



**TOWN OF BROOKLINE
MASSACHUSETTS**

**REPORTS OF SELECTMEN
AND ADVISORY COMMITTEE**

on the

Articles in the Warrant

for the

SPECIAL TOWN MEETING

to be held in the High School Auditorium

Wednesday, November 13, 2002

at

8:00 P.M.

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

Town of Brookline

BOARD OF SELECTMEN

Deborah B. Goldberg, Chairman

Donna R. Kalikow

Joseph T. Geller

Gilbert R. Hoy, Jr.

Robert L. Allen

Richard J. Kelliher, Town Administrator

"The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. Persons with disabilities who need auxiliary aids and services for effective communication in programs, services and activities of the Town of Brookline are invited to make their needs and preferences known to: C. Stephen Bressler, ADA Coordinator and Director of the Human Relations - Youth Resources Commission, 11 Pierce Street, Brookline, Ma. 02445, 730-2300 Voice, 730-2327 TDD, 730-2296 FAX."

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Nancy Daly, Chair, 161 Rawson Road.	232-0728
Harry K. Bohrs, Vice Chair, 97 Toxteth Street.	566-3556
Carla Wyman Benka, 26 Circuit Road.	277-6102
Michael Berger, 112 Wolcott Road.	734-6139
Kenneth W. Chin, 200 St. Paul Street #3.	739-2519
Robert H. DeVries, 18 Acron Road.	731-8595
Nadine Gerdts, 56 Linden Place.	731-0420
Jay Gonzalez, 33 Glenland Road	879-0194
L. Branch Harding IV, 145 Woodland Road.	738-0716
Gerard J. Hayes, 49 Gorham Road	277-0002
Sytske V. Humphrey, 46 Gardner Road.	277-1493
Mary Johnson, 286 Warren Street	566-7899
Jonathan Karon, 94 Naples Road	232-2558
Estelle Katz, 41 Park Street.	566-3457
Frederick Lebow, 71 Colchester Street.	739-1930
Roger R. Lipson, 622 Chestnut Hill Avenue.	232-0408
Pamela Lodish, 195 Fisher Avenue.	566-5533
Shaari S. Mittel, 309 Buckminster Road.	277-0043
Charles Moo, 1853 Beacon Street.	232-8796
William B. Powell, 16 Columbia Street.	731-0013
Stanley L. Spiegel, 39 Stetson Street.	739-0448
Ronny M. Sydney, 1443 Beacon Street.	232-8986
Leonard A. Weiss, 46 Hawthorn Road	277-8403
Karen Wenc, 84 Summit Avenue.	232-4983
Neil Wishinsky, 20 Henry Street.	739-0181
Robin E. Coyne, Budget Analyst, Town Hall	730-2115

NOVEMBER 13, 2002

SPECIAL TOWN MEETING

INDEX

ARTICLE NO.

TITLE

1. Resolution opposing U.S. attack on Iraq. (Petition of Martin Rosenthal)

ARTICLE 1

To see if the Town will adopt the following resolution:

WHEREAS: We as a people and a nation must not retreat from our commitment to act as a constructive force within the community of nations. Human progress resides in the respect for international law and the sovereignty of nations. As the strongest of these nations, the U.S. has a special responsibility to uphold and abide by broadly supported principles of international behavior such as those laid out in the U.N. Charter; and

WHEREAS: The U.N. Charter decrees:

1. No nation can use military force except in self-defense (arts. 39, 51);
2. The Security Council is the only body that can authorize the use of force (art. 24; ch. VII); &
3. Only the Security Council can decide what action can be taken to maintain or restore international peace and security. (art. 39); and

WHEREAS: We view with great alarm two major changes in U.S. foreign policy by the Bush administration: a new policy of “preemptive” attack, and a concerted determination to act unilaterally in world affairs. Both policies eviscerate a half-century of successes in establishing safeguards minimizing violence in the conduct of international relations; and

WHEREAS: The Bush administration has blurred the important distinction between “preemptive war” and the more pertinent and far more treacherous notion of “preventive war.” Our Sen. Kennedy recently said: “‘preemptive’ action refers to times when states react to an imminent threat of attack. ... By contrast, the Japanese attack on Pearl Harbor ... was a ‘preventive’ action. The coldly premeditated nature of preventive attacks and preventive wars makes them anathema to well-established principles against aggression”; and

WHEREAS: We regret Congress’ abdication of its responsibility, reminiscent of the shameful Gulf of Tonkin Resolution. As stated by Sen. Byrd, the recently-passed Resolution “... is a blank check for the president to take whatever action he feels ‘is necessary and appropriate in order to defend the national security of the United States against the continuing threat posed by Iraq.’ ... Congress must not attempt to give away the authority to determine when war is to be declared.”; and

WHEREAS: The desire of people the world over is to feel safe and secure. The surest long-term path to safety and security, both domestic and abroad, is through collaborative efforts under international law – not through belligerence and unilateralism.

