



**WARRANT ARTICLE EXPLANATIONS
FILED BY PETITIONERS FOR THE
MAY 27, 2014 ANNUAL TOWN MEETING**

ARTICLE 1

Submitted by: Board of Selectmen

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 Selectmen to appoint two Measurers of Wood and Bark.

ARTICLE 2

Submitted by: Human Resources

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.

ARTICLE 3

Submitted by: Treasurer/Collector

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.

ARTICLE 4

Submitted by: Board of Selectmen

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.

ARTICLE 5

Submitted by: Board of Selectmen

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.

ARTICLE 6

Submitted by: Board of Assessors

This article provides for an increase in the property tax exemptions 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 FY89. The estimated cost for FY2015 is approximately \$60,000 and is funded from the tax abatement overlay reserve account.

ARTICLE 7

Submitted by: Board of Selectmen

The purpose of this article is to make any year-end adjustments to the current year (FY14) budget. In addition, an appropriation for additions to the Lawrence School is included.

ARTICLE 8

Submitted by: Advisory Committee

This is the annual appropriations article for FY2015. 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 presentation of the Town Administrator's Financial Plan on February 11th. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Board of Selectmen. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

ARTICLE 9

Submitted by: Arthur Wellington Conquest III and Brooks Ames

The Senior Real Estate Tax Deferral program allows seniors who have lived in Massachusetts for at least 10 years and who have owned and occupied their homes for at least 5 years to defer paying real estate taxes until they sell their home or pass away.

This article seeks to raise the income limit for eligibility for the program from \$40,000 to \$55,000 by tying it to the state's income limit for the senior "circuit breaker" tax credit, which is increased each year according to a formula. The current income limit is \$55,000. In addition, the article seeks to lower the interest charged to participants in the program from 5% to 3%. Seniors have identified high interest as a disincentive to participating in the program.

ARTICLE 10

Submitted by: Selectmen's Diversity, Inclusion, and Affirmative Action Committee

In May 2013, the Board of Selectmen appointed the Diversity, Inclusion, and Affirmative Action Committee to rewrite the Town's forty-year-old Bylaw which established the Human Relations/Youth Resources Commission, 3.14, and to make the role of the Commission more relevant and effective.

The Committee members have considerable expertise in the areas of diversity, inclusion, recruiting, personnel policies, and civil rights law. After a nine-month process, which included substantial public input, the Committee collaboratively wrote a new Bylaw for the proposed

Diversity, Inclusion, and Community Relations Commission and Department, which would replace the Human Relations/Youth Resources Commission and Division. The Bylaw also provides for a Chief Diversity Officer for the Town, who would most likely be the head of the Diversity, Inclusion, and Community Relations Department.

The Committee recognizes that Article 5.5 of the Town Bylaws, which pertains to Fair Housing, also needs substantial revision. The Committee intends to begin working on that Bylaw now that we have completed 3.14.

There were minority views on several issues:

First, there was a great deal of discussion as to whether the entity being established by this bylaw should be a Department, Division, or Office. The Town Administrator indicated his strong feeling that one-person departments are a problem and he would prefer some other designation. Some members of the Committee agreed with his viewpoint. However, we have used the most expansive term, "Department," in this warrant article so that the discussion can continue and it can be changed later if Town Meeting deems it appropriate.

Second, Martin Rosenthal, a civil rights lawyer, former Selectman, and member of the Committee offers the following thoughts and a few divergent views:

After decades of great interest in our HRYR Commission, I was keenly aware of its structural deteriorations due to decades of "outside" developments that were adopted without revisiting the HRYRC by-law. However, since being appointed to this committee, I was surprisingly astonished by the scope of those complications -- some like the mega-issue of housing reflected in the long and thoughtful Charge we were given by the selectmen, and some less obvious, e.g. better devising a Commission role with the "independent" School system which is so central to our community's "human relations" concerns. About a month ago I publicly voiced pessimism about producing an adequate warrant article for this Spring, and urged that we target the Fall Town Meeting.

With two dissenting suggestions, one minor and one major, I vote with enthusiasm to support the committee's proposal, knowing it will soon be improved by all our usual sausage-making process. My most dire concerns have been obviated by: (1) the selectmen's re-filling of the current HRYRC by some outstanding appointments (see my second "dissent," below), (2) Herculean efforts the last few weeks by our committee, especially Bernard Greene and our chair, Nancy Daly; and (3) our explicit recommendations -- some recent amendments and this committee's Explanation -- for ongoing future revisions, making this a "living by-law."

My two "dissents" are: (1) given the obvious, and indeed explicitly stated concerns about our Fair Housing by-law (5.5), which gave great -- but eventually theoretical -- power to the HRYRC, I propose adding to §3.14.4, after "... regulations to carry out its responsibilities with respect to Fair Housing" the words "*under By-Law 5.5.*" And, (2) far more significant, I prefer to keep *FIFTEEN Commissioners*. I'm not worried about theoretical and unproven fears that the (newly energized and empowered) Commission will have quorum issues or be "unwieldy." Indeed they will need the extra and fully-empowered subcommittees and members; and I reject a

presumption that some of them will be either not reappointed or dis-empowered by becoming non-voting members. *Martin Rosenthal*

ARTICLE 11

Submitted by: Neighborhood Conservation District Commission

Town Meeting enacted the Neighborhood Conservation District by-law at its Fall 2011 Town Meeting. The by-law, which went into effect in June 2012, allows residents to work with the Neighborhood Conservation District Commission (NCDC) to establish a new Neighborhood Conservation District (NCD) with boundaries and guidelines appropriate to maintaining the valued characteristics of their neighborhood. The establishment of a new NCD requires a majority vote at Town Meeting.

On January 27, 2014, residents of Toxteth Street appeared before the NCDC to request its support to establish a Greater Toxteth Neighborhood Conservation District. They had met with neighborhood residents for several months and had developed guidelines they felt would protect their neighborhood from incompatible development without being too burdensome. They submitted an historical report for the area, some of which had been compiled in the early stages of establishing the Lawrence LHD. Two members of the NCDC walked the proposed district with residents and, after discussion, determined that the proposed district had characteristics worthy of consideration as a new NCD and that the proponents had sufficient support to investigate its creation. Following the commission's adopted procedures, it requested the proponents to identify a leadership team and established a sub-committee to work with them on establishing a new NCD.

Following the January 27 meeting, the proponents' team engaged residents of the surrounding streets interested in joining the proposed NCD. They met informally with the Vice-Chair and a staff member to discuss the process and steps to get an article on the warrant for Town Meeting. They held a neighborhood meeting at which several members of the NCDC were present to answer questions and gauge interest. Over 50 residents attended. At the NCD's February 24, 2014 meeting, the neighbors presented the resulting expanded proposed Greater Toxteth NCD's district boundary and a preliminary by-law. The Commission authorized a mailing, including a boundary map, a draft by-law and a response form to all affected property owners to gauge support. Town Meeting members in the impacted precincts were also sent the materials to notify them of the activity. Copies of the map and by-law were also sent to the Planning Board and the Preservation Commissions.

The NCDC held a Public Hearing on March 10, 2014, at which presentations included the proposed by-law, a revised map, and the results of the canvass of property owners. Responses representing 85.7% of the affected property owners were favorable. There were 5.5% opposed and 8.8% who did not respond. The NCDC voted unanimously to forward the Greater Toxteth NCD to Town Meeting. The Preservation Commission voted unanimously to support the by-law at its March 11, 2014 meeting.

The pattern of development of the Greater Toxteth Street Neighborhood includes a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most sit back farther from the street than is required under current zoning and cover less of their lots than

they are entitled. This pattern contributes to a sense of open space and a wider street than the pavement allows, with homes still close enough to actively contribute to the neighborhood's street-level social dynamic. The neighborhood is predominately single or two-family three storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses.

Homes are generally centered in their lots, address the street, and most have porches that enhance the neighborhood's social fabric. Broad backyard view corridors are broken only by mature trees and fences. While nestled in a rather dense area, the neighborhood has an abundance of open and green space and many mature trees – traditional characteristics found in Brookline – that soften the near-urban locale. There are a variety of architectural styles that coexist to create a pleasing liveliness that functions as a cohesive neighborhood. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the surrounding neighborhoods (Coolidge Corner, Brookline Village, Harvard Street corridor).

The Greater Toxteth NCD by-law and guidelines focus on the character of the neighborhood and the massing, context and the relation of structures to each other and the commonly shared streetscape and view sheds. Its goal is to ensure that significant additions and new buildings are compatible with the existing historic patterns of scale, massing, and siting in the district; to maintain streetscapes, view sheds, green open space and mature trees by extension; and, to respect adjoining properties and the neighborhood as a whole. It contains review thresholds, including additions to the exterior volume of existing properties that increase the above-grade habitable building area by 15% or more or enclosures of front porches. (Entryway vestibules under 50 sq. ft. are deemed to be consistent with the character of the neighborhood.) The front plane of homes should not move forward towards the street. Extensions such as porticos, bay windows, and entrance overhangs may be restricted from extending beyond current zoning setbacks for the main structure of the home. To preserve the current streetscape setbacks, new dwellings and their structures should be similarly oriented, and have similar yard depths and similar distances between buildings as their preexisting counterparts. Additions that increase the habitable space of existing structures more than 33%, or new structures that are 33% larger than the previously existing structure, are generally to be considered not in conformance with neighborhood characteristics. No new or replacement structure may come forward of the previously existing structure's front plane on that property. All work inside a building is exempt from review. Routine maintenance and projects under the 15% threshold are exempt from review including changes such as, terraces, replacement doors and windows, gutters, cladding, roofing material, as well as other features outlined in the proposed by-law.

ARTICLE 12

Submitted by: Fred Lebow

Additions to the Noise By-law

Definitons

Portable Leaf blowers: A leaf blower is considered portable for the purposes of the article to be hand carried or configured as a backpack. [trying to capture this]

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or Type II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards

(u) Sound Level Meter: An instrument metering Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.

Emergency Generators: Emergency generators as required by the latest edition of the state building code are exempt from the Noise Bylaw. [consistent with state building code]

Background Noise Levels at night: Background noise levels at night for the enforcement of this Bylaw will be considered to be 10 dBA lower than day time background noise.

Section 8.15.6 f Leaf Blowers. Insert Line 6 to read
(ANSI) or IEC 61672-1 methodology.

Section 8.15.6 f Leaf Blowers. Insert Line 8 to read
The approved ANSi or IEC Noise Limit under this By-law. However , any

Section 8.15.6 f Leaf Blowers. Insert line 15 to read
Unit has as affixed manufacturer's ANSI, IEC or town label. Any portable

Section 8.15.6 f Leaf Blowers. Insert line 18 to read
Operation after January 1, 2010 without a manufacturer's ANSI or IEC label

ARTICLE 13

Submitted by: Nathan Bermel

Tobacco use is a leading cause of preventable morbidity and mortality in the United States; approximately 443,000 people die prematurely each year and another 8.6 million live with a serious illness due to tobacco use.¹ The negative consequences of using tobacco products include but are not limited to: cancers, respiratory and cardiac diseases, negative birth outcomes, and susceptibility to infectious diseases.

Despite current laws that prohibit the sale of tobacco products to minors, youth smoking remains a major public health problem. In the 24th Surgeon General's Report, U.S. Surgeon General David Satcher documented that smoking among U.S. high school students increased thirty three percent (33%) from 1992-1998.² According to a 2000 survey conducted by the Centers for Disease Control and Prevention, eighty two percent (82%) of smokers tried their

¹ Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. MMWR Morb Mortal Wkly Rep. 2008; 57(45):1226-1228.

