
ARTICLE 1

FIRST ARTICLE

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

SELECTMEN'S RECOMMENDATION

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 5, 2005, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This is the traditional Article 1, a reminder of Brookline's colonial beginnings, and is at no cost to the Town. Opponents have countered that this Article is an anachronism that has no place on a modern-day warrant, although the Advisory Committee has been told of at least one fairly recent instance where one of the Measurers of Wood and Bark was called upon regarding a dispute over the size of a delivered chord of wood.

RECOMMENDATION

The Advisory Committee, by a vote of 12 to 4, recommends FAVORABLE ACTION on the following vote:

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

XXX

ARTICLE 2

SECOND ARTICLE

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

As of the writing of these Combined Reports, there are no collective bargaining agreements for Town Meeting action. Therefore, the Selectmen recommend NO ACTION by a vote of 5-0 taken on April 26, 2005.

ADVISORY COMMITTEE'S RECOMMENDATION

As there are no collective bargaining agreements to consider at this time, the Advisory Committee unanimously (13-0) recommends NO ACTION on this article.

XXX

ARTICLE 3

THIRD ARTICLE

To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2006 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

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

Funds have been included in the Treasurer's FY2006 budget to pay for these services directly and the Treasurer does not anticipate using this procedure at this time. This authorization, however, will give the Treasurer the flexibility to enter into such agreements if it should be in the best interest of the Town.

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on March 29, 2005, on the following vote:

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2006 in accordance with General Laws Chapter 44, Section 53F.

ROLL CALL VOTE:

Favorable Action

Allen

Geller

Hoy

Merrill

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Under a 1986 State law, Town Treasurers may not enter into a compensating balance agreement without an annual authorization from Town Meeting. Under a compensating balance agreement, the Town receives no-fee banking services in exchange for agreeing to maintain a specified level of deposits in an interest-free account.

DISCUSSION

To date, the Treasurer has not used this authority, finding it more advantageous to place Town funds in interest bearing accounts and negotiate service fees with the banks. The Town spends between \$40,000 and \$70,000 annually in bank service charges. The Treasurer has no specific plans to enter into any compensating balance agreements, but would like the flexibility to do so if conditions warrant.

RECOMMENDATION

The Advisory Committee unanimously (16-0) recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

ARTICLE 4

FOURTH ARTICLE

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

- 1) Special Appropriation Closeouts
- 2) Rescind the bond authorization for improvements to Hall's Pond Sanctuary, authorized as Item #91 of Section 11 of Article 6 of the 1999 Annual Town Meeting, in the amount of \$100,000.

SELECTMEN'S RECOMMENDATION

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

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

Part two of the article is related to a bond authorization approved at the 1999 Annual Town Meeting as part of the Hall's Pond project. The bond authorization was approved in anticipation of a state grant, which was ultimately received. Therefore, the authorization is no longer required and it is recommended that it be rescinded.

The Selectmen recommend **NO ACTION** on part 1 of the article and **FAVORABLE ACTION** on the vote below related to part 2 of the article, by a vote of 4-0 taken on March 29, 2005:

VOTED: That the total (\$100,000) Bond Authorization for improvements to Hall's Pond Sanctuary, authorized as Item #91 of Section 11 of Article 6 of the 1999 Annual Town Meeting, be reduced and be rescinded.

ROLL CALL VOTE:

Favorable Action

Allen
Geller
Hoy
Merrill

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Town Meeting does not need to take any action on the close-out of special appropriations. The attached list is for information, only. However, the Town Treasurer would like a rescission on a bond authorization, and this requires a vote of Town Meeting.

DISCUSSION

A bond authorization for \$100,000 to improve Hall's Pond was granted to the Treasurer on May 25, 1999. Subsequently, grant money was received and there was no need for the town to issue the bond. Today, the authorization remains in force and the Town Treasurer does not want it, or think it is appropriate to leave it open. The request is to vote a rescission of this bond authorization. What Town meeting giveth, Town Meeting needs to taketh away.

RECOMMENDATION

The Advisory Committee unanimously (16-0) recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

**Available Budget Report - Special Warrant Articles
for Fiscal Year 2005**

Dept	Account	Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
HR	PHYSICAL FITNESS 6E0029 TOTAL	30,000	0	0	30,000	Pending further bargaining.
Finance	DATA PROCESSING EQUIPMENT 6A0005 TOTAL	171,623	12,524	25,908	133,192	On-going implementation of MUNIS (financial system).
Finance	FURN, FIXTURES, EQUIPMENT 6A0013 TOTAL	32,969	2,803	14,421	15,745	Will be spent by 6/30/05, Town Clerk & various depts
Finance	SCHOOL FURNITURE UPGRADES 6A0019 TOTAL	50,000	47,469	423	2,107	Will be spent by 6/30/05
ITD	TELECOMMUNICATIONS SYSTEM 6E0025 TOTAL	34,917	1,013	33,904	0	Bill will be paid prior to June 30, 2005
Planning	COMPREHENSIVE PLAN/RECODI 6C0029 TOTAL	80,450	18,036	7,050	55,364	Balance will be encumbered prior to June 30, 2005
Planning	STREETSCAPE/CIVIC SPACE 6E0022 TOTAL	205,000	0	0	205,000	15% of Balance to be encumbered for Design Services by May 1, 2005. Balance to be encumbered for construction by December 31, 2005
Planning	PUBLIC EVENT KIOSK 6E0024 TOTAL	10,889	0	0	10,889	To be encumbered by December 31, 2005
ITD	DATA PROCESSING EQUIPMENT 6A0005 TOTAL	80,434	34,406	5,730	40,298	Money will be spent prior to June 30, 2005
ITD	HAND HELD INSPECTION EQUIPMENT 6A0021 TOTAL	44,087	6,404	3,560	34,124	Money set aside for multi-year lease of tablets
ITD	TECHNOLOGY APPLICATIONS 6A0022 TOTAL	250,000	124,705	24,763	100,532	Money will be spent prior to June 30, 2005
ITD	INSTRUCTIONAL TECHNOLOGY STUDY 6B0100 TOTAL	138,000	11,000	0	127,000	GAP Analysis completed. Plan will be worked on in FY06
ITD	TELECOMMUNICATIONS SYSTEM 6E0025 TOTAL	624	0	624	0	Bill will be paid prior to June 30, 2005
Police	COMMUNICATIONS/RADIO EQ & IMP 6A0011 TOTAL	7,532	0	7,532	0	To be used by 12/31/05 to upgrade to 911 system within Public Safety Dispatch Ctr
Fire	FIRE TRAINING MODULE & EQUIPME 6E0023 TOTAL	46,000	0	0	46,000	Planning currently underway for Fire Training Area
Fire	FIRE ENGINE 6E0030 TOTAL	240,519	234,679	0	5,840	Any unexpended bal to be closed out on 6/30/05
	FIRE STA DIESEL EXHAUST SYSTEM					

Dept	Account		Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
Bldg	6A0023	TOTAL	200,000	170,832	4,490	24,678	To be completed by 8/26/05

PUTTERHAM LIB ADA RENOVATIONS							
Bldg	6B0002	TOTAL	50,000	0	0	50,000	To be completed by 9/9/05

FIRE STATION #5 WINDOWS							
Bldg	6B0004	TOTAL	30,000	0	0	30,000	Committee of seven formed

TOWN/SCH BLDG SEC/LIFE SAFETY							
Bldg	6B0005	TOTAL	100,000	14,721	0	85,279	Being used along with 6B0092 for various projects

PUTTERHAM LIBRARY FLOOR REPL							
Bldg	6B0006	TOTAL	25,000	0	0	25,000	To be completed by 8/26/05

PUTTERHAM LIBRARY HVAC UPGRADE							
Bldg	6B0007	TOTAL	173,500	0	0	173,500	Committee of seven formed

MUNICIPAL POOL							
Bldg	6B0008	TOTAL	1,000,000	0	94,400	905,600	Bid document completed and being bid

OLD LINCOLN SCH ELEVATOR							
Bldg	6B0009	TOTAL	390,000	3,835	300,427	85,738	To be completed by 8/26/05

COOLIDGE CORNER LIB FACADE							
Bldg	6B0012	TOTAL	67,246	2,392	64,854	0	Bid document completed and being bid

SWIMMING POOL ROOF REPL							
Bldg	6B0014	TOTAL	45,000	0	45,000	0	Committed as part of design of project