NOW, THEREFORE BE IT RESOLVED that the Brookline Town Meeting:

- A. opposes any U.S. attack on Iraq until and unless (1) there is clear and convincing evidence of a serious and imminent threat of aggression by Iraq, and (2) the U.N. has determined that collective action is necessary against Iraq; and
- B. believes that, at this time, neither of these conditions has been met.

SELECTMEN'S RECOMMENDATION

The Board of Selectmen voted to waive standard procedures in order to call a Special Town Meeting for the consideration of this Resolution because of the urgent nature of its subject matter. The unanimous vote of the Board on October 22, 2002, on the motion of Selectman Allen was:

“Due to the pending urgent National situation, which requires immediate action by Town Meeting in order for its voice to be heard, it is

VOTED: to call a Special Town Meeting on Wednesday, November 13, 2002, at 8:00 p.m.; waive the requirements of Section 2.1.2 through 2.1.3 of the Town's By-Laws; open and close the Warrant; and include an article on the proposed resolution in the attached form.”

The Board wants to acknowledge the efforts of the Town Administration to ensure that this action could be taken in conjunction with the Fall Special Town Meeting in a procedurally proper manner with a minimum of cost. Requests for Town Meeting action, filed after the warrant is published, are always of concern because of the need for proper notice and adequate time for review. When exceptions are made, the Board must ensure there are justifiable reasons and that harmful precedent is not set. In this instance, the petitioners made an acceptable presentation that this matter can be distinguished from most other issues that might arise in the future.

As to the content of the Resolution itself, a majority of the Selectmen are of the opinion that this is an issue of international relations which, no matter how vital, does not relate to Town policies and procedures. Fundamentally, this is a question of individual conscience and choice. A

majority of the Board of Selectmen believes a vote on this question should be left to individual Selectmen without a formal collective position by the Board.

Selectman Hoy moved favorable action on an amended version of the proposed Resolution. Although the motion was seconded by Selectmen Kalikow and Allen, the motion failed by a vote of 1-0-4 with Selectmen Goldberg, Kalikow, Geller, and Allen abstaining.

Section 2.5.2 of the Town's By-Laws requires the Board to prepare a written report for all Warrant Articles. Because this Resolution does not entail a municipal purpose and given the grave nature of its subject matter, it is the recommendation of a majority of the Board that each Town Meeting Member, including the Selectmen themselves, speak and vote according to individual conscience. Consequently, the Selectmen as a Board do not recommend either favorable or unfavorable action on the Resolution.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Events of the past year have underscored the notion of life's fragility and the capriciousness of fate. And now, we are being asked as a nation and world community to consider military action against Iraq.

There are earnest and persuasive arguments on both sides of the issue, compounded by how imperative it is, or isn't, to engage in a unilateral preemptive strike. These are deeply held, and sometimes conflicted, feelings and beliefs held within our community, our nation, and around the globe.

As free citizens and elected officials, we are being asked to consider and comment on our country's approach to Iraq in the form of a Town Meeting Resolution.

Many argue, as do Presidents Clinton and Bush, that invasion of Iraq is essential and long over due. For more than a decade Iraq has ignored its acceptance of United Nations Resolution 687 which requires the destruction of its weapons. Worse, the U.N. has allowed this to occur. Lack of a credible response by the U.N. has been led largely by France and Russia (Security Council Members). Both of these nations have oil corporation interests to safeguard; an issue considered by many to have dictated their behavior on the Security Council regarding Iraq. And, it's an issue that unilateral response supporters point to as an impediment to the Council creating a strong resolution.

Those in favor of an immediate response believe that while the U.S. has been complacently sleeping, others have been sleepless in their planning and pursuit of our demise – witness 9/11.

Furthermore, they believe not acting preemptively is willfully relegating ourselves to annihilation. They ask “what grave disaster must occur before we act?” Proponents of an immediate strike make the case that the U.S. Congress has responsibly asserted its Constitutional powers in reviewing the matter and voting to allow the President to take military action. They assert that, like it or not, we are the world’s cops and our role in Kosovo (which had no U.N. support and was condemned by the U.N. Secretary General) is a good example of just and moral intervention. Unilateral, preemptive action in Iraq is seen by them to be equally just and moral.

Opponents of a unilateral preemptive strike point out that this is a reversal of all that has been achieved in the pursuit of international law and diplomacy. They point out that the United States cannot continue to be effective on the world stage if we are not trusted and accepted by other nations. That, indeed, making such a unilateral move would heighten resentment and propel those who most fear us to greater power and influence, all the while causing us to be resented by our friends and allies. They point out that by the essential scrapping of international law, treaties and policies, we create a much more dangerous world – not a safer one.

