

ARTICLE 7

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

On May 20, 2014, the Advisory Committee reconsidered its prior recommendation for Favorable Action and adopted a significant change to Article 8 (FY2015 Budget) regarding funding for the Driscoll School Feasibility Study / Schematic Design. Their proposed change is constructed so that it also impacts Article 7. Please see Article 8 for a full explanation of the Advisory Committee’s revised budget vote and the Board of Selectmen’s disagreement with their proposal. In summary, the Advisory Committee recommends against allocating the \$1 million for the Driscoll School project and uses that \$1 million, which comes from an Overlay Surplus declared by the Board of Assessors, to fund the Lawrence School project that is funded under this Article 7. By doing so, the bond authorization is reduced by \$1 million, from \$1.5 million to \$500,000.

In effect, the Advisory Committee is recommending that the \$1 million of funds from Overlay Reserve be used as a substitute for \$1 million of bonding, leaving that \$1 million in bonding capacity available to fund the Driscoll School project at a future Town Meeting, should the Massachusetts School Building Authority (MSBA) invite the Town into the Eligibility Period and should the Town still consider moving forward with a Driscoll project. The second part of the previous sentence is of extreme importance, as both the Advisory Committee and the Override Study Committee have discussed how an expansion project at Driscoll could be avoided by the School Committee making changes to their policies regarding class size and limiting acceptance of non-resident students (i.e., Metco and Materials Fee) into the Brookline Public Schools.

As explained in detail under the Selectmen’s Supplemental Recommendation under Article 8, the Board unanimously opposes the elimination of the \$1 million for the Driscoll School project. Since that vote is now directly related to the vote under this Article 7 for the reason explained above, the Board must express its support for its original vote under Article 7, which is repeated below:

VOTED: Appropriate \$1,500,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to and for additions to the Lawrence School, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$1,500,000 under General Laws, Chapter 44, Section 7(3A), or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

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ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Article 7 as originally submitted is a bond authorization of \$1.5 million in additional funds for the construction of four additional classrooms to the Lawrence School, currently estimated total cost of \$3.5 million, in order to bring the school up to one classroom short of a full four-section school.

Per the Advisory Committee’s recommended vote outlined under Article 8, the Advisory Committee is recommending that of the \$1.5M appropriation, \$1M come from Overlay Surplus Account money (originally allocated for the Driscoll School Feasibility and Schematic Design) and \$0.5M bonded. This is reflected in the following vote:

VOTED: Appropriate \$1,500,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to and for additions to the Lawrence School, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow ~~\$1,500,000~~\$500,000 under General Laws, Chapter 44, Section 7(3A), or pursuant to any other enabling authority; and transfer \$1,000,000 from the overlay surplus account; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

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ARTICLE 8

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BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

On May 20, 2014, the Advisory Committee reconsidered its prior vote to recommend Favorable Action and adopted a significant change to Article 8 (FY2015 Budget) regarding funding for the Driscoll School Feasibility Study / Schematic Design. Their new vote, which passed by a slim margin, recommended against the \$1 million appropriation for the Driscoll School project. A number of concerns were raised by the Driscoll School community and echoed by members of the Advisory Committee; please read the Advisory Committee's Supplemental Recommendation below for their reasons for now recommending against the appropriation for the Driscoll School.

In summary, the Advisory Committee recommends against allocating the \$1 million for the Driscoll School project and uses that \$1 million, which comes from an Overlay Surplus declared by the Board of Assessors, to help fund the Lawrence School project that is funded under Article 7. By doing so, that bond authorization is reduced by \$1 million, from \$1.5 million to \$500,000. That then leaves a \$1 million of debt capacity to fund the Driscoll School project at a future Town Meeting, should the Massachusetts School Building Authority (MSBA) invite the Town into the Eligibility Period and should the Town still consider moving forward with a Driscoll project. The second part of the previous sentence is of extreme importance, as both the Advisory Committee and the Override Study Committee have discussed how an expansion project at Driscoll could be avoided by the School Committee making changes to their policies regarding class size and limiting acceptance of non-resident students (i.e., Metco and Materials Fee) into the Brookline Public Schools.

The primary justification for the Advisory Committee's change of heart regarding funding this item (again, as detailed in the Advisory Committee's Supplemental Recommendation below) is that they believe it is premature for the Town to seek funding now since it has not been invited into the MSBA's Eligibility Period. This Board believes that time is of the essence and, having the funds in place should the MSBA invitation come, will save the Town up to six months of valuable time based on when the MSBA invites the Town. If the MSBA does not approve the Town's application or if the Town decided not to proceed with this project, the funds cannot be used for other purposes without further Town Meeting action.

Regarding the issue of seeking funding before the invitation into the Eligibility Period, MSBA's own guidance sends mixed messages:

"It is premature for a city, town, or regional school district to authorize and appropriate funding for a feasibility study prior to being invited into the Eligibility

Period by the MSBA. However, certain cities, towns, and regional school districts have indicated that given local meeting schedules, they may decide to vote to authorize and appropriate funding for a feasibility study in advance of a potential invitation into the MSBA's Eligibility Period. The MSBA does not recommend this course of action, and cities, towns, and districts that decide to vote at this early stage should be aware that they are proceeding at their own risk and may not ultimately be invited into the MSBA's Eligibility Period."

The first sentence says it is premature to seek local funding in advance, while the second sentence says you can, while the third sentence says it is not recommended. Nowhere does it say you cannot. Clearly we would not be able to (nor would we want to) spend any of the funding unless we were invited into the Eligibility Period, but seeking the funding in advance helps with the overall timing issue. Therefore, Brookline chose to seek funding in advance so that if the MSBA did invite us into the Eligibility Period, we would be ready to start the MSBA's process to procure the services of an architect. This is important because there is a clear timing issue that has been discussed for some time; the Schools need the additional classroom spaces to be available by a certain school year. Doing everything we can to get the classroom spaces online by that time is of the utmost importance.

In addition to the timing issue, there has been a lot of discussion about how we got to the "Expand in Place" approach, and even some recent observations that we should undertake a new facilities master plan prior to proceeding with a Driscoll Feasibility Study. It is important to know that the process began back in 2005, when the first increases in kindergarten enrollment lead to development of a School Facilities Master Plan by nationally recognized consultants, MGT of America, in 2008, with the assistance of a town-wide committee consisting of representatives of the Board of Selectmen, the School Committee and Department, and the Building Commission. A growth needs assessment for Brookline was developed and recommendations were made for long-range planning. That Plan concluded that, while a ninth K-8 school would be optimal to meet the Schools' needs, there was no site in the Town that met the key criteria of 1) neighborhood-based and 2) situated where students lived. Instead, it recommended an approach of expanding existing schools.

Plans for Runkle and Heath expansions/renovation proceeded from the Facilities Master Plan and the Town began planning for Devotion. In 2011, after the 2010 census, MGT's original enrollment projections were updated with census data. As a result of that update, the School Committee adjusted its expectations of "Expand in Place" and worked with the Selectmen to convene the Brookline School Population & Capacity Exploration (B-SPACE) Committee.

Through a public process that was closely watched throughout town, B-SPACE questioned the original MGT conclusion that a new K-8 could not be sited and spent nine months investigating. The investigation included town-owned sites such as Amory Park, using the Old Lincoln School as a permanent K-8 facility, and the Baldwin School site in

Chestnut Hill. The Committee also approached a number of private land owners in North Brookline to determine interest in a sale or land swap. The Committee eventually came to the same conclusion as the 2008 Facilities Master Plan and they endorsed continuing “Expand in Place”. An architectural firm (HMFH) was hired to assist B-SPACE with determining how best to implement “Expand in Place”. Since both the Runkle and Heath Schools had already been renovated/expanded and planning for a Devotion rehab/expansion had commenced, HMFH looked at possibilities of growth at the other five schools for B-SPACE.

A detailed redistricting analysis was undertaken by B-SPACE. That analysis eliminated Baker or further expansion at Heath from immediate consideration. That left Driscoll, Lawrence, Pierce and Lincoln. HMFH called Lincoln expansion of any size very difficult, as it involved moving a building, taking the parking lot, etc. So that left Lawrence, Pierce, and Driscoll. Of the three sites, Driscoll had the most straightforward opportunity for expansion. Lawrence could do the four classroom addition, but more than that was considered very problematic given its recent renovation (2005) as well as its position on a park and with access only by a crowded through-street (Francis St.). Pierce would necessarily involve demolition of the 1975 building, a huge project deemed financially infeasible in the shorter term given Devotion and BHS costs. So Driscoll, which had not been substantially renovated since original construction, had an inadequate cafeteria, a “temporary” gym, and a site that could accommodate limited expansion, was the next project to move forward. In addition, plans for Devotion changed to accommodate growing it to five sections across the board (this required negotiations with MSBA last fall) and it was decided that Pierce should also become a five section school in the long-term.

Prior to taking its vote on the B-SPACE recommendations, the School Committee noted the following:

- 1) this would address severe overcrowding of common spaces at Driscoll and achieve the first full renovation of the school since 1911;
- 2) a long-term plan necessarily involved replacement of the 1975 building at Pierce to bring Pierce to a five-section school;
- 3) Devotion would have to grow to a five-section school; and
- 4) this combination of plans resulted in some rebuffering/redistricting, but that it was the least disruptive of any of the options considered in terms of impact on current students.

Another important factor to consider is that the long-term plan the Town provided to the MSBA as part of the Devotion School process included a renovation/addition of the Driscoll School. Without additional classrooms at Driscoll, the Town’s long-term plan is no longer viable and could jeopardize funding for the Devotion School project or future projects. The MSBA could then ask for alternative plans or choose not to partner with us, taking their 30% - 35% of funding with them.

In conclusion, the Driscoll Feasibility is the first step in a long-term plan, one that is consistent with our facilities master plan, good for Driscoll, and best for the system as a whole to preserve neighborhood K-8 schools. As will become quite evident over the next few months as the Override Study Committee completes its work and the Board of Selectmen are provided with options to present to the voters for approval, there is no single solution that leaves everyone feeling satisfied. Tough decisions will have to be made. While a Driscoll School neighborhood discussion needs to, and will be, held, everyone must remember that a broader community discussion will also be engaged about the choices this town faces. It will be difficult and challenging, but Brookline has risen to the occasion in the past and we know it will in this case, too.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 20, 2014, on the budget as offered by the Advisory Committee, but with an amendment to restore the \$1,000,000 appropriation for the Driscoll School Feasibility Study / Schematic Design. The proposed language for the appropriation is as follows:

58.) Appropriate the sum of \$1,000,000 for a feasibility study, schematic design, and costs associated with the feasibility study and schematic design to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, said sum to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee; and to meet said appropriation, transfer \$1,000,000 from the overlay surplus account; and further that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; all provided that the MSBA's Board votes to invite the Town into the Eligibility Period; and further provided that no money be committed or expended until after such invitation, if any, has been received from the MSBA.

In addition, the Board voted to authorize the Town Administrator to execute a Contract with a qualified consultant to survey and report on stakeholders' viewpoints for a proposed expansion and renovation of the Driscoll School, including describing the objectives, concerns and suggestions of school administrators, faculty, students, parents, neighbors, abutters and local businesses. That report will then be used to inform the Town and any future consultants engaged in preparing a feasibility study as decisions about the project are made and project parameters are considered. Lastly, they voted that the adequacy of parking issue would be part of this process.

[As previously noted, the revised votes offered by the Advisory Committee under Articles 7 and 8 use the \$1 million in Overlay Surplus that was originally being allocated to fund the Driscoll School Feasibility Study / Schematic Design to reduce the bond authorization recommended under Article 7 for the Lawrence School, from \$1.5 million to \$500,000. Under our proposed amendment for Article 8, the \$1 million is used as originally intended and, therefore, our vote under Article 7 remains the same as contained in the Combined Reports, which is now different than the Advisory Committee's.]

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ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

The Advisory Committee reconsidered an item in the proposed FY 15 budget. Specifically, CIP Item number 58 (Driscoll School Feasibility and Schematic Design) funded with money from the Overlay Surplus Account.

The proposed feasibility study has engendered a high degree of concern among many Driscoll School parents. Expansion and renovation of Driscoll is part of the Town's larger strategy of "Expand in Place" to contend with our growing school population. Heath, Lawrence, Runkle and now Devotion have so far been part of this effort. Driscoll has a geographic disadvantage in that it is not associated with a town park like many other schools; and there is concern a school addition may be too big for this site, reducing the size of its playground. There is no specific plan or design at this time, but Item 58 would fund a feasibility study and specifications for a possible project at Driscoll with the goal of bringing the school up to a full four sections (7-12 additional classrooms). Many in the Driscoll community have asked for assurances as to the per-pupil ratios of outdoor play space and building common area space prior to the commencement of any feasibility study.

The School Committee has countered that it cannot pre-prescribe specific ratios, especially without full information, but that there are required SBA standards and a feasibility study done with the school community is exactly the way to figure these things out.

No consensus has been reached, though the Driscoll community and the School Committee continue to meet. And, the Selectmen are facilitating a process to ascertain all views and concerns.

It was with this backdrop and updated information that the Advisory Committee reconsidered this item with the idea of not funding this study now, before hearing back from the Massachusetts School Building Authority (MSBA). Instead, the proposed strategy is to wait until the fall and let this item be brought back for consideration.

Within the Advisory Committee there were strong and diverging opinions.

DISCUSSION:

Reconsideration of the AC's previous vote on Item 58 (Driscoll Feasibility and Schematic Design) in Article 8 was based, in part, on several factors:

1. Focusing on the MSBA regulations which state: *It is premature for a city, town, or regional school district to authorize and appropriate funding for a feasibility study prior to being invited into the Eligibility Period by the MSBA.* Although the MSBA website acknowledges that some cities, towns, and regional school districts, due to local meeting schedules, may decide to vote to authorize and appropriate funding for a feasibility study in advance of a potential invitation into the MSBA's Eligibility Period, it seems clear that voting funds ahead of time is neither required nor encouraged. Early in the process, the AC was given to understand that voting feasibility study money in May would show community support for the undertaking. While that may be so, it is not clear that it provides an advantage.
2. Receipt of recommendations from the OSC's Capital Subcommittee, that a long range facilities plan for town and school facilities should ideally be developed before a feasibility study for a specific school is undertaken to provide long range planning context for individual projects. A recommendation that is, admittedly, not uncontroversial.
3. The vote of the BOS which funds and supports a facilitator to work with the School Committee and Driscoll community on understanding a Driscoll School project and the associated concerns.
4. Response (invitation to participate) from MSBA may be as late as November.

*Objecting:*

Members objecting to a change in the AC's initial recommendation maintain that a feasibility study will answer in a professional, deliberative and inclusive way many of the outstanding questions of the Town and Driscoll community – serving both. And, that proposed language in the appropriation vote specifies that no funds may be expended until we receive a favorable response from the MSBA, providing both flexibility and caution.