TRAIN MEM PUBLIC HEALTH BLDG							
Bldg	6B0020	TOTAL	417,300	9,525	342,875	64,900	Bid document completed and being bid

SOULE RECREATION CTR REHABILIT							
Bldg	6B0023	TOTAL	2,964	2,964	0	0	Project complete

MUNICIPAL SERVICE CENTER REPAI							
Bldg	6B0025	TOTAL	285,536	109,111	174,750	1,675	Under construction

MUNICIPAL BUILDING SECURITY							
Bldg	6B0026	TOTAL	51,902	17,741	13,709	20,453	Projects underway

SKATING RINK RENOVATIONS/IMPRO							
Bldg	6B0031	TOTAL	2,185	2,185	0	0	Project complete

DEVOTION SCH AUD-STUDY							
Bldg	6B0046	TOTAL	15,000	0	0	15,000	Study on hold due to major renov project

SOULE RECREATION CENTER							
Bldg	6B0049	TOTAL	75,000	74,500	0	500	To be closed out by 6/30/05

SYSTEMWIDE SPRINKLERS AND							
Bldg	6B0052	TOTAL	1,105	0	1,105	0	To be closed out by 6/30/05

ASBESTOS REMOVAL							
Bldg	6B0061	TOTAL	69,930	23,174	8,200	38,556	On-going projects underway

Dept	Account		Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
Bldg	MAIN LIBRARY RENOVATIONS 6B0065	TOTAL	33,285	10,040	12,453	10,792	To be completed by 8/26/05
Bldg	OLD LINCOLN SCHOOL REPAIR 6B0068	TOTAL	1,578	0	1,578	0	Any unspent funds to be closed out by 9/30/05
Bldg	LAWRENCE SCHOOL FEASIBILI 6B0071	TOTAL	497	497	0	0	Project complete
Bldg	CC LIBRARY CARPETING 6B0072	TOTAL	836	836	0	0	Project complete
Bldg	FIRE STATION #1 6B0081	TOTAL	6,835	6,835	0	0	Project complete
Bldg	PIERCE PRIMARY ELEVATOR 6B0082	TOTAL	160,383	0	15,000	145,383	Study on accessibility requirements to be undertaken
Bldg	HEATH SCHOOL SPRINKLERS-P 6B0085	TOTAL	22,828	20,328	0	2,500	Any unspent funds to be closed out by 9/30/05
Bldg	PIERCE SCHOOL WIND/VENTIL 6B0086	TOTAL	1,385,727	444,707	120,441	820,578	To be completed by 8/26/05
Bldg	PUB BLDG MAINT FACILITY R 6B0087	TOTAL	5,307	5,307	0	0	Project complete
Bldg	PUTTERHAM LIB FIRE ALARM 6B0088	TOTAL	42,800	0	0	42,800	To be completed by 8/26/05
Bldg	LYNCH REC CTR-P&S WINDOWS 6B0090	TOTAL	10,930	10,930	0	0	Project complete
Bldg	PIERCE SCHOOL IMPROVEMENT 6B0091	TOTAL	1,081	520	0	561	Any unspent funds to be closed out by 8/31/05
Bldg	SCHOOL BLDGS LIFE SAFETY 6B0092	TOTAL	733,957	0	0	733,957	Being used along with 6B0005 for various projects
Bldg	TOWN HALL UPGRADE NEEDS STUDY 6B0093	TOTAL	8,775	8,775	0	0	Project complete
Bldg	PARK COMFORT STATIONS IMPROVEM 6B0094	TOTAL	25,000	7,151	0	17,849	To be completed by 8/26/05
Bldg	FIRE DEPT MOTOR VEH SHOP MOVE 6B0095	TOTAL	93,748	0	1,498	92,250	Investigating options for re-location
Bldg	BHS REPAIRS 6B0097	TOTAL	277,240	0	0	277,240	Bid document completed and being bid
Bldg	LYNCH REC CTR WINDOWS/BOILERS 6B0098	TOTAL	53,854	16,781	1,672	35,401	To be closed out by 8/31/05

Dept	Account		Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
	PIERCE SCH HVAC/PAINT/CARPET						
Bldg	6B0099	TOTAL	1,274,950	1,173,573	0	101,377	To be completed by 8/26/05
	EMERGENCY OPERATIONS CENTER						
Bldg	6B0101	TOTAL	499,350	446,055	14,698	38,597	To be used to finish wiring in the EOC
	FIRE TRAINING BUILDING IMP						
Bldg	6B0102	TOTAL	165,000	0	0	165,000	Planning in conjunction with Fleet Maintenance Shop move
	COOLIDGE CORNER LIB FIRE ALARM						
Bldg	6B0103	TOTAL	45,000	0	0	45,000	To be completed by 8/26/05
	COOLIDGE CORNER LIBRARY HVAC						
Bldg	6B0104	TOTAL	526,021	8,800	517,016	205	To be completed by 8/26/05
	PARK IMPROVEMENTS						
Bldg	6C0007	TOTAL	25,143	25,143	0	0	Project complete
	HANDICAPPED IMPROVEMENTS-ADA						
Bldg	6C0010	TOTAL	137,827	12,771	125,057	0	On-going projects underway
	DRISCOLL SCHOOL						
Bldg	6C0026	TOTAL	120,000	0	0	120,000	Working with School Dept on this Aud. HVAC project
	FIRE STATION AIR CONDITIONERS						
Bldg	6E0015	TOTAL	93,198	40,950	52,248	0	To be completed by 9/9/05
	TRASH COMPACTORS						
Bldg	6E0016	TOTAL	95,000	26,605	46,490	21,905	To be completed by 9/9/05
	MUNICIPAL SWIMMING POOL LOCKER						
Bldg	6E0039	TOTAL	123,960	0	0	123,960	Project complete. Funds to be used to augment Roof/Window project if a.) necessary and b.) approved by Town Mtg
	ENERGY MANAGEMENT SYSTEM						
Bldg	6E0052	TOTAL	80,000	0	0	80,000	To be completed by 8/26/05
	NETWORK WIRING-SCHOOLS						
Bldg	6E0064	TOTAL	202,849	202,849	0	0	Projects complete
	PARKING METERS						
DPW	6A0015	TOTAL	30,000	25,682	0	4,318	Balance to be spent summer 05
	MAIN LIBRARY LANDSCAPING						
DPW	6B0003	TOTAL	100,000	0	0	100,000	Design Underway
	LINCOLN SCHOOL WALL						
DPW	6B0069	TOTAL	150,000	38	0	149,962	To be combined w/ \$150K FY06 funds. Summer 05 const.
	TRANSFER STATION REHABILI						
DPW	6B0074	TOTAL	493,066	39,500	300,500	153,066	Design underway. Fall 05 construction planned.
	STREET/SIDEWALK IMPROVEME						
DPW	6C0006	TOTAL	24,350	24,350	0	0	Project completed

Dept	Account		Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
DPW	TREE REMOVAL & REPLACEMEN 6C0011	TOTAL	177,148	33,432	51,014	92,702	To be used in the FY05 annual tree planting contract
DPW	STREETSCAPE/CIVIC SPACE 6E0022	TOTAL	48,638	18	0	48,620	Construction to commence Summer/Fall
DPW	BACKFLOW PREVENTOR VALVES 6E0040	TOTAL	42,878	0	0	42,878	Public Bldg Retrofit - Ongoing Project
DPW	WATER/SEWER MAPPING 6E0041	TOTAL	201	0	201	0	Project Complete
DPW	WATER SYSTEM HYDRAULIC ANALYSI 6E0048	TOTAL	150,000	0	0	150,000	Project Near Completion - Payment to MWRA in FY06
DPW	SINGLETREE WATER TANK PAI 6E0054	TOTAL	25,662	13,461	7,039	5,162	Tank Complete - Balance for Tank Equipment Upgrade
DPW	PLAYGROUND EQUIPMENT 6E0059	TOTAL	5,542	0	5,542	0	Will complete project
DPW	PAVEMENT OF FIRE TRAINING AREA 6H0003	TOTAL	30,000	0	0	30,000	Paving to be coordinated with facilities upgrade
DPW	CH 90 HWY IMPROVEMENTS 6H0009	TOTAL	1,822,306	601,114	240,816	980,376	Annual road work program. To be bid in summer 05.
DPW	STREET/SIDEWALK REHABILIT 6H0017	TOTAL	222,976	64,079	143,130	15,767	Annual road work program. Bid in March 05.
DPW	BEACON ST IMPROVEMENTS 6H0019	TOTAL	1,906	1,906	0	0	100% plans and specs completed. Spring bid planned.
DPW	STREET LIGHTING REPLACEME 6H0020	TOTAL	179,529	15,499	164,031	0	Funds to be used to purchase lights for Harvard St.
DPW	CARLETON STREET FOOTBRIDGE 6H0021	TOTAL	90,000	0	0	90,000	To be expended when construction funding secured.
DPW	SIDEWALK IMPROVEMENTS 6H0022	TOTAL	374,847	327,412	4,157	43,277	On going annual replacement program.
DPW	BAKER SCHOOL PATHWAY IMPROVEME 6H0024	TOTAL	1,719	0	0	1,719	To be used in summer. Any unspent balance closed out 9/1/05
DPW	CHESTNUT ST DRAIN/WILLOW POND 6H0025	TOTAL	57,942	1,418	9,890	46,635	Waiting for Muddy River proj. to remove contam. soil
DPW	STREET REHABILITATION 6H0026	TOTAL	2,359,622	1,055,689	1,153,292	150,641	Ongoing annual maintenance program
DPW	PLANS & PRELIM COSTS-CARLETON 6H0027	TOTAL	22,194	16,839	5,355	0	Concept designs complete. Applying for Mass. AAB waiver.

