion of the application of RCV to Town Meeting Member elections. At this time no other Town with a Representative Town Meeting applies RCV to the election of Town Meeting Members. The Election Modernization Committee in the Town of Arlington proposed other improvements to the election of Town Meeting Members, including how vacancies are filled, which were subsequently adopted. It was agreed that these other improvements would be out of scope for this committee.

Ultimately the RCV committee did not reach a consensus on whether Town Meeting Members should be included in RCV. Discussion centered on RCV's ability to determine the 'consensus candidates' in elections that are sometimes decided by small numbers of votes, and would reduce vote splitting by similar Town Meeting Member candidates. Concerns were brought up that in redistricting years, the next of which will follow the 2030 Census, many candidates would be on the ballot which could make it challenging for voters to determine rankings among 15 or more candidates. The Committee decided to leave the Home Rule Petition as broad as possible by including Town Meeting Members in the language of the Home Rule Petition and thus giving Town Meeting the ability, during its debate, to include or (by amendment) exclude Town Meeting Members in the Home Rule Petition. The Committee voted 7-0-1 to include the Town Meeting Member language in the submitted Warrant Article (with the Clerk abstaining), but only 6-1-1 (with the Clerk abstaining) to <u>recommend</u> that RCV be used to elect Town Meeting Members.

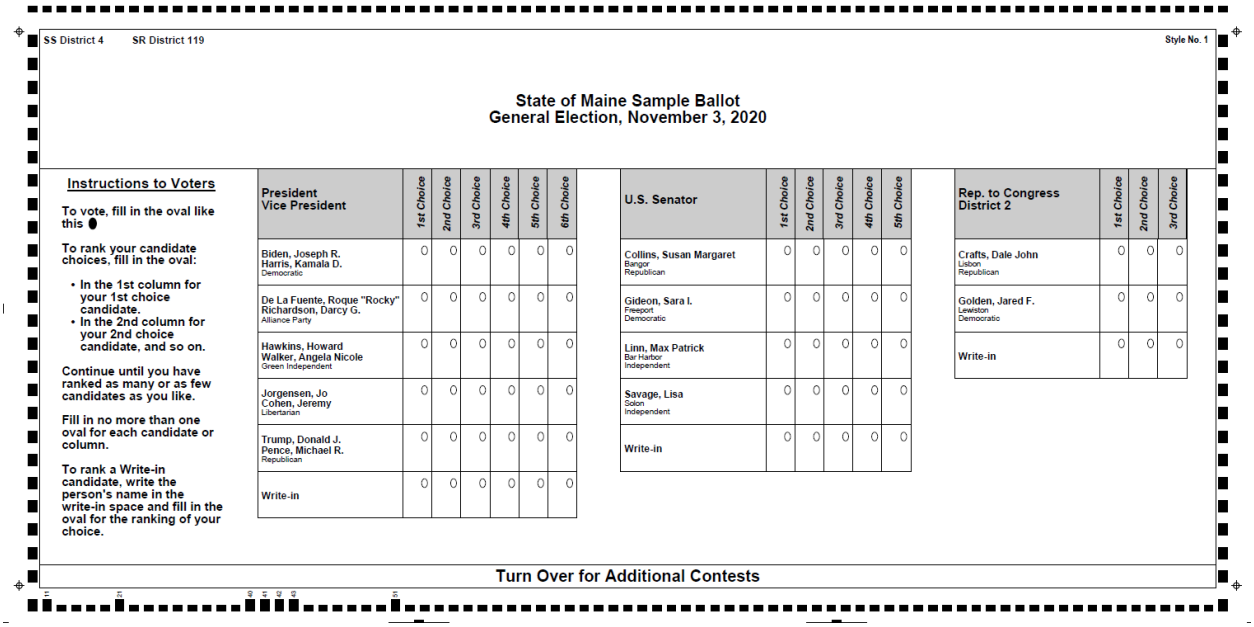
The discussion of the warrant article at the Advisory Committee resulted in a similar split: although the AC ultimately recommended "no action" on the Warrant Article, the vote for favorable action was 1-23-3 with Town Meeting Members included, and 5-19-3 if Town Meeting Members were excluded.

Ballot design for a typical Brookline election

The Committee discussed ballot design for a typical Brookline Election, focusing mostly on the worst case scenario presented in a redistricting year with as many as 20 candidates for Town Meeting.

The first assurance is that the warrant article contains language exempting races from RCV under certain circumstances, such as when the race is uncontested or where there are only two candidates running for a single-winner seat. Taking the May 2, 2023 ballot for Precinct 1 as an example,[13] Ranked Choice Voting would be used for the Select Board race (three candidates for two seats) and (unless the Committee's motion is amended) the Town Meeting Member race (6 candidates for 5 seats). However, because the races are uncontested it would not be used for the Library Trustee races (4 candidates for 4 seats for the 3-year terms; 1 candidate for 1 seat for the 1-year term) or three-year School Committee race (3 candidates for 3 seats). It would also not be used for the 1-year School Committee race or the Housing Authority race, as those are both 2 candidates running for a single seat. Ranked Choice Voting would also not affect how the 4 ballot questions in this election would be voted.

In the end then, one might expect an RCV ballot for the May 2, 2023 election in Precinct 1 to look broadly similar to the ES&S ballots used in Maine, as shown below; this example shows three races but our Brookline ballot would only need two (Select Board and Town Meeting



SS District 4 SR District 119 Style No. 1

State of Maine Sample Ballot
General Election, November 3, 2020

Instructions to Voters

To vote, fill in the oval like this ●

To rank your candidate choices, fill in the oval:

- In the 1st column for your 1st choice candidate.
- In the 2nd column for your 2nd choice candidate, and so on.

Continue until you have ranked as many or as few candidates as you like.

Fill in no more than one oval for each candidate or column.

To rank a Write-in candidate, write the person's name in the write-in space and fill in the oval for the ranking of your choice.