They point out that a thorough comprehensive School Building Master Plan was done in 2008. It was updated with new demographic data and reviewed and vetted in the B-SPACE process, after which they reached the same conclusions. Part of the solution to accommodating our growing school population, predominately in North Brookline, is

through an “Expand in Place” approach to our existing schools. As is true with Heath, Lawrence, Runkle and Devotion; Driscoll is part of this solution.

These members contend that the question is not so much whether we need a project at Driscoll; it is rather what kind. A feasibility study will allow us to discern what is possible and, most importantly, what is proper. And, it will help inform our decisions around a likely over-ride question in the spring.

They believe this sends a very strong and important message to the MSBA that we support an important project at Driscoll, and that any other message may well jeopardize support by the State – having potential consequences for the entire school system.

*Supporting:*

Those favoring the change maintain there is no urgency to fund this now, especially since we have yet to hear from the MSBA. They point out that the answer will likely not come before this fall. MSBA meets on September 25<sup>th</sup> and November 19<sup>th</sup>; TM likely meets Nov. 18<sup>th</sup>. Worst case – there’s a delay of 7 weeks.

This change takes pressure off our bonding capacity, which could be tapped in the fall, by allocating the \$1M in overlay account money – which must be committed by June 30<sup>th</sup> – to Lawrence which, under this proposed vote, would need to bond only \$0.5M of the full \$1.5M appearing in Article 7. (Bonding requires a 2/3’s vote; the overlay money a majority vote).

This can easily be brought back to Town Meeting in the fall when we will presumably receive a response from the MSBA.

Further, waiting until November to consider this allows Town Meeting and others to review, vet and process the Override Study Committee’s report, any additional information facilitated through the BOS efforts, and possibly the recommendations of a long-term community needs study. As well, our capacity needs may be lessened should the School Committee institute different School Department policies relative to the placement of new or existing students or increased class size.

Finally, it allows the Driscoll community and School Committee the time and space they need to work through and understand the requirements and circumstances of a project at this school before beginning the feasibility. And, this would be in keeping with the published guidelines of the MSBA itself.

**RECOMMENDATION:**

By a vote of 10-8-1, the Advisory Committee supports amending the FY15 budget by removing the \$1M in funding for the Driscoll School Feasibility and Schematic Design (item 58) and appropriate that \$1M for the addition to the Lawrence School (Article 7), thereby reducing the amount to bond under that project to \$0.5M. The vote taken was as follows:

Voted: To delete \$1M for Item 58 in Article 8 and appropriate \$1M for the addition to the Lawrence School, under Article 7, reducing the bond authorization to \$.5m, (thereby retaining capacity to bond \$1m for the Driscoll Feasibility Study at the November 2014 Town Meeting).

By a vote of 12-6-1, the Advisory Committee recommends Favorable Action on Article 8 (FY15 Budget) as amended. A revised Article 8 vote is as follows:

VOTED: To approve the budget for fiscal year 2015 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

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

- A) Expenditures within the appropriation for the School Department shall not be restricted.
- B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Board of Selectmen and Advisory Committee:
  - i) Transfers from the appropriation for the capital outlay object classification to any other object classification.
  - ii) Transfers to the appropriation for the personal services object classification from any other object classification.
  - iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.
  - iv) Within the Building Department appropriation, any transfer of more than \$10,000 to or from repairs to public building appropriations.
  - v) Transfers within the Department of Public Works from the Parks Division to any other purpose.

- vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.
- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.
- D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Board of Selectmen, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) **PROCUREMENT CONTRACTS AND LEASES:** The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2015 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen.

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

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

4.) **STIPENDS / SALARIES OF ELECTED OFFICIALS:** The stipends of members of the Board of Selectmen shall be at the rate of \$4,500 per year for the Chairman and at the rate of \$3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$101,748 effective July 1, 2014, plus any adjustment approved by vote of the Board of Selectmen. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

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

**6.) GOLF ENTERPRISE FUND:** The following sums, totaling \$1,331,923 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	\$464,599
Purchase of Services	\$132,218
Supplies	\$169,950
Other	\$4,100
Utilities	\$98,538
Capital	\$86,420
Debt Service	\$188,049
Reserve	\$25,000
Total Appropriations	\$1,168,874
Indirect Costs	\$163,049
Total Costs	\$1,331,923

Total costs of \$1,331,923 to be funded from golf receipts with \$166,049 to be reimbursed to the General Fund for indirect costs.

**7.) WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling \$26,875,578, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	<u>Water</u>	<u>Sewer</u>	<u>Total</u>
Salaries	2,104,341	360,870	2,465,212
Purchase of Services	184,598	157,200	341,798
Supplies	102,020	21,000	123,020
Other	8,900	0	8,900
Utilities	135,854	0	135,854
Capital	158,300	155,000	313,300
Intergovernmental	6,551,770	12,556,277	19,108,047
Debt Service	882,154	1,257,229	2,139,383
Reserve	<u>117,056</u>	<u>149,039</u>	<u>266,095</u>
Total Appropriations	10,244,993	14,656,615	24,901,607
Indirect Costs	<u>1,577,672</u>	<u>396,298</u>	<u>1,973,970</u>
Total Costs	11,822,665	15,052,913	26,875,578

Total costs of \$26,875,578 to be funded from water and sewer receipts with \$1,973,970 to be reimbursed to the General Fund for indirect costs.

**8.) REVOLVING FUNDS:**

- a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$2,950,000.
  
- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$150,000.
  
- c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed \$100,000.
  
- d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section

53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed \$30,000.

**9.) SCHOOLHOUSE MAINTENANCE AND REPAIR:** The sum of \$4,557,039, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

**10.) SNOW AND ICE BUDGET:** The sum of \$389,091, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article.

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

Parking Meter Special Revenue Fund	\$4,300,000
[to the General Fund for the Department of Public Works - \$2,150,000]	
[to the General Fund for the Police Department - \$2,150,000]	
State Library Aid Special Revenue Fund	\$ 41,555
[to the General Fund for the Library]	
Cemetery Sales Special Revenue Fund	\$ 75,000
[to the General Fund for the Department of Public Works]	
Recreation Revolving Fund	\$ 349,934
[to the General Fund for benefits reimbursement]	

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

**13.) SPECIAL APPROPRIATIONS:** The appropriations set forth as items 34 through 62, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #60 - 62, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

- 34.) Raise and appropriate \$270,000, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen, for the enhancement of town-wide hardware and software.
- 35.) Raise and appropriate \$65,000, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen and the Economic Development Advisory Board, for commercial area improvements.
- 36.) Raise and appropriate \$580,000, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of Fire Engine #5.
- 37.) Raise and appropriate \$325,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for making extraordinary repairs to Fire Stations.
- 38.) Raise and appropriate \$40,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for a feasibility study of the construction of a fleet maintenance facility for the Fire Department and for renovations to the training facility located at Fire Station #6.
- 39.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the Library Trustees, for development of a written building program and a feasibility / concept study of renovations to the Coolidge Corner Library.
- 40.) Raise and appropriate \$30,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for bicycle access improvements.
- 41.) Raise and appropriate \$50,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for a study of MBTA Traffic Signalization, under the following conditions:
  - 1) that before utilizing Town funds to implement the recommendations, if any, of the consultant, the Town shall seek implementation funds from the MBTA and document all such efforts;

- 2) that if MBTA implementation funds are not forthcoming, the Town shall seek implementation funds from other sources, including the state and federal governments, and document all such efforts; and
- 3) that before funds are sought or expended to implement any TSP project, the MBTA shall present a plan to the Town describing how congestion at Cleveland Circle resulting from reduced transit time on Beacon Street will be avoided.
- 42.) Raise and appropriate \$1,550,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of streets, with notification, in advance of plans being submitted for bids, to the Board of Selectmen of any changes to pedestrian, bicycle, or motor vehicle traffic patterns or to pavement markings.
- 43.) Raise and appropriate \$290,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of sidewalks.
- 44.) Raise and appropriate \$515,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the conversion of Town-owned streetlights to LED's.
- 45.) Raise and appropriate \$90,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the design of the renovation of Pierce playground.
- 46.) Raise and appropriate \$295,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.
- 47.) Raise and appropriate \$85,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town and School grounds.
- 48.) Raise and appropriate \$170,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 49.) Raise and appropriate from the Sale of Lots special revenue fund (SW01) \$100,000, to be expended under the direction of the Commissioner of Public Works, with any

necessary contracts to be approved by the Board of Selectmen and the Cemetery Trustees, for the rehabilitation of roadways within Walnut Hills Cemetery.

- 50.) Raise and appropriate \$60,000, to be expended under the direction of the Chief Procurement Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for school furniture upgrades.
- 51.) Raise and appropriate \$320,000, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for mobile carts and mounted projection systems.
- 52.) Raise and appropriate \$65,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for ADA renovations to Town and School buildings.
- 53.) Raise and appropriate \$250,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to elevators in Town and School facilities.
- 54.) Raise and appropriate \$160,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for energy conservation projects in Town and School buildings.
- 55.) Raise and appropriate \$730,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for building envelope / fenestration repairs to Town and School buildings.
- 56.) Raise and appropriate \$375,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities.
- 57.) Raise and appropriate \$300,000, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
- ~~58.) Appropriate the sum of \$1,000,000 for a feasibility study, schematic design, and costs associated with the feasibility study and schematic design to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further~~

~~described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, said sum to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee; and to meet said appropriation, transfer \$1,000,000 from the overlay surplus account; and further that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided, that that no money be committed or expended before the District's Statement of Interest to the MSBA has been approved and the District has received an invitation from the MSBA to enter the Eligibility Period; and provided further, that there are adequate parking accommodations in accordance with transportation board policy.~~

~~59.)~~58.) \_\_\_\_\_ Raise and appropriate \$1,750,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools.

~~60.)~~59.) \_\_\_\_\_ Appropriate \$900,000, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of Fire Ladder #2, and to meet the appropriation, authorize the Treasurer, with the approval of the Selectmen, to borrow \$900,000 under General Laws, Chapter 44, Section 7 (9), as amended, or pursuant to any other enabling authority.

~~61.)~~60.) \_\_\_\_\_ Appropriate \$4,600,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for capping, cleaning up or preventing pollution and closing out the Newton Street Landfill (rear) and associated solid waste disposal facilities, including all costs incidental thereto, and to meet the appropriation authorize the Treasurer, with the approval of the Selectmen, to borrow \$4,600,000 under General Laws, Chapter 44, Section 8, Clauses (21), (23) and (24), as amended, or pursuant to any other enabling authority, and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

~~62.)~~61.) \_\_\_\_\_ Appropriate \$1,200,000, to be expended under the direction of the Commissioner of Public Works, to pay costs of (i) traffic circulation improvements in Brookline Village (at an approximate cost of \$1,000,000) and (ii) Riverway Park pedestrian and bicycle crossing improvements at Route 9 and the Riverway (at an approximate cost of \$200,000), including the payment of any and all other costs incidental and related thereto; that to meet this appropriation, the Treasurer, with

the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7 of the General Laws, Chapter 74 of the Acts of 1945, as amended, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that the Selectmen are authorized to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project; provided, however, that the total amount authorized to be borrowed pursuant to this vote shall be reduced to the extent of any grants or gifts received by the Town on account of this project.

**14.) FREE CASH:** Appropriate and transfer \$5,084,152 from free cash for the following purposes:

- a.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$530,584;
- b.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – \$234,839;
- c.) Reduce the tax rate (Special Appropriations) – \$4,148,339;
- d.) Housing Trust Fund – \$170,390.

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**FY15 AMENDED BUDGET - TABLE 1**

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	\$\$ CHANGE FROM FY14	% CHANGE FROM FY14
	<b>REVENUES</b>						
	Property Taxes	162,674,174	169,029,414	175,783,902	181,848,174	6,064,272	3.4%
	Local Receipts	23,849,795	24,480,797	22,119,366	22,770,225	650,859	2.9%
	State Aid	13,796,975	15,125,059	16,659,162	17,629,357	970,195	5.8%
	Free Cash	5,380,264	5,336,413	7,655,155	5,084,152	(2,571,003)	-33.6%
	Overlay Surplus	400,000	1,750,000	0	0	0	-
	Other Available Funds	6,218,966	10,144,344	6,846,435	6,903,508	57,073	0.8%
	<b>TOTAL REVENUE</b>	<b>212,320,174</b>	<b>225,866,027</b>	<b>229,064,019</b>	<b>234,235,416</b>	<b>5,171,396</b>	<b>2.3%</b>
	<b>EXPENDITURES</b>						
	<b>DEPARTMENTAL EXPENDITURES</b>						
	1 . Selectmen	633,913	644,074	666,294	671,197	4,904	0.7%
	2 . Human Resources	503,323	574,019	517,681	523,365	5,683	1.1%
	3 . Information Technology	1,399,122	1,472,035	1,691,246	1,751,863	60,618	3.6%
	4 . Finance Department	2,986,279	2,991,976	2,883,755	2,845,778	(37,977)	-1.3%
	5 . Legal Services	842,311	821,872	815,521	832,893	17,372	2.1%
	6 . Advisory Committee	22,121	14,974	24,156	24,372	216	0.9%
	7 . Town Clerk	577,160	775,342	545,728	627,632	81,904	15.0%
	8 . Planning and Community Development	634,153	620,599	666,449	765,310	98,861	14.8%
	9 . Police	14,947,822	14,954,651	15,211,679	15,312,691	101,012	0.7%
	10 . Fire	12,855,469	12,844,259	12,959,959	13,005,941	45,982	0.4%
	11 . Building	6,823,180	6,854,850	7,080,776	7,024,504	(56,272)	-0.8%
(1)	12 . Public Works	13,283,953	14,480,045	14,051,437	14,066,549	15,112	0.1%
	<i>a. Administration</i>	799,178	823,184	826,817	864,369	37,552	4.5%
	<i>b. Engineering/Transportation</i>	1,096,910	1,105,748	1,240,771	1,262,215	21,445	1.7%
	<i>c. Highway</i>	4,774,773	4,579,656	4,940,010	5,034,219	94,208	1.9%
	<i>d. Sanitation</i>	2,873,192	3,003,721	2,976,972	2,990,830	13,859	0.5%
	<i>e. Parks and Open Space</i>	3,325,274	3,507,459	3,662,776	3,525,824	(136,952)	-3.7%
	<i>f. Snow and Ice</i>	414,627	1,460,278	404,091	389,091	(15,000)	-3.7%
	13 . Library	3,621,074	3,742,982	3,720,993	3,754,728	33,735	0.9%
	14 . Health	1,158,084	1,152,529	1,263,418	1,300,189	36,771	2.9%
	15 . Veterans' Services	273,859	294,085	295,993	321,818	25,825	8.7%
	16 . Council on Aging	770,862	872,570	840,951	840,206	(745)	-0.1%
	17 . Human Relations	108,596	117,064	0	0	0	-
	18 . Recreation	1,003,409	1,016,673	1,050,192	1,006,120	(44,072)	-4.2%
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2)	20 . Collective Bargaining - Town	1,175,000	1,775,000	1,314,514	2,321,220	1,006,706	76.6%
	<i>Subtotal Town</i>	62,444,691	64,244,600	66,315,741	67,711,376	1,395,635	2.1%
	21 . Schools	75,387,189	79,079,823	82,780,770	86,827,207	4,046,437	4.9%
	<b>TOTAL DEPARTMENTAL EXPENDITURES</b>	<b>137,831,880</b>	<b>143,324,423</b>	<b>149,096,511</b>	<b>154,538,583</b>	<b>5,442,072</b>	<b>3.7%</b>
	<b>NON-DEPARTMENTAL EXPENDITURES</b>						
(1)	22 . Employee Benefits	41,529,043	45,240,975	50,100,251	50,500,116	399,865	0.8%
(3)	<i>a. Pensions</i>	14,556,225	15,801,983	17,385,688	17,882,573	496,885	2.9%
	<i>b. Group Health</i>	21,546,572	22,865,804	24,618,704	25,136,108	517,405	2.1%
	<i>c. Health Reimbursement Account (HRA)</i>	0	50,876	70,000	70,000	0	0.0%
(3)	<i>d. Retiree Group Health Trust Fund (OPEB's)</i>	1,801,527	2,601,927	3,514,360	3,311,860	(202,500)	-5.8%
	<i>e. Employee Assistance Program (EAP)</i>	25,180	27,400	28,000	28,000	0	0.0%

		FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	\$\$ CHANGE FROM FY14	% CHANGE FROM FY14
	<i>f. Group Life</i>	129,889	132,118	132,500	140,000	7,500	5.7%
	<i>g. Disability Insurance</i>	13,279	13,376	16,000	16,000	0	0.0%
(3)	<i>h. Worker's Compensation</i>	1,250,000	1,200,000	1,720,000	1,450,000	(270,000)	-15.7%
(3)	<i>i. Public Safety IOD Medical Expenses</i>	300,000	560,660	400,000	300,575	(99,425)	-24.9%
(3)	<i>j. Unemployment Compensation</i>	350,000	350,000	450,000	325,000	(125,000)	-27.8%
	<i>k. Medical Disabilities</i>	26,989	18,421	40,000	40,000	0	0.0%
	<i>l. Medicare Coverage</i>	1,529,382	1,618,410	1,725,000	1,800,000	75,000	4.3%
(2)	23 . Reserve Fund	605,103	1,250,621	2,161,799	2,122,336	(39,463)	-1.8%
	24 . Stabilization Fund	253,092	0	250,000	0	(250,000)	-100.0%
	25 . Affordable Housing	355,264	251,363	555,106	170,390	(384,716)	-69.3%
	26 . Liability/Catastrophe Fund	141,959	253,669	154,115	234,839	80,724	52.4%
	27 . General Insurance	248,469	263,478	335,000	371,500	36,500	10.9%
	28 . Audit/Professional Services	129,335	130,000	130,000	130,000	0	0.0%
	29 . Contingency Fund	12,895	14,383	15,000	15,000	0	0.0%
	30 . Out-of-State Travel	1,403	2,374	3,000	3,000	0	0.0%
	31 . Printing of Warrants & Reports	14,219	19,837	25,000	25,000	0	0.0%
	32 . MMA Dues	11,178	11,346	11,686	11,979	293	2.5%
	<i>Subtotal General</i>	<i>1,167,814</i>	<i>946,450</i>	<i>3,640,706</i>	<i>3,084,044</i>	<i>(556,662)</i>	<i>-15.3%</i>
(1)	33 . Borrowing	10,112,066	9,834,605	9,583,111	9,621,757	38,646	0.4%
	<i>a. Funded Debt - Principal</i>	<i>7,955,436</i>	<i>7,428,882</i>	<i>7,207,338</i>	<i>7,246,544</i>	<i>39,206</i>	<i>0.5%</i>
	<i>b. Funded Debt - Interest</i>	<i>2,142,824</i>	<i>2,376,113</i>	<i>2,215,772</i>	<i>2,215,213</i>	<i>(560)</i>	<i>0.0%</i>
	<i>c. Bond Anticipation Notes</i>	<i>0</i>	<i>0</i>	<i>100,000</i>	<i>100,000</i>	<i>0</i>	<i>0.0%</i>
	<i>d. Abatement Interest and Refunds</i>	<i>13,806</i>	<i>29,610</i>	<i>60,000</i>	<i>60,000</i>	<i>0</i>	<i>0.0%</i>
	<b>TOTAL NON-DEPARTMENTAL EXPENDITURES</b>	<b>52,808,923</b>	<b>56,022,030</b>	<b>63,324,067</b>	<b>63,205,920</b>	<b>(118,147)</b>	<b>-0.2%</b>
	<b>TOTAL GENERAL APPROPRIATIONS</b>	<b>190,640,803</b>	<b>199,346,453</b>	<b>212,420,578</b>	<b>217,744,503</b>	<b>5,323,925</b>	<b>2.5%</b>
	<b>SPECIAL APPROPRIATIONS</b>						
	34 . Technology Applications (revenue financed)				270,000		
	35 . Commercial Areas Improvements (revenue financed)				65,000		
	36 . Fire Engine #5 Replacement (revenue financed)				580,000		
	37 . Fire Station Renovations (revenue financed)				325,000		
	38 . Fire Department Fleet Maint. Facility/Training Center - Feasibility Study (revenue financed)				40,000		
	39 . Coolidge Corner Library Feasibility/Concept Study (revenue financed)				50,000		
	40 . Bicycle Access Improvements (revenue financed)				30,000		
	41 . MBTA Traffic Signalization (revenue financed)				50,000		
	42 . Street Rehabilitation (revenue financed)				1,550,000		
	43 . Sidewalk Repair/Reconstruction (revenue financed)				290,000		
	44 . LED Streetlight Conversion (revenue financed)				515,000		
	45 . Pierce Playground - Design (revenue financed)				90,000		
	46 . Playground Equipment, Fields, Fencing (revenue financed)				295,000		
	47 . Town/School Grounds Rehab (revenue financed)				85,000		
	48 . Tree Removal and Replacement (revenue financed)				170,000		
	49 . Walnut Hills Cemetery - roadway work (special revenue fund)				100,000		
	50 . School Furniture Upgrades (revenue financed)				60,000		
	51 . School Technology (revenue financed)				320,000		
	52 . Town/School ADA Renovations (revenue financed)				65,000		
	53 . Town/School Elevator Renovations (revenue financed)				250,000		
	54 . Town/School Energy Conservation Projects (revenue financed)				160,000		

	FY12 ACTUAL	FY13 ACTUAL	FY14 BUDGET	FY15 BUDGET	\$\$ CHANGE FROM FY14	% CHANGE FROM FY14
55 . Town/School Bldg Envelope/Fenestration Repairs (revenue financed)				730,000		
56 . Town/School Building Roof Repair/Replacement (revenue financed)				375,000		
57 . Town/School Building Security / Life Safety (revenue financed)				300,000		
<del>58 . Driscoll School Addition Feasibility/Schematic Design (revenue financed - Overlay Reserve Surplus)</del>				<del>1,000,000</del>		
59 58 . Classroom Capacity (revenue financed)				1,750,000		
60-59 . Ladder #2 Replacement (bond)				900,000		
61-60 . Newton St. Landfill - Rear Landfill Closure (bond)				4,600,000		
62-61 . Village Square and Riverway Park Bike/Pedestrian Improvements Projects (bond/CDBG Sec. 108)				1,200,000		
(4) <b>TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS</b>	<b>7,379,000</b>	<b>12,933,500</b>	<b>8,581,000</b>	<b>8,415,000</b>	<b>(166,000)</b>	<b>-1.9%</b>
<b>TOTAL APPROPRIATED EXPENDITURES</b>	<b>198,019,803</b>	<b>212,279,953</b>	<b>221,001,578</b>	<b>226,159,503</b>	<b>5,157,925</b>	<b>2.3%</b>
<b>NON-APPROPRIATED EXPENDITURES</b>						
Cherry Sheet Offsets	106,839	109,160	111,026	112,059	1,033	0.9%
State & County Charges	5,671,508	6,105,553	6,199,912	6,238,854	38,942	0.6%
Overlay	1,910,493	1,958,780	1,726,503	1,700,000	(26,503)	-1.5%
Deficits-Judgments-Tax Titles	7,374	12,394	25,000	25,000	0	0.0%
<b>TOTAL NON-APPROPRIATED EXPEND.</b>	<b>7,696,214</b>	<b>8,185,887</b>	<b>8,062,441</b>	<b>8,075,913</b>	<b>13,472</b>	<b>0.2%</b>
<b>TOTAL EXPENDITURES</b>	<b>205,716,017</b>	<b>220,465,841</b>	<b>229,064,019</b>	<b>234,235,416</b>	<b>5,171,397</b>	<b>2.3%</b>
<b>SURPLUS/(DEFICIT)</b>	<b>6,604,157</b>	<b>5,400,186</b>	<b>0</b>	<b>0</b>		

(1) Breakdown provided for informational purposes.

(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) Funds are transferred to trust funds for expenditure.

(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #33).

**FY15 AMENDED BUDGET - TABLE 2**

<b>Department/Board/Commission</b>	<b>Personnel Services/ Benefits</b>	<b>Purchase of Services</b>	<b>Supplies</b>	<b>Other Charges/ Expenses</b>	<b>Utilities</b>	<b>Capital Outlay</b>	<b>Inter-Govt'al</b>	<b>Debt Service</b>	<b>Agency Total</b>
Board of Selectmen (Town Administrator)	643,349	14,118	4,000	7,600		2,130			671,197
Human Resources Department (Human Resources Director)	281,472	200,503	9,000	31,000		1,390			523,365
Information Technology Department (Chief Information Officer)	1,045,042	599,322	33,850	32,550		41,100			1,751,863
Finance Department (Director of Finance)	2,041,479	717,294	43,697	18,865	2,143	22,300			2,845,778
Legal Services (Town Counsel)	587,334	127,559	3,500	111,500		3,000			832,893
Advisory Committee (Chair, Advisory Committee)	21,232		2,275	570		295			24,372
Town Clerk (Town Clerk)	527,086	77,887	13,750	1,400		7,510			627,632
Planning and Community Department (Plan. & Com. Dev. Dir.)	731,403	16,945	9,212	4,550		3,200			765,310
Police Department (Police Chief)	13,615,205	505,169	221,750	64,000	425,423	481,144			15,312,691
Fire Department (Fire Chief)	12,217,365	160,755	146,260	27,650	233,334	220,577			13,005,941
Public Buildings Department (Building Commissioner)	2,163,287	2,118,980	23,170	5,350	2,657,117	56,600			7,024,504
Public Works Department (Commissioner of Public Works)	7,627,972	3,430,752	915,750	40,900	1,331,175	700,000	20,000		14,066,549
Public Library Department (Library Board of Trustees)	2,663,832	181,641	562,600	3,700	316,955	26,000			3,754,728
Health Department (Health Director)	1,004,803	202,291	19,700	4,570	40,855	27,970			1,300,189
Veterans' Services (Veterans' Services Director)	159,864	2,609	650	158,185		510			321,818
Council on Aging (Council on Aging Director)	706,884	44,083	18,000	2,900	63,139	5,200			840,206
Recreation Department (Recreation Director)	674,976	56,882	91,480	12,400	166,362	4,020			1,006,120
School Department (School Committee)									86,827,207
<b>Total Departmental Budgets</b>	<b>46,712,584</b>	<b>8,456,789</b>	<b>2,118,644</b>	<b>527,690</b>	<b>5,236,503</b>	<b>1,602,946</b>	<b>20,000</b>		<b>151,502,363</b>
<b>DEBT SERVICE</b>									
Debt Service (Director of Finance)								9,621,757	9,621,757
<b>Total Debt Service</b>								<b>9,621,757</b>	<b>9,621,757</b>
<b>EMPLOYEE BENEFITS</b>									
Contributory Pensions Contribution (Director of Finance)	17,772,573								17,772,573
Non-Contributory Pensions Contribution (Director of Finance)	110,000								110,000
Group Health Insurance (Human Resources Director)	25,136,108								25,136,108
Health Reimbursement Account (HRA) (Human Resources Director)	70,000								70,000
Retiree Group Health Insurance - OPEB's (Director of Finance)	3,311,860								3,311,860
Employee Assistance Program (Human Resources Director)	28,000								28,000
Group Life Insurance (Human Resources Director)	140,000								140,000
Disability Insurance	16,000								16,000
Workers' Compensation (Human Resources Director)	1,450,000								1,450,000
Public Safety IOD Medical Expenses (Human Resources Director)	300,575								300,575
Unemployment Insurance (Human Resources Director)	325,000								325,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	1,800,000								1,800,000
<b>Total Employee Benefits</b>	<b>50,500,116</b>								<b>50,500,116</b>
<b>GENERAL / UNCLASSIFIED</b>									
Reserve Fund (*) (Chair, Advisory Committee)				2,122,336					2,122,336
Liability/Catastrophe Fund (Director of Finance)				234,839					234,839
Housing Trust Fund (Planning & Community Development Dir.)				170,390					170,390
General Insurance (Town Administrator)		371,500							371,500
Audit/Professional Services (Director of Finance)		130,000							130,000
Contingency (Town Administrator)				15,000					15,000
Out of State Travel (Town Administrator)		3,000							3,000
Printing of Warrants (Town Administrator)	5,000	10,000	10,000						25,000
MMA Dues (Town Administrator)				11,979					11,979
Town Salary Reserve (*) (Director of Finance)	2,321,220								2,321,220
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
<b>Total General / Unclassified</b>	<b>3,041,220</b>	<b>514,500</b>	<b>10,000</b>	<b>2,554,544</b>					<b>6,120,264</b>
<b>TOTAL GENERAL APPROPRIATIONS</b>	<b>100,253,920</b>	<b>8,971,289</b>	<b>2,128,644</b>	<b>3,082,234</b>	<b>5,236,503</b>	<b>1,602,946</b>	<b>20,000</b>	<b>9,621,757</b>	<b>217,744,503</b>

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

ARTICLE 9

**Amendment Offered by Neil Gordon, TMM Precinct 1**

Moved: To delete the second paragraph of the main motion.

**Explanation:**

The petitioners of WA9 proposed two changes to the Senior Real Estate Tax Deferral program: (i) an increase in the income limit, and (ii) a reduction in the interest rate, from 5% to 3%. The Advisory Committee has recommended Favorable Action; the Board of Selectmen have offered an amendment that, alternatively, would reduce the interest rate to the prime rate, adjusted annually.