Dept	Account		Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
	COOLIDGE CORNER LIB DRIVEWAY						
DPW	6H0028	TOTAL	40,000	0	0	40,000	Waiting for library repairs to be completed
	NEWTON ST LANDFILL SITE						
DPW	6L0001	TOTAL	2,694,859	167,594	59,398	2,467,868	Spring bid - summer construction planned.
	AMORY FIELD IMPROVEMENTS						
DPW	6P0003	TOTAL	35,000	0	0	35,000	Design to commence Fall 2005
	COOLIDGE PARK IMPROVEMENTS						
DPW	6P0004	TOTAL	26,592	160	0	26,432	Planting in accordance with Master Plan
	DANE PARK STUDY						
DPW	6P0005	TOTAL	60,000	0	0	60,000	Design to commence Fall 2005
	LAWTON PLAYGROUND						
DPW	6P0006	TOTAL	350,000	24	0	349,976	Design underway
	LONGWOOD MALL						
DPW	6P0007	TOTAL	35,000	4,696	0	30,304	Planting and improvements in progress
	DOWNES FIELD TRACK						
DPW	6P0008	TOTAL	60,000	0	0	60,000	Is being coordinated with other Park improvements
	SMALL GREEN OPEN SPACE/STREETS						
DPW	6P0009	TOTAL	50,000	0	0	50,000	Construction to commence Summer/Fall
	RIVERWAY PARK IMPROVEMENT						
DPW	6P0015	TOTAL	86,369	0	64	86,305	Improvements being coordinated with Muddy River Restoration
	PLAYGROUND EQUIPMENT,FIELDS,FE						
DPW	6P0018	TOTAL	405,232	146,407	110,016	148,809	Projects planned and underway
	PATHWAY RECONSTRUCTION						
DPW	6P0021	TOTAL	61,174	0	1,000	60,174	To combine w/ \$150K in FY06 funding. Summer construction.
	OLMSTED PARK IMPROVEMENTS						
DPW	6P0022	TOTAL	63,377	13,906	0	49,471	Improvements being coordinated with Muddy River Restoration
	HALL'S POND						
DPW	6P0023	TOTAL	855	830	0	25	Any unexpended balance to be closed out 6/30/05
	TENNIS/BASKETBALL COURT REHAB						
DPW	6P0028	TOTAL	112,017	17,681	1,940	92,396	Improvements being planned in coordination with Lawton Playground Renovation
	AMORY WOODS SANCTUARY						
DPW	6P0030	TOTAL	11,142	0	0	11,142	Accessibility Improvements in Planning Stage. To be spent by 6/30/06.
	LARZ ANDERSON PARK						
DPW	6P0031	TOTAL	484,080	263,606	32,064	188,410	Design complete and project going out to bid
	LOST POND CONSERVATION AR						
DPW	6P0034	TOTAL	61,650	1,246	10,000	50,404	Planned for improvements after Landfill Closure

Dept	Account		Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
	FORESTRY RESTORATION-CONS						
DPW	6P0035	TOTAL	58,010	11,745	46,265	0	In process
	PHRAGMITES CONTROL-MUDDY						
DPW	6P0037	TOTAL	26,606	20,000	0	6,606	In process
	WALNUT HILLS CEMETERY IMP						
DPW	6P0040	TOTAL	37,629	2,629	0	35,000	Planning underway for entrance area
	SPORTS FIELDS STUDY						
DPW	6P0042	TOTAL	5,000	5,000	0	0	Complete
	OLD TOWN GREEN IMPROVEMEN						
DPW	6P0043	TOTAL	30,000	0	0	30,000	Replace sidewalks in summer 05. Any unspent balance to be closed out 9/1/05.
	TOWN/SCHOOL GROUNDS REHAB						
DPW	6P0044	TOTAL	306,824	205,111	40,563	61,150	In process
	HEMLOCK TREE ASSESS/REMOV						
DPW	6P0045	TOTAL	95,704	27,694	2,678	65,331	In process
	MUDDY RIVER REMEDIATION						
DPW	6P0047	TOTAL	1,405,000	0	0	1,405,000	Permitting in process
	TREE & SHRUB MANAGEMENT						
DPW	6P0048	TOTAL	25,838	838	0	25,000	In process
	PARK LAND/OPEN SPACE MASTER PL						
DPW	6P0049	TOTAL	70,771	55,000	0	15,771	In process
	AMORY PARK ENVIRONMENTAL STUDY						
DPW	6P0050	TOTAL	35,049	3,663	0	31,385	In process
	TRAF SIG-WASHINGTON-THAYE						
DPW	6T0009	TOTAL	20,000	0	0	20,000	Repave Thayer St. summer 05
	TRAFFIC CALMING						
DPW	6T0014	TOTAL	524,629	124,574	45,992	354,063	To be used for Walnut/Kennard intersection, South/Grove intersection, and Reservoir Road.
	TRAF SIG-INDEPENDENCE/BEVERLY						
DPW	6T0016	TOTAL	100,000	24,850	0	75,150	25 % design complete - Summer/Fall 05 construction
	TRAF SIG STUDY/INSTALL-GROVE/A						
DPW	6T0017	TOTAL	135,000	22,759	10,178	102,063	25 % design complete - Summer/Fall 05 construction
	TRAF SIG-SOUTH/GROVE ST INTERS						
DPW	6T0018	TOTAL	145,000	0	25,000	120,000	25 % design complete - Summer/Fall 05 construction
	NEWTON ST/W ROXBURY PKWY TRAF						
DPW	6T0019	TOTAL	150,000	2,100	0	147,900	Conceptual design complete. 100% design summer 05.
	LONGWOOD/KENT TRAFFIC SIG						
DPW	6T0020	TOTAL	69,020	0	0	69,020	Evaluating consultants recommendations

Dept	Account		Revised Budget	YTD Expended	YTD Encumbered	Available	STATUS / COMMENT
DPW	TRAF SIGNAL-WASH/PARK ST 6T0022	TOTAL	42,221	42,221	0	0	Complete
DPW	PEDESTRIAN SIGNAL @ 61 PARK ST 6T0024	TOTAL	15,000	20	0	14,980	RFP received 3/17/05. Consultant to be selected and contract executed by end of April. Design spring / summer 05 with construction fall 05 and spring 06.
DPW	MOUNTFORT ST TRAFFIC SIGNAL 6T0026	TOTAL	140,000	20	0	139,980	RFP received 3/17/05. Consultant to be selected and contract executed by end of April. Design spring / summer 05 with construction fall 05 and spring 06.
DPW	BKLN VILL PEDESTRIAN WALKWAY 6T0027	TOTAL	30,000	29,139	861	0	Evaluation study complete
DPW	STUDY/DES TRAF IMP-NEWTON/WR P 6T0028	TOTAL	25,000	25,000	0	0	Conceptual design complete
DPW	STUDY/DES TRAF IMP-HJ/PUT CIRC 6T0029	TOTAL	20,000	19,690	310	0	Conceptual design complete
DPW	MOD TRAF SIG-FIRE STATION 6 6T0030	TOTAL	60,000	0	0	60,000	RFP received 3/17/05. Consultant to be selected and contract executed by end of April. Design spring / summer 05 with construction fall 05 and spring 06.
DPW	MOD TRAF SIG-FIRE STATION 7 6T0031	TOTAL	60,000	0	0	60,000	Work to be done as part of Beacon St. project.
DPW	HORACE JAMES CIR TRAFFIC IMP 6T0032	TOTAL	150,000	41	0	149,959	Conceptual design complete
DPW	WATER METER REPLACEMENT 6W0003	TOTAL	150,000	0	0	150,000	Project underway - Funds to be expended in FY06
Library	LIBRARY SELF CHECK OUT UNITS 6E0012	TOTAL	50,000	0	0	50,000	Funds to be spent within the next six months.
Library	COOLIDGE CORNER LIB FURNISHING 6E0013	TOTAL	155,000	0	0	155,000	To be spent when bldg closed for HVAC repairs (summer)
REPORT TOTAL:			25,862,845	6,852,353	4,552,970	14,457,521	

NOTE: Data as of 3/30/05, including contracts approved by the Board of Selectmen through their 3/29/05 meeting.