President Vice President	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice	6th Choice
Biden, Joseph R. Harris, Kamala D. Democratic	O	O	O	O	O	O
De La Fuente, Roque "Rocky" Richardson, Darcy G. Alliance Party	O	O	O	O	O	O
Hawkins, Howard Walker, Angela Nicole Green Independent	O	O	O	O	O	O
Jorgensen, Jo Cohen, Jeremy Libertarian	O	O	O	O	O	O
Trump, Donald J. Pence, Michael R. Republican	O	O	O	O	O	O
Write-in	O	O	O	O	O	O

U.S. Senator	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
Collins, Susan Margaret Bangor Republican	O	O	O	O	O
Gideon, Sara I. Freeport Democratic	O	O	O	O	O
Linn, Max Patrick Bar Harbor Independent	O	O	O	O	O
Savage, Lisa Solon Independent	O	O	O	O	O
Write-in	O	O	O	O	O

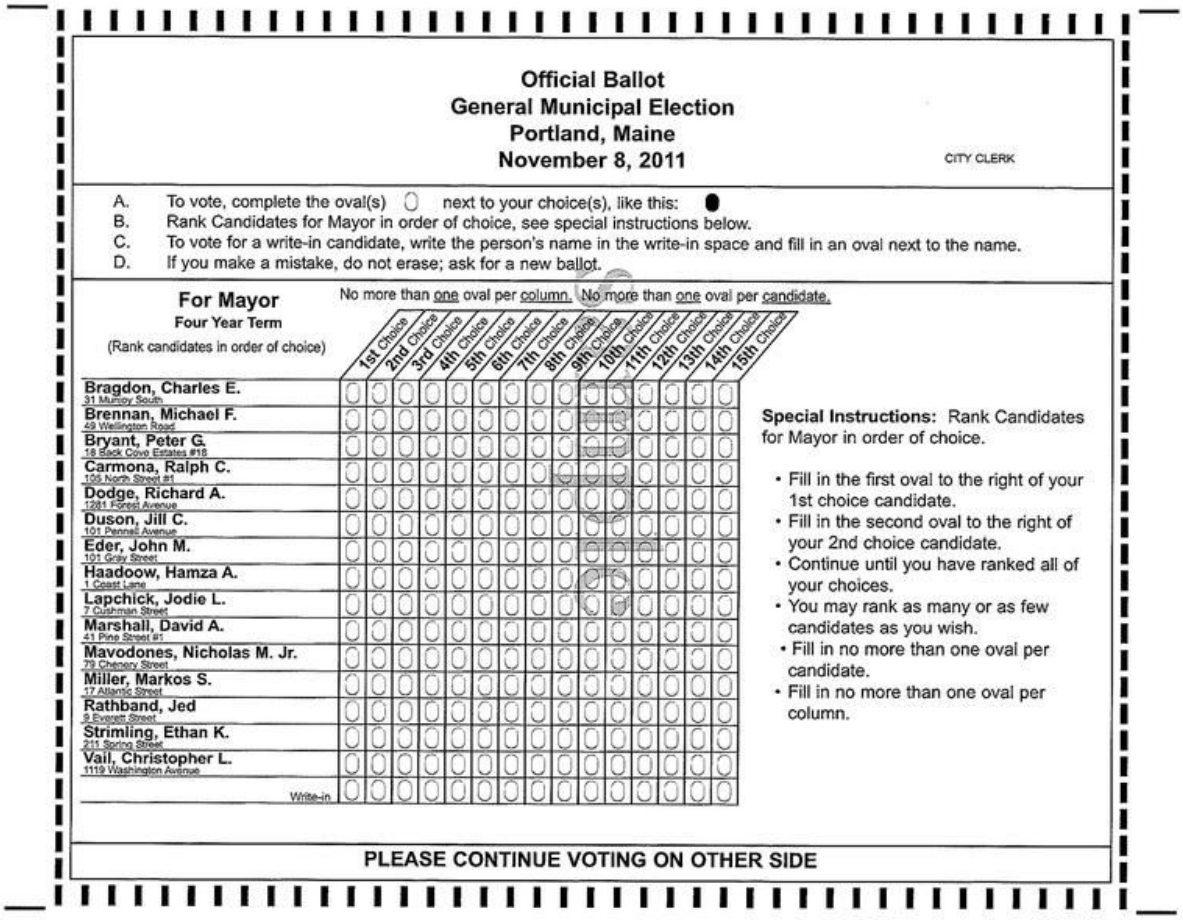
Rep. to Congress District 2	1st Choice	2nd Choice	3rd Choice
Crafts, Dale John Lisbon Republican	O	O	O
Golden, Jared F. Lewiston Democratic	O	O	O
Write-in	O	O	O

Turn Over for Additional Contests

[13] https://www.brooklinema.gov/DocumentCenter/View/40894/Sample-Ballots-May-2-2023 ; archived at https://web.archive.org/web/20230511073537/https://www.brooklinema.gov/DocumentCenter/View/40894/Sample-Ballots-May-2-2023

Members).[14] The remainder of the races might be on the back of the ballot and look identical to the form we currently use.

Another illustrative ballot from Portland, Maine shows how even large numbers of candidates (for example, Town Meeting Member candidates in a redistricting year) might be handled:



Official Ballot
General Municipal Election
Portland, Maine
November 8, 2011

CITY CLERK

A. To vote, complete the oval(s) ○ next to your choice(s), like this: ●
B. Rank Candidates for Mayor in order of choice, see special instructions below.
C. To vote for a write-in candidate, write the person's name in the write-in space and fill in an oval next to the name.
D. If you make a mistake, do not erase; ask for a new ballot.

For Mayor
Four Year Term
(Rank candidates in order of choice)

No more than one oval per column. No more than one oval per candidate.

	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice	6th Choice	7th Choice	8th Choice	9th Choice	10th Choice	11th Choice	12th Choice	13th Choice	14th Choice	15th Choice
Bragdon, Charles E. 31 Munjoy South	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Brennan, Michael F. 49 Wellington Road	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Bryant, Peter G. 18 Back Cove Estates #18	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Carmona, Ralph C. 105 North Street #1	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Dodge, Richard A. 1281 Forest Avenue	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Duson, Jill C. 101 Pennell Avenue	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Eder, John M. 101 Gray Street	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Haadoow, Hamza A. 1 Coast Lane	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Lapchick, Jodie L. 7 Cushman Street	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Marshall, David A. 41 Pine Street #1	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Mavodones, Nicholas M. Jr. 79 Chenery Street	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Miller, Markos S. 17 Atlantic Street	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Rathband, Jed 9 Everett Street	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Strimling, Ethan K. 211 Spring Street	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Vail, Christopher L. 1119 Washington Avenue	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Write-in	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○

Special Instructions: Rank Candidates for Mayor in order of choice.

- Fill in the first oval to the right of your 1st choice candidate.
- Fill in the second oval to the right of your 2nd choice candidate.
- Continue until you have ranked all of your choices.
- You may rank as many or as few candidates as you wish.
- Fill in no more than one oval per candidate.
- Fill in no more than one oval per column.