Opponents of unilateral preemptive action are also alarmed at the U.S. Congress’s seeming ease at abdicating responsibility; that a quick conveyance of authority to the Executive Branch undermines this country’s basic tenet of the balance of powers. Even if one subscribes to the notion of an “American Empire” it is not one to be ruled (at least militarily) by a de facto potentate. We are reminded of the Gulf of Tonkin and that the incident there in 1964 was the pretext for our massive involvement in Vietnam. As it turned out, accounts of the incident were not merely incorrect, but intentionally falsified. Opponents of a unilateral response are concerned that history does not repeat itself and that decisions are based on demonstrable fact. It is the concern over hasty unilateralism that motivated the creation of this Town Meeting Resolution before us.

DISCUSSION

The issues surrounding Iraq and a potential U.S. invasion are about more than merely security, oil, and retribution. To cast the issue in such limited and short range terms would miss the deeper and more profound context. The Iraqi question touches on our sense of ourselves as Americans and our collective belief in a system of popular democracy and a generally free market economic approach. We have come to tacitly accept the notion of individual freedoms and a consumptive lifestyle. President Clinton reminded us “It’s the economy stupid,” and 9/11 reminded us of our mortality and our vulnerability. Iraq has become the convergence point of these concerns.

Whether we like it or not, as citizens of this nation, we have been “to the manor born.” And with that citizenship come certain privileges, responsibilities and obligations. There has been recent discussion of an “American Empire.” As the sole superpower and strongest economy, we are, for better or worse, an empire. An empire not in the context of Britain or Rome, but an empire none the less. In that regard, how, when and why we exercise power becomes all the more critical. As we consider the prime elements of an Iraqi conquest (security, economics, and the

furthering of our democratically secular capitalistic lifestyle) we must understand the far ranging implication of our action and the message we send to the international community. If we act alone and “preemptively” (or “preventively”), does that void all international law and treaties? Will we have a voice when China “secures” Taiwan or Russia invades Georgia to remove the Chechens, or India “preempts” a strike by a nuclear Pakistan? How safe will the world be if it sees the United States and India (nuclear powers each) engage in war with two Muslim countries? Is not Iran a far greater threat?

While much analogy has been made to Vietnam, this would likely be nothing of that sort. A more suitable example may be World War I. Who would have foreseen the chain of events that sprung from a separatist fanatic’s shooting of Arch Duke Ferdinand? Currently, a unilateral attack on Iraq is hinged on undefined purposes and nonspecific threats. Fear is reasonable, but fear must be of something tangible. In this case, the tangible has yet to be fully articulated. The implications are huge as this may be a conflict without a discernible end. Defense Secretary Rumsfeld offered a definition of victory:

“I say victory is persuading the American people and the rest of the world that this is not a quick matter that is going to be over in a month or a year, or even five years.”

In that regard, this may become a multi-generational conflict. Potentially committing ourselves, our children, our grandchildren and others to such an undertaking should not be a reflexive unilateral response. Success requires the commitment of more than just one nation. With our rank and privilege in the world order comes responsibility: responsibility to act; and at this time, responsibility to exercise a measure of restraint.

While a majority of the Advisory Committee agreed with the Petitioners (Marty Rosenthal and others representing Brookline PAX) as to the general language of the Resolution, there were some differences. The Advisory Committee is recommending a version of the Resolution which does not include a “Whereas” clause that Brookline PAX will offer which delineates “preemptive war” from “preventive war” and references the Japanese attack on Pearl Harbor in the context of the proposed American action in this case. The Advisory Committee felt that this language was confusing and potentially divisive and that it detracted from the overall message of the Resolution.

A substantial minority of the Advisory Committee voted against the Resolution on the grounds that Brookline Town Meeting does not have the authority or expertise to decide national foreign policy, whatever the specific issue might be.