² Centers for Disease Control and Prevention, *Tobacco Use Among High School Students-United States, 1997*, 47 MORBIDITY & MORTALITY WKLY. REP. 229 (1998)

first cigarette before the age of eighteen.³ These numbers are alarming because the earlier a young person's smoking habit begins, the more likely he or she will suffer those diseases caused by smoking.⁴ What is more, once someone becomes addicted to tobacco products, it is exceptionally difficult for that person to stop using them.⁵ Individuals may start simply experimenting with tobacco use, but before they are aware of their own level of addiction, they begin to want, then crave, then need cigarettes, at which point they are unable to quit.⁶ To break this pattern, Brookline must implement measures to make it more difficult for youth to access tobacco.

Currently, students at Brookline high school have easy access to tobacco products. School rules prohibit the use of tobacco products on school property, and yet throughout the day many students can be seen smoking in front of the high school. This is because the Greenough Street sidewalk opposite the school entrance is defined as public property rather than school property. This allows students to smoke, without restraint, a mere fifteen yards from the school's entrance. Students take advantage of this, and from eight o'clock to sunset one can count on smokers being in front of the high school.

While at the moment legal, this pattern creates significant problems for the community. One issue is the presence of secondhand smoke. Any exposure to secondhand smoke is enough to damage health; possible effects include lung cancer, heart disease, and respiratory issues (citation:http://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/) Because Greenough Street is the initial post-school social destination for hundreds of students daily, many are consistently at risk of inhaling secondhand smoke. Implementing the no-smoke zone would remove any potential hazard by relocating smokers away from the high school. In addition, undesirable fumes, odors, and litter would also be eliminated.

Implementing the no-smoke zone would also greatly reduce the number of new student smokers. For some in the high school, especially freshmen, the highly visible smokers are perceived to have status. Joining the group of smokers provides some with a readily available social group. By relocating the currently accessible smokers, fewer students will be negatively influenced.

Additionally, present smokers will be less likely to smoke. Because of students' current accessibility to places to smoke, all of five minutes are needed to go out front and smoke a cigarette. Throughout the day there are endless opportunities to do so, such as the five minutes between each class, thirty minutes for lunch, and up to sixty minutes during any free blocks. These times are being taken advantage of, and by increasing the distance smokers have to travel, there will be less time and fewer opportunities for students to smoke.

³ Centers for Disease Control and Prevention, "Youth Surveillance- United States 2000," 50 MMWR 1 (Nov. 2000).

⁴ Emanuela Taioli & Ernst L. Wynder, *Effect of the Age at Which Smoking Begins on Frequency of Smoking in Adulthood*, 325 NEW ENG. J. MED. 968-969 (1991).

⁵ See U.S. Dep't of Health and Human Servs., *THE HEALTH CONSEQUENCES OF SMOKING-NICOTINE ADDICTION: A REPORT OF THE SURGEON GENERAL* iii-v (1988).

⁶ Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.

A similar law was implemented at Newton North High School in 2008. In just 3 years, the percentage of students who said they had smoked in the last thirty days declined from (13%) to (4%) and daily use of tobacco was reduced by more than fifty percent. Regular tobacco users also reported a decline in their use. (9.1% of girls and 13.1% of boys)

A no-smoke zone around the high school would help curtail Brookline's youths' access to tobacco and nicotine products and potentially reduce youth smoking rates within the town. 90% of smokers in the United States start to smoke prior to age 21.⁷ However, people who reach the age of 21 as a non-smoker have only a 2% chance of ever becoming a smoker. This law would significantly decrease the number of students who started smoking at an early age. For these reasons, there is interest in implementing a 900-foot no-smoke around Brookline High School.⁸

The intent of this warrant article is to allow the town of Brookline to help curtail youth smoking. This warrant article is comparable to tobacco laws that have been passed in Newton.

ARTICLE 14

Submitted by: Nathan Bermel

Tobacco use is a leading cause of preventable morbidity and mortality in the United States; approximately 443,000 people die prematurely each year and another 8.6 million live with a serious illness due to tobacco use.⁹ The negative consequences of using tobacco products include but are not limited to: cancers, respiratory and cardiac diseases, negative birth outcomes, and susceptibility to infectious diseases.

Despite current laws that prohibit the sale of tobacco products to minors, youth smoking remains a major public health problem. In the 24th Surgeon General's Report, U.S. Surgeon General David Satcher documented that smoking among U.S. high school students increased thirty three percent (33%) from 1992-1998.¹⁰ According to a 2000 survey conducted by the Centers for Disease Control and Prevention, eighty two percent (82%) of smokers tried their first cigarette before the age of eighteen.¹¹ These numbers are alarming because the earlier a young person's smoking habit begins, the more likely he or she will suffer those diseases caused by smoking.¹² What is more, once someone becomes addicted to tobacco products, it is exceptionally difficult

⁷ *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health;2012.

⁸ Bolton MM. Tobacco buying age now set at 21. *Boston Globe* May 18, 2013.

⁹ Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. *MMWR Morb Mortal Wkly Rep*. 2008; 57(45):1226-1228.

¹⁰ Centers for Disease Control and Prevention, *Tobacco Use Among High School Students-United States, 1997*, 47 MORBIDITY & MORTALITY WKLY. REP. 229 (1998)

¹¹ Centers for Disease Control and Prevention, "Youth Surveillance- United States 2000," 50 *MMWR* 1 (Nov. 2000).

¹² Emanuela Taioli & Ernst L. Wynder, *Effect of the Age at Which Smoking Begins on Frequency of Smoking in Adulthood*, 325 *NEW ENG. J. MED.* 968-969 (1991).

for that person to stop using them.¹³ Individuals may start simply experimenting with tobacco use, but before they are aware of their own level of addiction, they begin to want, then crave, then need cigarettes, at which point they are unable to quit.¹⁴ To break or change this pattern, Brookline must make it more difficult for merchants to sell to minors. If teenagers have difficulty buying tobacco, the initiation of tobacco use can be delayed or prevented.¹⁵

Prohibiting the sale of tobacco and nicotine containing products to people under the age of twenty-one would help curtail Brookline's youths' access to these products and potentially reduce youth smoking rates within the town. As the law currently stands, any person nineteen years or older can legally purchase and consume tobacco products. At Brookline High School, this means that a significant percentage of current seniors will be able to legally purchase tobacco products this year.¹⁶ It should be noted that 90% of people who purchase cigarettes for distribution to minors are between the ages of 18 and 20.¹⁷ Since, under usual circumstances, students do not reach twenty-one years of age while still enrolled in high school, increasing the legal age of consumption would greatly reduce the number of students in Brookline High School that could purchase tobacco products. By decreasing the number of eligible buyers in high school, this warrant article could help reduce youth smoking by decreasing the access of students to tobacco products. 90% of smokers in the United States start to smoke prior to age 21.¹⁸ However, people who reach the age of 21 as a non-smoker have only a 2% chance of ever becoming a smoker. For these reasons, there is interest in extending the benefits of restricting tobacco sales to minors to apply to all individuals under the age of 21 in Brookline.¹⁹

The intent of this warrant article is to allow the town of Brookline to help curtail youth smoking. This warrant article is comparable to tobacco laws that exist in other towns. Locally, warrant articles that increase the age of consumption for tobacco products to twenty-one have passed in Needham, Ashland, Dover, Canton, and Sharon without issue. Twenty-one (21) is now set to become the minimum age of purchase for tobacco and nicotine products in New York City.

¹³ See U.S. Dep't of Health and Human Servs., THE HEALTH CONSEQUENCES OF SMOKING-NICOTINE ADDICTION: A REPORT OF THE SURGEON GENERAL iii-v (1988).

¹⁴ Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.

¹⁵ U. S. Dep't of Health & Human Servs, PREVENTING TOBACCO USE AMONG YOUNG PEOPLE: SURGEON GENERAL'S REPORT (1994).

¹⁶ Hal Mason, Assistant Headmaster, Brookline High School

¹⁷ Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.

¹⁸ *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health;2012.

¹⁹ Bolton MM. Tobacco buying age now set at 21. *Boston Globe* May 18, 2013.

ARTICLE 15

Submitted by: Selectmen's Brookline Place Advisory Committee

This article is submitted by the members of the Brookline Place Advisory Committee (BPLAC) appointed by the Board of Selectmen, as well as a resident. The Committee was given the responsibility of reviewing and analyzing current physical and economic conditions, zoning, proposed conceptual building massing and the impacts of the proposed project by affiliates of Boston Children's Hospital (BCH), open space, and the locations, size and design of parking facilities for the GMR-2.0 District, consisting of the entire block of parcels at 1-5 Brookline Place (the "Site") bounded by Washington Street (Route 9), Pearl Street, and Brookline Avenue. In addition, BPLAC was tasked with reviewing and analyzing the connectivity of the Site with adjacent buildings, the Brookline Village MBTA stop and the Route 9 / Brookline Avenue roadways, along with its relationship with the planned Gateway East improvements.

The BPLAC Committee and its Focus

BPLAC consisted of 14 individuals, including nearby residents and business owners, plus residents with professional backgrounds and expertise in architecture, landscape architecture, commercial development, finance, planning, and transportation planning from the Board of Selectmen, Planning Board, Economic Development Advisory Board, Zoning By-Law Committee, and Transportation Board. In addition, the Committee was staffed by Kara Brewton, the Town's Economic Development Director, and Jennifer Dopazo Gilbert, the Town's Special Counsel for Brookline Place. BPLAC also retained expert consultants to review the issues of financial feasibility and parking requirements. Environmental conditions and proposed remediation was reviewed by both the Town's Special Environmental Counsel and independent Licensed Site Professional. Given the complexity of the issues, there were 12 committee and subcommittee meetings, and countless hours of additional volunteer work by Committee members. Neighborhood representatives attended many of the meetings; they were given the opportunity to, and did, actively participate in the process.

The Committee's fundamental charge was to consider zoning amendments that would permit appropriate development while minimizing impacts on the public and adjacent neighborhoods. The proposed zoning changes utilizes several means to achieve that goal: Floor Area Ratio (FAR), varying height limitations to form a building envelope, open space requirements, no build zones, pedestrian amenity requirements, Transportation Demand Management reporting requirements, and on-site parking limits.

Specifically, the Committee focused their work on the following questions: (i) whether zoning should be changed to permit all the allowed parking to be built above-ground; (ii) if the parking is allowed to be above-ground, what counterbalancing amenities should be required; and (iii) writing zoning that applies to the entire GMR-2.0 District rather than for development on one lot of a particular size.

The 2007-2009 Scheme

If adopted by Town Meeting, this zoning amendment would modify the current GMR 2.0 District zoning adopted in 2004-2005, as amended in the spring of 2008, which was adopted

after extensive meetings with a Project Review Team to facilitate the redevelopment of 2-4 Brookline Place (2 BP) by BCH. In 2007, a ground lease and environmental remediation agreement was negotiated with Winn Development Company, the Town, and BCH. A special permit for 2-4 Brookline Place was applied for by BCH in the fall of 2008 and was issued by the Zoning Board of Appeal in spring, 2009.