PLEASE CONTINUE VOTING ON OTHER SIDE

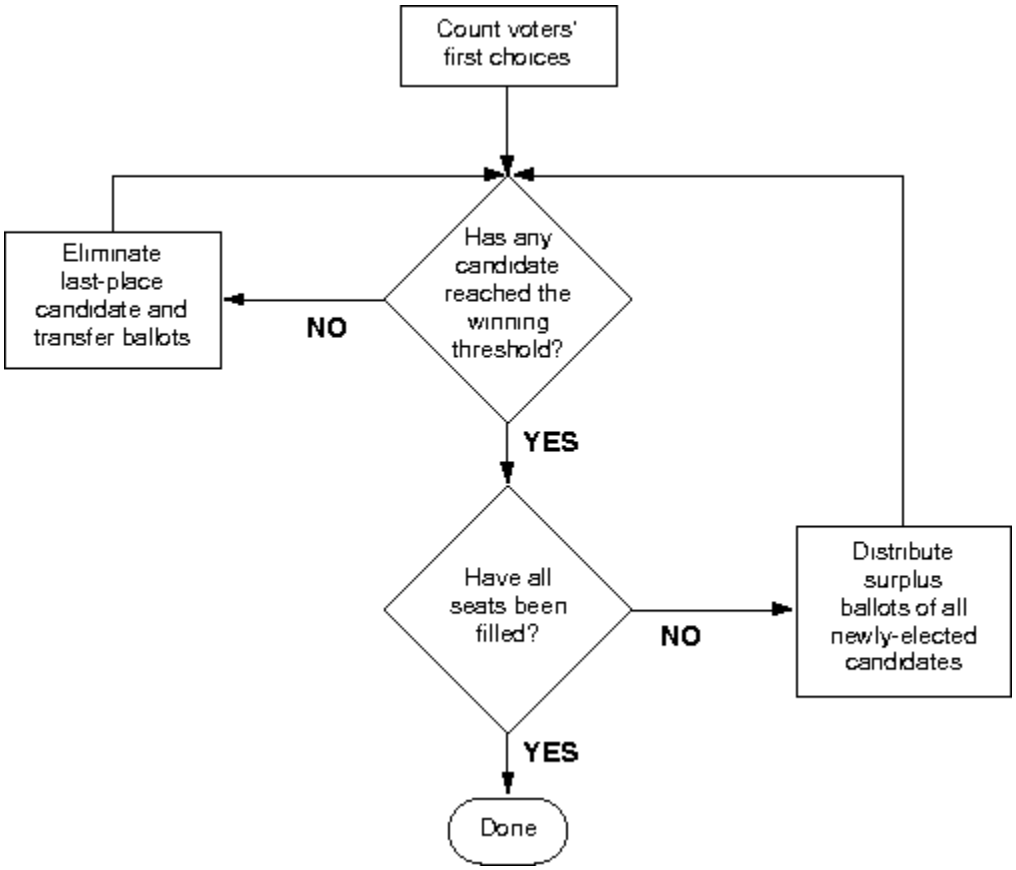
Typically, a greater number of candidates will require a longer ballot paper. Section 2(a) in the Home Rule Petition allows for reducing the number of ranking options printed on the ballot if necessary to accommodate printing constraints.

Process for Multi-winner elections

After evaluation of alternatives and substantial discussion, the Committee decided to recommend Proportional Ranked Choice Voting (Proportional RCV)—also known as

[14] Massachusetts law does require as many write-in spaces as there are seats to be elected; that is 2 write-in spaces for the Select Board race and 5 for the Town Meeting Member race; this contrasts with the Maine example where only a single write-in space is provided.

"Proportional Representation" and as "Single Transferable Vote"—for multi-winner elections. In Proportional RCV, the ballot is the same as in single-winner RCV. Voters simply rank candidates from first to last. The only thing that changes is the method of determining winners, described by the flowchart below.[15]



An aspect of Proportional RCV is that candidates who represent minority views or represent a minority population are more likely to gain some representation proportional to their voter support; a block of candidates supported by a majority can not completely shut out a substantial minority. For example, if there are three seats up for election and a block of three candidates has the support of 51% of the voter base while another candidate has the support of 49%; proportional voting schemes will typically ensure that the candidate with 49% support gains at least one of the three seats. One's opinion of this aspect may depend on the particular minority viewpoint at issue.

[15] For more detail, see https://www.youtube.com/watch?v=MSI7LYbqjWw and https://fairvote.org/our-reforms/proportional-ranked-choice-voting/; in the flowchart the "threshold" is the minimum number of votes required so that it is mathematically impossible for more than the wanted number of candidates to win.

The Committee also noted certain downsides of Proportional RCV: tabulation of Proportional RCV is more complex than certain other RCV methods, and hand recounts—which are rare—are more time intensive when using Proportional RCV.

Standard forms of Proportional RCV are currently in use in Cambridge and have been selected by Amherst, Concord and Northampton. Other options reviewed were Sequential RCV and Bottom-up RCV, which were noted to less fairly represent voter base intentions.[16] The Committee reviewed commonplace methods of transferring Proportional RCV votes from eliminated candidates to continuing candidates, including random assignment, which is simple but can skew outcomes, and fractional-transfer, which requires a spreadsheet to calculate results, but produces outcomes which are transparent and traceable. Survey evidence indicates that voters in municipalities actually using RCV understand how it works, and the committee concluded that traceability of voting results was important and recommended the fractional-transfer method.

Proportional voting and minority representation

The purpose of majority-minority precincts[17] is to ensure minority representation in the presence of racially polarized voting. Since only two of Brookline's 17 precincts are majority-minority, racially-polarized voting (should it occur) would limit racial minorities to at most 12% of Town Meeting Member seats today, severely under-representing the 33% of Brookline's voting age population who are racial minorities. Proportional Ranked Choice Voting, on the other hand, would allow the minority population to win up to 26% of Town Meeting Member seats under polarized voting.[18]

Implementation via Home Rule Petition

In order to adopt RCV in municipal elections, a Home Rule Petition is necessary.[19] This is a request to the state legislature to pass a special act that would allow Brookline to change the manner of its elections. The Home Rule Petition must first be passed by Town Meeting. After passage by Town Meeting, the Select Board must send the Home Rule Petition to the legislature, which must then pass the proposed law before it can take effect. In the proposed article, after passage by the state legislature, a Town-wide vote must be taken and RCV will

[16] In the Advisory Committee hearing the "Borda Count" was also suggested, which the Committee ruled out as one of a family of mechanisms vulnerable to strategic voting and gamesmanship; see https://en.wikipedia.org/wiki/Borda_count#Potential_for_tactical_manipulation for details.

[17] http://www.publicmapping.org/what-is-redistricting/redistricting-criteria-the-voting-rights-act

[18] For more detail, we've prepared a spreadsheet at https://docs.google.com/spreadsheets/d/14y2-qGcAty6rOfnk8Zcyo5WuoQCKnUM-/preview

[19] The conduct of municipal elections can also be altered through the charter process, which is in the family of Home Rule provisions.

become effective for municipal elections *only* if it receives a town-wide majority vote in favor of adoption.