This amendment offers Town Meeting the alternative of maintaining the status quo with respect to the interest rate, and effectively provides TM with the opportunity to consider the interest and income limit components separately.

The Senior Real Estate Tax Deferral program has not been widely utilized in Brookline, but there is little, if any, evidence that lack of participation is a result of the current 5% interest rate. There is also little, if any, evidence that either of the proposed changes in the interest rate will increase participation in the program.

The amended article would read as follows:

To see if the Town will vote to adopt a local option to increase qualifying gross receipts under Massachusetts General Laws chapter 59, section 5, Clause 41A from \$40,000 to the income limit established under G.L. c. 62, section 6(k) for the “circuit breaker” state income tax credit for single seniors who are not head of households.

~~To see if the Town will reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws 59, Section 5, Clause 41, the Senior Real Estate Tax Deferral, from 5% to 3%.~~

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**BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION**

The Selectmen’s original vote under Article 9 was to (a) support the increase in the income limit and (b) reduce the interest rate from the current 5% to the prime rate. The Town’s Finance Director voiced concerns that using a variable rate will cause

administrative issues. The Board prefers the approach offered by Neil Gordon, which keeps the current 5% rate in effect. There is no evidence that the 5% rate is stopping residents from taking advantage of this program and that reducing it would entice more residents to participate. For example, the City of Newton uses an 8% interest rate and they have a higher participation rate than Brookline. The end result of the Gordon amendment is to accept the petitioners' language to broaden the income eligibility but keep the program interest rate as it is now.

Therefore, by a vote of 5-0 taken on May 13, 2014, the Board recommends FAVORABLE ACTION, on the amendment offered by Neil Gordon, which increases the income limit and maintains the current 5% interest rate.

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ARTICLE 10

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BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

After two successive years of Town Meeting Warrant Articles seeking modification of the scope and responsibility of the Human Relations/Youth Resources Commission, the Board of Selectmen established an ad hoc committee and charged it with rewriting the Town's forty-year-old by-law. The Board established and appointed members to a Diversity, Inclusion, and Affirmative Action Committee to draft a new by-law to replace Article 3.14, and to make the role of the Commission more relevant and effective.

During the nine-months the Committee worked, substantial public input was solicited and more than 15 public meetings were held and the Committee collaborated with the existing Human Relations Commission and staff, Town Counsel’s Office, the Advisory Committee’s subcommittee, the Human Resources Board and staff, and the Committee for Town Organization and Structure. A draft of the new by-law was submitted in time for it to be placed in the Annual Town Meeting Warrant, but additional collaboration and work was necessary before it could be finalized. As a result, the Board was unable to include a recommendation in the Combined Reports. Since that time, additional work and collaboration has ensued and the Board is pleased to unanimously recommend for favorable action the final version of the Committee’s proposed by-law. This version is identical to the version being recommended by the Advisory Committee.

The new by-law renames the Commission to focus on its current mission, to eliminate confusion with other appointed boards and commissions, and to reflect more modern terminology. The new 15-member Commission would be called the Diversity, Inclusion, and Community Relations Commission. In addition, the by-law establishes an organizational unit called an “Office” of Diversity, Inclusion, and Community Relations and creates a professional position called the “Chief Diversity Officer,” who would provide support to the Commission and manage the affairs of the Office and in addition, get directly involved in employee matters concerning diversity which would not go before the Commission. The Chief Diversity Officer (CDO) would be appointed by the Board of Selectmen and report directly to the Town Administrator in matters related to this by-law. That person would also work with the Commission on all the matters that comes before it. The role of the CDO would be to prepare, with the help of the Commission and the Human Resources Board, for Board of Selectmen approval a policy on diversity and inclusion and to serve as an ombudsperson for all persons, including employees, who feel they may have been discriminated against or treated unfairly by the Town due to their membership in a protected class. The CDO would attempt to mediate disputes and/or refer them to other appropriate dispute resolution agencies or processes. While the CDO would report to the Commission on trends or other general policy issues related to complaints, the Commission would not have direct jurisdiction over employee complaints given the complications of privacy

laws, union and contracting rules concerning interactions between union employees and the Town, the state's Open Meeting Law, and other factors.

The new Commission would have the following essential duties and responsibilities;

- To strive to eliminate discriminatory barriers in employment, housing and education and to help increase the capacity of private and public institutions to effectively respond to discrimination.
- To enhance communication among and across the community to promote awareness and the value of diversity.
- To work with the Board of Selectmen, the Human Resources Board and other municipal entities to increase diversity in employment and in the membership on Town boards and committees.
- To provide advice and counsel to the CDO in connection with the preparation and implementation of a diversity and inclusion policy, including equal employment and affirmative action.
- To receive and refer complaints of discrimination.

Given the complexities of law and the patchwork of existing by-laws and other relevant agencies, the task of rewriting this by-law was a challenge. For example, the Committee recognized that Article 5.5 of the Town By-Laws, which pertains to Fair Housing and references the Human Relations Commission, also needs substantial revision. The Committee intends to address this in the future. The Committee also realized that, despite substantial success, it was unable to reconcile all differences when drafting the by-law. The major points of dispute that were not reconciled include;

- 1.) Status of the CDO Position. The Committee attempted to balance the desire of the Town Administrator to retain flexibility on the organizational aspects of the Office/Position with the desire of others to create a separate department and department head status of the CDO. We believe the Committee struck the proper balance by referring to the organizational unit as an Office (implying cross departmental responsibilities), vesting the Board of Selectmen with the appointing authority for the CDO, and creating a direct reporting relationship of the CDO to the Town Administrator, but not creating a one-person department, such as the Town had prior to the reorganization last year and which was found to be less effective.
- 2.) Coordination with Other Laws or By-Laws. The Committee on Town Organization and Structure (CTOS) pointed out areas where the by-law could be inconsistent with the spirit of other laws and by-laws of the Town, including the Town Administrator Act. In particular, CTOS does not support provisions of the by-law that assign a Selectman as an ex officio/non-voting member of the Commission and provide the CDO with the ability to contact the Board of Selectmen directly. While we respect CTOS' views on these matters, we do not view them to be material and believe the

overall by-law is consistent other laws and by-laws of the Town. In addition, this by-law can be amended in the future if problems or inconsistencies arise.

- 3.) Authority of the Commission. Some have suggested that the Commission needs more direct involvement and authority in adjudicating claims of discrimination against the Town or others. As previously mentioned, we feel strongly that a volunteer appointed body subject to the open meeting law should not be involved in specific matters that implicate complex privacy rights, labor law or other factors that could compromise the Town's interests. Should this Commission be assigned this quasi-judicial role, persons appearing before them would have to be advised that they had a right to bring legal counsel and that any statements they made could later be used to their detriment. The Commission would also require extensive training and a set of procedural rules to ensure fairness in such proceedings. We believe that the CDO, under the general advice and policy direction of the Commission, is better suited for this task.

In summary, the Board of Selectmen unanimously supports the final version of the by-law prepared by the ad hoc Committee and appreciates the efforts of so many who contributed to it. We believe that this new by-law will advance the Town's goal of Brookline being a diverse and inclusive community. Therefore, by a vote of 5-0 taken on May 20, 2014, the Board recommends FAVORABLE ACTION on the following motion:

VOTED: That see the Town revoke Article 3.14 of the Town By-Laws and replace it with the following version of a new Article 3.14:

**DIVERSITY, INCLUSION AND COMMUNITY RELATIONS COMMISSION  
AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS**

**SECTION 3.14.1 ESTABLISHMENT AND PURPOSE**

This by-law establishes the Diversity, Inclusion, and Community Relations Commission (the "Commission") and the Office of Diversity, Inclusion, and Community Relations Department (the "Office").

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline ("the Town"), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide

opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, “Brookline Protected Classes”).

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) that the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) that justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) that the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing.

The Commission shall consist of ~~at least eleven (11) to no more than~~ fifteen (15) residents of the Town— who shall be called Commissioners.

Commissioners shall be appointed by the Board of Selectmen (the “BOS”) and shall hold office for a period of three (3) years except that of the ~~eleven (11) to~~ fifteen (15) Commissioners first appointed; ~~five~~three or 1/3 of the total shall be appointed for one (1) year, ~~five~~four or 1/3 of the total shall be appointed for two (2) years, and ~~five~~four or 1/3 of the total shall be appointed for three (3) years. The term of office of the Commissioners shall expire on August 31 of the appropriate year. The BOS may appoint additional non-voting associate (bylaw §3.1.5) members as it determines to be necessary, which may include youth or persons who do not reside in Brookline, but have a substantial connection to Brookline, or the Brookline Public Schools. The BOS shall select one of its members to serve *ex officio* as a non-voting member of the Commission. A quorum of the Commission shall consist of a majority of the ~~11~~ 14 ~~to 15 seats~~ on the Commission, with a minimum of six.

The BOS shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training as is necessary to enable the Commission to perform the duties assigned to it by this Bylaw. All Commissioners shall serve without compensation.

In the event of the discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the BOS candidates to fill such vacancies. The current Human Relations/Youth Resources Commission shall be dissolved at the time that appointments are made for the Commission established by this Bylaw. However, the current Human Relations/Youth Resources Commissioners may be considered for appointment to the new Commission.

[zachievement](#)

### SECTION 3.14.2 APPOINTMENT , ROLES AND RESPONSIBILITIES OF THE DIRECTOR AND CHIEF DIVERSITY OFFICER

There shall be a Diversity, Inclusion and Community Relations Office (the "Office"), which shall be a unit of the Selectmen's Office. The Town Administrator, ~~after~~ [after](#) consultation with the Commission, shall recommend to the BOS for appointment a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Diversity, Inclusion an Community Relations Office (the "Director") and and that person shall also serve as the Chief Diversity Officer ("CDO") for the Town.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this Bylaw or any other Bylaw giving the Commission responsibilities. If needed, the Director shall ask for additional assistance to carry out that person's duties. The Office shall be physically situated in whatever department the Town Administrator determines would be easiest to provide the Director any such assistance.

The Director/CDO shall report to the Town Administrator. The Director/CDO may bring a matter directly to the attention of the BOS in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO may attend meetings held by the Town Administrator with Department Heads and shall work with the Human Resources Office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the BOS of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The diversity and inclusion policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The Director/CDO will report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who come in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after having sought the services of the CDO in said officer's role as an ombudsperson, the Director/CDO may discuss the case in general terms with the Commission (see section 3.14.3 (A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall hold all such Town/employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss, in general terms, the problems or issues that such individual cases suggest with the Commission, provided however, that there is no ongoing or threatened litigation concerning the matter, and doing so does not violate any persons rights to privacy.

### SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Office, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

(i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

(ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;

(iii) Work with the BOS, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, awareness, and sensitivity to civil and human rights in all departments and agencies of Town government;

(iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the BOS, including equal employment opportunity and

affirmative action procedures, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity and inclusion policy;

~~Complaints~~ **(v) Complaints Against the Town:** Receive complaints, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see section 3.14.2), and after notifying the Town Administrator, initiate review and summarize the complaint as well as any issues of concern to the Commission, without investigating or making determinations of fact~~preliminary review of the, alleged facts, without~~ or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee. ~~The Commission/CDO, and after an affirmative vote by a majority of the Commission may in addition~~ (1) present ~~the alleged facts~~its summary and concerns to the Town Administrator and the BOS for consideration of further action and/or (2) provide the complainant with information on their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agencies. This bylaw does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Office's procedures;

~~(vi) Complaints Against the Schools:~~ **(vi) Complaints Against the Public Schools of Brookline:** Receive complaints, directly or through the CDO, against the Public Schools of Brookline, School Department, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Schools, except school employees, and, after notifying the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint, ~~initiate preliminary review of the alleged facts~~and summarize the complaint as well as any issues of concern to the Commission, without investigating or making determinations of fact or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any School official or employee. ~~Should the CDO or Commission (independently or through the CDO) receive a complaint against the Public Schools of Brookline, the~~ The Commission/CDO, may after an affirmative vote by majority of ~~in addition the Commission~~ (1) present the alleged facts~~its summary and concerns~~ to the School Superintendent and/or the School Committee for ~~for~~ the~~consideration of further~~ action and/or (2) provide the complainant with information on their options regarding dispute resolution and the boards, agencies, or courts to which the complainant may file a complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.

**(vii) Other Complaints(Not Against the Town or Schools):** Receive complaints directly or through the CDO, from any person other than a Town or School employee, according to procedures developed by the Commission and as approved by the BOS, and ~~initiate~~

summarize the complaint as well as any issues of concern to the Commission, without investigating or making determinations of fact, or drawing any legal conclusions, concerning allegations of discrimination, preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact with the Town other than Town or School employees, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission ~~shall also have the authority may in addition, in its discretion, to take one or more of the following actions:~~

(1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;

(2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service; and/or

(3) Present any results of preliminary review its summary and concerns of the alleged facts to the Town Administrator, and/or the BOS, in an appropriate case, for consideration of further action;

(viii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v) and (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the Annual Report filed with the Board pursuant to Section 3.14.4 of this Bylaw.

(ix) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt and follow-up by the Commission of such complaints;

(x) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to Fair Housing responsibilities, as authorized by law, under By-Law 5.5;

(xi) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson to facilitate necessary changes that will reduce and eliminate violations of rights;

(xii) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to

those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the BOS and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town Bylaws.

(C) On a bi-annual basis, prepare written organizational goals for the Commission (the “Commission's Goals”) that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) time bound as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission’s Goals shall be submitted to the BOS at a public meeting and posted on the Town’s website. The Commission shall receive and consider the comments of the BOS at the public meeting and shall also receive and consider written comments from the community on the Commission’s Goals.

#### SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this Bylaw, the Commission, with the approval of the BOS, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the

Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues; and may establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing. Such rules and regulations may also provide for the governance of the Commission with respect to matters such as the appointments of subcommittees as necessary to deal with specific community issues or concerns.

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

The Town Administrator shall be notified of all complaints that the Commission receives from any persons who come in contact with the Town related to discrimination or unfair treatment due to their status as a member of a Brookline Protected Class. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually provide a report to the Commission on their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form. The Police Chief shall present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

#### SECTION 3.14.6 REPORT

The Commission shall submit an annual report to the BOS, the School Committee, and the Board of Library Trustees, detailing its activities and the results thereof. The Annual Report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the achievement of the Commission's Goals and the implementation of the diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

**SECTION 3.14.7 FIVE YEAR REVIEW**

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town bylaws, in consultation with other pertinent departments, and suggest changes if necessary.

**SECTION 3.14.8 SEVERABILITY**

The provisions of this Bylaw shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder of this Bylaw shall continue to be in full force and effect.