**Available Budget Report - Capital Funds
for Fiscal Year 2005**

			<u>Revised Budget</u>	<u>YTD Expended</u>	<u>YTD Encumbered</u>	<u>Available</u>	<u>Status / Comments</u>
TOTAL	C065	COMPUTER TOWN/SCHOOL/LIBRARY	352	0	352	0	Encumbered funds complete project.
TOTAL	15C	FINANCE CAPITAL	352	0	352	0	
TOTAL	C088	HEATH SCHOOL INTERIOR RENOVATI	2,197	2,197	0	0	Project complete
TOTAL	C097	HIGH SCHOOL IMPROVEMENTS	255,202	97,285	14,512	143,405	To be completed by 9/9/05
TOTAL	C099	NEW MUNICIPAL SERVICE CENTER	28,614	28,614	0	0	Project complete
TOTAL	C119	PUBLIC SAFETY FACILITY REN	230,288	61,755	12,076	156,458	Window work remains. Balance to be used as part of relocation of Fire Dept Vehicle Maintenance Shop, if approved by Town Meeting when recommended.
TOTAL	C120	BAKER SCHOOL RENOVATIONS	288,706	29,032	109,521	150,154	Under litigation
TOTAL	C121	SCHOOL FIRE ALARM/LIFE SAFETY	140	0	0	140	To be completed by 9/9/05. Any unexpended funds to close out.
TOTAL	C127	SENIOR CENTER	12,225	12,225	0	0	Project complete
TOTAL	C132	SCHOOL LIFE SAFETY SYSTEM	493,072	23,748	96,592	372,732	Work at Pierce and Devotion to be completed by 9/9/05
TOTAL	C133	DRISCOLL SCHOOL ELEV/ROOF FA	1,284	1,284	0	0	Project complete
TOTAL	C134	OLD LINCOLN ELEVATOR & REPAIR	264,850	203,438	61,412	0	To be completed by 9/9/05
TOTAL	C135	FIRE STATION #1 RENOVATION	16,369	3,737	0	12,632	Project complete. Balance to be used as part of relocation of Fire Dept Vehicle Maintenance Shop, if approved by Town Meeting when recommended.
TOTAL	C139	MAIN LIBRARY RENOVATIONS	67,803	7,247	30,775	29,781	Ongoing disputes with sub-contractors delayed spending. Funds should be spent by end of 2005.
TOTAL	C141	DRISCOLL SCHOOL HVAC EQUIP	900,000	11,011	308,413	580,576	To be completed by 9/9/05.
TOTAL	C142	PUTTERHAM MEADOWS GOLF/CLUBHSE	1,728,692	0	0	1,728,692	On-going project.
TOTAL	C143	LAWRENCE SCHOOL AND LONGWOOD P	5,781,414	4,620,169	530,468	630,777	Project a.) being completed and b.) under litigation
TOTAL	C146	DRISCOLL SCHOOL IMPROVEMENTS	167,754	142,835	24,919	0	To be completed by 9/9/05
TOTAL	C147	NEWTON STREET LANDFILL	3,490,000	0	0	3,490,000	To be bid in May 2005
TOTAL	C149	DRISCOLL SCHOOL IMPROVEMENTS	1,275,839	555,692	720,147	0	To be completed by 9/9/05
TOTAL	25C	BUILDING CAPITAL	15,004,449	5,800,269	1,908,834	7,295,345	
TOTAL	C032	WARREN FIELD	2,518	0	0	2,518	To be spent in summer 05. Any unspent closed out 6/30/05.
TOTAL	C038	STREET REHABILITATION	26	0	0	26	To be spent in summer 05
TOTAL	C057	LIGHTS AT WALDSTEIN/AMORY	3,058	0	749	2,309	To be used as part of Amory Park renovations
TOTAL	C110	SCHICK PARK	14,782	9,600	0	5,182	To be spent by 8/05
TOTAL	C128	WASTE WATER SYSTEM IMPROVEMENT	27,116	10,559	16,557	0	Project Completed
TOTAL	C137	WATER METER REPLACEMENT	1,200,000	38,887	7,113	1,154,000	Contract awarded 04/2005
TOTAL	C144	WASTEWATER SYSTEM IMPROVEMENTS	3,974,850	1,391,492	1,096,866	1,486,491	Ongoing Projects
TOTAL	C145	STORM DRAIN IMPROVEMENTS	924,759	13,682	4,000	907,077	Ongoing Projects
TOTAL	C147	NEWTON STREET LANDFILL	4,400,000	0	0	4,400,000	Spring 05 bid, summer construction
TOTAL	C148	BEACON STREET RECONSTRUCTION	2,600,000	0	0	2,600,000	Spring 05 bid, summer construction
TOTAL	C150	MUDDY RIVER RESTORATION	745,000	0	0	745,000	Project in permitting phase
TOTAL	40C	DPW CAPITAL	13,892,109	1,464,220	1,125,284	11,302,603	
REPORT TOTAL:			28,896,909	7,264,490	3,034,471	18,597,948	

NOTE: Data as of 3/30/05, including contracts approved by the Board of Selectmen through their 3/29/05 meeting

ARTICLE 5

FIFTH ARTICLE

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

SELECTMEN'S RECOMMENDATION

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without the specific approval of Town Meeting. The Police Department has a number of unpaid bills related to the medical expenses for public safety employees who were injured in the line of duty totaling \$1,363.45. The Town is responsible for these expenditures under MGL Chapter 41, Section 100. These bills were received by the Town just recently even though the services were rendered as far back as January, 2001.

In addition, there are three unpaid bills from the Police Department for Verizon Wireless totaling \$5,963.32, bringing the total unpaid bills amount to \$7,326.77. These bills were received after June 30, 2004, even though they were for services rendered in April, May, and June. The lateness of these bills was caused by Verizon's improper billing of their services (wireless applications for the Department's wireless laptop system). By the time Verizon determined the proper amount owed by the Town, the fiscal year had come to a close.

The Board has reviewed the following bills and verified that they are valid obligations of the Town:

Surgi-Care Inc.	\$ 192.34
Beth Israel Deaconess	\$ 480.77
Occupational Health Center. N.E. Baptist	\$ 489.01
Caritas Radiology Associates	\$ 45.18
EMG Medicine – HMFP at BIDMC	\$ 94.73
P.O.S.T	\$ 61.42
Verizon Wireless	\$5,963.32

Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 26, 2005, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article five seeks Town Meeting's approval for the payment of bills from previous years.

DISCUSSION

Our Police Department has a number of outstanding bills for contracted services provided in previous fiscal years. A number of these bills are medically related for Public Safety employees injured while on duty (\$1,363.45).

Additionally, there are Verizon bills for wireless service provided to the Police Department. The original bills were improperly invoiced by Verizon and contested by our Police Department. There was resolution and the Town was properly billed. However, the elapsed time pushed the billing into a new fiscal year.

All of the afore mentioned bills (detailed below) have been adjusted and verified. These bills were received in this fiscal year; they are for contracted services rendered in a prior fiscal year.

Under State law, a vote of Town Meeting is required before these can be paid.