The proposed Home Rule Petition has the following key features:

- All town-wide elections are to use RCV. This includes both single-winner elections (like for Town Clerk or Moderator) as well as multi-winner elections (School Committee or Library Trustees).[20]
- Additionally, Town Meeting Member elections are to use RCV, according to the submitted text. This includes redistricting years, when there may be up to 15 winners per precinct.
- The Home Rule Petition requires a Town-wide vote to ratify the adoption of municipal RCV. In addition to being democratically sound, this ensures a predictable timeline for the first elections using RCV, instead of being tied to the unpredictable schedule of the state legislature.
- Multi-winner elections are to be conducted using a proportional voting system.
- The order of the candidates on the ballot will be randomized, with incumbents noted.
- Discretion is given to the Clerk and the Board of Registrars in the handling of ties and ballot size issues.

The Home Rule petition also provides for future Town bylaws to be written regarding publication of results and voter education. The Committee decided to make recommendations in these areas rather than to seek immediate enforcement via a Town bylaw (or via inclusion in the Home Rule Petition), preferring to provide flexibility to the Town Clerk in the initial implementation. As the Clerk is in agreement with the recommendations of the Committee, perhaps bylaws will not be necessary. However, bylaws could be adopted in the future to enforce provisions of these natures if a future Town Meeting sees fit.

Time Frame for Implementation

The Town Clerk indicated that it normally takes two to four months to prepare for an election, and the first RCV election would likely take longer.[21] There was concern that the passage by the state legislature might take place at an inopportune time. In response, the Committee crafted Section 5 of the Home Rule Petition to provide local control of timing via the Select Board's ability to schedule municipal elections. If Town Meeting passes the warrant article this May, 2023, and the state legislature passes the special act implementing the Home Rule Petition in this current session sometime before March 2024, the question of adopting RCV would be put

[20] The Select Board is a single-winner contest in 1 of every 3 years, and a 2-winner contest in the other 2 years.
[21] Minutes of Sept 21, 2022 RCV meeting.

to town-wide vote in the municipal election in May 2024 and would be first used in the municipal election in May 2025, allowing plenty of time for the Town Clerk to prepare. If the legislature were to act quickly on the Home Rule Petition, the Select Board has the option to call an earlier special municipal election for the townwide ballot question to approve RCV, potentially allowing the use of RCV as early as the May 2024 municipal election—but before taking that action the Select Board would be expected to verify that this would still allow the Clerk sufficient time to prepare for the first RCV election.

Budget Guidance

The primary expense related to RCV was the acquisition of new voting machines capable of running an RCV election. In May 2021 Town Meeting approved funding for new machines in order to address end-of-life issues with the previous machines. The new machines were first used in the May 2022 Annual Town Election, and these machines are capable of running an RCV election. The Town Clerk expects the additional cost for RCV to be under $10,000; primarily software and support but potentially also additional printing costs if larger ballots are required.

Ballot order effects

At the February 13, 2023 public hearing, feedback was provided to the Committee that candidate order on the RCV ballot has a potential to influence election outcomes through "ballot-order effects" and that the RCV committee should mitigate these effects if possible. Election research points to a significant increase in votes for candidates listed first on a ballot order, even in races with as few as two candidates. Many US states, such as New Hampshire and Rhode Island, and Massachusetts localities, such as Newton and Boston, have some form of ballot order lottery or rotation to mitigate the arbitrary advantages of ballot-order effects. The RCV committee, responding to this public feedback, voted to include language that mitigates ballot-order effects, referencing Newton's Article 8-1 election order procedure as a template.

Recommendations

In addition to the Home Rule Petition drafted as a warrant article, the Committee wishes to make the following recommendations regarding **voter education, publication of results, and accessibility**. In the Committee's discussions, the Clerk is amenable to these recommendations.

Voter education

If RCV is adopted, it is a strong recommendation of this Committee that the Town Clerk provide meaningful education to voters in advance of the first election in which RCV is used. The

Committee recommends that such education include a mailing explaining the RCV process to be sent to each household with one or more registered voters, and a public hearing to explain the RCV process with such hearing recorded and available on the Town website. On an ongoing basis, the Committee recommends that the Town Clerk provide training materials related to RCV to each newly registered voter and post explanatory information regarding RCV outside each polling place and with every mail-in ballot. Because the Town Clerk expressed agreement with these recommendations, the Committee decided not to include mandates regarding these or any other educational activities, and to leave the content and extent of such activities to the discretion of the Town Clerk and the Board of Registrars. Of course, Town Meeting could choose to mandate certain activities at any time in the future, and the home rule petition includes language specifying the role of any such bylaws Brookline may pass at a later date.

Publication of results

The committee considered the fact that many localities currently using RCV publish the Cast Vote Records (CVR) for each election. The CVR is an electronic data record of each ranking marked on each ballot cast (but is not a digital image of each ballot). Such a record is currently accessible for public audit through a Public Records Request. Publication of CVRs is done to ensure full transparency of election results, but may risk inadvertent de-anonymization of voter choices. After hearing feedback that CVR requests made through the existing Public Records Request process have established safeguards and will result in technical and legal assistance from the Secretary of State when needed, the Committee decided that publication of the CVR would be a recommendation to the Clerk, but not mandatory.

Physical, Visual, and Cognitive Accessibility to Voting

All the polls in Brookline are wheelchair accessible. Voters who are blind, visually impaired, have a condition that would make it difficult or impossible to mark a ballot or have reading difficulties can use the AutoMark ballot marking device. This allows the voter to privately view the ballot with an audio program, or enhanced imaging. The ballot can be marked either with buttons marked in braille, or by using a touch screen or Sip-N-Puff system or paddle device. Any voter who declares the need for assistance may be accompanied by someone who can provide that needed assistance or request a poll worker to provide them with confidential, nonpartisan help. The Committee recommends that these existing accessibility provisions be reviewed and updated to ensure they accommodate ranked choice voting.

Language Access

In the Committee's public hearing, a member of the public suggested that language access be considered. Brookline has done an initial assessment of language needs[22] and it is the Committee's understanding that the Town budget for FY24 will include language access. The Committee strongly recommends that the RCV educational materials provided to voters be made available in appropriate languages, and that multilingual assistance to voters be provided on election day as well.

Conclusion and Recommendations

By a vote of 6-0-1 (with the Town Clerk abstaining) on May 11, 2023 the Committee approved this report on Ranked Choice Voting to be presented to the Select Board and to Town Meeting.