The 2009 special permit allowed for an 8 story office building at 2-4 Brookline Place with 252,596 square feet (SF) and 586 new parking spaces in 5 ½ below grade levels of parking. The remainder of the block consisting of the building and garage at 1 Brookline Place containing approximately 105,120 SF and 377 parking spaces and the building at 5 Brookline Place containing approximately 10,711 SF were to remain unchanged. The 2009 scheme would have had a total of 963 parking spaces to service the site.

Because the 2009 plan and associated business terms relied on the Town acquiring the 2BP property and then leasing it back to BCH, the Town was particularly interested in having contaminated soil and groundwater associated with the proposed below-ground parking garage properly removed and disposed. The prior redevelopment scheme required foundations consisting of a deep perimeter foundation wall (slurry wall) extending more than 100 feet below the ground surface to control groundwater by intercepting the bedrock. Due to the extensive costs required to construct the subsurface parking in the 2009 scheme, and the lower projected rental rates achievable in the current market, BCH has been unable to develop the 2-4 Brookline Place project under the existing 2009 special permit.

The Current Proposal

The current proposed development concept consists of less square footage than the 2009 special permit, with an 8-story office building of 182,500 SF at 2 Brookline Place and a 47,000 SF medical office space expansion of the 6-story 1 Brookline Place (1 BP). The existing 4-story parking garage would be replaced with a 6 ½-story, 683-space garage, resulting in 248 net new spaces for the overall Site. The proposed garage includes reusing the existing half story of partially below ground spaces at the 1 BP garage. The ground is unsuitable to support the proposed structures in its current condition. The current concept is to design a slab and foundation system, with footings only 4' below grade, and then drilling 2' diameter holes an additional 6' down, and reinforcing the soil with "geopier" sleeves and fill, effectively making the soil around it denser. This methodology would replace the need for deep foundations (e.g., driven piles, drilled shafts or cast-in-place piles). Since groundwater is approximately 8' below the surface, BCH proposes to design the foundation system that requires minimum excavation and dewatering, thereby reducing impacts of the removal of contaminated soils and groundwater.

Project Feasibility Financial Analysis

The Town's real estate finance consultant, Pam McKinney, was asked to review the financial projections for the development, and opine on its feasibility, working with the BPLAC Finance Subcommittee. In doing her analysis, Ms. McKinney had access to Boston Children's Hospital financial projections for three development scenarios: (i) all parking above grade in one garage; (ii) building five levels of parking below grade at 2 Brookline Place while also retaining and

expanding the existing parking garage at 1 Brookline Place; and (iii) building two levels of parking below grade in a larger footprint than the building above at 2 Brookline Place while expanding the existing parking garage. Ms. McKinney also had access to detailed construction cost estimates from Suffolk Construction Company for these three scenarios, and market data regarding comparable medical office properties and rents from Frank Nelson at Cushman & Wakefield. She also has access through her other work to property and financial information of similar properties in the Fenway and Longwood Medical Areas, as well as other industry databases. Ms. McKinney took the BCH financial models and made adjustments throughout the pro-forma, taking the point of view of an appraiser, as if the project were seeking underwriting for financing. The McKinney model showed a very similar financial outcome as BCH presented for all scenarios, and it agreed with BCH that there would be a significant loss to the developer for the two scenarios with below ground parking and a reasonable return on cost for the scenario with above-ground parking.

Following significant discussion and analysis of various below-ground options, BPLAC agreed that a proposed zoning amendment should consider removing the constraint of the 2004-2005 zoning which has made the 2009 project unfeasible, viz. the requirement that 60% of the required parking be subsurface. However, prior to agreeing to above-ground parking, BPLAC analyzed shadow and visual impacts of the proposed development to Station Street and Village Way. As a result of these studies, BPLAC agreed that the overall massing should be broken up, with the 2 BP building having a smaller footprint (and shallower north-south dimension), sited at the southernmost edge of the GMR district, in combination with an addition to the existing 1 BP building towards Washington Street. The Committee also favored the shift of the bulk of the open space towards the Brookline Village T-station.

Parking and Transportation Issues

The size of the expanded parking garage was a very important aspect of the Committee's study. BPLAC's work resulted in BCH's initial proposal of an 8-story garage to be reduced to 6 ½ stories. BPLAC also worked with the Town's parking consultant, Nelson-Nygaard, to reduce the proposed parking to a minimum while not overburdening the surrounding streets with parking overflow. BCH has agreed that the garage will not be used for satellite parking for the Longwood Medical Area. The proposed 683 stall garage reflects the minimum number of spaces recommended by Nelson-Nygaard that would need to be exclusively available for the entire GMR-2.0 District. Although Nelson-Nygaard did not recommend setting a maximum number of parking spaces, BPLAC felt that capping the overall capacity for vehicle accommodation at the site was an important component to any zoning change that allowed significant above-ground parking. In addition to the number of spaces, BPLAC also added bulk and dimensional zoning limits to the size of the parking garage: counting any above-ground parking towards the Floor Area Ratio (similar to Coolidge Corner); limiting the height of any structure at the northeast corner of the site (closest to Village Way homes) to 55', where structures would otherwise have the largest shadow impacts on surrounding properties; and creating a "no-build" zone where the proposed open space is located at the northwest corner of the site. Both Nelson-Nygaard and BCH suggested that allowing accommodation for additional vehicles via valet or tandem parking within the parking structure would be a helpful mechanism for managing peak parking demand. BPLAC agreed that by special permit, the Board of Appeals could allow accommodation of an

additional 20% of vehicles within the parking areas that are striped for 683 parking stalls via parking management should the need arise. It should be noted that as of the warrant closing, Boston Children's Hospital has agreed to significant mitigation and community benefit funding for the Gateway East and Riverway crossing areas, most of which would be paid to the Town conditional upon the Board of Appeals approving *at least* 683 parking stalls with the ability to accommodate and an additional 20% vehicles.

Nelson-Nygaard recommended to BPLAC that the most important tool the Town has for controlling traffic at the site is a required, robust Transportation Demand Management (TDM) plan with annual reporting and a mechanism to require on-going adjustments once the building is in full operation. Those recommended measures are now incorporated in the proposed zoning as well as an agreement from BCH to commit to such a condition for the Special Permit. Additionally, BPLAC recommended the zoning be amended to require a TDM plan for any major impact project. Finally, the 25% reduction of minimum parking requirements currently allowed under zoning conditional upon a TDM plan is now simply the new minimum parking requirement for major impact projects in the GMR-2.0 District.

Other Zoning and Site Plan Issues

The proposed amendment modifies Section 5.06(d) to facilitate integrated development of the GMR-2.0 District to include all of 1 Brookline Place, 2 Brookline Place and 5 Brookline Place. The zoning structure also facilitates the creation of potential new lot lines (1 Brookline, 2 Brookline, 5 Brookline and the garage on separate parcels) to allow marketability of new lot configurations to separate owners while retaining site-wide zoning controls. In addition to district-wide FAR and parking requirements, the proposed zoning also describes the type of open space desired for the Site, and sets a minimum open space for the entire block of 35%, up to 55% of which could be made of hard surfaces for walks and plaza areas.

As described earlier, the proposed zoning imposes a "no-build" zone at the northwest corner of the site where the bulk (but not all) of the open space is proposed, closest to the Brookline Village MBTA station. The zoning also describes a minimum 45' wide area for pedestrian passage between the 2 BP and 1 BP / garage buildings, connecting the Brookline Village MBTA Station to the intersection of Brookline Avenue and Washington Street, reinforcing the pedestrian desire line identified in the Gateway East/ Village Square master plan.

Adjacent to Washington Street (Route 9), the general sense of the Committee was that the building/street interface should be similar to the new Dana Farber building on Brookline Avenue in the Longwood Medical Area, which has approximately 18' in width of outdoor seating, sidewalks, and landscaping between the building and the street. Because the property line along Washington Street and Brookline Avenue is generally located in the middle of this proposed building-street distance, the proposed zoning includes a building setback of 9'. BPLAC felt that the specific building/street interface should be designed during the permitting process. Therefore, as currently exists with the general Zoning By-law, relief from the setback may be sought by special permit to accommodate this design process. The Gateway East / Village Square master plan proposes a double row of trees (street trees and ornamental trees) along Washington Street to the extent feasible. BPLAC noted that this goal should be carried forward in future design refinement of both the Gateway East plans (via the MassDOT process) as well as the permitting process for Brookline Place (via the Planning Board, Design Advisory Team, Board of Appeals).

Companion Warrant Articles

Three companion non-zoning warrant articles are being filed by the Board of Selectmen, which if passed at Town Meeting, would authorize the Selectmen to: (i) accept on behalf of the Town a Pedestrian Easement that incorporates the “no-build” zone at the northwest corner of the District and the 45’ wide pedestrian passage described above; (ii) accept a Restrictive Covenant to protect the tax certainty for the proposed new development at Brookline Place; and (iii) release the 2007 agreements being held in escrow related to the prior development and enter into any new agreements or amendments to carry out the terms of a Memorandum of Agreement with respect to such proposed development, including mitigation and community benefits.

What to Expect

Assuming the proposed zoning and companion warrant articles are passed by Town Meeting, Boston Children’s Hospital anticipates filing a Special Permit by Fall 2014, and receiving a Special Permit in Spring 2015. Construction could then start around the end of 2015, and could be complete as early as 2019. In addition to mitigation and community benefits, the estimated new growth tax revenue if and when this Site is developed as proposed is more than \$2 million per year.

ARTICLE 16

Submitted by: Andrew Fischer

The Brookline Place rezoning proposal is complex, and Town staff and citizens have worked diligently to draft zoning changes which are acceptable to both the developer and the town, to be approved by Town Meeting.

The majority of Town Meeting Members supported Warrant Article 10 in the Fall 2013 Town Meeting, a zoning change that would have reduced parking requirements for new construction. (Article 10 failed because it required a 2/3 vote, but 60% of Town Meeting Members voted in favor of reduced parking minimums for studio and one bedroom apartments). In light of this, it isn't clear that this Town Meeting is willing to support a development at Brookline Place that includes as many as 820 parking spaces, and the amount of parking needed is an issue that should be before town meeting.

It is possible, even reasonable, that Town Meeting would only approve a Brookline Place zoning scheme with fewer spaces, due to concerns about the height and mass of the parking garage, the added congestion to Brookline Avenue and Route 9, or simply the desire to not serve as satellite parking for the Longwood Medical Area. It is possible that Town Meeting would only accept a parking garage that was smaller or one that had some number of the permitted parking spaces underground, or both. Whatever the reason, it was important to ensure that Town Meeting had the option of approving a rezoning for Brookline Place with fewer parking spaces permitted, given restrictions that any amendments to the warrant article be "within the scope" of the warrant article.

This warrant article is intended to allow this debate and to allow Town Meeting to vote on a modified parking requirement suitable for the development rather than be limited to an up or down vote on a 6 story parking garage with 820 parking spaces. This warrant article is identical to the principal Brookline Place zoning article, with the following exceptions:

1. The two tiered garage height is reduced 30 feet, from 65 to 35 and from 55 to 25 (4.c.iii). This eliminates the top three floors of the otherwise 6 1/2 floor garage.
2. The footprint that the parking garage or garages occupy cannot exceed 30,000 square feet (4.c.iv). This is about 10% larger than the garage recently proposed by the developer, and is included to ensure that the garage doesn't become twice as fat should it become half as tall.
3. The FAR maximum is reduced from 3.45 to 2.90 (Section 5.00, Table 5.01). Because at-grade and garage parking contributes to the square footage calculation in FAR, the FAR reduction ensures that the maximum allowable square footage of the medical office buildings themselves remains the same.
4. The maximum amount of additional vehicles which can be parked tandem, valet, or with auto lifts, with a special permit, is reduced from an additional 20% to zero.