**SECTION 3.14.9 RESOLUTION OF CONFLICTING PROVISIONS**

References in Bylaws adopted prior to May 2014 to the Human Relations/Youth Resources Commission and the Human Relations/Youth Resources Department henceforth shall be interpreted as referring to the Diversity, Inclusion and Community Relations Commission and Office, respectively. In case of any conflict between this Bylaw and other Bylaws, the Provision(s) last adopted by Town Meeting shall prevail.

**SECTION 3.14.10 APPLICATION OF THIS BYLAW**

To the extent that any remedies in this Bylaw conflict with grievance or dispute resolution procedures in collective bargaining agreements with Town employees, the provisions of the collective bargaining agreements shall apply.

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**ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION**

**BACKGROUND:**

The Selectmen's Committee on Diversity and the Advisory Committee have reconciled several differences in language between the petitioner's version and the AC's version of Article 10. The Advisory Committee recommended favorable action on the reconciled version by a vote of 18 – 0.

There are several minor differences between the version sent with the Combined Reports and the final version, along with three changes that are more substantive. The substantive changes are:

1. It was agreed that there should be 15 members of the new Diversity Commission, and that a quorum would be defined as a majority of the serving members of the Commission, with a

minimum of six. Thus if there are 14 or 15 serving members, a quorum would be 8; with 12 or 13 a quorum would be 7, and if there are 11 or fewer serving members the quorum would be six.

*Discussion:*

It has been hard in the past to recruit qualified people to serve on the current Human Relations/Youth Resources Commission. Further, the commission had difficulty assembling a quorum even before several members resigned early in 2013. By creating a flexible quorum rule, it becomes easier for the new Diversity Commission to function even with a modest number of empty seats. Setting the minimum quorum at 6 makes the point that it is important for the Selectmen to appoint new members promptly as seats open up.

2. The title of the Chief Diversity Officer was changed so that the CDO is also the “Director of the Diversity, Inclusion and Community Relations Office.” The Article allows the Town Administrator to house the Office in the department that can best support the CDO’s work.

*Discussion:*

The AC considered whether the CDO should be a department head of a separate new department with a staff and budget. We voted 12-6 against an amendment to do so. Similarly, the Selectmen’s Committee that wrote Article 10 turned down the proposal for a separate department. The argument in favor of a separate department is that the title of “Department Director” carries stature – and that matters when dealing with other department heads on equal footing. And, it sends a message of seriousness, purpose and commitment.. There are two arguments against it.

First, a very small department with its own budget line is inefficient. There are times when the CDO will need more staff, and if the Office of Diversity exists in its own department, it will be cumbersome to assign staff from other departments to help. Second and more significant, departments have line functions, focused on a particular activity (DPW focuses on roads, water, and waste; Parks focuses on parks and programs run in the parks, etc.). In contrast, the Chief Diversity Officer has responsibilities that cut across all departments. It’s a senior staff position, not a senior line position. Giving the senior person the title of Director of the Office of Diversity should convey – and is intended to convey -- more “clout” than a title of department head, not less.

In the view of the Advisory Committee, when the former head and sole employee of the Human Relations/Youth Resources Department retired, the Town Administrator rationalized the position by placing it inside Health & Human Services. Re-creating a new micro-department would reverse this positive step – in effect “irrationalizing” it.

3. The procedures for handling complaints against the Town and the Schools, as well as complaints about other parties (such as businesses accused of discrimination) have been standardized so that the procedures are the same no matter what the focus of a complaint. The CDO and the Diversity Commission are responsible for reviewing complaints without

making any finding of fact, reporting the complaint to the appropriate person (the Town Administrator or the School Superintendent), and advising the complainant of their rights. Language was added say that the “Schools... are encouraged to engage the expertise and or resources of the CDO/Commission” when reviewing complaints and considering relevant policies.

*Discussion:*

The Schools are not subject to the authority of a Town commission, and they have their own policies on dealing with discrimination. But a commission with broad responsibility for improving Brookline’s acceptance of diversity will be interested in the Schools, and may receive complaints about them. Article 10 recognizes the separate nature of the Schools and provides for a liaison across Town/School lines when complaints or concerns about the Schools are directed to the CDO and Commission. The article also draws a line between (a) summarizing a complaint and referring it to the appropriate party for resolution and (b) trying to determine who is right and who is wrong. The CDO will still be in a position to offer support to the department or agency trying to resolve complaints.

RECOMMENDATION:

This by-law amendment represents much effort by many individuals and Town bodies over the past year. By a vote of 18-0, the Advisory Committee recommends FAVORABLE ACTION on Article 10 as amended and as moved by the Board of Selectmen.

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**COMMITTEE ON TOWN ORGANIZATION & STRUCTURE RECOMMENDATION**

CTO&S offers the following two amendments:

- (1) Moved: To amend Article 10, Section 3.14.1, seventh paragraph, by deleting the following sentence: **“The Board of Selectmen shall select one of its members to serve *ex officio* as a non-voting member of the Commission.”**

Explanation:

The Board of Selectmen, as the Town's chief elected officials, appoints approximately 30 subordinate boards and commissions. As Directors of the municipal corporation, Board members should exercise overall supervision, but should refrain from getting involved in the ongoing activities and projects of subordinate boards and commissions. Periodic meetings with the full Commission will enable all five Selectmen to be informed of the work of the Commission.

- (2) Moved: To amend Article 10, Section 3.14.2, third paragraph, by deleting the following sentence:

**“The Director/CDO may bring a matter directly to the attention of the Board of Selectmen in the event that person believes, in their professional judgment, that a particular situation so warrants.”**

and replacing it with the following sentence:

**“The Director/CDO may bring a matter directly to the attention of the Commission in the event that person believes, in their professional judgment, that a particular situation so warrants.”**

Explanation:

This proposal establishes a precedent that could undermine the authority of the Town Administrator.

The Town Administrator works directly with the Board of Selectmen and is the supervisor of all departments and senior administrators. In the event of a disagreement with the Town Administrator, the Director should take the matter to the Commission, not to the Board of Selectmen.

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**HUMAN RESOURCES BOARD RECOMMENDATION**

The Town of Brookline’s Human Resources Board is responsible for developing consistent employment policies for the town’s work force. The HR Board is composed of members with expertise in employee and labor relations, and employment law. The creation of clear and consistent policies to govern employee relations for the Town’s staff, as required in the Board’s by-law adopted by Town Meeting, has been one of the HR Board’s priorities in recent years. Section 3.15.1 – Purpose and Intent provides:

“The purpose of this bylaw is to ensure the establishment of fair and equitable Human Resources policies for the Town of Brookline and its employees; and to provide a system of Human Resources administration that is uniform, fair, and efficient and which represents the mutual interests of the citizens of the Town and the employees of the Town.”

Further, what has been overlooked in this current discourse is the clear mandate of Town Meeting, as reflected in the Human Resources By-Law Section 3.15.2, that “[t]he Town of Brookline Human Resources program shall be consistent with,” among other responsibilities:

- (e) Assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin,

gender<sup>1</sup>, sexual orientation, marital status, handicap or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and;

(g) In cooperation with the Department of Human Relations-Youth Resources, striving for diversity in the Town workforce by, among other things, adhering to the Town's affirmative action guidelines, and generally assuring an environment throughout Town government that fosters community relations, mutual respect, understanding and tolerance.”

The HR Board supports efforts to promote diversity in the Town's work force and, under its direction and with its support; the Town's HR Department has promoted diversity in hiring, promotion and retention. The HR Board supports the creation of a diversity and inclusion policy as provided in Article 10. The HR Board, however, believes that this diversity and inclusion policy is an employment policy and so should be consistent with the town's other human resources policies as required by our Board's by-law that has long governed the creation of employment policies in Brookline. We believe strongly that ensuring this consistency will make the diversity and inclusion policy more effective in that it will provide clear and consistent guidance to staff and employees.

To accomplish this, the HR Board recommends amendments to two sections of Article 10, which are stated above.

The language of the HR Board's proposed amendments is as follows:

**Amend Warrant Section 3.14.2 by replacing the fifth paragraph with the following:**

The CDO shall be responsible, with the advice and counsel of the Commission, and the Human Resources Director, ~~and the Human Resources Board,~~ for developing a the preparation and submission to the BOS of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures, for review and adoption by the Human Resources Board and the Board of Selectmen pursuant to Article 3.15.9. The diversity and inclusion policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

**Amend Warrant Section 3.14.3(A)(iv) by replacing that subsection with the following:**

Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for review and recommendation to the BOS, including equal employment opportunity and affirmative action procedures, adoption pursuant to Article 3.15.9, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director, the Human

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<sup>1</sup> Although not listed in the Town's by-law, adopted in 2000, the Town's *Policy Against Discrimination, Sexual Harassment, and Retaliation* includes gender identity as a protected class.

Resources Board, and the School Committee on the implementation of the diversity, inclusion, equal employment opportunity, and affirmative action policy;

ARTICLE 10

**Amendment Offered by Stanley Spiegel, TMM Precinct 2 and Martin Rosenthal,  
TMM Precinct 9 and Co-Chair of Brookline PAX**

Moved: change the first sentence of the second paragraph of Section 3.14.2 of the main motion under Article 10 by adding the underlined language, to read:

"The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator."

*[Note: The designation "Department Head/Senior Administrator" is derived from the text used in Section 3.15.7 of the By-Laws to describe the Director of the Human Resources Office, a closely related Town department.]*

**Explanation:**

When the predecessor of Section 3.14 was first adopted over 40 years ago, the Human Relations undertaking it defined was deemed important enough to give it the status of a Town department led by a Department Head. Times and issues have changed somewhat since then, but there remains important work to be done regarding Diversity, Inclusiveness, and Community Relations, and its importance still merits leadership with the rank and prestige of a Department Head.

Over a period of many years, the Town had responded to its budgetary constraints by repeatedly cutting the staff of this important HR/YR department until it was reduced to just a single person, the Director, a few years ago. It is ironic that in a town that values diversity, this previous slashing of personnel is now being used to justify the permanent elimination of the department, rather than being a spur to restore the department's capacity to carry out its important mission by giving appropriate Department Head authority to the person in charge (with the potential of adding departmental staff as needs arise and funding permits).

Although the Town Administrator argues that in the name of organizational efficiency and effectiveness, the Director should be assigned to an existing department (but still be invited to department head meetings and have access to the TA), titles carry meaning and convey authority, both affecting the confidence and performance of the affected official and influencing the respect afforded by colleagues. Simply stated, a department head will inevitably carry more clout when dealing with fellow department heads, the Selectmen, and the general public than would an official of lesser rank, status and stature.

Furthermore, giving Department Head status and authority to the Director will help the Town attract the most highly qualified applicants when searches are conducted for this position. A job announcement for a Department Head position is considerably more appealing than one for a less prominent post.

To those who say that last year's staffing structure within the Health Department is "working well," it's a non-sequitur to assert that our proposal, with a Department Head (that's provided with a similar level of staff support) would not work just as well if not better. The Town Administrator can certainly provide the Director, as a Department Head, with all necessary staff support, summoning the cooperation of other department heads as necessary, just as had been done routinely in recent years for the former HR/YR Director. This may potentially involve personnel transfers or sharing of staff between departments -- not the simplest organizationally perhaps, but our TA is surely up to providing the appropriate will and leadership.

Transfers of the Director and one or two other Health Department personnel currently assigned to diversity issues could readily form the nucleus of a reconstituted Diversity, Inclusiveness and Community Relations Department, thereby reversing the recent decimation of the HR/YR Department. (BTW, please note that our Veteran's Services Department functions quite well as a small department with just a Department Head and a clerk.)

Above all, the Town needs to send a strong message to Town personnel and residents alike about the importance with which we as a community view Diversity, Inclusiveness, and Community Relations. Defining the leader of this important Town effort as a Department Head/Senior Administrator send this powerful message.

This amendment is endorsed by Brookline PAX.

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ARTICLE 15

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ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

*History*

The area now known as Brookline Place was previously part of a Brookline neighborhood known as the Marsh. The Brookline Gas Light Company operated on the site, where it had a gas holding tank. Other properties in the Marsh included auto body shops and small houses. The commercial establishments on the site contributed to the contamination of the soil. This contamination has continued to influence the development of the site.

In the 1960s, the area was designated the Marsh Urban Renewal Project and was slated for redevelopment under the auspices of the Brookline Redevelopment Authority. Although redevelopment in the vicinity eventually produced Hearthstone Plaza (now known as 10 Brookline Place), 1 Brookline Place, the Brook House, and the Village at Brookline, 2 Brookline Place languished. (Note that there is a 2 Brookline Place and a 4 Brookline Place. Instead of using “2-4 Brookline Place” to refer to the site of these two adjacent buildings, this report uses “2 Brookline Place.”) It remained a mix of newer low-rise buildings and older structures. The Town repeatedly attempted to encourage development by rezoning the site.

The current process of amending the zoning bylaw to make possible development at Brookline Place began in 2003, when the November Town Meeting considered a zoning amendment that would have facilitated the construction of a laboratory or office building at 2 Brookline Place. The Winn Development Company owned 2 Brookline Place and 1 Brookline Place at that time and apparently preferred laboratory use. Key provisions of the zoning amendment included increasing the height limit what was then known as the G-2.0 (VS [Village Square]) zoning district from 100 to 135 feet and the floor area ratio (FAR) from 2.5 to 4.0. The zoning also would be amended to permit biolab use. The developer would offer public benefits, including open space. In the face of opposition among Town Meeting members, questions raised by the Advisory Committee, and a general feeling that more time was needed to study the issue, the zoning amendment was referred to the Planning Board

In March 2004, a Special Town Meeting was convened to consider modified zoning amendments related to Brookline Place. The proposed amendments failed for lack of a two-thirds vote.

In June 2004, in response to a petition of Brookline citizens, another Special Town Meeting voted Favorable Action on another version of the zoning amendments,

apparently clearing the way for Winn Development to tear down the existing buildings at 2 Brookline Place and to build a new, much larger building on that site.

Winn Development, however, ran into financial difficulties because of its involvement in the massive Columbus Center development that would have been built over the Massachusetts Turnpike where the South End meets the Back Bay. In the fall of 2007, Winn sold its Brookline Place properties to Boston Children's Hospital.

The Town negotiated agreements with Winn Development and Children's Hospital providing for environmental remediation on the site and an arrangement under which the Town would own the Brookline Place properties and lease them to Children's Hospital, thereby assuring that the Town would receive payments equivalent to the property taxes due on the properties.

In May 2008, Town Meeting voted to change the parking requirements at Brookline Place. Warrant Article 15 of that Town Meeting, proposed by Hugh Mattison and amended as recommended by the Board of Selectmen, reduced the required minimum spaces if a Transportation Demand Management (TDM) program was in effect.