[22] https://www.brooklinema.gov/DocumentCenter/View/40842/Brookline-Data-Party-Presentation-41023

Appendix A: Charge to the Committee (Passed by Select Board Jan 25, 2022)

To implement the purposes of a vote of the November 2020 Town Meeting on Warrant Article 18, the Select Board hereby charges the Ranked-Choice Voting Study Committee (the "Committee") to study the potential options for adoption of Ranked-Choice Voting (RCV) for Town Elections. The goal of the committee should be to recommend best practices for Ranked-Choice Voting in Town and to explore the different options for RCV including benefits and challenges, in order to better inform future debates on the use of Ranked-Choice Voting in Town. The Committee shall be organized as follows:

a. The Committee shall be composed of five residents of Brookline appointed by the Select Board. The Select Board may appoint additional resident voting members to the Committee upon the request of the Committee.
b. The Brookline Town Clerk, or the clerk's designee, shall also be a voting member of the Committee.
c. A majority of the voting members shall be a quorum for the conduct of business.
d. A member of the Select Board shall be a voting member of the Committee for a total of 7 voting Committee members.[23]

The Committee's tasks shall include:

1. To study the equipment required to implement Ranked-Choice Voting in the Town, whether upgrades to existing machines or purchase of new machines, that would not sacrifice the auditability and reliability of our existing optical scan election processes;
2. To make specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for each Town-wide office;
3. To make specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for Town Meeting Member elections;
4. To study the design of ballots for typical races in Town, including Select Board and School Committee;
5. To recommend a process to be used for multi-winner elections, whether iterated one-winner election, a proportional system, or another;
6. To make a specific recommendations on implementation via Home Rule Petition;
7. To recommend a time frame for potential implementation;
8. To provide budget guidance, both for the FY23 budget process as well as expected annual costs, for implementing and then using Ranked-Choice Voting in Town;

[23] The initially-approved charge stipulated that the Select Board representative would also chair the committee; see minutes of the Committee's Aug 18, 2022 meeting.

9. To produce a Report for submission to the Select Board. In preparing its Report, the Committee shall
    i. hold at least one public hearing and take for its consideration the comments of the public;
    ii. prepare a draft of the Report with a preliminary list of recommendations, incorporating any appropriate comments from the public hearing;
    iii. present the preliminary recommendations to the Town Clerk, Town Counsel, and the Town Administrator for their comment as to feasibility and compliance with Town bylaws, contractual obligations, or federal or state requirements; and (iv) meet to vote on the final Report, including recommendations that incorporate any agreed comments of the Town Clerk, Town Counsel, and the Town Administrator.

Following the Committee's vote on the final Report, the Committee shall present the Report to the Select Board and submit it for inclusion in the Combined Reports of the next Town Meeting.

Appendix B: Warrant Article and Filed Explanation

Committee Motion at May 2023 Annual Town Meeting

Brookline Ranked Choice Voting Warrant Article 22

as approved by RCV Study Committee 2023-04-19

MOVED: That the Town authorize the Select Board to petition the General Court for a special act providing for the use of ranked choice voting in Brookline municipal elections, in the following form, and authorize the General Court to make any revisions that are necessary or appropriate to the form of such bill.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

"AN ACT AUTHORIZING RANKED CHOICE VOTING IN THE TOWN OF BROOKLINE"

SECTION 1. RANKED CHOICE VOTING

(a) For the purposes of this section, the following terms shall have the following meanings, unless the context clearly requires otherwise:

> "Batch elimination" is the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.
>
> "Concluded ballot," a ballot that does not rank any continuing candidate or contains an overvote at the highest-ranked continuing candidate, or contains *2 or more* sequential skipped rankings before its highest-ranked continuing candidate.
>
> "Continuing candidate," a candidate who has not been defeated or elected.
>
> "Election threshold," the number of votes sufficient for a candidate to be elected in a multi-seat election. It is calculated by dividing the total number of votes counting for continuing candidates in the first round by the sum of the number of seats to be elected and 1, disregarding any fractions, and then adding 1.
>
> "Highest-ranked continuing candidate," the continuing candidate with the highest ranking on a voter's ballot.
>
> "Last-place candidate," (i) the candidate with the lowest vote total in a round of the ranked-choice voting tabulation; or (ii) a candidate that is defeated in batch elimination.
>
> "Overvote," a circumstance in which a voter ranks more than 1 candidate at the same ranking.
>
> "Ranked choice voting," a method of casting and tabulating ballots in which voters rank

candidates for office in order of preference.

"Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's relative preference for that candidate. Ranking number 1 shall be the highest ranking, ranking number 2 shall be the next-highest ranking, and so on.

“Skipped ranking”, a circumstance in which a voter does not use a ranking and ranks a candidate with a subsequent ranking.

“Surplus fraction,” the number equal to the difference between an elected candidate’s vote total and the election threshold, divided by the candidate’s vote total.

“Transfer value,” the proportion of a vote that a ballot will count to its highest-ranked continuing candidate. Each ballot shall begin with a transfer value of 1. If a ballot counts to the election of a candidate under subsection (d)(1), the ballot receives a lower transfer value.

(b) All town-wide offices and Town Meeting Members shall be elected by ranked choice voting at the annual election, and in any special election called pursuant to MGL Chapter 41 Section 10.

Ranked choice voting shall apply to a single-seat office only when the number of candidates printed on the ballot exceeds 2 and to a multi-seat office only when the number of candidates printed on the ballot exceeds the number of seats to be elected.

(c) In any single-seat election, each round shall begin by counting the number of votes for each continuing candidate. Each ballot shall count as 1 vote for its highest-ranked continuing candidate. Concluded ballots shall not be counted for any continuing candidate. Each round shall proceed sequentially as follows:

(1) If there are 2 or fewer continuing candidates, the candidate with the most votes shall be elected, and tabulation shall be complete.

(2) If there are more than 2 continuing candidates, the last-place candidate shall be defeated, or the last-place candidates shall be defeated in batch elimination, and a new round shall begin.

(d) In any multi-seat election, each round shall begin by counting the number of votes for each continuing candidate. Each ballot shall count, at its current transfer value, for its highest-ranked continuing candidate. Concluded ballots shall not count for any continuing candidate. In the first round only, the election threshold shall then be calculated. Each round shall proceed sequentially as follows:

(1) If the sum of the number of elected candidates and continuing candidates is equal to the number of seats to be filled, then all continuing candidates shall be elected, and tabulation shall be complete.

(2) If at least 1 continuing candidate has more votes than the election threshold, then all such candidates shall be elected. If the number of elected candidates is equal to the number of seats to be filled, then tabulation shall be complete. Otherwise, each ballot counting for an elected candidate shall be assigned a new transfer value by multiplying the

ballot's current transfer value by the surplus fraction for the candidate. Each elected candidate shall be deemed to have a number of votes equal to the election threshold in all future rounds, and a new round shall begin.

(3) Otherwise, the last-place candidate shall be defeated, or the last-place candidates shall be defeated in batch elimination, and a new round shall begin.

(e) Batch elimination shall apply to the largest possible group of continuing candidates such that the sum of the votes of candidates in the group is less than the individual number of votes of every continuing candidate not in the group, and provided that the number of continuing candidates not in the group is at least 1 more than the remaining number of positions to elect.