It is important to note that this article doesn't preclude a developer from constructing some or all of the garage below grade -- and that the below grade spaces would be in addition to the roughly 380 above ground spaces this article permits. There is soil contamination on the site, rendering underground parking technically feasible but more expensive than it might be otherwise. This article doesn't reduce the total number of parking spaces possible under the zoning; it reduces the total number of spaces at or above ground.

The intent of these changes isn't to make the Brookline Place project uneconomic. Rather, it is to ensure that Town Meeting has significant latitude in choosing the maximum amount of at or above ground parking permissible. The petitioner is hopeful that a substantial number of Town Meeting Members will speak up at hearings before the Board of Selectmen, the Advisory Committee, the Zoning Bylaw Committee, and in other forums so that consensus on the "right" amount of parking can be reached. If consensus is reached, a new number of parking spaces above ground could be determined, between the roughly 380 this article would allow and the 820 the other article would allow. This warrant article provides a few "knobs" the community can turn to arrive at that number. The maximum height of the garage can now be adjusted within the 3 story difference between the two articles, and the maximum additional vehicles than can be parked can be altered to be any value within the 0% to 20% range provided by the two articles.

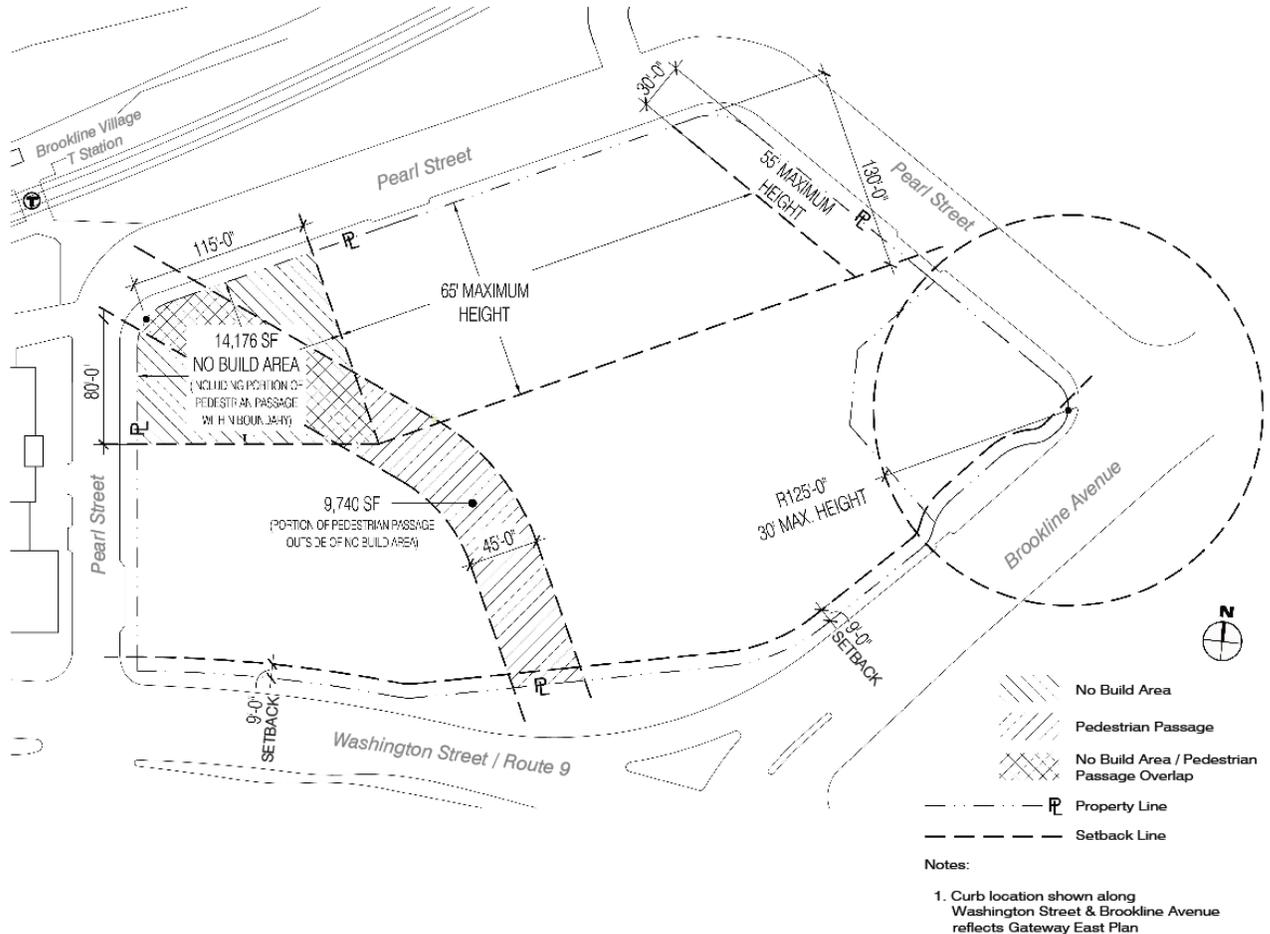
The petitioner hopes that consensus will be reached, and that the Town Meeting will overwhelmingly support rezoning of the Brookline Place parcels with the "right" amount of at-grade or above ground parking.

ARTICLE 17

Submitted by: Board of Selectmen

As part of Boston Children's Hospital proposed development at the site known as Brookline Place, it has offered to grant an easement over its land for a pedestrian walkway through the Brookline Place site and to maintain an open space with pedestrian area along Pearl Street and situated to the north of the proposed 2-4 building and to the east of the proposed new garage. The easement area will be depicted on the Plan attached to the Easement Agreement. This Article, if passed by a two-thirds vote will allow the Selectmen to execute the necessary Easement Agreement and to record the easement at the Norfolk Registry of Deeds and/or if

required the Norfolk Registry District of the Land Court following the granting of a Special Permit and other necessary permits associated with the proposed redevelopment. In addition, this easement will create an interest in land which will serve as the basis for the enforcement of a Restrictive Covenant that will provide future tax-certainty for the new development proposed by Boston Children's Hospital. The following is an illustration showing the Easement area:



ARTICLE 18

Submitted by: Board of Selectmen

As set forth in the terms of the Restrictive Covenant, this Article, if passed, will provide a Restrictive Covenant that runs with the land and provides tax-certainty for a 95-year term for the new development at 2-4 Brookline Place as well as the proposed additions to One Brookline Place and the net new parking spaces in the garage. It also, will allow the Board of Selectmen to enter into a tax equivalency agreement or other agreement(s) consistent with the terms of the Restrictive Covenant should all or a portion of the properties be conveyed to any entity that may qualify for real estate tax-exemption in the future.

ARTICLE 19

Submitted by: Board of Selectmen

This Article, if approved by majority vote, will allow the Selectmen to release the agreements still being held in escrow for the prior 2007 project at Brookline Place and to enter into new agreements and/or amendments thereto to ensure that the Town receives the benefits and protections as set forth in the Memorandum of Agreement for the current proposed development among the Town, Children's Brookline Place, LLC and Children's One Brookline Place, LLC, upon such terms and conditions as the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

ARTICLE 20

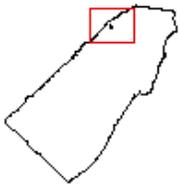
Submitted by: Daniel Simkovitz and Elena Budrene-Kac

The three properties known and numbered as 273, 277 and 281 Mason Terrace are all pre-existing non-conforming two families. All three properties were built around the 1920s and located in a single-family district north of Beacon Street, off of Summit Avenue, and southeast of Brighton. The properties are immediately adjacent to the T-6 district which covers the properties on the adjacent Winchester Street. Due to the topography and the significant slope from Mason Terrace down to Winchester Street, all three properties were built with basements with ceiling that approach 18 feet in height, however, because these properties are two families located in the single family district, they cannot seek relief to convert the basement to habitable space as would be allowed, by special permit, in a T-6, two family district.

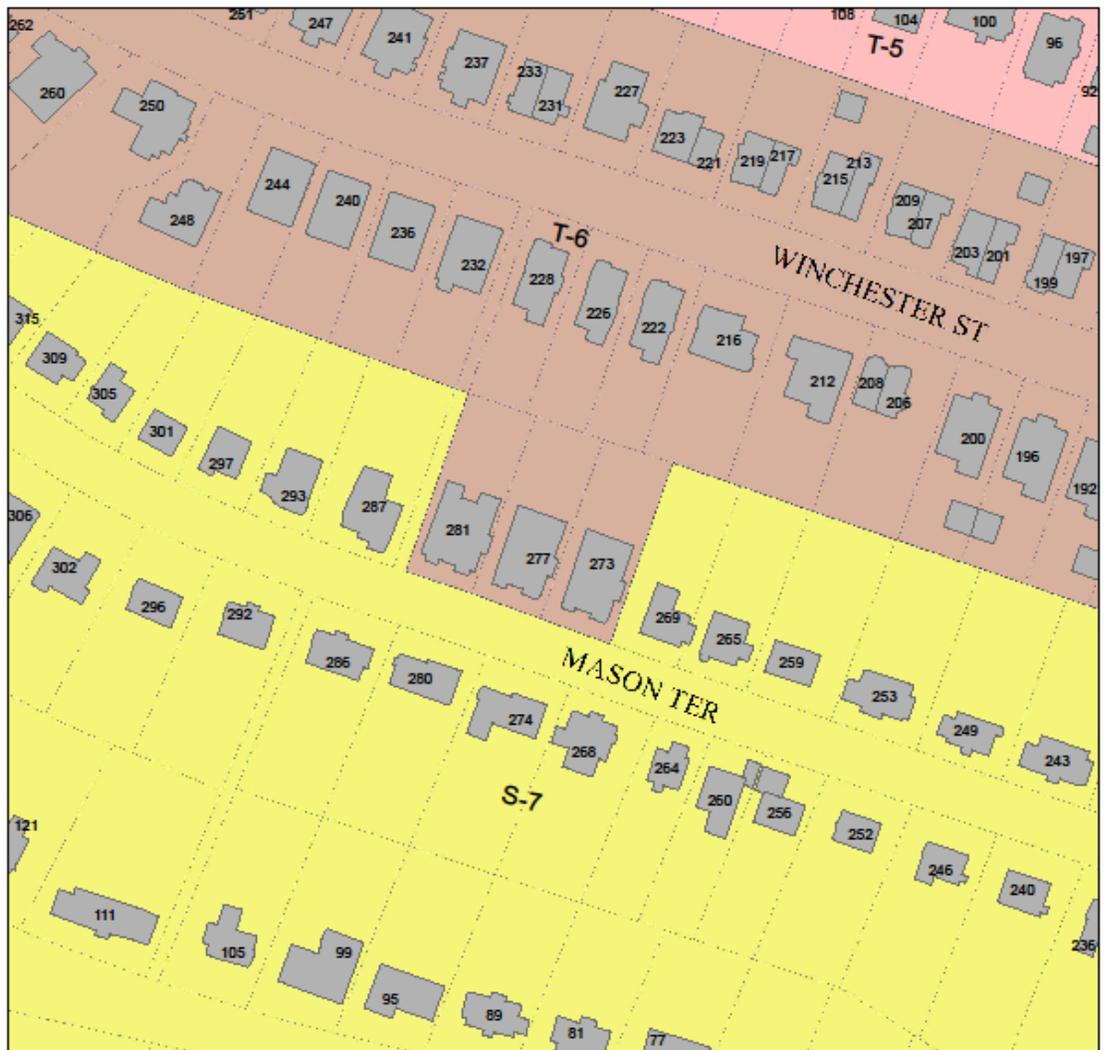
**Mason Terrace
Proposed Zoning
Zone Change
S-7 to T-6**
Town of Brookline,
Massachusetts

Legend

-  Buildings
-  Zone Change Area
-  S-7 Zone
-  T-5 Zone
-  T-6 Zone



1 inch = 100 feet
Map created by Brookline GIS on 03/22/2014



ARTICLE 21

Submitted by: Diane Gold

The Neighborhood of Buttonwood Village in South Brookline, until recently, consisted of modest low slung detached single family homes built mostly in the 1950's. It is one of the few neighborhoods left in Brookline where a family can afford to buy a single family home with a yard for less than a million dollars.