In the fall of 2008 Children's Hospital applied for a special permit to construct a 252,296 square foot building at 2 Brookline Place. The new building would include 586 new below-grade parking spaces. The special permit was granted in the spring of 2009.

Boston Children's Hospital was unable to proceed with its planned development in 2009 because of the global financial crisis and uncertainty in rental markets.

The Brookline Place Advisory Committee (BPLAC) was formed in September 2013 to consider a new proposal for Children's Hospital to redevelop the 2 Brookline Place site. BPLAC considered zoning amendments for Brookline Place and attempted to promote appropriate development while minimizing adverse impacts. It focused on whether zoning should be amended to permit more above-ground parking at Brookline Place and how to mitigate or offset the negative effects of above-ground parking. BPLAC consisted of 14 members, including representatives from the Board of Selectmen, Planning Board, Economic Development Advisory Board, Zoning By-Law Committee, and Transportation Board. Ken Goldstein and Neil Wishinsky served as co-chairs. BPLAC also retained consultants to analyze parking and financial issues.

#### DISCUSSION:

Article 15 has been submitted by the Brookline Place Advisory Committee. The Article amends Section 5.06 of the Zoning By-Law, the Special District Regulations that apply to General Business and Medical Research (GMR) districts. The Brookline Place area is Brookline's only GMR district. It was created as a GMR district in June 2004 so that it would be distinct from G districts, in which medical research laboratories would not be allowed.

The zoning changes include the following:

- A floor area ratio (FAR) of 3.45, which will be based on the combined total area of all parcels within the GMR district, not the area of any specific parcel within the district.
- A height limit of 115 feet, with lower limits in designated areas: (a) 65 feet (plus 10 feet by special permit for penthouses and other rooftop structures) in an area along Pearl Street on the north side of the district; (b) 55 feet along Pearl Street in the northeast corner of the district; and (c) 30 feet in the southeast corner of the district, where 5 Brookline Place is located.
- A requirement that at least 35% of the total area of the district shall be open space. No more than 55% of this open space could be hard surfaced walks and plazas. The remainder would be landscaped.
- A no-build area in the northwestern corner of the district, where Pearl Street turns.
- A pedestrian passage from the northwestern corner of the district to Route 9
- A cap on the number of parking spaces (683) allowed in the district, although by special permit up to 20% more vehicles could be parked by using managed/valet parking. (Note that Children’s Hospital has agreed to develop the site even if a special permit is granted for only 15% more vehicles, but amending Article 15 to change 20% to 15% would be beyond the scope of the Article, according to the Moderator.)
- A requirement that a Transportation Demand Management (TDM) program be submitted before a special permit is granted for any major impact project within the GMR-2.0 district. (The Children’s Hospital proposal and any other likely proposal would be a major impact project.)

Article 15 also amends Section 2.07 so that the floor space of the proposed parking garage in the GMR district is included in calculations of gross floor area and the floor area ratio.

These zoning changes would make possible the construction of a new 8-story office building with approximately 182,000 square feet at 2 Brookline Place. The no-build zones and height limits dictate that this building would be close to Route 9, not the Brookline Village MBTA station. Article 15 also would make it possible to construct a 6-story medical office expansion of the existing 1 Brookline Place building. This expansion would have approximately 47,000 square feet and would be located west of the current building and close to Route 9. The existing 4-story 1 Brookline Place garage would be demolished and replaced by a 6 1/2 –story garage (55–65 feet) with 683 parking spaces.

#### *Potential Development in the GMR District*

The zoning changes in Article 15 would make possible the construction of a new 8-story office building with approximately 182,000 square feet at 2 Brookline Place. The no-build zones and height limits dictate that this building would be close to Route 9, not the

Brookline Village MBTA station. Article 15 also would make it possible to construct a 6-story medical office expansion of the existing 1 Brookline Place building. This expansion would have approximately 47,000 square feet and would be located west of the current building and close to Route 9. The existing 4-story 1 Brookline Place garage would be demolished and replaced by a 6½ –story garage (55-65 feet) with 683 parking spaces.

The buildings in the GMR would have the following gross square footage of floor area:

1 Brookline Place (existing):	105,120
1 Brookline Place (expansion):	47,000
2 Brookline Place (new)	182,500
5 Brookline Place (existing)	10,711
Parking Garage (new)	175,810
TOTAL:	521,141
FAR:	3.32

Note that the overall gross square footage of the proposed new and existing buildings in the GMR district would be slightly lower than dictated by the 3.45 FAR for the site, so the buildings could be enlarged. For example, the new 2 Brookline Place building could be expanded to 199,600 square feet and an accessory building with 2,500 square feet could be constructed on the west side of the new parking garage, bring the total square footage to 540,741. Any such enlargements would still be constrained by height limits and open-space requirements.

Children’s Hospital has presented images of what its proposed Brookline Place buildings would look like. These drawings remain preliminary. The actual structures could look very different. Nevertheless, the zoning provisions for the GMR district ensure that the overall size and location of the buildings would be essentially the same.

Children’s Hospital would apply for a special permit within 120 days of the attorney general’s approval of the zoning amendment in Article 15. After receiving a special permit in 2015, Children’s anticipates starting construction of the new garage in early 2016. The existing garage and existing buildings at 2 Brookline Place would be demolished. Parking for 1 Brookline Place would be on the 2 Brookline Place site during construction of the new garage. By early 2017, the new garage would be complete and construction would start on the new building at 2 Brookline Place and the expansion of 1 Brookline Place. Children’s Hospital anticipates that construction would be completed by 2019.

#### *Benefits of Article 15*

Article 15 offers many benefits to the Town of Brookline. Some of these benefits are included in the Article itself. Other are enumerated in the Memorandum of Agreement

(MOA) between the Town and Children's Hospital, but would only take effect after Town Meeting approves Article 15.

- **Annual tax payments to the Town of approximately \$2 million.** The \$2,000,000 in annual payments is the assessor's estimate. The Town would start receiving the full \$2,000,000 in FY20, when construction at Brookline Place is completed. Payments for FY17 are estimated at \$460,000, rising to \$920,000 in FY18. These payments would increase annually subject to the limits of Proposition 2½ and changes in the assessment. The Override Study Committee's fiscal analysis assumes that the Town will receive these property tax payments. Without these annual payments, the Town would likely face a larger override proposal, deeper budget cuts, or some combination of the two.
- **Tax certainty if the properties are transferred to a tax-exempt entity.** The Restrictive Covenant that has been negotiated and will be recorded guarantees that the Town will receive tax payments for the next 95 years even if 1 Brookline Place and/or 2 Brookline Place are sold to an entity that is exempt from real estate taxes. Unlike earlier agreements that were negotiated to provide tax certainty, the Restrictive Covenant obliges future owners to enter into PILOT (Payment in Lieu of Taxes) agreements with the Town and to make voluntary tax payments. There is one limited exception that applies only to the 1 Brookline Place garage. John Hancock Life Insurance Company holds the mortgage on 1 Brookline Place. If it should foreclose, voluntary tax payments only would be due only on the net new spaces, not the entire garage.
- **A total of \$1.3 million in one-time payments to the Town of Brookline.** These payments from Children's Hospital would be used to improve the area around Brookline Place. They will consist of: (a) \$300,000 to be paid by August 31, 2014, to be used for demolition of the now-closed pedestrian bridge over Route 9; (b) \$750,000 to be paid by August 31, 2015, to be used for the Gateway East project; and (c) \$250,000 to be paid when the Certificate of Occupancy is issued and to be used to improve pedestrian and bicycle access, landscaping, etc.
- **Payment of \$335,000 for the reconstruction of Pearl Street.** Pearl Street is likely to need reconstruction soon. Damage caused during construction at Brookline Place will make reconstruction imperative.
- **Payment of building permit fees.** Estimates of the building permit fees range from \$1 million to \$1.6 million. This revenue would be received in FY16. Because plans are far from final, a precise estimate is impossible. This one-time payment could be used for various purposes, including funding OPEBs.
- **Payment for town consultants and counsel.** BPLAC has retained special town counsel and consultants. Children's will pay up to \$150,000 of the cost of their services.

- **Open space.** The zoning amendments in Article 15 mandate open space, effectively creating more parkland in one of Brookline’s most densely-populated areas. This open space also would be available for community events.
- **Pedestrian access.** Article 15 and the Easement Agreements ensure that there will be a 45-foot wide easement for a pedestrian passageway from the northeast corner of the site (near the Brookline Village MBTA station) to Route 9. The actual passageway would be 10–15 feet wide. The additional width of the easement would ensure that pedestrians were not walking in a “canyon” between buildings.
- **Increased vitality of the Brookline Village commercial area.** When construction is completed in 2020, there will be 900–1,000 additional workers in the new and expanded buildings at Brookline Place. They will be likely to shop and eat at Brookline Village stores and restaurants. One of Brookline’s most important commercial areas will thus become more vibrant and prosperous. Community events held in the open space at Brookline Place would add to the vitality of the area.
- **LEED certifiable buildings.** The Memorandum of Agreement required that the new building at 2 Brookline Place and the addition to 1 Brookline Place will be LEED certifiable buildings at the Silver level or higher. The developer also has suggested that the parking garage would be LEED certifiable or at least “green,” but that is not required by the agreement.
- **Minimized shadow effects.** By creating no-build zones and limiting the height of the parking garage, Article 15 ensures that the taller new buildings in Brookline Place will be located toward Route 9, not near Pearl Street and the Brookline Village station.
- **Incentives for rapid progress and completion.** The Memorandum of Agreement provides various incentives for Children’s Hospital to complete the project. Children’s would pay the Town \$200,000 if the project is not completed by December 20, 2020 and an additional \$150,000 if construction is not completed by December 30, 2021, as well as assurances that the entire project will be built.
- **Limitation of the Town’s environmental liability.** Much of the Memorandum of Agreement is devoted to provisions that minimize the Town’s liability for any claims related to the existing contamination at Brookline Place and ensure that Children’s Hospital assumes responsibility.

### *The Parking Issue*

In contrast to previous discussions of Brookline Place, which included vigorous debates on the shadow impacts of proposed new buildings, the adequacy (or lack thereof) of open

space requirements, potential hazards of biolabs, height limits, and other issues, the discussion of Article 15 has focused on parking.

The proposed 683-space parking garage to be built on the site of the current 1 Brookline Place garage is seen by many as a clear disadvantage of the current proposal. Not surprisingly, it has generated the most discussion and controversy and was a major focus of the work of BPLAC. Article 16 was placed on the Warrant in an attempt to reduce the number size of the garage and to create incentive to minimize the number of above-ground spaces at Brookline Place.

Why does there have to be more above-ground parking?

Previous proposals for the redevelopment of Two Brookline Place assumed that any additional parking spaces would be constructed underground. Children's Hospital in 2009 planned to build 586 below-grade parking spaces on 5 ½ below-grade levels.

Subsequently, however, there was a global financial crisis, the U.S. economy went into a severe recession, rents fell, other medical office space became available, and the cost of removing and disposing of contaminated soil increased. Even without the need for environmental remediation, underground parking spaces are far more expensive than above-ground spaces.

BPLAC asked Pamela McKinney, a real estate consultant, to assess the viability of the Brookline Place project as proposed by Children's Hospital. Ms. McKinney had access to the developer's plans, cost estimates, and revenue projections. She examined the financial impact of building above-ground parking and at least some underground parking, as well as the overall viability of the project under current market conditions. McKinney concludes: "Project Feasibility is only produced by an option in which parking is constructed above grade."

Children's Hospital is understandably sensitive to the economic impact of parking costs. From its standpoint, it is necessary not only to minimize costs but also to build sufficient parking to ensure that the project can attract major tenants and thereby ensure that financing will be available.

Are so many parking spaces actually necessary?

Discussions of parking requirements often begin with general observations, such as, "People will want to drive when they go to a medical office, particularly if they are taking a sick child," or "People are driving much less often now." These statements may be true under some circumstances, but they do not provide a basis for estimating the number of parking spaces needed.

BPLAC asked Nelson\Nygaard Consulting Associates to analyze the parking requirements of the proposed Brookline Place project. Nelson\Nygaard is regarded as a

“green” or transit-friendly transportation consultant. It was recommended by BPLAC member Linda Olson Pehlke. Jason Schrieber, who conducted Nelson\Nygaard’s analysis, has previously spoken in Brookline about the need to reduce parking requirements.

Nelson\Nygaard analyzed the parking needed at Brookline Place on the basis of national data and the specific characteristics of the Brookline Place site. In an initial report, it concluded that 683 spaces would be necessary to satisfy peak demand and also recommend a 5% operational reserve, which brought the total to 717. In its final report, Nelson/Nygaard recommended a 697-space garage on the basis of a calculation of 664 for peak demand plus a 5% reserve. BPLAC did not have the final report prior to the deadline for submitting Warrant Articles. It ignored the recommended operational reserve and set the maximum at 683 spaces.

To some 683 parking spaces may seem excessive, but the following points need to be considered:

- After the construction of the parking garage and the new office space at 2 Brookline Place and 1 Brookline Place, the ratio of parking spaces to office space at Brookline Place will fall. The number of parking spaces will increase from 435 (359 in the existing garage and 76 in the surface lot) to 683, whereas the gross floor area of the buildings at Brookline Place will increase from approximately 151,000 to approximately 345,000 square feet. There is now one parking space per 347 square feet. This will increase to one space per 506 square feet.
- The 683 spaces represent a lower total than any previous estimate of necessary parking for Brookline Place. For the current proposal, Children’s originally wanted 832 above-ground spaces on the site, which would have required an 8-story garage. (Children’s retained its own parking consultant, who recommended 845 spaces.) In 2009, up to 963 spaces would have been allowed under the special permit granted to Children’s then.
- For the first time, the Town of Brookline is imposing a parking maximum—a cap on the number of spaces allowed in a given zoning district. This was a controversial step when it was initially voted by the Zoning Bylaw Committee and BPLAC. It may set a precedent for future zoning.
- Under the terms of the Memorandum of Agreement, use of the new parking garage for satellite parking will be prohibited. This will be in the terms of the special permit.

Could Brookline Place have fewer parking spaces, just as the Longwood Medical Area and Kendall Square?

The Longwood Medical Area (LMA) and Kendall Square are often cited as areas in which the ratio of parking spaces to the square footage of office space is very low. There are several reasons why those areas may not be comparable to Brookline Place.

First, assessing parking requirements should be based on the characteristics and uses of the site in question. The Nelson\Nygaard analysis takes into account the specific features of the Brookline Place location, including access to transit and the density of the surrounding community. (Nelson\Nygaard suggested that parking requirements could be further reduced by increasing the residential density of Brookline Village, but BPLAC did not agree with that recommendation.)