Surgi-Care Inc.	\$ 192.34
Beth Israel Deaconess	\$ 480.77
Occupational Health Center. N.E. Baptist	\$ 489.01
Caritas Radiology Associates	\$ 45.18
EMG Medicine – HMFP at BIDMC	\$ 94.73
P.O.S.T	\$ 61.42
Verizon Wireless	\$5,963.32

RECOMMENDATION

After reviewing these bills, the Advisory Committee UNANIMOUSLY (18 – 0) recommends FAVORABLE ACTION on the following vote:

VOTED: To authorize the payment of the following unpaid bills of previous fiscal years from the FY2005 Police Department budget:

Surgi-Care Inc.	\$ 192.34
Beth Israel Deaconess	\$ 480.77
Occupational Health Center. N.E. Baptist	\$ 489.01
Caritas Radiology Associates	\$ 45.18
EMG Medicine – HMFP at BIDMC	\$ 94.73
P.O.S.T	\$ 61.42
Verizon Wireless	\$5,963.32

XXX

ARTICLE 5

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without the specific approval of Town Meeting. There are a number of unpaid bills from the Police Department that are before Town Meeting this evening for approval. Earlier this week, a new unpaid bill emerged from the Human Relations – Youth Resources Commission in the amount of \$36.13 for Dell Government Leasing.

The Board of Selectmen and the Advisory Committee will be reviewing the bill prior to the commencement of Town Meeting and will have a recommendation when Article 5 is taken up for consideration. Both bodies will take up the following vote:

VOTED: To authorize the payment of the following unpaid bill of a previous fiscal year from the FY2005 Human Relations – Youth Resources budget:

Dell Government Leasing	\$36.13
-------------------------	---------

ARTICLE 6

SIXTH ARTICLE

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2006 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY89. The estimated cost is approximately \$45,000 and is funded from the tax abatement overlay account. The law allows the Town to increase the exemption by up to 100% as indicated on the following schedule:

<u>Description</u>	<u>Ch. 59, Sec.5 Clause</u>	<u>Current Amount of Taxes Exempted</u>	<u>Proposed Amount of Taxes Exempted</u>
Surviving Spouse	17D	\$175	\$350
Veteran (10% Disability)	22	\$250	\$500
Veteran (loss of one hand, foot or eye)	22A	\$425	\$850
Veteran (loss of two hands, feet or eyes)	22B	\$775	\$1,550
Veteran (special housing)	22C	\$950	\$1,900
Veteran (certain widows of soldiers)	22D	\$250	\$500
Veteran (100% disability, cannot work)	22E	\$600	\$1,200
Blind	37A	\$500	\$1,000
Elderly	41C	\$500	\$1,000

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on March 29, 2005, on the following vote:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2006 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

ROLL CALL VOTE:

Favorable Action

Allen
Geller
Hoy
Merrill

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This Article would allow the Town to continue its current practice of increasing state-mandated property tax exemptions for several classes of taxpayers, including veterans with a 10% or greater disability, surviving spouses, blind taxpayers, and low-income elderly taxpayers. The Town is required to give these taxpayers a basic exemption whose amount is specified in state law and which is partially reimbursed by the state. The Town also has the option to increase these exemptions by any amount up to 100%. The increase must be uniform across all the exemptions, and the increased exemption may not decrease an individual taxpayer's liability below the previous year's amount.

DISCUSSION

The proposed increases, tabulated below, require annual authorization and have been approved by Town Meeting each year since FY1989. The exemptions under Clauses 17 and 41 are means tested, and the Town recently voted to have the maximum eligibility levels for these exemptions indexed to inflation. The Assessor estimates that the cost for FY2006 will be about \$45,000 and has already built a reserve for this purpose in the FY2005 tax abatement overlay account.

Description	Clause	Base Amount(\$)	Proposed Amount(\$)
Surviving Spouse	17D	175	350
Surviving Spouse	17D	175	350
Veteran (10% disability)	22	250	500
Veteran (loss of one hand, foot or eye)	22A	425	850
Veteran (loss of two hands, feet or eyes)	22B	775	1,550
Veteran (special housing)	22C	950	1,900
Veteran (certain widows of soldiers)	22C	250	500
Veteran (100% disability, cannot work)	22E	600	1,200
Blind	37E	500	1,000
Elderly	41C	500	1,000
Elderly	41D	500	1,000

RECOMMENDATION

The Advisory Committee unanimously (16-0) recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

ARTICLE 7SEVENTH ARTICLE

To see if the Town will:

A.) Fiscal Year 2006 Budget

Appropriate the sums, or any other sum or sums, requested or proposed by the Selectmen or by any other officer, board or committee, for the fiscal year 2006 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with G.L. Chapter 44, Section 53E ½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F ½, and as otherwise authorized; and provide for a reserve fund.

B.) Fiscal Year 2006 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$29,017, or any other sum, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen, for furnishings and equipment for Town Buildings.
- 2.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town and School buildings.
- 3.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town and School buildings.
- 4.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to life safety systems in Town and School facilities and for the purpose of improving building security in Town and School facilities.
- 5.) Appropriate \$25,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School facilities.
- 6.) Appropriate \$110,000, or any other sum, to be expended under the direction of the Town Clerk, with the approval of the Board of Selectmen, for the purchase of Direct Read Electronic (DRE) voting machines.
- 7.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for the enhancement of town-wide hardware and software.

- 8.) Appropriate \$375,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a fire engine.
- 9.) Appropriate \$80,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the design and installation of air conditioning systems at various fire stations.
- 10.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Board of Library Trustees, for the upgrade of the HVAC system at the Coolidge Corner Library.
- 11.) Appropriate \$65,000, or any other sum, to be expended under the direction of the Library Trustees, with the approval of the Board of Selectmen, for furnishings at the Putterham Library.
- 12.) Appropriate \$1,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 13.) Appropriate \$710,924, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets, utilizing so-called Chapter 90 funding.
- 14.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements.
- 15.) Appropriate \$200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of sidewalks.
- 16.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.
- 17.) Appropriate \$115,000, or any other sum, to be expended under the direction of the Commissioner of Public Works and the Director of Planning and Community Development, with the approval of the Board of Selectmen, for improvements to the physical landscape in Brookline Village, including pedestrian access.
- 18.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repairs to the Lincoln School wall.
- 19.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pathway reconstruction.

- 20.) Appropriate \$350,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for improvements to Amory Playground.
- 21.) Appropriate \$170,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for improvements to Dane Park.
- 22.) Appropriate \$175,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the construction of a park at the former Newton Street Landfill.
- 23.) Appropriate \$300,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for improvements to playing fields at Downes Field and the Landfill Park.
- 24.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.
- 25.) Appropriate \$120,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town / School grounds.
- 26.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 27.) Appropriate \$400,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repairs to the Larz Anderson Skating Rink.
- 28.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen and the School Committee, for school furniture upgrades.
- 29.) Appropriate \$48,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for plans and specifications for renovations to the Tappan Street Gym roof and for the pointing of the brick exterior of the Tappan Street Gym.
- 30.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for the renovation of bathrooms at the Driscoll School.

- 31.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for gutters and downspouts at the Old Lincoln School.
- 32.) Appropriate \$40,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for plans and specifications for the sprinkler system at the Old Lincoln School.
- 33.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen and the School Committee, for the replacement of the elevator jack at the Pierce School.
- 34.) Appropriate \$500,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to the storm drain system.
- 35.) Appropriate \$2,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for water meter replacement.
- 36.) Appropriate \$1,260,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for engineering or architectural services for plans and specifications for remodeling, reconstructing, or making extraordinary repairs to Town Hall.
- 37.) Appropriate \$4,100,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for remodeling, reconstructing, or making extraordinary repairs to the Stephen Glover Train Memorial Health Building.