Over the last decade, developers have been transforming our neighborhood, demolishing the original modest homes and shoehorning into their place luxury condos and 2 family dwellings. The new construction has been completely out of character with respect to the size, scale and density that is prevalent in the rest of the neighborhood.

This originally started encroaching towards Meadowbrook Road contiguously from the denser housing stock along Clyde Street, but the most recent development of 4 units at 28/32 Meadowbrook resulted in 2 enormous, unsightly 2 family condos smack dab in the middle of our neighborhood, surrounded by single family houses on both sides and across the street.

Much to the dismay of the neighbors, we have learned that despite our collective dislike at what these developers are doing to the character of our neighborhood, according to the plan of the town zoning regulations, the developers can do this by right. In fact, it has been explained to us that given the economics of conversion to two family dwellings, we should expect this profit maximizing behavior of the developers to continue where allowed until every detached single family home has been eliminated.

We have been told that if we want to preserve the character of our neighborhood, we need to change the zoning. As we find that the current zoning is incongruous with the current character of the neighborhood, we plan to utilize the tools of democracy and request a zoning change at this spring's Town Meeting.

Our primary goal is to prevent the conversion of the remaining detached single family housing into two family dwellings and town houses. Unfortunately, the smallest existing single family zoning district is an S-7. Most of the lots along Meadowbrook, Larkin and Whitney are four to five thousand square feet in size, which does not fulfill the minimum lot size requirement for an S-7. The neighborhood does not wish to rezone itself into non-conforming status.

We are thus proposing to create a new single family district where the minimum lot size is 4,000 square feet, an S-4. To minimize the changes that we would impose upon these houses, we would base the dimensional requirements for the proposed S-4 zone by taking the T-5 requirements from Table 5.01 of the Zoning By-Laws, and removing the line items for a "2-family dwelling" and a "1-family attached dwelling." The remaining two line items would be for a "1-family detached dwelling" with a minimum lot size of 4,000 square feet, and "Any other structure or principal use."

Proposed Meadowbrook Zoning Change T-5 to S-4

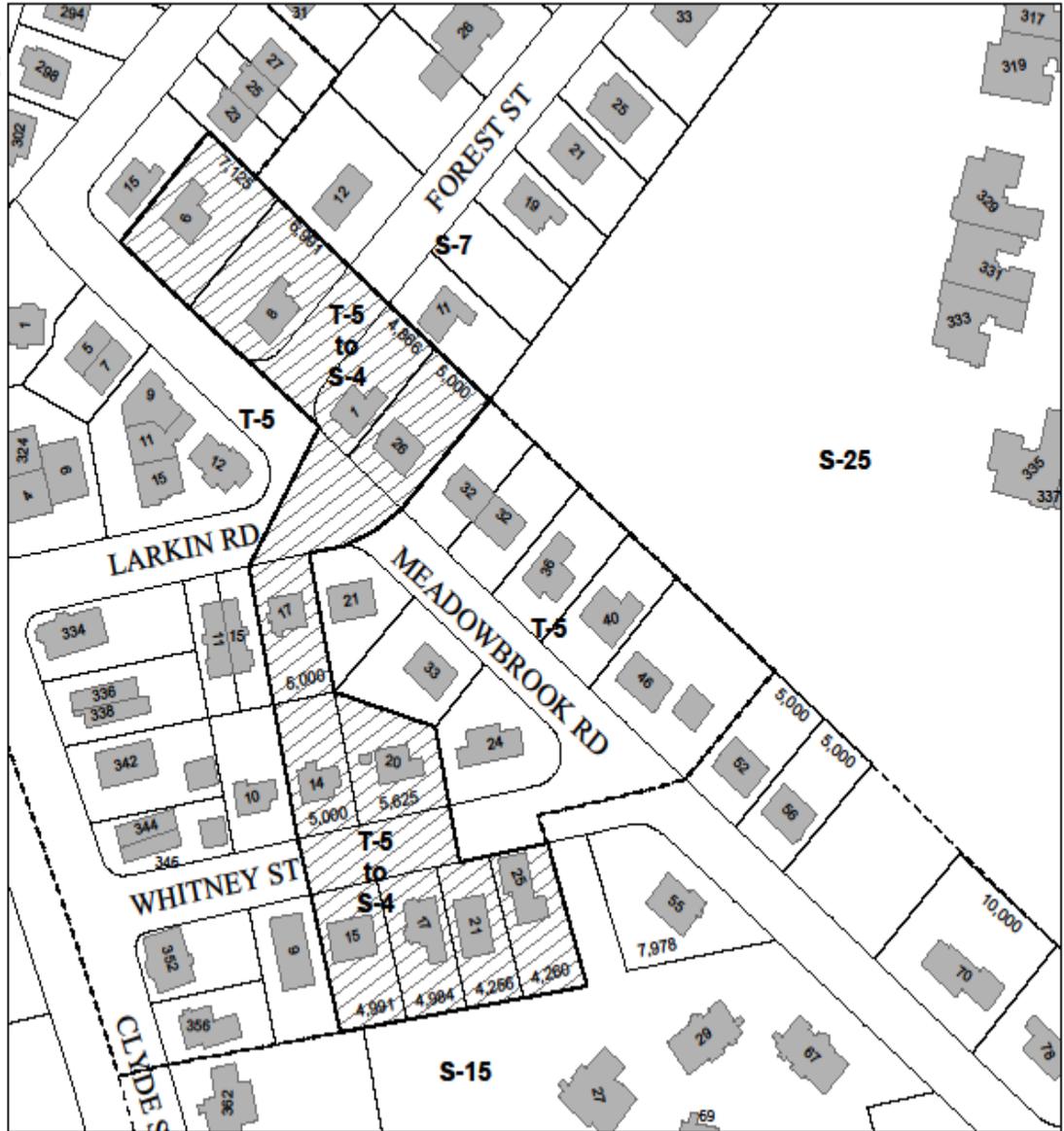
Town of Brookline,
Massachusetts

Legend

- Buildings
- T-5 to S-4



1 inch = 100 feet
Map created by Brookline GIS on 3/12/2014



ARTICLE 22

Submitted by: Department of Planning and Community Development

The Planning and Community Development Department is submitting this article with the support of the Selectmen's Zoning By-law Committee.

This article seeks to clarify the regulations and allow for completely self-serve gas stations, as well as allow for gas stations to have associated convenience stores and therefore sell merchandise other than auto-related products.

The current Zoning By-law has two gas station-related uses: #25, Gasoline service station, and #25A, Partially self-service gasoline stations. Use 25 was the first use to allow gas stations (presumably full-serve), while Use 25A was added in the early 1990s. Since 25A specifically

only allows partially self-serve pumps, no completely self-serve gas station is currently allowed in Brookline. The proposed article would add language in Section 6.08, Regulations Applying to Gasoline Service Stations, allowing gas stations to operate either full-serve or self-serve pumps or a combination of the two. Additional language would require gas stations, regardless of self- or full-serve, to assist persons with disabilities with refueling their vehicles when staff is signaled, underscoring existing Americans with Disabilities Act requirements for self-serve gas stations.

The proposed article would also allow for associated convenience stores with gas stations by replacing Use 25A with a new use, Gas Station with Convenience Store. This use would be allowed by special permit in the same business districts as currently allowed for gas stations. The article outlines a number of conditions for a gas station with convenience store in Section 6.08: a 3,000 s.f. limit for the convenience store; no drive-in use for the convenience store; no indoor seating; the gas station and convenience store must be operated under a single business or franchise name; and the convenience store cannot include the branded, franchised operations of a related or complementary business. Parking requirements for gas stations with convenience stores would be the same as for all gas stations, one space per 800 s.f., however, you would not be able to count the spaces at the pumps toward the total provided parking.

This article would modernize the Zoning By-law's regulations regarding gas stations, recognizing that the way gas stations now operate are quite different from when the Zoning By-law was first established. Gas stations commonly have self-serve pumps and associated convenience stores, and many people find these features attractive and convenient amenities. Additionally, some local gas stations may be interested in adding a convenience store in an effort to remain competitive with other gas stations and to attract business. The proposed conditions for gas station convenience stores, such as the restriction on indoor seating and that the convenience store and gas station be operated under the same business name, are meant to limit impacts on surrounding properties and to ensure the use is still principally a gas station, rather than a fast-food restaurant or similar, which would involve additional concerns.

ARTICLE 23

Submitted by: Department of Planning and Community Development

The Planning and Community Development Department is submitting this article with the support of the Planning Board and the Selectmen's Zoning By-law Committee.

Use #53 of the Zoning By-law's Table of Uses allows for a separate dwelling unit for domestic employees on the same lot as a single-family dwelling, as long as the lot is at least 40,000 s.f. and is in an S-40 zoning district, and the accessory dwelling unit is no greater than 1,200 s.f. These restrictions were passed recently by Fall 2013 Town Meeting. Prior to that amendment, separate dwelling units for domestic employees were allowed by-right in any residential district and on any size lot, as long as the Floor Area Ratio was not exceeded. This warrant article would prohibit such accessory dwelling units from any single family zoning district.

As currently written, Use # 53 allows for more than one dwelling structure on a lot in a single-family zoning district based on what is essentially a temporary condition: the employment of household employees. As soon as the principal owner of the home sells the lot or decides to no longer employ domestic help, the separate dwelling unit must remain vacant or be removed in order to comply with the Zoning By-law. In practice, this is not realistic nor would it be good for

the town to have a dwelling remain vacant. It is also very difficult for the Building Department to enforce whether or not occupants are or are not domestic employees for the main house. The proposed amendment would eliminate the ability to create separate dwellings in the first place, thereby removing a zoning loophole that allows individuals to construct multiple houses on a lot without subdividing the lot.

Residents who would like live-in domestic help would still be able to house them within their homes, as long as the space was not fully separate from the rest of the house and had no full kitchen, i.e. a stove would not be allowed.

NOTE: Under Section 9.09.1.d of the current Zoning By-Law, existing carriage houses, or garages with usable space above, may be converted to a dwelling unit by use variance in a single-family zoning district. One of the standards for this relief is to preserve an architecturally or historically significant building which could not otherwise reasonably be maintained. Although the standards for a variance are high, there have been many cases in Town where carriage houses have been found historically or architecturally significant and permission for them to be converted has been granted. The proposed amendment would not change this section of the Zoning By-Law.