Second, the Longwood Medical Area includes a lot of gross floor area that is not devoted to medical office space. Many buildings in the area are schools and universities, which have lower parking requirements. The LMA also relies heavily on satellite parking. In addition to satellite lots, many Brookline neighborhoods unofficially serve as satellite parking for LMA commuters who park their cars in Brookline and walk to the LMA.

Third, Kendall Square has a low ratio of parking space to gross floor area, but it also has little or no medical office space. According to Kara Brewton, Brookline's economic development director, large new development in Kendall Square between 2004 and 2013 consisted of 46% office and research and development (not medical office), 27% residential, and 26% college and university. These uses all have lower parking requirements than medical office space. Cambridge's TDM officer, Stephanie Groll, reports, "if you want to build medical office, you wouldn't do it in Kendall Square." Kendall Square also is served by the MBTA Red Line, a relatively reliable high-capacity rapid transit line.

Could the size of the garage be reduced by relying on on-street parking?

Nelson\Nygaard's March 26 memorandum points out that the using on-street parking might provide an opportunity to reduce the size of the garage at Brookline Place. There are 57 on-street spaces on Pearl Street and another 24 on Brookline Avenue from Washington Street to the Lynch Center. Hugh Mattison, who in 2008 proposed TDM and reduced parking for the Brookline Place site, has presented a detailed analysis of the potential for reducing the size of the garage by utilizing on-street parking.

In principle, utilizing the spaces on Pearl Street and Brookline Avenue—possibly by reserving them for Brookline Place employees, patients, or visitors—could reduce the size of the garage while also meeting the parking requirements of Brookline Place, but there are several problems with this proposal.

First, the reduction in the size of the garage might be minimal. Even eliminating 81 spaces and possibly reducing the height by one story would leave a very large garage.

Second, Children’s Hospital continues to believe that a 683-space garage is the minimum necessary to secure major tenants and financing for Brookline Place. If Children’s concludes that a smaller garage is necessary, it could reduce the size of the garage and rely on on-street parking.

Third, existing on-street spaces may be used by local merchants and residents. Even if many of these spaces are currently used by visitors to Brookline Place, to assume that they all would be used by Brookline Place (or to reserve them for Brookline Place) would effectively preclude their use by others. At the April 30 meeting of the subcommittee Charles Weinstein of Children’s Hospital declared that it would be “unneighborly” of Children’s Hospital to assume that it could use all the Pearl Street and Brookline Avenue spaces.

Finally, Nelson\Nygaard ultimately recommended a garage slightly larger than the one that could be built under Article 15. Despite noting the potential availability of on-street parking, Nelson\Nygaard nonetheless concluded in its March 26 memorandum: “Our recommendations for 2-4 Brookline Place include building a garage of 697 parking spaces to accommodate the shared demand and 5% for the proposed building program.” Nelson\Nygaard also emphasized the importance of a TDM: “Every effort to help offset potential vehicle trips and parking demand should be taken through providing a robust and comprehensive transportation demand management program that is tailored to the characteristics of the proposed development and context.” Article 15 requires such a TDM. Building Commissioner Daniel Bennett is developing plans to enforce and monitor the Brookline Place TDM.

Why is the valet/tandem/managing parking necessary?

Children’s Hospital argues that the ability to park up to 15% (reduced from 20%) more vehicles in the new Brookline Place garage by using valet, tandem, or otherwise managed parking will provide a “safety” valve. Given that Children’s opposed the 683-space maximum in Article 15, this concern is not surprising. The 683-space maximum also excludes the additional reserve capacity recommended by Nelson\Nygaard. Representatives of Children’s claim that the additional 15% may help to persuade tenants that parking will be adequate. Thus Children’s will seek a special permit for the additional 15% at the earliest opportunity so that potential tenants and financiers will be aware of the potential capacity. Whether Children’s Hospital will use this capacity remains to be seen.

Is the amount of parking insufficient?

Some members of the Advisory Committee, including those with experience working and parking at Brookline Place questioned whether 683 parking spaces would be sufficient. They suggested that medical office space might require additional spaces and, at the very least, the developer should have the flexibility to add more spaces as necessary to ensure that the project would be viable. It was also noted that the Green Line is often

overcrowded and unreliable, making Brookline Place a less transit-friendly destination than, for example, Kendall Square, which is served by the Red Line. The Advisory Committee considered an amendment that would have removed the parking maximum from Article 15, thereby allowing the developer to build more than 683 parking spaces. The amendment failed by a vote of 6–13.

*Summary: Weighing Costs and Benefits*

Overall, the Advisory Committee recognized that Article 15 and the associated agreements offer many benefits to offset the large size of the parking garage. Some members of the Committee felt that the parking minimum in Article 15 might be too low and should be removed. A majority, however, concluded that the parking maximum is supported by sound analysis, the amount of parking in terms of absolute numbers of spaces and/or the ratio of parking spaces to office space is lower than in previous Brookline Place proposals, and only above-ground spaces are now financially viable. Article 16 raises legitimate questions about the “right” level of parking on the Brookline Place site. The BPLAC has considered these questions carefully and addressed them satisfactorily. The Memorandum of Agreement includes additional provisions that are to the Town’s advantage.

RECOMMENDATION:

By a vote of 19–0, the Advisory Committee recommends FAVORABLE ACTION on Article 15.

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ARTICLE 16

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ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

Article 16 has been submitted by citizen petition. It differs from Article 15 in that it imposes a lower maximum on the number of parking spaces and reduces from 20% to 0% the additional number of vehicles that may be parked by special permit. Instead of specifying a parking maximum, Article 16 would have the effect of limiting the number of parking spaces by restricting the size of the parking garage. The Article would limit the height of the garage to 35 feet (25 feet in the area in which Article 15 would limit the height to 55 feet). It also would reduce the floor area ratio (FAR) for the GMR zoning district from 3.45 to 2.90. The lower FAR would allow the proposed building at 2 Brookline Place and the expansion of 1 Brookline Place to be constructed, but would limit the size of the garage. The Article does not limit the number of below-grade parking spaces.

DISCUSSION:

Article 16 was offered as a means of reducing what is seen as the excessive size of the proposed 683-space parking garage and also increasing incentives to travel to and from Brookline Place by means other than private automobile. The petitioner hoped to promote further discussion and possible negotiations so that “Town Meeting has significant latitude in choosing the maximum amount of at or above ground permissible.” Article 16 was based on the hope that such discussions could lead to a consensus on the “right” amount of parking. In the petitioner’s view, the “right” amount lies somewhere between the approximately 380 above-ground spaces allowed by Article 16 and the 683 spaces—plus parking for up to 20% more vehicles (137 vehicles)—allowed by Article 15.

At the time of this report, the Advisory Committee had been informed that the petitioner does not intend to move Article 16.

The issues raised by Article 16 are discussed in the Advisory Committee’s report on Article 15.

RECOMMENDATION:

By a vote of 19–0, the Advisory Committee recommends NO ACTION on Article 16.

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ARTICLE 17

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ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

**BACKGROUND:**

Article 17 was submitted by the Board of Selectmen. As part of the proposed development at Brookline Place, Boston Children's Hospital 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 in the northwest quadrant of the site along Pearl Street. Article 17, if passed by a two-thirds vote, will allow the Selectmen to execute this Easement. 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 Easement provides a safe, unobstructed pedestrian passage between the northwest corner of the site along Pearl Street to Washington Street and consists of two primary spaces totaling 23,916 SF, which area shown diagrammatically in Exhibit C "Conceptual Redevelopment Plan" in the Easement Agreement:

- a 14,176 SF landscaped area at the northwest corner of the site (closest to the Brookline Village MBTA station), and
- a 9740 SF pedestrian passage area, 45' in width, that is in addition to the above landscaped area

**DISCUSSION:**

The Easement is for general public use and will be available for Town-sponsored events. It will contain a combination of paved and landscaped areas. Although it is to be kept open and unobstructed at all times, the developer is allowed to construct a covered walkway over part of the easement in order to facilitate passage from the new parking garage to the new office building. According to the Easement Agreement, Children's Hospital may install and maintain utilities, landscaping, lighting and other site amenities within the easement as long as they do not interfere with the public's use of the space.

Because it is still early in the design process, the precise location of the landscaped open space and pedestrian passage are not yet fixed and may change slightly in order to respond to the final design plans, as long as the minimum area and passage width described above are met. The final "as-built" site plan of the completed project will be submitted when the Easement is ultimately recorded at the Registry of Deeds.

The Advisory Committee felt that the public space created by this Easement will be a substantial benefit to the development and to the Town.

RECOMMENDATION:

By a vote of 19-0-0, the Advisory Committee recommends FAVORABLE ACTION on Warrant Article 17.

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ARTICLE 18

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ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

The Restrictive Covenant referenced by Article 18 seeks to ensure the Town continues to receive revenue from the properties at 1 and 2-4 Brookline Place even if purchased by a tax-exempt organization. If accepted, the covenant would place the following restrictions on the deed for 1 and 2-4 Brookline Place (BP) for 95 years:

- The purchaser of the properties at 1 and 2-4 Brookline Place must enter into a PILOT (payment in lieu of taxes) agreement with the Town of Brookline before the sale if they are a tax-exempt organization and agree to the following conditions:
  - Voluntary real estate taxes will be paid to the Town in quarterly installments
  - The total voluntary real estate tax payments for 1 and 2-4 BP will be equal to the amount of property taxes that would have been levied by the Town.
  - The proposed 47,000 sq. ft. addition to 1 BP and the entire garage will also be subject to assessment and voluntary tax payments.
  - The property owner can contest the amount of the voluntary payments on the basis of over valuation or disproportionate valuation in comparison to similar properties.
  - After the 20<sup>th</sup> year of the PILOT agreement, the property owner can pre-pay the remaining 75 years of voluntary tax payments in a lump sum. The amount would be calculated as the sum of all remaining payments, discounted to the date at an annual rate equal to the most recent 30 year US Treasury Bond rate. The amount of each annual payment will be determined by the average increase in taxes, on a percentage basis, for the last 20 years.
  - The Town shall provide the property owner with a written statement of the amount of each payment 30 days before it is due.
  - The PILOT agreement shall have a clause relating to lien/collection remedies available to the Town in cases of nonpayment of voluntary tax payments.
  - If 1 BP is subdivided, the responsibility for voluntary tax payments on the proposed addition and the garage will be transferred to the new owner.

DISCUSSION:

The Declaration of Restrictive Covenants is a thorough document that provides for restrictions on resale, the right of the owner to contest perceived over-valuation of the property, collection of overdue PILOT payments and the subdivision of 1BP. It also lays out a provision for the owner to pre-pay 75 years of payments, in a single payment, after the 20<sup>th</sup> year of the agreement. It was noted that it is highly unlikely that Children's

Hospital will exercise its right to pre-payment and, if it does, the Town may need to adjust its fiscal policies surrounding cash.

The Town has been concerned about the tax certainty of Brookline Place since 2003 when Town Meeting first discussed zoning amendments for the site. The Town has been diligent in negotiating this agreement and it is estimated that the net increase in tax revenue will be \$2M from 1 and 2-4 BP.

The Declaration of Restrictive Covenants is a thoughtful and well-structured document that will ensure that the properties at 1 Brookline Place and 2-4 Brookline Place continue to provide the Town with tax revenue for 95 years.

**RECOMMENDATION:**

The Advisory Committee recommends FAVORABLE ACTION on Warrant Article 18 by a vote of 19-0-0.

ARTICLE 19

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:

This petition has been submitted by the Board of Selectmen, to see if the Town will authorize the Board of Selectmen to release the documents executed in connection with the acquisition of development rights in 2-4 Brookline Place entered into by and among the Town, Village Plaza Limited Partnership and Children's Brookline Place LLC, including, without limitation, that certain Tri-Party and Escrow Agreement recorded with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court on October 29, 2007, and the Development, Easement and Lease Agreement dated October 26, 2007, as well as the documents being held in escrow pursuant to the above-referenced Tri-Party and Escrow Agreement for the prior, so-called 2007 proposed Children's Hospital Project at Brookline Place, and to enter into any necessary agreement(s) and/or amendments to existing agreements to carry out the terms and conditions set forth in a certain Memorandum of Agreement among Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each a Massachusetts limited liability company and the entities owning and/or having the option to purchase the parcels of land and buildings thereon that make-up the so-called Brookline Place properties, and upon such further terms and conditions that the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

EXPLANATION:

This article enables the Board of Selectmen to release older documents relating to the previous Brookline Place agreements from escrow as these will no longer be part of the legal framework going forward, and further to enable the BoS to enter in to agreements, specifically the Memorandum of Agreement (MOA) of April 29th 2014, and any other agreements that are necessary to implement Article 15.

A summary of the MOA key items are as follows:

- Tax certainty that the Property will not be removed from the Tax Rolls which guaranteed real estate taxes for 95 years on new buildings and the garage. Pre-payment of the PILOT payments after 20 years by the owner would be permitted in a one-time net present value payment.
- Timely Availability of Funds for Footbridge Demolition and Gateway East amounting to \$300,000 for the Bridge demolition and \$750,000 for Gateway East. In addition there are penalty payments if certain dates are not met.
- Assurance that Children's Hospital will not build only a portion of the project.
- Incentive to complete the project in a timely fashion in that payments to the Town of between \$200,000 and \$350,000 would become due if certain dates are not met.

- Mitigation and other Community Benefits include an agreement to provide a Transportation Demand Management plan based on recommendations of the Town's traffic consultant, Nelson\Nygaard, including a mandatory annual monitoring program. An additional \$250,000 is due when a certificate of occupancy is issued to be used on surrounding area improvements, such as landscaping, bike paths, etc. Also Children's will reconstruct Pearl Street at a cost not to exceed \$335,000.
- Easement for the Benefit of the Town is a pedestrian easement over a 45 foot walkway from the corner of Pearl to Washington Street as well as an area which includes the ability to host 3-4 community events annually plus a small on-site storage facility.
- Environmental protection to the Town is provided through indemnification by Children's when construction or excavation work is taking place. The owners will also extend the existing environmental insurance policy through 2023 at a premium cost no greater than \$100,000.
- The Project will have an 182,500 SF 8-story office at 2 Brookline Place and a 47,000 SF expansion of 1 Brookline Place and replace the existing garage to contain a total of 683 parking spaces including the ability to have 15% more additional vehicles through managed parking, such as valet parking.
- The new buildings at 2 BP and 1BP expansion will be certifiable to a LEED Silver level or higher.
- Children's will pay up to \$150,000 for Town consultants and counsel.
- There will be an employment preference program for Brookline residents for certain employee positions.
- Children's will be responsible for landscaping the area between the Property line and back of the sidewalks along Brookline Avenue and Washington Street.

DISCUSSION:

The MOA provisions are largely what was anticipated but two new provisions, the reduction of the additional managed parking from 20% to 15% and the minimum silver LEED building certification were welcomed by the Committee. Since the Article cannot be amended to be more restrictive, the language in the Article still states the 20% figure but Children's Hospital has committed to the 15% additional managed parking through the MOA and will be proceeding on that basis.