C.) Funding

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

SELECTMEN'S RECOMMENDATION

The Board of Selectmen is in agreement with the Advisory Committee on the FY2006 Town Budget. Reflective of the Financial Plan submitted by the Town Administrator, the budget

proposed by the Advisory Committee totals \$192,107,177, an increase of \$1,171,498 (0.6%). The table below details the entire FY2006 budget, including enterprise / revolving funds:

	FY2005	FY2006	INCREASE/DECREASE	
			\$	%
REVENUE				
General Fund Revenue	173,149,274	173,375,430	226,156	0.13%
Water and Sewer Enterprise Fund	20,727,047	21,486,191	759,144	3.66%
(less Water & Sewer Overhead included in General Fund Revenue)	(4,750,571)	(4,554,526)	196,046	-4.13%
Golf Enterprise Fund	1,390,863	1,196,950	(193,913)	-13.94%
(less Golf Overhead included in General Fund Revenue)	(481,684)	(379,554)	102,130	-21.20%
Recreation Revolving Fund	1,013,532	1,102,424	88,892	8.8%
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(112,781)	(119,737)	(6,956)	6.2%
TOTAL REVENUE	190,935,679	192,107,177	1,171,498	0.6%
APPROPRIATIONS				
General Fund Operating Budget	153,439,657	159,625,597	6,185,941	4.0%
Non-Appropriated Budget *	8,270,909	7,939,029	(331,880)	-4.0%
<u>Free Cash-Supported / Revenue-Financed CIP Budget</u>	<u>11,438,708</u>	<u>5,810,803</u>	<u>(5,627,905)</u>	<u>-49.2%</u>
General Fund Total	173,149,274	173,375,430	226,156	0.1%
Water and Sewer Enterprise Fund	20,727,047	21,486,191	759,144	3.66%
(less Water & Sewer Overhead included in General Fund Revenue)	(4,750,571)	(4,554,526)	196,046	-4.13%
Golf Enterprise Fund	1,390,863	1,196,950	(193,913)	-13.94%
(less Golf Overhead included in General Fund Revenue)	(481,684)	(379,554)	102,130	-21.20%
Recreation Revolving Fund	1,013,532	1,102,424	88,892	8.8%
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(112,781)	(119,737)	(6,956)	6.2%
TOTAL APPROPRIATIONS	190,935,679	192,107,177	1,171,498	0.6%
BALANCE	0	0	0	

* State and County Charges/Offsets, Overlay, Deficits/Judgments.

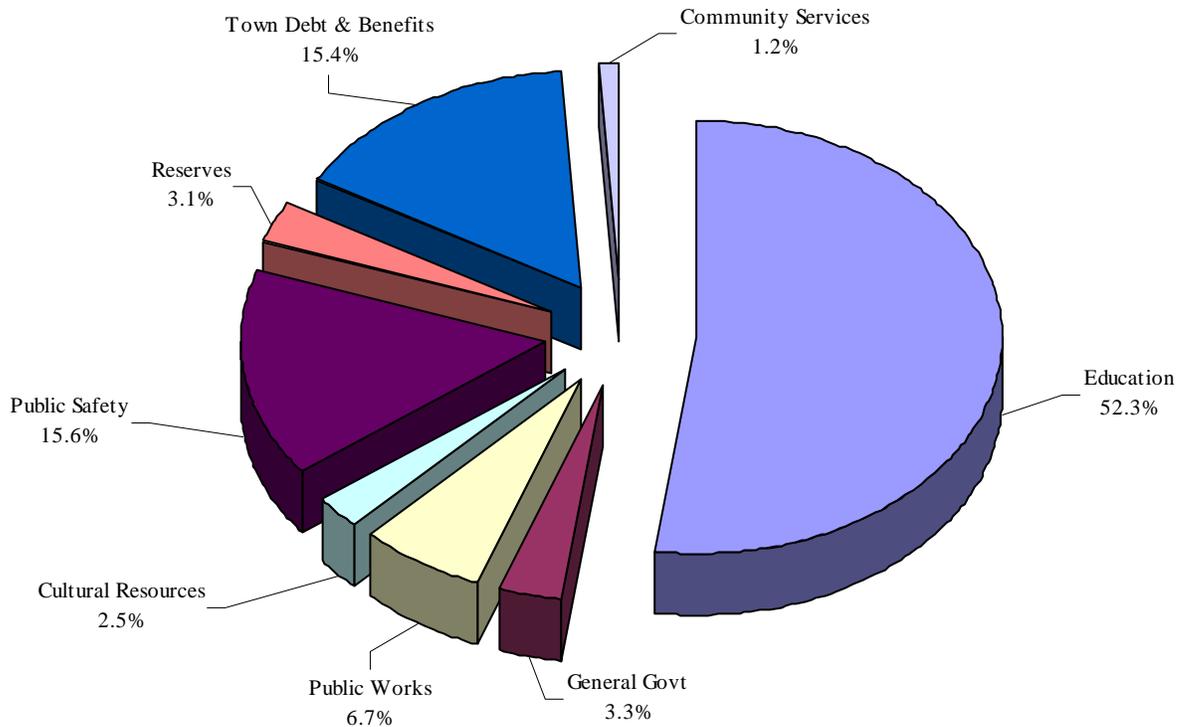
It includes a General Fund Operating Budget of \$159,625,597, which represents an increase of \$6,185,941 (4%); revenue-financed capital of \$5,810,803; enterprise/revolving funds totaling \$23,785,565 (gross); and unappropriated expenses of \$7,939,029. The table on the following page details the FY2006 General Fund revenues and expenses.

FY2006 GENERAL FUND SUMMARY				
	FY2005	FY2006	INCREASE/DECREASE	
			\$	%
REVENUE				
Property Tax	119,852,045	124,540,213	4,688,168	3.9%
Local Receipts	17,981,628	18,900,300	918,672	5.1%
State Aid	17,094,030	17,636,724	542,694	3.2%
Free Cash	6,966,241	4,606,534	(2,359,707)	-33.9%
Other Available Funds	11,255,330	7,691,659	(3,563,671)	-31.7%
TOTAL REVENUE	173,149,274	173,375,430	226,156	0.1%
(LESS) NON-APPROPRIATED EXPENSES				
State & County Charges	5,262,677	5,251,146	(11,531)	-0.2%
Tax Abatement Overlay	1,800,995	1,500,000	(300,995)	-16.7%
Deficits & Judgments	50,000	25,000	(25,000)	-50.0%
Cherry Sheet Offsets	1,157,237	1,162,883	5,646	0.5%
TOTAL NON-APPROPRIATED EXPENSES	8,270,909	7,939,029	(331,880)	-4.0%
AMOUNT AVAILABLE FOR APPROPRIATION	164,878,365	165,436,401	558,036	0.3%
APPROPRIATIONS				
Town Departments	53,897,274	56,200,090	2,302,816	4.3%
School Department	55,817,215	58,007,124	2,189,909	3.9%
Non-Departmental Total	43,725,167	45,418,383	1,693,216	3.9%
General Fund Non-Departmental	38,380,130	40,364,565	1,984,435	5.2%
Water and Sewer Enterprise Fund Overhead *	4,750,571	4,554,526	(196,046)	-4.1%
Golf Enterprise Fund Overhead *	481,684	379,554	(102,130)	-21.2%
Recreation Revolving Fund Overhead *	112,781	119,737	6,956	6.2%
OPERATING BUDGET SUBTOTAL	153,439,656	159,625,597	6,185,941	4.0%
Revenue-Financed Special Appropriations	11,438,708	5,810,803	(5,627,905)	-49.2%
TOTAL APPROPRIATIONS	164,878,364	165,436,401	558,037	0.3%
BALANCE	0	0	0	

* These Overhead figures match the Water and Sewer Enterprise Fund Reimbursement, Golf Enterprise Fund Reimbursement, and Recreation Revolving Fund Reimbursement revenue sources found under the "Other Available Funds" revenue category.

Graphically, the fully-allocated \$159,625,597 General Fund Operating Budget is shown on the following page.

FULLY ALLOCATED FY2006 GENERAL FUND OPERATING BUDGET



This budget for FY06 marks the third year of a multi-year strategy to work through a protracted period of fiscal stress. It also fulfills significant collective bargaining obligations that were deliberately deferred until this year; reflects the on-going effort to control and manage large cost centers like employee benefits and utilities; and builds upon the initiative to expand the revenue base through economic development and by increasing local receipts.

Some of the key features of the FY06 budget are:

- Total operating budget increase of \$6.2 million or 4% (compared to a 3.4% increase from FY04 to FY05, as amended).
- School budget increase of \$2.2 million or 3.9%, augmented by a \$1,000,000 carry forward of FY05 Special Education Circuit-Breaker funding (compared to a \$2.1 million increase from FY04 to FY05, as amended).
- \$3.4 million of total budget increases earmarked for collective bargaining, steps, etc. (compared to \$2.4 million in FY05).
- A \$1.36 million (8.8%) increase in health insurance costs (second year of single-digit budget increase).
- Increases in pensions (\$389,000) and Utilities (\$300,000) totaling \$689,000, compared to \$323,000 in FY05.