(f) Prior to the first election conducted using Ranked Choice Voting, the Town Clerk, subject to approval by the Board of Registrars, will establish a method of tiebreaking that will be used if 2 or more last-place candidates are tied and batch elimination does not apply. The results of any such tiebreaking events must be recorded and reused in the event of a recount. The method for tiebreaking may be amended from time to time, but shall not be amended during the course of an election, including any and all recounts.

(g) When a skipped ranking or repeat candidate ranking is encountered on a ballot, that vote shall count towards the highest continuing ranking. In the case of an overvote involving two or more continuing candidates, the overvote candidates and all subsequently ranked candidates will be disregarded. If any vote cannot be advanced because no further continuing candidates are ranked on that ballot, that ballot shall be declared concluded for that contest.

(h) As used in section 4 of chapter 43A, the "order of votes received" by candidates in a ranked choice voting election shall mean the order in which candidates are elected. If multiple candidates are elected in the same round, the respective order of elected candidates in that round shall mean the order of votes received by those candidates at the end of the round.

(i) The Town Clerk, subject to approval by the Board of Registrars, may make any changes to the ranked choice voting ballot and tabulation process necessary to ensure the integrity and smooth functioning of the election, provided that ranked choice voting shall still be used and the fewest number of changes are made to achieve such purpose.

(j) In any election conducted using Ranked-Choice Voting the Town Clerk shall publish election results that show the tabulations by rounds, along with any additional information that may be required by the Town bylaws.

(k) The Town Clerk shall provide educational materials to voters subject to any applicable Town bylaws.

SECTION 2.
Notwithstanding the provisions of applicable provisions of chapters 53 and 54 of the general laws, Ranked-choice voting ballots for use in the Town of Brookline municipal elections shall be prepared according to a format meeting the below requirements and otherwise consistent with state law.

a) To the extent possible, a ranked choice voting ballot shall allow voters to rank as many choices as there are candidates printed on the ballot. If the voting equipment is unable to reasonably accommodate a number of rankings on the ballot equal to the number of candidates, the Board of Registrars of Voters may limit the number of choices a voter may rank to the maximum number allowed by the voting equipment. A ranked choice voting ballot shall not interfere with a voter's ability to rank at least 1 write-in candidate.
b) The ballot must indicate the number of seats to be filled for each contest.
c) For each election where Ranked Choice Voting is used and the number of candidates exceeds two, the Board of Registrars shall randomly draw lots prior to the printing of ballots so as to determine the order in which the names of candidates shall appear on the ballot. To the name of a candidate for Town office who is an elected incumbent thereof shall be added the words 'Candidate for Reelection'.
d) The ballot must comply with all otherwise applicable provisions of the General Laws and the regulations promulgated thereunder.

SECTION 3. If any part of this Act is declared unconstitutional by a court of competent jurisdiction, the remaining parts shall survive in full force and effect. If a conflict arises between this Act and any other provision of law, the policies and purposes of this Act shall govern.

SECTION 4. Not sooner than four years after acceptance of this act, a proposal to resume or discontinue the use of Ranked Choice Voting may be put on the Warrant for Town Meeting by a petition signed by at least ten registered voters of Brookline. In the alternative, not sooner than four years after acceptance of this act, the question may be so placed on said ballot when a petition signed by at least ten per cent of the registered voters of Brookline requesting such action is filed with the registrars, who shall have seven days after receipt of such a petition to certify the signatures. Upon passage in Town Meeting or upon certification of the signatures, the Town Clerk shall cause the question to be placed on the ballot at the next regular municipal election held more than thirty-five days after such passage or certification. Upon the defeat by the voters of the above described ballot question, another proposal to resume or discontinue the use of Ranked Choice Voting may not be placed on the ballot for four years thereafter. Not sooner than four years after a successful vote to discontinue the use of Ranked Choice Voting, the procedures in this section may be used to resume the use of Ranked Choice Voting.

SECTION 5. This act shall be submitted for acceptance by the voters of the town of Brookline at the next regular municipal or state election following the effective date of this act; provided, however, that if the deadline to put a question on the ballot for the next regular municipal or state election has passed, the question shall be placed on the ballot for the following regular municipal or state election. This act shall be submitted for acceptance in the form of the following question:

Shall an act passed by the general court in the year 2023 entitled 'An Act authorizing ranked choice voting in the town of Brookline' be accepted?"

Below the question shall appear a fair and concise summary of the act prepared by town counsel and approved by the select board. If the majority of the votes in answer to the question is in the affirmative, this act shall take effect, but not otherwise.

Warrant Article Explanation (As Filed)

This article is filed on behalf of the Ranked Choice Voting Study Committee,[24] charged by the Select Board on Jan 25, 2022 pursuant to Warrant Article 18 of the November 2020 Town Meeting which passed 187-34-10.[25] The committee was charged "to study the potential options for adoption of Ranked-Choice Voting (RCV) for Town Elections. The goal of the committee should be to recommend best practices for Ranked-Choice Voting in Town and to explore the different options for RCV including benefits and challenges." This warrant article embodies the committee's recommendations on several of its charged tasks, including:

- "specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for each Town-wide office"
- "specific recommendations, where appropriate, on the use, or not, of Ranked-Choice Voting for Town Meeting Member elections"
- "a process to be used for multi-winner elections, whether iterated one-winner election, a proportional system, or another"
- "specific recommendations on implementation via Home Rule Petition"
- implicitly, "a time frame for potential implementation"

The committee's charge included the requirement to conduct a public hearing at which its recommendations were presented and comments from the public were solicited. This hearing took place on February 13, 2023, and the recording is available on the Town's website.[26]

The committee is also charged with producing a final report. The final report will incorporate feedback from the warrant article review process and Town Meeting.

History

[24] Voting members of the committee: C. Scott Ananian (chair), Cathleen Cavell (through Oct 2022), Joan Lautenschleger, Alexander Neary, Joan Sawyer, Isaac Silberberg, Jay Sweitzer-Shalit, Mike Sandman (Select Board representative), Ben Kaufman (Town Clerk). Additionally members of Town Meeting and a representative of Voter Choice MA attended many meetings.

[25] A competing amendment sought to modify the charge to "whether or not to adopt Ranked Choice Voting"; this amendment was defeated 88-139-4. Accordingly, this report and these warrant articles present the committee's recommendations regarding the best way for the Town to adopt RCV; it is up to Town Meeting to debate "whether or not" by passing, or not, these warrant articles.

[26] https://www.brooklinema.gov/2077/Ranked-Choice-Voting-Study-Committee

In November 2020, "Massachusetts Question 2", a ballot initiative for state-wide RCV,[27] failed statewide although Brookline voted 70% in favor of the measure. Not long thereafter, Warrant Article 18 was brought before the November 2020 Town Meeting and passed 187-34-10. Warrant Article 18 asked for the Ranked Choice Voting Study Committee to be formed. After some delays, on Jan 25, 2022 the Select Board passed the charge to the committee, and in June and July of 2022 interviewed and then named the members of the committee. The Ranked Choice Voting Study Committee (hereafter, the "Committee") held its first official meeting August 25, 2022,[28] and has been meeting roughly weekly since.