The Transport Demand Management (TDM) plan provision would focus and measure the owner's efforts to reduce the employee vehicular traffic to the development. This is the Town's first TDM and the provision has been modeled on the experience of the City of Cambridge who operates dozens of such plans. TDM details will be specified in the Special Licensing process of the Planning Board. Enforcement is tied to the annual license required for the project, with the ultimate potential for non-compliance being the withdrawal of the use of the parking garage for the facility.

A concern was expressed that with the Green Line operating at capacity at this time that this option for public transportation may not provide much relief for employee vehicular

reduction. However, it was also noted that in the next few years if the MBTA approves power upgrades on the Green Line that 3 car trains could be run that would add more capacity.

There was discussion of the environmental liability. While there will be real time environmental monitoring during excavation and construction, there will be no on-going environmental monitoring of the planned building sub-slab venting system.

Any payments due under the MOA that had not been paid may be considered municipal charges or fees and could be added to the owner's real estate tax bill for easier collection.

**RECOMMENDATION:**

The Advisory Committee voted 19-0 and recommends FAVORABLE ACTION on Warrant Article 19.

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ARTICLE 22

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BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

As explained in the Combined Reports, the Advisory Committee and the Board of Selectmen approved different versions of Article 22. There are two differences between the motions:

1. In Section 6.08.13.d of the Advisory Committee’s vote, they change “No indoor seating shall be allowed” to “No indoor seating shall be allowed, **except for gasoline service station purposes**”, and
2. In Section 6.08.13.e of the Advisory Committee’s vote, they adopt the Planning Board’s recommendation to change “The convenience store and gas station uses shall be operated under a single business or franchise name,” to “The convenience store and gas station uses shall be operated ~~under as~~ a single business ~~or franchise name~~.”

The Board of Selectmen reconsidered their motion at their May 13, 2014 meeting and, by a vote of 5-0, recommends FAVORABLE ACTION on the motion offered by the Advisory Committee that begins on page 22-11 of the Combined Reports.

ARTICLE 25

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

The original recommendation of the Selectmen was one of No Action by virtue of a 2-2 vote. At the Board’s May 20, 2014 meeting, Article 25 was reconsidered and, by a vote of 3-2, the Board recommends a \$3,000 stipend for the members of the Retirement Board. A majority of the Board believes that such a stipend is warranted because of two unique factors the Retirement Board have that distinguish them from other boards and commissions:

1. they have a fiduciary responsibility
2. they have mandatory training requirements

The two dissenting members believe that the Town has numerous boards and commissions whose members work tremendously hard but do not get compensated, and that reflects Brookline’s volunteer-based form of government. In the interest of fairness, they do not recommend singling out the volunteer members of one particular board.

Therefore, the Board recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town accept the provisions of Section 20(6) Retirement Board Members Compensation of Massachusetts General Laws Chapter 32, as amended by Section 34 of Chapter 176 of the Acts of 2011 An Act Providing for Pension Reform and Benefit Modernization (“the Act”), and set the stipend to be received by members of the retirement board at \$3,000.00 per year.

**ROLL CALL VOTE:**

Favorable Action

Goldstein  
Daly  
Franco

No Action

DeWitt  
Wishinsky

ARTICLE 26

**Amendment Offered by David Lescohier, TMM Precinct 11**

Moved: to amend the main motion as follows:

Strike Section 2 of the main motion in its entirety and add substitute language for Section 2:

"This act shall take effect upon the later of (A) December 1, 2014 or (B) the date of its passage."

Explanation:

The goal of this amendment is to allow for an additional period of time for the study of the proposed taxi medallion program, which, once implemented, will be extremely difficult to reverse. Many town meeting members have misgivings, questions, and concerns about the proposed taxi medallion program and are currently feeling conflicted about how to vote, believing that they need more current, up-to-date information and an opportunity revisit the issue.

The current licensing system can continue to function while additional study is underway.

Town meeting can vote favorably on this amendment without jeopardizing the possible, eventual realization for the town of the promised revenue from the sale of taxi medallions if, in the future, with sufficient information, town meeting finds that the medallion program will work and should be implemented.

In this case, the expectation is that a subsequent warrant article may be offered at the next town meeting that rescinds this act and thereby allows the medallion program to commence having been supported by reports from the board of selectmen and the advisory committee that address the currently expressed questions, concerns, and misgivings.

The transportation board, during this period, can continue to work on the draft regulations. (The availability of the final regulations before the next town meeting will also allow for a better informed final determination about a possible switch to a taxi medallion system.)

The very robust discussion about warrant article 26 on the Town Meeting Member Association group discussion forum is a strong indication that more time is needed and that town meeting needs and is interested in more information, in view of the changing circumstances since approximately 2000 when the taxi medallion concept started on its journey through so many meetings and so much effort.

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ARTICLE 28

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BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The recommendations of the Selectmen and the Advisory Committee as contained in the Combined Reports have slightly different referral language. In order to address the most substantive difference, the Board revised their language. By a vote of 5-0 taken on May 13, 2014 meeting, the Board recommends FAVORABLE ACTION on the following motion:

VOTED: To refer Article 28 to the Town Administrator to evaluate the issue and offer suggestions for implementing changes to the current enforcement system and present them to the Board of Selectmen in time for a report to Fall Town Meeting; with the expectation that some enforcement measures will be implemented for the 2014-2015 snow season.

ARTICLE 29

**Motion to be Offered by the Petitioner**

VOTED: that the Town adopt the following Resolution:

WHEREAS

The Town of Brookline has long been at the forefront of innovation ~~ideas~~, creativity and most importantly action; and

WHEREAS

The most ~~critical~~ action any town can take to diminish the effects of national economic crisis and assist its residents is to do everything possible to strengthen its local economy; and

WHEREAS

Research has shown that \$2 of every \$3 spent at ~~independent~~, locally owned businesses stays in the local economy; however, only \$1 of every \$3 spent at chain stores or public companies stays in the local economy; and

WHEREAS

The money spent at ~~local independently owned~~ ~~independent~~, ~~locally owned~~ businesses has given residents a more healthy, vibrant and sustainable community; and

WHEREAS

Brookline is most fortunate to have many ~~locally owned and independent~~ ~~independent~~, ~~locally owned~~ businesses that are critical components to its local economy. However these ~~locally owned~~ businesses have had a difficult time in this economy; and

WHEREAS

These difficulties necessitate a much more proactive approach by town government to support the local economic development for citizens to realize a positive impact, and now therefore be it

RESOLVED

That the Town of Brookline declare itself a "Local Economy Community" welcoming, and encouraging local entrepreneurship; and

RESOLVED

That the Town Administrator, School Department the Selectmen, and all departments:

1. Determine how the Town can increase procurement from Independent, Locally Owned Independent Businesses.
2. Ensure that locally or regionally owned banks participate and are given whatever preference is lawfully allowed when bids for town banking services are requested.

3. Support whatever efforts are made by the school committee to increase the percentage of locally grown and produced food served to students and staff; and

RESOLVED

That the Selectmen, Town Administrator, School Department, Department heads and members of ~~locally owned~~ independent local businesses form a Task Force to identify and develop policies that directly support the growth and development of ~~locally owned and independent~~independent, locally owned businesses in Brookline,

RESOLVED

That the Town of Brookline declare an annual "Brookline Local Economy Week" that coincides with "Brookline Day", and that the Town Administrator, School Department and Town Department Heads confer to promote the steps all can take to contribute to fostering our local economic development during that week.

ARTICLE 32

**Motion to be Offered by the Petitioners**

To see if the Town will adopt the following resolution:

**WHEREAS** the promotion of public health and preservation of the environment are guiding principles for individuals, organizations and the government of Brookline, most recently reflected in the establishment of Climate Action Brookline and the Selectmen's Climate Action Committee;

**WHEREAS** the scientific community, including the National Aeronautics and Space Administration (NASA), the National Academy of Sciences, the Environmental Protection Agency (EPA) and the World Meteorological Organization, has concluded that global warming, caused primarily by atmospheric carbon dioxide (CO<sub>2</sub>) produced by the burning of fossil fuels (coal, petroleum, and natural gas), is a serious threat to current and future generations, already producing extreme weather events leading to extensive flooding, severe drought, major hurricanes and a rise in sea levels due to the rapid melting of arctic sea ice;

**WHEREAS** in 2009, government officials from 167 countries responsible for more than 87 percent of the world's CO<sub>2</sub> emissions signed the Copenhagen Accord, adopting the scientific view that increases in global temperature should be kept below 2 degrees Celsius (3.6 degrees Fahrenheit);

**WHEREAS** scientists estimated in 2012 that in order to avoid exceeding this 2-degree limit, future emissions of CO<sub>2</sub> must be limited to a total of 565 gigatons, and financial analysts and environmentalists have calculated that fossil fuel companies and petro-states that operate like fossil fuel companies currently control fossil fuel reserves of 2,795 gigatons – five times the Copenhagen Accord limit;

**WHEREAS** fossil fuel companies, operating for maximum short-term profit at the expense of long-term sustainability, spend great sums of money to influence government ~~in order to avoid paying the true cost of the environmental damage they cause,~~ and continue to explore for even more fossil fuel deposits that could not be burned without drastic acceleration of climate change; and

**WHEREAS** Senate Bill 1225 would require the Commonwealth's Pension Reserves Investment Management Board to fully divest its direct holdings in fossil fuel companies over a five-year period, although divestment could be terminated if the Board presents clear and convincing evidence that the total value of the divested portfolio has fallen beneath a specified percentage of the hypothetical value of the portfolio if it had not been

divested; now, therefore, be it

**RESOLVED**, that the Brookline Town Meeting urges the Massachusetts legislature to enact Senate Bill 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content; and be it further

**RESOLVED**, that the Brookline Town Meeting requests the Town Clerk to promptly send notice of the passage of this resolution to the Governor of the Commonwealth, the members of Brookline’s congressional delegation, the President of the Massachusetts Senate and the Speaker of the House, the co-chairs of the Joint Committee on Public Service, the chairs of the Senate and House Ways and Means Committees, and the members of Brookline’s state legislative delegation.

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**BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION**

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 13, 2014, on the amended motion offered by the Petitioners.

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## HOUSING ADVISORY BOARD

Roger F. Blood, Chair  
Steven A. Heikin  
Michael H. Jacobs  
Rita K. McNally  
Rufus Phillips  
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# Town of Brookline Massachusetts

## AFFORDABLE HOUSING UPDATE

**May 2014**  
**Annual Town Meeting**

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Pursuant to a Warrant Article adopted by Town Meeting, the Housing Advisory Board has, since 1997, provided Town Meeting with an annual progress report on Brookline's work in support of affordable housing for income-eligible owners and renters.

Through its housing policies and programs, the Town seeks:

- to preserve existing affordable housing;
- to increase the supply of housing affordable to low- and moderate-income households town-wide by encouraging the creation of affordable units in existing rental buildings and appropriately sited and scaled mixed-income new development;
- to apply Town-controlled resources to leverage other public and private resources;
- to assure that housing so created is kept affordable for as long as possible.

Since the 2013 Annual Town Meeting, the Housing Advisory Board (seven citizen appointees) and Housing Division staff have undertaken the following actions to achieve these objectives:

1. **Assisted the Brookline Housing Authority's efforts to advance plans for a new 32-unit low income rental project at 86 Dummer Street on an underutilized portion of the site of the BHA's existing Trustman Apartments.** The Town has committed up to \$3.7 million in funding from its affordable housing sources, including \$1.7 in Federal HOME funds and approximately \$2 million from the Town's Affordable Housing Trust. In addition, \$600,000 in federal CDBG funds were advanced for a long-term ground lease in

2012. The project has received zoning approval; new legal entities have been set up to own and operate the project; architectural and engineering work is complete; awards for the required funding have been received from the Federal Home Loan Bank's Affordable Housing Program, from the Commonwealth of Massachusetts and private lenders; and the BHA has been awarded tax credits and gap financing from the Commonwealth. The BHA has signed a contract with its Construction Manager, Coloantonio Inc., and construction is expected to start in June 2014.

**2. Assisted Pine Street Inn with the purchase and preservation of two lodging houses on Beals Street that it has operated under contract with the owner for nearly a decade.**

Since last spring, Pine Street completed the acquisition of the properties with over \$1.2 million in support from the Town's Affordable Housing Trust and CDBG funding. Acquisition of these properties, which have served as lodging houses over the past 80 years, will allow Pine Street Inn to significantly upgrade the exteriors and to redesign the interiors of this important source of affordable single person housing. These new "enhanced lodging house" units will include kitchenettes to better meet the needs of today's residents, including senior citizens.

**3. Continued to work with developers of new market-rate projects subject to the inclusionary zoning provisions (Section 4.08) of the Town's Zoning By-law:**

- Completed the marketing and sale of four affordable condominium units at 321 Hammond Pond Parkway. The project received designation by the State under its Local Initiatives Program, for count on the Commonwealth's Chapter 40B Subsidized Housing Inventory. Three of the four units will be included in the count, while one unit was sold to a household earning up to 100% of area median income.
- Completed the marketing and tenant selection for three affordable rental units at Englewood Residences. Two of the three affordable rental units will be included on Brookline's Subsidized Housing Inventory. The final affordable unit will serve a household earning up to 100% of area median income.

**4. Continued to support affordable homeownership for those seeking or already owning an affordable home in Brookline, including the following:**

- Provided technical support to buyers of four affordable condominiums at 321 Hammond Pond Parkway, as they were working with lenders to close on their units.
- Worked with owners of several deed-restricted units seeking to reduce ownership costs through refinancing.
- Initiated the resale of three deed-restricted units to new income-eligible purchasers.

**5. Worked with nonprofit property owners to preserve existing affordable housing through capital improvements funded by the federal Community Development Block Grant (CDBG):**

- Monitored contracts with the Brookline Housing Authority totaling over \$850,000 resulting in much-needed capital improvements to four public housing developments.

**6. Worked to assure continued affordability through annual monitoring of almost 160 affordable homeownership units for continued owner occupancy and an estimated 450 affordable rental units at 16 Brookline properties for continued tenant eligibility.**

**7. Worked with the Director of Human Relations to promote Fair Housing Month in April.** Activities included informational display in Town Hall and training of Real Estate Brokers. Updated the Town's Analysis of Impediments to Fair Housing Choice.

The Housing Advisory Board extends its thanks and good wishes to Fran Price, who retired in 2013, for her many years of work in advancing the Town's affordable housing goals and opportunities as the Planning Department's Housing Development Officer.

*For ongoing information about the Town's affordable housing programs and opportunities, please visit [www.brooklinema.gov/housing](http://www.brooklinema.gov/housing), or look for the quarterly Update published by the Department of Planning and Community Development.*