ARTICLE 24

Submitted by: Department of Public Works

The Massachusetts Department of Transportation (MassDOT), Rail and Transit Division, operating as the Massachusetts Bay Transit Authority (M.B.T.A.), and working through their agent, Transit Realty Associates (TRA), has developed with the Town of Brookline, Department of Public Works (DPW), Engineering Division, an easement in which the M.B.T.A. grants specified land and air rights necessary for the reconstruction of the municipality's Carlton Street Footbridge.

The purpose of the easement is two-fold. Firstly, the document will update the existing permission to construct a footbridge over the tracks as a permanent means of egress to Riverway Park, originally granted to the Town of Brookline by the then Boston & Albany Railroad in the form of a Land Release. Secondly, the current Right-of-Way (ROW) plan delineates an area within M.B.T.A. property, supported by survey data, in which not only the footbridge is firmly located, but also the accessibility ramp appended at the northerly approach, which paired with that added at its southerly, park approach, together provide universal access compliant with current regulations. The "Right-of-Way Location Plan" will be referenced within the easement, and contain all legal bearing annotations for the footbridge and northerly ramp areas. Associated structural footings will also be located on the ROW plan.

At this time, the Carlton Street Footbridge Rehabilitation project is formally included on the Commonwealth's Transportation Improvement Program (TIP) for project funding starting in Federal Fiscal Year 2016, and Brookline DPW remains engaged with MassDOT, Highway Division, in their associated design development process, currently submitting plans and related documents prepared to their requirements that represent a 25% level of completion. Further submissions will then be required at 75% and 100%, prior to MassDOT bidding, funding and building the project.

A Town Meeting vote to accept the grant of this easement will successfully clear the footbridge project of any Right-of-Way encumbrances with the M.B.T.A., and in turn both accelerate the project's ability to move efficiently through the MassDOT design development process, and strengthen the project's position for outside funding on the State's TIP.

ARTICLE 25

Submitted by: Retirement Board

The Act substantively changes the retirement plan for public employees in Massachusetts by adjusting retirement benefits and by providing significant enhancements to the governance and operations of the Commonwealth's retirement boards.

This article is inserted in the warrant at the request of the Brookline Retirement Board, which voted on January 15, 2014 to adopt this section by a unanimous vote by the board.

Section 34 of the Act re-wrote G.L. c. 32, § 20(6) allowing a new local option provision that replaces the current \$3,000 local option stipend and allows for an increase in the stipend paid to members of retirement boards. Currently, stipends for members of approximately two-thirds of retirement boards in the Commonwealth have been approved.

The section becomes effective on July 1, 2014. With reference to governance of retirement boards, the Act requires that retirement board members follow enhanced procurement requirements and apply increased fiduciary oversight of the retirement system's \$245,000,000 investments. In addition, retirement board members must now undergo mandatory education and training, and must file annual statements of financial interests and acknowledgements of compliance with the conflict of interest and retirement laws. Penalties for non-compliance are substantial, and non-compliance may be considered a breach of fiduciary obligations for which a Board Member would be personally liable.

In recognition of the increased responsibilities and accountability of retirement board members, the Legislature has provided this local option.²⁰

Payment of the stipend is made from "funds under the control of the board," and would be funded from the system's return on investments. The Board Members' stipend is dependent upon acceptance of the law by a vote of the legislative body.

²⁰ Section 34 of Chapter 176 of the Acts of 2011 provides as follows:

"Said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out subdivision (6) and inserting in place thereof the following subdivision:-

(6) *Retirement Board Members Compensation.*-The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than \$3,000 per year and not more than \$4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than \$4,500 per year in the aggregate for services rendered in the active administration of the retirement system."

Although action by the local retirement board is not required in this process, the Brookline Retirement Board supports this increase, and respectfully requests that Town Meeting recognize the increased responsibilities of members of the Brookline Retirement Board by voting to accept this local option so as to provide a stipend to its members in the amount of not more than \$4,500 per year.

ARTICLE 26

Submitted by: John Harris

This is intended to repeal the authorization of a Brookline Taxi Medallion program enacted as Article 21 in the Fall 2008 Town Meeting (also referred to as Chapter 51), and amended thereafter by Article 15 in the Fall 2010 Town Meeting and by Article 10 in the Fall 2011 Town Meeting—in each case, I am told, with very little debate.

At the time of writing, Brookline has a system of open licensing of taxis. Anyone who meets certain relevant requirements: is of age, meets regulatory standards regarding driver training licensing, vehicle features, upkeep and safety, etc., and pays a modest registration fee, can enter the field and become a taxi owner and/or driver in Brookline. In this the taxi business is like the dozens of other legitimate businesses—restaurants, supermarkets, pharmacies, doctors' offices, daycare services, etc.—serving the residents of Brookline, part of an open system where any hardworking person can attempt to build a business and make a living. Within weeks, unless this warrant article passes, this free and open system will change into one built around quotas, prohibitively high costs, and significant barriers to entry. This change would be deleterious to the citizens of the town, and once implemented, would be extremely difficult, if not impossible, to undo.

In its Fall 2008 session, Brookline Town Meeting authorized the Board of Selectmen to seek approval from the Massachusetts legislature to sell a limited number of “Medallions” that would henceforth be required to be placed on each taxi. The precise number of medallions will apparently to be determined by the Transportation Board and approved by the Board of Selectmen. The Transportation Department is currently finalizing regulations to introduce the taxi medallion system in Brookline.

The town is seeking to move from open licenses to medallions because it sees the sale of the medallions as a quick source of revenue to the town. But it is important to point out that the town would only benefit in the initial sale of the medallions. The purchaser of a medallion will acquire ownership rights to it, so the proceeds of any subsequent sale accrue to the owner, not to the town. And obviously such ownership rights, like those to any other form of property, may continue—quite literally—for centuries. Once established, a medallion system is extremely difficult to repeal, because it would require buying back all of the outstanding medallions, and the owners will not easily relinquish their investment. And because only a finite number of medallions will be issued, a medallion system replaces an open market-based system with an oligopoly, which may last well beyond the lifetime of those of us now considering this matter. For a single, relatively small influx of cash for newly-issued medallions, the town is considering relinquishing an important part of its control over the taxi industry for decades or centuries to come. This will have substantial deleterious effects on the people of Brookline.

In a medallion system, a government agency decides how many taxis are allowed to operate. As well-meaning as they might be, the administrators of the system can never ascertain the optimum number of cabs on the street as well as the market.

The inevitable result is scarcity by design, since operators will only purchase medallions if they guarantee competitors will be restricted. The problem compounds over time, as existing medallion holders, and the banks who loaned them the money to purchase the medallions, put constant pressure on administrators to delay issuing further medallions. The inevitable result: significantly higher fares.

In addition to their legitimate operating expenses, including of course the cost of the taxicabs, medallion owners must amortize the price of the medallion itself. Like any scarce good, the price would increase over time, sometimes astronomically. The price of medallions in New York City, for example, has risen faster than that of housing or gold. The owners have no choice but to charge higher fares. The result: higher fares. And as mentioned earlier, to add insult to injury, while the town benefits financially from the initial issuance, if a medallion is later sold, the increased value accrues to its owner, not to the town.

MEDALLIONS INEVITABLY LEAD TO INEFFICIENCIES IN SERVICE due to arcane rules of enforcement. We have all hailed empty taxis and watched them drive by: they often are in a jurisdiction where they are allowed to drop off, but not pick up, passengers. When this happens, passengers are delayed, drivers are deprived of income, gas is wasted, and carbon is exhausted into the atmosphere. This is economically and environmentally irresponsible.

A ROBUST TAXI INDUSTRY WOULD GREATLY EASE BROOKLINE'S PARKING PROBLEM. There has been much discussion of the inconvenience of public transportation, but little regarding how a healthy taxi system can supplement its services. Public transportation can never be so complete that it can carry people to their final destination down every last street in town—what transportation planners call the “last mile”—but a healthy taxi system, with modest fares, can. A low-cost taxi system makes living without a car possible, and greatly mitigates the need for parking spaces.

MEDALLIONS ARE A SOCIAL EQUITY ISSUE. Taxi ownership has conventionally been a stepping-stone to the middle class for ambitious people of limited means. Locally, I especially notice recently-arrived Haitian drivers who, in addition to paying their living expenses, are trying to save for their children's educations *and* send a portion of their earnings to their families back home. In Boston, medallions are currently selling for over \$600,000. If Brookline requires medallions, it is doubtful these drivers could ever qualify for the substantial loan they would need to purchase one. Drivers would be caught in a noose, paying through the nose for a taxi they cannot reasonably be expected to one day own. They would in effect be forced to remain low-paid daily contract workers for their entire careers.

The drivers' financial straits are compounded because **MEDALLION SYSTEMS MAKE CORRUPTION INEVITABLE.** Since only a few increasingly-wealthy medallion holders would own taxis, there would be many more drivers than vehicles with medallions. An investigative series in the Boston Globe last spring revealed that drivers often must bribe dispatchers to be issued keys for a 12 hour shift, in addition to their formal daily “rent” for the cabs.

One wonders why taxis, which provide the public with a useful service, should be subject to a regulatory regime similar to that imposed on the liquor industry. We have wisely decided to regulate the number and location of establishments selling alcohol in our communities. With rare exceptions, a new restaurant or bar can only obtain a liquor license by purchasing an existing one. In this instance, society is better served by restricting trade. In contrast, there is no reason to limit the number of taxis, and every reason not to.

The taxi industry would be more appropriately regulated with a system like the one governing private drivers' licenses or automobile registrations. The state issues a license to anyone who is of age and passes written and driving tests, and issues a registration to any vehicle that is ensured and that passes an inspection (and in both cases, pays the fee). Placing a quota on the number of drivers' licenses or registrations would impose undue hardship on those prohibited from driving, and would have a devastating impact on the economy.

So too with taxi medallions. We can and should establish rigorous regulations regarding the vehicles (construction quality, size, safety features, accessibility, etc.) and the training and licensing of drivers, but we should not limit the number of cabs.

Finally, a robust taxi system would encourage more residents to forego car ownership, and save the expense of a car loan, insurance, fuel, parking, and upkeep, for vehicles that spend most of their lives parked and idle. Given Brookline's density, many citizens would be better served by walking, cycling, taking a bus or subway, renting a car hourly, daily or weekly for the occasional errand or long-distance trip—and when appropriate taking a taxi.

ARTICLE 27

Submitted by: Neil Gordon

This Resolution recommends that the Board of Selectmen and by extension the Town of Brookline, in modest fashion but in a meaningful way, honor the memory of deceased veterans who were residents of the Town of Brookline. Equally modest is the imposition on the Board of Selectmen's time and the cost of administering this simple program.

Requests are likely to be few and it is unlikely that requests will be received from the families of veterans with only a casual connection to Brookline.

Individual resolutions of the Board of Selectmen, recorded in their minutes, will permanently memorialize, by name, the honorable service, of our friends, family and neighbors in the Armed Forces of the United States.

ARTICLE 28

Submitted by: Frank Caro

Section 7.7 of Brookline's bylaws specifies the obligations of property owners to maintain sidewalks adjacent to their property in a non-slippery condition after snow and ice storms. Section 7.7.1 states that "...In a business district, the owner of land adjacent to a sidewalk..." is responsible for maintaining "... the sidewalk, in a non-slippery condition suitable for pedestrian travel" within the first 3 daytime hours "after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary."