RECOMMENDATION

The Advisory Committee by a vote of 9-6 (2 abstentions) recommends FAVORABLE ACTION on the following resolution:

WHEREAS: We as a people and a nation must not retreat from our commitment to act as a constructive force within the community of nations. Human progress resides in the respect for international law and the sovereignty of nations. As the strongest of these nations, the U.S. has a special responsibility to uphold and abide by broadly supported principles of international behavior such as those laid out in the U.N. Charter; and

WHEREAS: The U.N. Charter decrees:

1. No nation can use military force except in self-defense (arts. 39, 51);
2. The Security Council is the only body that can authorize the use of force (art. 24; ch. VII); &
3. Only the Security Council can decide what action can be taken to maintain or restore international peace and security. (art. 39); and

WHEREAS: We view with great alarm two major changes in U.S. foreign policy : a new policy of “preemptive” attack, and a concerted determination to act unilaterally in world affairs. Both policies are counter to a half-century of successes in establishing safeguards minimizing violence in the conduct of international relations; and

WHEREAS: We regret Congress’ abdication of its responsibility, reminiscent of the shameful Gulf of Tonkin Resolution. Congress must not give away the authority to determine when war is to be declared.; and

WHEREAS: The desire of people the world over is to feel safe and secure. The surest long-term path to safety and security, both domestic and foreign, is through collaborative efforts under international law - not through belligerence and unilateralism.

NOW, THEREFORE BE IT RESOLVED that the Brookline Town Meeting:

- A. opposes any U.S. attack on Iraq until and unless (1) there is clear and convincing evidence of a serious and imminent threat of aggression by Iraq, and (2) the U.N. has determined that collective action is necessary against Iraq;
- B. believes that, at this time, neither of these conditions has been met; and
- C. requests that the Board of Selectmen transmit this resolution to our congressional delegation.

BOARD OF SELECTMEN

Deborah B. Goldberg, Chairman
Donna R. Kalikow
Joseph T. Geller
Gilbert R. Hoy, Jr.
Robert L. Allen

ADVISORY COMMITTEE

Nancy Daly, Chair

November 13, 2002
Special Town Meeting
Article 1 – Supplement No. 1

MOTION TO BE OFFERED UNDER ARTICLE 1
MARTIN ROSENTHAL – TMM Precinct 9

VOTED: That the Town adopt the following resolution:

WHEREAS: We as a people and a nation must not retreat from our commitment to act as a constructive force within the community of nations. Human progress resides in the respect for international law and the sovereignty of nations. As the strongest of these nations, the U.S. has a special responsibility to uphold and abide by broadly supported principles of international behavior such as those laid out in the U.N. Charter; and

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2. The Security Council is the only body that can authorize the use of force (art. 24; ch. VII); &
3. Only the Security Council can decide what action can be taken to maintain or restore international peace and security. (art. 39); and

WHEREAS: We view with great alarm two major changes in U.S. foreign policy: first, a new policy which is referred to as "preemptive" attack, traditionally acceptable under international law, but which is actually "preventive war," traditionally prohibited by international law; and second, a concerted determination to act unilaterally in world affairs. Both policies are counter to a half-century of successes in establishing safeguards minimizing violence in the conduct of international relations; and

WHEREAS: We regret Congress' abdication of its responsibility, reminiscent of the shameful Gulf of Tonkin Resolution. Congress must not give away the authority to determine when war is to be declared.; and

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B. believes that, at this time, neither of these conditions has been met; and

C. requests that the Board of Selectmen transmit this resolution to our congressional delegation and to such media outlets as the Board deems appropriate.

Explanation

Both the petitioners, Brookline PAX, and the Advisory Committee ("AC") have been working feverishly to refine the original Resolution and develop a consensus proposal for a Vote. PAX has accepted almost all of the AC changes, as published in the Combined Report last week. The main issue still under discussion is the AC's proposed deletion of the original WHEREAS clause, para. 4, discussing the difference between "preemptive" and "preventive" wars. PAX is willing to accept the deletion of that paragraph, felt by some to be confusing, but then believes that the preceding WHEREAS clause, para. 3, would then become confusing by merging -- or at least not differentiating -- the drastically different notions of "preemptive" and "preventive" wars -- exactly the blurring PAX finds offensive in the administration's new Doctrine. For example, PAX is *not* opposed to preemptive strikes/actions, at least as traditionally connoted under international law. We are hopeful that the below clarification of WHEREAS clause, para. 3, first sentence will help make that distinction.

Secondly, and more routinely, PAX believes the third RESOLVED clause should add the below, self-explanatory, simple request for dissemination to some "media outlets."

Thus, PAX is offering, as proposed "friendly amendments," the two below changes to the AC proposal. Based upon initial ad hoc discussions, we hope the AC will agree to both changes prior to the vote; **[delete]** and **bold** for new language:

1. changes to WHEREAS para. 3, first sentence:

"We view with great alarm two major changes in U.S. foreign policy: **first**, a new policy [of] **which is referred to as** "preemptive" attack, **traditionally acceptable under international law, but which is actually "preventive war," traditionally prohibited by international law; and second**, and a concerted determination to act unilaterally in world affairs. ...(NOTE: retain second sentence as-is)"

2. add to RESOLVED #C. "requests that the Board of Selectmen transmit this resolution to Brookline's congressional delegation **and to such media outlets as the Board deems appropriate.**