A number of significant obligations were deliberately delayed until 2006, both in the hope of deferring them beyond the worst of the downturn and sequencing them in conjunction with other initiatives designed to blunt their budgetary impact. Overall, this strategy appears to have succeeded. While survival budgeting is hardly cause for celebration because of lost opportunities and actual cutbacks, it seems that the Town might be turning the corner in the

State's fiscal crisis without either eliminating core services or compromising the community's long-term financial position.

Carrying out such a complex strategy over a multi-year period in the diverse organization of Town government requires the commitment of innumerable individuals and groups. The Board has consistently supported the Town Administration in the effort to maintain budgetary stability. The School Committee and School Administration have remained committed to the Town/School Partnership. The willingness of the Advisory Committee to support the budget in providing the framework for the budget each year has been most appreciated. Particularly noteworthy has been the collaboration of the unions, who have been willing to negotiate limited settlements in specific years to structure acceptable wage patterns over a multi-year period. Without the cooperation of the unions, the critically important changes in our group health program would not have occurred. Finally, and perhaps most importantly, the creativity and perseverance of our talented department heads have been essential in carrying out this formidable agenda.

STRATEGIC OVERVIEW

The FY02 Budget Message stated:

"The FY02 Financial Plan maintains essential services while strategically positioning the Town for an expected downturn in the national and state economies. (It) is built upon sustainable revenue and reasonable expenditure assumptions. It continues the commitment to addressing the long-term liabilities of ... insurance (and other) costs."

With this approach as a strategic backdrop, the groundwork was set in the months following that Budget Message for the multi-year effort to meet the anticipated financial downturn: electricity and sanitation contracts were put out to bid; meetings with regional health care leaders were arranged; changes in parking meter and fine revenues were proposed; collective bargaining strategies were devised; and the formation of a Fiscal Policy Review Committee was recommended. When the outcome of these and other steps emerged in 2003 and 2004, they set the foundation for this FY2006 budget.

LABOR AGREEMENTS – By far and away, the most significant factor in the multi-year strategy was the negotiation of labor agreements from July, 2003 through June, 2006 that mirrored the Town's ability to pay. The importance of the cooperation of the labor unions in this regard can not be emphasized enough.

Central to the success of this approach was the synchronization of Town and School bargaining agendas through the Labor Advisory Committee, which was established in 1993 by Town Meeting resolution. The Committee is convened by the Town Administrator and involves the participation of the School Committee, Board of Selectmen, and Advisory Committee. This coordinated approach allows School and Town negotiating teams to proceed with their respective bargaining agendas, while preserving a degree of cohesion for enterprise-wide concerns such as group health insurance.

Generally, the settlement patterns for FY04-06 ranged from 2% in year one to 2%-3% in year two to 3.5%-4% in year three. The cumulative 8%-9% base wage increase over three years roughly broke down to 9% for teachers, 8.5% for public safety, and 8% for labor force and

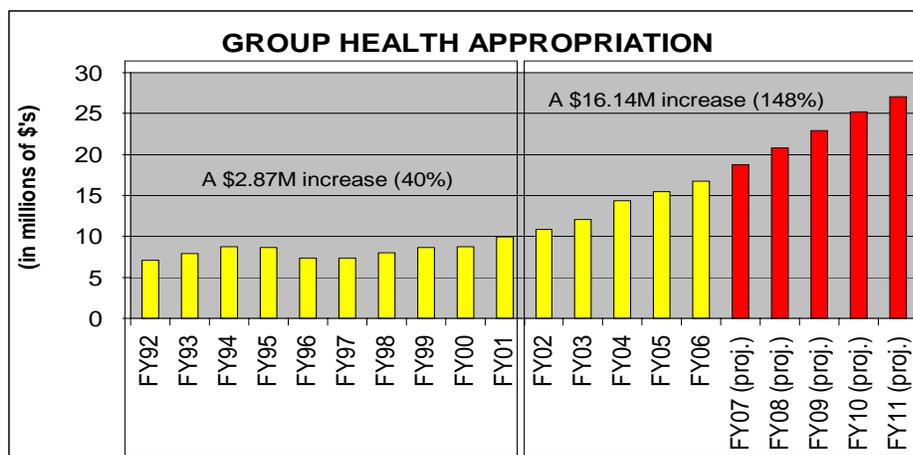
administrative personnel. Each settlement did provide additional compensation adjustments depending upon the particular needs of each unit, but these peripheral changes did not exceed .5% in any one year for any given bargaining unit.

The two key factors in this strategy were locking in a 2% adjustment for all units in the first year, which was our most difficult budget year, and negotiating flexibility for our group health program. In exchange for these and other items, the unions were granted wage increases that could be more than the cost of living for the third year (upcoming FY06) and the existing group health schedule of benefits was maintained, including \$5 office visit co-pays, prescription drug co-pays of \$5 and \$10, and ER co-pays of \$25.

With such limited wage adjustments in the early years of the labor agreements, across-the-board work-rule and language concessions were not expected. Nevertheless, some changes were negotiated that enabled several important initiatives to proceed. The police agreed to the establishment of a non-union Executive Officer position; AFSCME agreed to administrative changes that opened the way for the Public Safety Business Office; and teachers agreed to an additional instruction day.

FRINGE BENEFITS

- Group Health - On October 1, 2004, the Town moved all of its employees, retirees, and their dependents under the coverage of a single provider, Blue Cross and Blue Shield of Massachusetts. This final step was the culmination of 18 months of effort involving competitive bidding, complex plan conversion, and intense labor negotiations. This change will result in the avoidance of \$6 million in health insurance costs over the next five years. In FY05 alone, the Town realized \$800,000 in savings, which was used to offset local receipt revenue losses and to bolster the School budget. Additionally, employees saved \$267,000 in payroll withholdings for their share of group health premiums this year.



In addition to the outright reduction in FY05, BC/BS was able to hold the increase in premiums for FY06 to single digits. This two-year experience is remarkable in the Massachusetts municipal environment. For example, the state's largest municipal health purchasing consortium, with well over 100 members, is experiencing increases of 20% on average. The Town's two-year experience has helped enormously in providing the budgetary capacity necessary to support the wage adjustments deferred until FY06.

FY	RATE CH.	
	BC / BS	HAF
2001	20%	
2002	5%	
2003	5%	
2004	20%	
* 2005	-2%	
2006	10.3%	
Total		

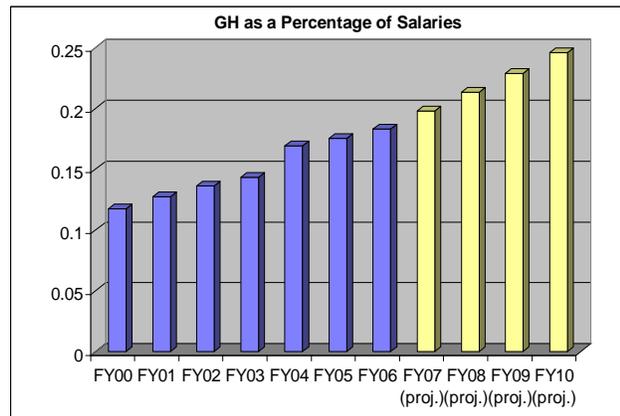
* While Hvd Pilgrim no longer offer

Obviously, the future for group health remains uncertain. Town budget increases prior to the most recent change were staggering -- 10.6% in FY03 and 19.5% in FY04. If double-digit rate increases were to return in the future, the renewed pressure on the operating budget would be immense. Going forward, it is expected that aggressive wellness programs and the introduction of consumer driven plans will be utilized to curb the growth in health costs.

Compounding the yearly rate increases is the growth in enrollees. Since FY00, the total number of enrollees has increased by 133, or 5%, with the Schools accounting for all of the growth (the Town has actually realized a decrease of 12). To put these figures into dollar terms, using the average cost of approximately \$6,000 per enrollee, the 133 new enrollees have added close to \$800,000 to the group health budget.

Of the 133 new enrollees, 50 are retirees and 83 are active employees. At the risk of a bit of simplification, when 50 employees retired, their positions were back-filled, and an additional 83 employees in new benefit-eligible positions enrolled in the Town's group health program. This retiree group health phenomenon will continue to place mounting pressure on budgets since approximately 110 Town employees will reach the maximum retirement benefit over the next five years. Among school employees, there are approximately 95 personnel with at least 25 years of service who are 55 years of age or older.