Although safe sidewalks in the winter are a concern throughout Brookline, sidewalk conditions are particularly important in business districts because of the high volume of pedestrian traffic there. While most property owners in business districts do a good job of maintaining their sidewalks in the winter, a substantial minority do not. Sidewalk safety requires that all sidewalks be cleared. Because we regularly have prolonged periods of cold weather after snow storms, we often have extended periods in which some sidewalks are hazardous because snow was not cleared promptly. Falls on icy sidewalks can cause serious injuries. Further, fear of ice on sidewalks causes some older people to be home bound.

Brookline has a complaint-driven system for enforcing its winter sidewalk maintenance bylaw. Inspectors are sent out after complaints are received by the Department of Public Works. On Mondays through Fridays, complaints that have been received within the prior 24 hours are assigned at 8:30 AM to inspectors employed by the four departments that are involved in enforcement. Even if complaints are made promptly, a lag of at least 24 hours is likely between the time a citizen observes the problem and the time when an inspector visits the site of the complaint. During that period, pedestrians are at risk. When storms occur on Fridays or Saturdays, no enforcement occurs before Mondays. Consequently, weekends extend the period when pedestrians are at risk.

For the past three winters, the Brookline Community Aging Network has organized a small team of volunteers who walk the business after snow storms to observe the condition of sidewalks. Team members regularly submit reports of hazardous sidewalks to the Department of Public Works. The team covers Coolidge Corner, Washington Square, Brookline Village, St. Mary's, and JFK Crossing. The fact that a team of volunteers is able to walk the sidewalks in business districts to monitor conditions after snow storms demonstrates that proactive observation of sidewalk conditions by pedestrians is feasible.

The consequences of the reports submitted by the team are uncertain. In some cases, sidewalks are better maintained after a report has been submitted. No information is available on follow through by Town inspectors on the complaints that have been submitted.

The monitoring done by the volunteers has not been sufficient to assure that sidewalks in the business districts are universally well maintained. Stronger action is needed. Proactive enforcement would inform property owners that the Town is serious about the obligation of property owners to maintain sidewalks in a safe condition.

Parking meter enforcement in Brookline's business areas provides precedent for the proposed winter sidewalk maintenance enforcement. Brookline's parking meter enforcement is proactive. Further in business districts, enforcement officers patrol on foot.

ARTICLE 29

Submitted by: Brookline Local First

Formed in March 2012, Brookline Local First is a network of locally-owned, independent businesses. Our mission is to build a strong local economy and vibrant community by educating residents and local government leaders about the significant environmental, economic and cultural benefits of doing business with locally-owned, independent businesses.

The benefits of shopping locally have been proven through several studies about local economies. Purchasing from locally owned and independent businesses strengthens our local economy, and our community. Keeping our money locally also supports locally-owned and independent businesses that help maintain the distinctive flavor that Brookline offers citizens. When we shop locally we decrease our negative impact on the earth's environment by reducing the distance between the origin and destination of products as well as the distance required to purchase the products

Locally-owned, independent businesses enhance the identity of our community, and are an important part of creating a sense of place. Brookline Local First is sponsoring the following Town Meeting Resolution to focus our community's resources where they can make the biggest impact on our community and local economy.

ARTICLE 30

Submitted by: Sarah Gladstone

The Starfish Club is a student run organization at Brookline High School that started in 2012. The club raises money and awareness for women and girls with obstetric fistula. The club takes pride in its name, which is a symbol for making a difference. The following story is taken from the book, Half the Sky: Turning Oppression into Opportunity for Women Worldwide by Nicholas D. Kristof and Sheryl WuDunn:

A man goes out on the beach and sees that it is covered with starfish that have washed up in the tide. A little boy is walking along, picking them up and throwing them back into the water. "What are you doing, son?" the man asks. "You see how many starfish there are? You'll never make a difference." The boy paused thoughtfully, and picked up another starfish and threw it into the ocean. "It sure made a difference to that one," he said.

Just as the boy is making a difference helping one starfish at a time, the Starfish Club is making a difference one girl at a time. To raise money and awareness, the club purchases beads, made by women in Cambodia, through a fair trade organization, to help microfinance those women. The club then uses the beads to make bracelets that it sells for \$20 each. As the Resolution states, the surgery to repair a fistula costs only \$450 and the success rate is above 90%. With only a small sum of money, the club can give a girl her life back. Each bracelet also has a tag on it in order to educate people about the problem of obstetric fistula.

Last year the Starfish Club held a fundraiser at the BATV studio where it raised \$1,500 for the Fistula Foundation, to which all of the club's fundraising proceeds are forwarded. Two speakers came to the fundraiser to talk about obstetric fistula and their work in trying to eradicate it: Jessica Love, on behalf of Kate Grant who is the Executive Director of the Fistula Foundation and Jennifer Scott, a gynecologist at the Brigham who has performed fistula correction surgeries in rural Africa. The club's goal for this year continues to be to raise money and awareness to help save these girls. The Starfish Club brings forward this Resolution in order to continue its mission to educate as many people as possible about this issue.

ARTICLE 31

Submitted by: Alex Coleman

The Town of Brookline has a strong commitment to diversity and inclusion and promotes an environment that is free of discrimination and harassment for all its employees, residents, visitors, and clients, and

The Town of Brookline recognizes that everyone has the right to live free from discrimination and harassment, and believes that no individual should be denied equal treatment or opportunity due to discrimination, and that no individual should suffer harassment due to bias.

Transgender people suffer pervasive discrimination on the basis of gender identity and expression in employment, housing, public accommodations, education and credit and lending.

However, local, state and federal government laws, regulations and ordinances are not fully inclusive in their protections for gender identity and expression.

The Town of Brookline, consistent with its strong commitment to diversity and inclusion, can explicitly adopt the prohibition against discrimination or harassment based on gender identity and expression in employment, housing, public accommodations, credit and lending, and public education.

ARTICLE 32

Submitted by: Frank Farlow and Byron Hinebaugh

Dr. James Hansen, director of NASA's Goddard Institute for Space Studies, told Congress, "The global warming is now large enough that we can ascribe with a high degree of confidence a cause-and-effect relationship to the greenhouse effect." The year was 1988. But in the 25 years since, Congress has done considerably more to increase that greenhouse effect than to reduce it. Indeed, with rampant hydrofracking, President Obama's directing his administration "to open more than 75 percent of our offshore oil and gas resources" to drilling, and high-tech accessing of oil in the Canadian tar sands, a new day of plentiful fossil fuels is being widely celebrated in DC and in the media.

Meanwhile, Germany's goals are very different: at least 35 percent of electric power is to be generated by renewables by 2020 and total energy consumption reduced by 20 percent with a million electric cars on the road. By 2050 it plans to obtain 80 percent of the power for its factories and most of the heat for its homes from wind, solar, geothermal, tidal power and other renewable sources. Already about 20 percent of its electricity comes from renewables.

Hansen, who is one of the most respected climatologists in the world, has remained at the forefront of the climate change movement. Five years ago he and several colleagues wrote that "if humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted," we need to return to CO₂ levels of 350 parts per million from our current level of nearly 400 ppm and rising. That led Bill McKibben to found the group 350.org. Many scientists, climate experts, and progressive national governments agree with Dr. Hansen that 350 ppm is the "safe" level of carbon dioxide.

Almost every government in the world has come to agree that any warming above a 2° Celsius

(3.6° Fahrenheit) rise would be unsafe. We have already seen a rise of 0.8°C, and that has caused far more damage than most scientists expected. A third of summer sea ice in the Arctic is gone, and since warm air holds more water vapor than cold, the likelihood has risen substantially for both devastating floods and drought. Computer models calculate that even if CO₂ levels stopped increasing now, the temperature would still rise another 0.8 degrees above the 0.8 we've already seen, which means that we're already 4/5 of the way to the 2°C limit.

Perhaps worst of all, very few in the general public are aware of the degree to which the inertia of the planet's climate system carries its current condition into the far distant future. The world is already locked into at least a 2°C global temperature increase that will last for *thousands of years*, according to a recent report released by the National Research Council: "Previously the conversation has been about the next generation or two, but now we're looking at millennia." To prevent the global average temperature from increasing more than 2°C, carbon dioxide emissions would have to be reduced by 80 percent—now, the report said. The sooner emissions are reduced, the authors wrote, the sooner the temperature climb will level off, or stabilize. "Stabilization," however, doesn't mean the world will cool back down; it will just stop getting hotter.

The divestment movement

The Brookline Climate Action Plan states that "Brookline has a choice. We can take positive steps to reduce our greenhouse gas (GHG) emissions, or we can continue to wait for some other entity to come up with a universal 'fix.' "

During the past year a fossil fuel divestment movement has surged into existence, led by 350.org. More than 300 colleges and universities nationwide, having decided not to continue waiting for some other entity to take action, are developing or have submitted resolutions to their governing bodies urging divestment of fossil fuel companies from their endowments. Nine of those schools have already committed to divestment. The same process has been occurring in cities, and 21 in the U.S.—with Massachusetts disproportionately represented—have committed to divest their pension and/or healthcare funds or urge their investment boards to do so (<http://gofossilfree.org/commitments/>):

Amherst MA	Cambridge MA	Portland OR	Santa Fe NM
Ann Arbor MI	Ithaca NY	Providence RI	Santa Monica CA
Bayfield WI	Madison WI	Provincetown MA	Seattle WA
Berkeley CA	New London CT	Richmond CA	State College PA
Boulder CO	Northampton MA	San Francisco CA	Truro MA

Resolutions on municipal fossil fuel divestment will also be on the warrant for the upcoming Concord, Framingham and Sudbury town meetings. And finally, Senate Bill 1225, the subject of this warrant article is in committee on Beacon Hill. It's a rapidly growing movement, and one of the most promising ways currently available to begin to break through the gridlock in Congress.

Global warming can't be stopped by protesting one pipeline, coal plant or fracking well at a time—the numbers simply don't add up. At the same time that some are working to stop these destructive projects, many more of us need to take effective action to loosen the financial and lobbying grip that coal, oil and gas companies have on our government and financial markets so that we, our children and grandchildren have a chance of living on a planet that looks something

like the one we live on today. We need to go the root of the problem, the fossil fuel companies themselves, and make sure they hear us in terms they might understand—like their share price.

Transitioning to safer energy will take concerted effort over many years. We need to begin that process in earnest right now.

Divestment precedents

There have been several successful divestment campaigns in recent history, including Darfur, tobacco and others, but the largest and arguably most important was launched to cripple South African apartheid. By the mid-1980's, 155 U.S. campuses, including some of the most famous in the country, had divested from companies doing business in South Africa. Twenty-six state governments, 22 counties and 90 cities, including some of the nation's largest, removed their money from the stocks of multinationals that did business in the country. The South African divestment campaign helped break the back of the apartheid government and usher in an era of democracy and greater equality.

Can divesting funds from universities, pension funds and churches make a significant impact?

Divestment isn't primarily an economic strategy, but a moral and political one. Just as in the struggle for Civil Rights here in America or the fight to end Apartheid in South Africa, the more we can make climate change a deeply moral issue, the more we will push society towards action. We need to make it clear that if it's wrong to wreck the planet, then it's also wrong to profit from that wreckage. At the same time, divestment builds political power by forcing our nation's most prominent institutions and individuals (many of whom sit on college boards) to choose which side of the issue they are on. Divestment sparks a big discussion and gets prominent media attention, moving the case for action forward.