Procedure

The Committee began by assembling similar warrant articles and home rule petitions from Arlington (H.4207), Northampton (H.4885), Easthampton (S.2331), Concord (HD.5329) and Amherst (H.777). Draft legislation was also contributed by Greg Dennis of Voter Choice MA. From commonalities and differences in these articles, as well as committee member suggestions, the Committee drew up a list of essential topics for consideration and decisions to make, as well as a draft legislation skeleton combining all the language alternatives from similar articles.

In the Committee's weekly meetings it has progressed methodically through this list to discuss the pros and cons of the alternatives and come to consensus on the language presented to Town Meeting in this article.

The Committee does not have complete unanimity on one point. The application of RCV specifically to the election of Town Meeting Members was not recommended unanimously, although it was recommended by a majority of the Committee. The Discussion section contains further details.

Background

Under RCV, voters rank the candidates in order of preference. Votes are counted in successive rounds; in each round, candidates with the fewest first choice votes are eliminated and those ballots for these candidates are distributed to each voter's next preference until each person elected receives a proportional majority of the vote.

Advantages of RCV are that it

[27] Restricted to single-winner contests in primary and general elections for statewide offices, state legislative officers, and congressional offices.

[28] Committee members attempted to meet on August 14, 2022 but due to organizational oversights the members had not been sworn in and an official meeting was not held.

- promotes majority support in elections with more than two candidates for a single seat because the ultimate winner must have received more than 50% of the vote;
- promotes reflective representation in multi-winner contests by allowing diverse groups of voters to elect candidates of choice;
- promotes diversity and encourages more third-party participation by reducing concern that vote splitting by either third-party candidates or similar candidates of the same party will lead to an undesirable outcome;
- allows voters to vote for their preferred candidates without worry that they are either wasting their vote or reducing the electoral chances of their next-preferred candidate
- reduces negative campaigning and polarization by broadening the base candidates must capture to win.

As noted by the Advisory Committee during the 2020 debate, an added benefit is that it preserves the second or third choice of a voter whose top candidate leaves the race between the onset of early voting and Election Day.

Disadvantages of RCV are that it

- requires additional tabulation to determine election winners when compared to 'first past the post' voting methods.
- multi-winner elections require voters to order their preferences for individual candidates, rather than simply selecting the candidates they wish to support.

The proposed article implements RCV for municipal elections only; that is, the elections that are held annually on the first or second Tuesday of May.

Implementation of RCV is possible using the Town's current voting machines, which were replaced in Winter 2022. The recently-purchased machines are capable of performing a Ranked-Choice election.

Today, 64 American jurisdictions have RCV in place, reaching approximately 13 million voters. This includes two states, two counties, and 60 cities and towns. Military and overseas voters cast RCV ballots in federal runoff elections in six states. In Massachusetts, four cities and towns have submitted home rule petitions for RCV in the current legislative session: Amherst, Arlington, Concord, and Northampton. Like Brookline, Acton has RCV on its spring Town Meeting warrant. RCV is also in the draft charter of the City of Somerville, which the city plans

to submit as home rule legislation by the end of the year. Lastly, RCV is under discussion by activists and elected officials in at least a dozen other communities around the state.

Key features of the proposed article

In order to adopt RCV in municipal elections, a Home Rule Petition is necessary. This is a request to the state legislature to pass a law that would allow Brookline to change the manner of its elections. The Home Rule Petition must first be passed by Town Meeting. After passage by Town Meeting, the Select Board must send the Home Rule Petition to the legislature, which must then pass the proposed law before it can take effect. In the proposed article, after passage by the state legislature, a Town-wide vote must be taken and RCV will become effective for municipal elections *only* if it receives a majority vote in favor of adoption.

The proposed Home Rule Petition has the following key features:

- All town-wide elections are to use RCV. This includes both single-winner elections (like for Town Clerk or Moderator) as well as multi-winner elections (School Committee or Library Trustees).[29]
- Additionally, Town Meeting Member elections are to use RCV, according to the submitted text. This includes redistricting years, when there may be up to 15 winners per precinct. (See Discussion below.)
- The Home Rule Petition requires a Town-wide vote to ratify the adoption of municipal RCV. In addition to being democratically sound, this ensures a predictable timeline for the first elections using RCV, instead of being tied to the unpredictable schedule of the state legislature.
- Multi-winner elections are to be conducted using a proportional voting system.
- The order of the candidates on the ballot will be randomized.
- Discretion is given to the Clerk and the Board of Registrars in the handling of ties and ballot size issues.

In addition, the RCV Study Committee will make recommendations to the Town Clerk regarding publication of results and voter education, which the Clerk has indicated is acceptable. The Committee decided not to seek enforcement of these recommendations via a Town bylaw, preferring to provide flexibility to the Town Clerk. However, bylaws could be adopted in the future to enforce provisions of these natures if a future Town Meeting sees fit.

Discussion

[29] The Select Board is a single-winner contest in 1 of every 3 years, and a 2-winner contest in the other 2 years.

The RCV committee did not reach a consensus on whether Town Meeting Members should be included in RCV. Discussion centered on RCV's ability to discover the 'consensus candidates' in elections that are sometimes decided by small numbers of votes, and would reduce vote splitting by similar Town Meeting Member candidates. Concerns were brought up that in redistricting years, the next of which will follow the 2030 Census, many candidates would be on the ballot which could make it challenging for voters to determine rankings among 15 or more candidates. The Committee decided to leave the Home Rule Petition as broad as possible by including Town Meeting Members in the language of the Home Rule Petition and thus giving Town Meeting the ability, during its debate, to include or (by amendment) exclude Town Meeting Members in the Home Rule Petition. Ultimately the Committee voted 7-0-1 to include the language in the submitted Warrant Article (with the Clerk abstaining), but only 6-1-1 (with the Clerk abstaining) to recommend that RCV be used to elect Town Meeting Members.

At the February 13th public hearing, feedback was provided to the Committee that candidate order on the RCV ballot has a potential to influence election outcomes through "ballot-order effects" and that the RCV committee should mitigate these effects if possible. Election research points to a significant increase in votes for candidates listed first on a ballot order, even in races with as few as two candidates. Many US states, such as New Hampshire and Rhode Island, and Massachusetts localities, such as Newton and Boston, have some form of ballot order lottery or rotation to mitigate the arbitrary advantages of ballot-order effects. The RCV committee, responding to this public feedback, voted to include language that mitigates ballot-order effects, referencing Newton's Article 8-1 election order procedure as a template.