At the same time, there *are* certain economic impacts. The top 500 or so college and university endowments hold about \$400 billion. That's a large number—and getting a major percentage of that money out of coal, oil and gas will make a large splash. Add in the big state pension funds, and church, synagogue and mosque investments, and we'll be well on our way to making ExxonMobil, Shell and Peabody Coal recognize the realities of the planet's future.

To keep warming below 2°C, a target that the United States and nearly every other country on Earth has agreed to, the International Energy Agency calculates that the fossil fuel industry will need to refrain from burning approximately 80% of their current reserves of coal, oil, and gas. Those reserves may be below ground physically, but they're already factored into the share price of every fossil fuel company. Globally, the value of those reserves is around \$20 trillion, money that will have to be written off when governments finally decide to regulate carbon dioxide as a pollutant.

The Carbon Tracker Initiative, a team of London financial analysts, estimates that proven coal, oil, and gas reserves of the fossil-fuel companies and the countries (such as Venezuela and Kuwait) that act like fossil-fuel companies total about 2,795 gigatons of CO₂, or five times the amount we can release to maintain 2 degrees of warming.

Can we still make a desirable return?

Firstly, the percentage of fossil fuel companies in the state pension fund is less than 3%. So when we consider, say, a 1% difference in returns between a portfolio containing fossil fuel companies and a portfolio containing no such companies, we're not looking at 1% of the value of the entire portfolio, but only 3% of 1%—or 0.03% of the value of the entire portfolio. So if returns from the state's pension fund were to suffer from divestment, this percentage consideration would make the result much less painful than it might at first appear. Since the value of the pension fund is currently about \$58 billion, 0.03% of its value would be \$17.4 million.

While it's true that fossil fuel companies are currently extremely profitable, they're also risky investments²¹ that are only going to become more risky. Their business models rest on emitting five times as much CO₂ into the atmosphere than civilization can handle, which makes their current share prices substantially higher than they should be in reality. In addition, disasters like the Exxon Valdez and the BP Deepwater Horizon oil spill, along with massive fluctuations in supply and demand of coal, oil and gas, make energy markets particularly volatile, and therefore risky.

Report after report has shown that investing in clean energy, efficiency and other sustainable technologies can be even more profitable than investing in fossil fuels²². It's a growing market, with over \$260 billion invested globally last year, and a safe place to invest.²³ "Socially responsible investing," which covers a broader area, is an even larger market. The fact that these markets have been growing for years is a good indication that investor confidence in them is continuing to increase.

The Sierra Club is an example of a large organization that has adopted a clear policy against investing in, or taking money from, fossil fuel companies. Executive director Michael Brune stated recently: "[W]e are fully confident that we can get as good if not better returns from the emerging clean energy economy than we can from investing in the dirty fuels from the past.

S. 1225 legislative supporters

Sen. Mike Barrett	Sen. Daniel Wolf	Rep. Sean Garballey	Rep. James Miceli
Sen. Will Brownsberger	Rep. Denise Andrews	Rep. Ken Gordon	Rep. Kevin Murphy
<u>Sen. Katherine Clark</u>	Rep. Cory Atkins	Rep. Jonathan Hecht	Rep. Denise Provost
Sen. Cynthia Creem	Rep. Jennifer Benson	Rep. Jay Kauffman	Rep. David Rogers
Sen. Sal DiDomenico	Rep. Tom Conroy	Rep. Mary Keefe	Rep. John Scibak
Sen. Kenneth Donnelly	Rep. Dan Cullinane	Rep. Kay Khan	Rep. Carl Sciortino
Sen. Jamie Eldridge	Rep. Marjorie Decker	Rep. Peter Kocot	Rep. Frank Smizik
Sen. Barry Finegold	Rep. Carolyn Dykema	Rep. Stephen Kulik	Rep. Ellen Story
Sen. Pat Jehlen	Rep. Lori Ehrlich	Rep. Jason Lewis	Rep. Benjamin Swan
Sen. Karen Spilka	Rep. John Fernandes	Rep. Liz Malia	Rep. Aaron Vega
Sen. Marc Pacheco	Rep. Gloria Fox	Rep. Paul Mark	Rep. Chris Walsh

²¹ <http://www.ceres.org/resources/reports/sustainable-extraction-an-analysis-of-sec-disclosure-by-major-oil-gas-companies-on-climate-risk-and-deepwater-drilling-risk/view>

²² <http://www.forbes.com/sites/mindylubber/2012/03/20/investors-are-making-money-on-renewable-energy/>

²³ <http://www.reuters.com/article/2012/01/12/us-clean-tech-investment-idUSTRE80B1NX20120112>

S.1225 organizational endorsers

350MA	City of Cambridge
350.Org	City of Northampton
Massachusetts Climate Action Network	Town of Amherst
Better Future Project	Town of Provincetown
Students For a Just and Stable Future	Town of Truro
Mothers Out Front	
MoveOn.Org	Divest Amherst College
SEIU Local 509	Divest Boston College
Climate Action Liaison Coalition	Divest Boston University
Conservation Law Foundation	Divest Brandeis University
Environmental League of MA	Divest Emerson College
Environment MA	Divest Harvard University
Clean Water Action	Divest Lesley College
Toxics Action Center	Divest MIT
Massachusetts Climate Action Network	Divest Mt. Holyoke College
Boston Climate Action Network	Divest Northeastern University
Concord Climate Action Network	Divest Smith College
Coop Power	Divest Stonehill College
Climate Action Now, Massachusetts	Divest School of the Museum of Fine Arts
Mass. Teachers and Public Employees for Fossil Fuel Divestment	Divest Suffolk University
Neighbor to Neighbor, Holyoke	Divest Wheaton College
Pioneer Valley PhotoVoltaics	Divest Worcester Polytechnic Institute
Planet Southie	Divest Williams College
First Parish Unitarian Universalist of Cambridge	Divest Worcester State University
Unitarian Universalist Society of Amherst	Hampshire College Climate Justice League

Text of S.1225

Note: It is the intent of Sen. Downing’s office, where this bill originated, to amend the language of Section 1 below by adding the following definition:

“Fossil fuel company”, *a company identified by a Global Industry Classification System code in one of the following sectors: (1) coal and consumable fuels; (2) integrated oil and gas; (3) oil and gas exploration and production.*

SENATE No. 1225

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin B. Downing

An Act relative to public investment in fossil fuels.

1 SECTION 1. As used in this act the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:—

3 “Board”, the pension reserves investment management board established in section 23 of
4 chapter 32 of the General Laws.

5 “Company”, a sole proprietorship, organization, association, corporation, partnership,
6 joint venture, limited partnership, limited liability partnership, limited liability company or other
7 entity or business association, including all wholly-owned subsidiaries, majority-owned
8 subsidiaries, parent companies or affiliates of such entities or business associations that exist for 9 profit-
making purposes.

10 “Direct holdings”, all securities of a company held directly by the public fund or in an
11 account or fund in which the public fund owns all shares or interests.

12 “Indirect holdings”, all securities of a company held in an account or fund, such as a
13 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
14 public fund owns shares or interests together with other investors not subject to this act.

15 “Public fund”, the Pension Reserves Investment Trust or the Pension Reserves
16 Investment Management Board charged with managing the pooled investment fund consisting of
17 the assets of the State Employees’ and Teachers’ Retirement Systems as well as the assets of
18 local retirement systems under the control of the board.

19 SECTION 2. Notwithstanding any general or special law to the contrary, within 30 days
20 of the effective date of this act, the public fund shall facilitate the identification of all fossil fuel
21 companies in which the fund owns direct or indirect holdings.

22 SECTION 3. Notwithstanding any general or special law to the contrary, the public fund
23 shall take the following actions in relation to fossil fuel companies in which the fund owns direct
24 or indirect holdings.

25 (a) The public fund shall sell, redeem, divest or withdraw all publicly-traded securities of
26 each company identified in section 2 according to the following schedule: (i) at least 20 per cent
27 of such assets shall be removed from the public fund’s assets under management within 1 year of

28 the effective date of this act; (ii) 40 per cent of such assets shall be removed from the public
29 fund's assets under management within 2 years of the effective date of this act; (iii) 60 per cent
30 of such assets shall be removed from the public fund's assets under management within 3 years
31 of the effective date of this act; (iv) 80 per cent of such assets shall be removed from the public
32 fund's assets under management within 4 years of the effective date of this act and (v) 100 per
33 cent of such assets shall be removed from the public fund's assets under management within 5
34 years of the effective date of this act.

35 (b) At no time shall the public fund acquire new assets or securities of fossil fuel
36 companies.

37 (c) Notwithstanding anything in this act to the contrary, subsections (a) and (b) shall not
38 apply to indirect holdings in actively managed investment funds; provided, however, that the
39 public fund shall submit letters to the managers of such investment funds containing fossil fuel
40 companies requesting that they consider removing such companies from the investment fund or
41 create a similar actively managed fund with indirect holdings devoid of such companies. If the
42 manager creates a similar fund, the public fund shall replace all applicable investments with
43 investments in the similar fund in an expedited timeframe consistent with prudent investing
44 standards. For the purposes of this section, private equity funds shall be deemed to be actively
45 managed investment funds.

46 SECTION 4. Notwithstanding any general or special law to the contrary, with respect to
47 actions taken in compliance with this act, the public fund shall be exempt from any conflicting
48 statutory or common law obligations, including any such obligations with respect to choice of
49 asset managers, investment funds or investments for the public fund's securities portfolios and
50 all good faith determinations regarding companies as required by this act.

51 SECTION 5. Notwithstanding any general or special law to the contrary, the public fund
52 shall be permitted to cease divesting from companies under subsection (a) of section 3, reinvest
53 in companies from which it divested under said subsection (a) of said section 3 or continue to
54 invest in companies from which it has not yet divested upon clear and convincing evidence
55 showing that the total and aggregate value of all assets under management by, or on behalf of,
56 the public fund becomes: (i) equal to or less than 99.5 per cent; or (ii) 100 per cent less 50 basis
57 points of the hypothetical value of all assets under management by, or on behalf of, the public
58 fund assuming no divestment for any company had occurred under said subsection (a) of said
59 section 3. Cessation of divestment, reinvestment or any subsequent ongoing investment
60 authorized by this section shall be strictly limited to the minimum steps necessary to avoid the
61 contingency set forth in the preceding sentence.

62 For any cessation of divestment, and in advance of such cessation, authorized by this
63 subsection, the public fund shall provide a written report to the attorney general, the senate and
64 house committees on ways and means and the joint committee on public service, updated semi-
65 annually thereafter as applicable, setting forth the reasons and justification, supported by clear
66 and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested
67 in fossil fuel companies.

68 SECTION 6. The public fund shall file a copy of the list of fossil fuel companies in
69 which the fund owns direct or indirect interests with the clerks of the senate and the house of
70 representatives and the attorney general within 30 days after the list is created. Annually
71 thereafter, the public fund shall file a report with the clerks of the senate and the house of
72 representatives and the attorney general that includes: (1) all investments sold, redeemed,
73 divested or withdrawn in compliance with subsection (a) of section 3 and (2) all prohibited
74 investments from which the public fund has not yet divested under subsection (a) of said

75 section 3.

ARTICLE 33

Any reports from Town Officers and Committees are included under this article in the Combined Reports. Town Meeting action is not required on any of the reports.