After evaluation of several potential RCV options, the Committee selected a Proportional RCV method. Standard forms of Proportional RCV are currently in use in Cambridge and have been selected by Amherst, Concord and Northampton. Other options reviewed were Sequential RCV and Bottom-up RCV, which were noted to less fairly represent voter base intentions. The Committee reviewed commonplace methods of transferring Proportional RCV votes from eliminated candidates to continuing candidates, including random assignment, which is simple but can skew outcomes, and fractional-transfer, which requires a spreadsheet to calculate results, but produces outcomes which are transparent and traceable. Survey evidence indicates that voters in municipalities actually using RCV understand how it works, and the committee concluded that traceability of voting results was important and recommended the fractional-transfer method. Further discussion of the merits and opposition to proportional RCV are discussed in the next section.

The committee weighed discussion that many localities that currently use RCV publish the Cast Vote Records (CVR) for each election. The CVR is an electronic data record of each ranking marked on each ballot cast (but is not a digital image of each ballot). Such a record is currently

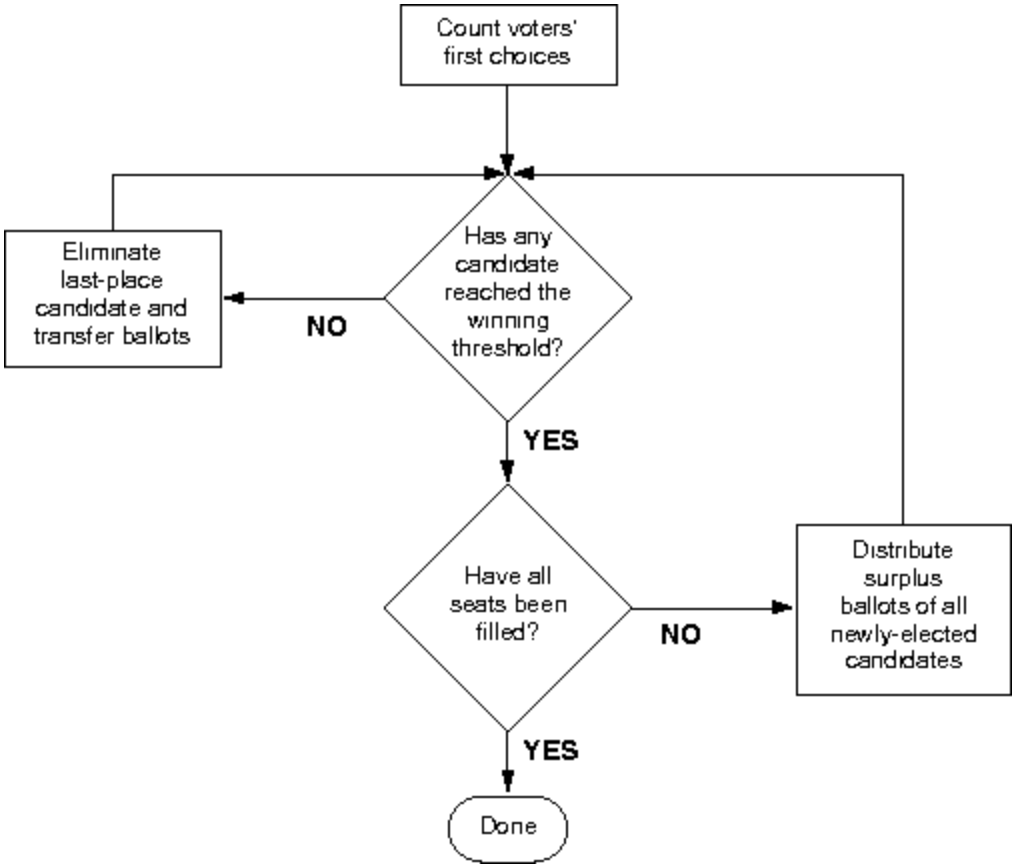
accessible for public audit through a Public Records Request. Publication of CVRs is done to ensure full transparency of election results, but may risk inadvertent de-anonymization of voter choices. After hearing feedback that CVR requests made through the existing Public Records Request process have established safeguards and will result in technical and legal assistance from the Secretary of State when needed, the Committee decided that publication of the CVR would be a recommendation to the Clerk, but not mandatory.

If RCV is adopted, the Committee believes that the Town Clerk should provide meaningful education to voters in advance of the first election in which RCV is used. The Committee recommends that such education include a mailing explaining the RCV process to be sent to each household with one or more registered voters, and a public hearing to explain the RCV process with such hearing recorded and available on the Town website. On an ongoing basis, the Committee recommends that the Town Clerk provide training materials related to RCV to each newly registered voter and post explanatory information regarding RCV outside each polling place and with every mail-in ballot. Because the Town Clerk expressed agreement with these recommendations, the Committee decided not to include a warrant article with mandates regarding these or any other educational activities, and to leave the content and extent of such activities to the discretion of the Town Clerk and the Board of Registrars. Of course, Town Meeting could choose to mandate certain activities at any time in the future, and the home rule petition includes language specifying the role of any such bylaws Brookline may pass at a later date.

Discussion of Proportional Methods for Multi-Winner Elections

After substantial discussion, the Committee decided to recommend Proportional Ranked Choice Voting (Proportional RCV)—also known as "Proportional Representation" and as "Single Transferable Vote"—for multi-winner elections. In Proportional RCV, the ballot is the same as in single-winner RCV. Voters simply rank candidates from first to last. The only thing that changes is the method of determining winners, described by the flowchart below.[30]

[30] For more detail, see https://www.youtube.com/watch?v=MSI7LYbqjWw and https://fairvote.org/our-reforms/proportional-ranked-choice-voting/



[31]

An aspect of Proportional RCV is that candidates who represent minority views or represent a minority population are more likely to gain some representation, proportional to their voter support; a block of candidates supported by a majority can not completely shut out a substantial minority. For example, if there are three seats up for election and a block of three candidates has the support of 51% of the voter base while another candidate has the support of 49%; proportional voting schemes will typically ensure that the candidate with 49% support gains at least one of the three seats. One's view of this aspect may depend on the particular minority viewpoint at issue.

The Committee also noted certain downsides of Proportional RCV: tabulation of Proportional RCV is more complex than certain other RCV methods, and hand recounts—which are rare—are more time intensive when using Proportional RCV.

Approval of Explanation

By a vote of 5-0 on March 15, 2023, the Committee voted to approve this Explanation to accompany its Warrant Articles.

[31] The threshold is the minimum number of votes required so that it is mathematically impossible for more than the wanted number of candidates to win.

SELECT BOARD

Bernard W. Greene, Chair
John VanScoyoc, Vice Chair
Miriam Aschkenasy
Michael Sandman
Paul Warren (elected May 3)

ADVISORY COMMITTEE

Dennis Doughty, Chair