One result of the growth in this budget buster is that health insurance costs measured as a percentage of salaries has increased significantly, from less than 12% in FY00 to more than 18% in FY06. This growth is the inevitable outcome of a 93% increase in the group health budget versus growth in total Town and School salaries of less than 24%. The graph below shows this trend, along with projections of future growth, based upon the current assumptions for both the group health budget and collective bargaining settlements. The practical implications are that by FY10, for every \$1 earned by employees, the cost to the Town inclusive of health coverage will actually be \$1.25. This is shown in the graph above.

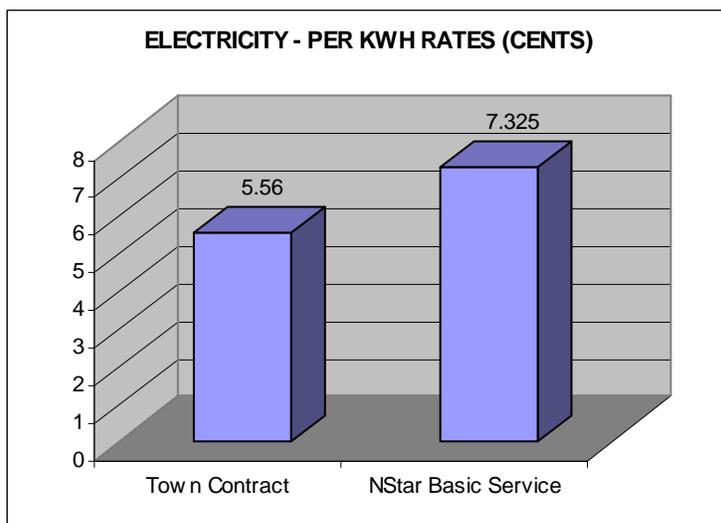


- **Retirement** – In order to maintain the Town's plan to fully fund the retirement system by 2023, an appropriation of \$9.92 million is required, an increase of \$389,000, or 4.1%. The increase could have been significantly larger had not the Retirement Board adopted changes to certain variables used in the calculation of the funding schedule. On May 25, 2004 the Chairman of the Retirement Board appeared before the Board of Selectmen to report that the following changes were adopted: long-term earning estimates were increased from 8% to 8.25%; long-range wage increase assumptions were reduced from 5.5% to 5%; and annual budget inflation was increased from 2.5% to 3.5%. Although this remains a considerable increase, the preponderance of which is allocated against the municipal (non-school) budget,

it avoids the necessity of much deeper cuts in operating accounts that would have resulted from the initial estimate.

LONG TERM CONTRACTS

• Electricity – As part of our multi-year strategy, the Town Administration attempted, where possible, to lock in long-term commodity/service contracts to sustain as much price stability as possible. Fortunately, because the Town was among the very first municipalities to act in the aftermath of utility deregulation in 1997, Brookline was able to secure favorable electricity contracts during this recent period of revenue contraction and energy cost explosion. As shown in the graph below, the current electricity contract is a fixed price of



5.56 cents per kilowatt hour, which compares to the current basic service rate of 7.325 cents per kwh. Although other energy cost increases have been staggering (natural gas, heating oil, and gasoline/diesel), this long-term agreement will provide constant pricing through May, 2006. To date, it is estimated that approximately \$1 million in electricity costs have been avoided as a result of the Town's actions.

• Solid Waste Disposal Contract – In May of 2002, the Town entered into a five-year contract for solid waste collection and processing. Through the efforts of the DPW Commissioner, the Town was able to negotiate a cap on annual price increases of 2.5% over the life of the contract. This rate compares quite favorably to other communities. In addition, the contractor makes use of the transfer station, resulting in less noise and fewer trips for hauling the Town's 13,000 tons of solid waste to environmentally appropriate disposal sites.

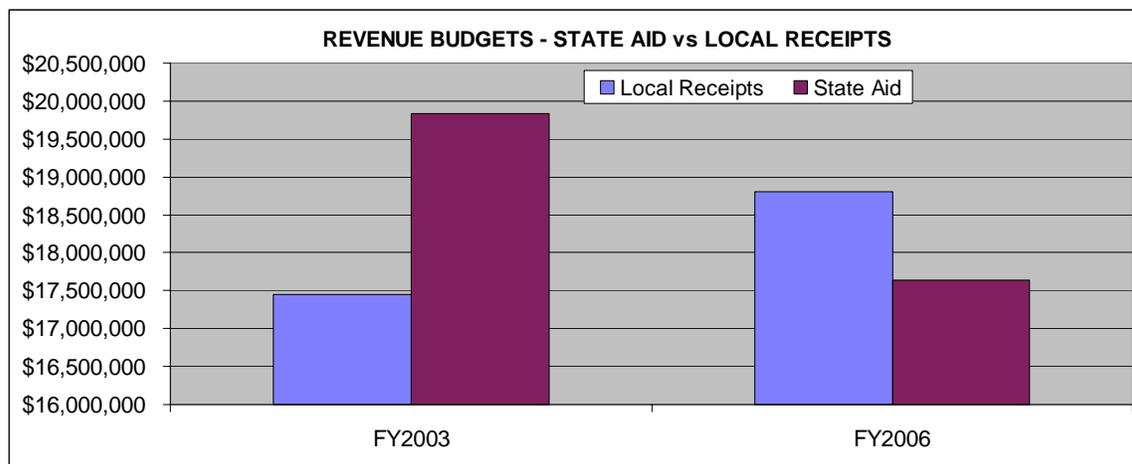
LOCAL REVENUE – Over the past several years, private development facilitated by Town Economic Development efforts have generated about \$1 million in "new growth" in the property tax levy. Many of these projects were on parcels that were previously tax-exempt. For example: Kendall Crescent (\$160,000), Webster St. Hotel (\$405,000, plus an additional approximately \$300,000 in Hotel/Motel Excise), and 1010 Commonwealth Avenue (\$145,000). In addition, starting in 2002, the Town increased parking meter rates, parking fines, and other local receipts. Meter rates were increased effective January, 2002. That fiscal year, meter revenue was \$1.2 million prior to the rate increase; last year, meter revenue was \$1.925 million. Meter rates here remain considerably lower than Boston and the rate increases have reportedly not adversely affected patronization of Brookline commercial areas.

Parking fines were increased effective September 1, 2002. This change occurred after the State Legislature authorized the Town to increase its fine schedule in response to a Home Rule petition voted at the 2001 Annual Town Meeting. Prior to the increase, parking fine

revenue was \$2.8 million; for FY06, it is expected to be \$4 million. Again, this increase has had a direct affect on the Town's ability to cope with the local aid cutbacks. However, it must be noted that this revenue actually peaked in FY03 at \$4.6 million and that the deterrent effect of the elevated fine schedule resulted in 44,000 fewer tickets issued in FY04 vs. FY03. After this initial surge in receipts, revenue estimates had to be revised downward mid-year in FY05.

Several other fine and fee categories, totaling about \$250,000, have been increased over the past two years. Ranging from Municipal Lien Certificates (MLC's) to Town Clerk fees to Fire Department inspection fees, a number of adjustments have been recommended by the Selectmen's Revenue Committee after thorough review.

The combination of these increases with the cuts in state aid has resulted in the Town generating more non-property tax revenue on its own than it receives from the State, as shown in the graph below.



FISCAL POLICY REVIEW COMMITTEE – In May of 2003, the Town Administrator recommended the establishment of a Committee to review all Town Fiscal Policies to ensure their viability with the passage of time, particularly in this period of budget crisis. The Report of the Committee is available in the Selectmen's Office or on-line at www.townofbrooklinemass.com. The recommendations of this Committee continue to be a critical factor in maintaining the Town's budgetary equilibrium.

- The recommendations brought greater clarity to the Fiscal Policies, which starting last year were printed in their entirety in the Financial Plan and are again this year in Section VIII. They can also be found after the conclusion of this recommendation.
- The recommendations provided much needed relief to the operating budget by offering greater flexibility in the area of reserves.
- The recommendation to continue with the CIP financing policy that dedicates an amount equivalent to 5.5% of the prior year's net revenue to the CIP stabilizes the overall impact of the CIP on the operating budget.
- The recommendation to continue using Free Cash for the replenishment of reserves and for the CIP allows the Town to avoid using this widely-fluctuating revenue source in the operating budget.

- The reaffirmation of the core principles underlying the fiscal policies brought a sense of reassurance to Town policymakers that the policies are indeed essential to the long-term viability of the Town's financial position.

In addition to adherence to the formal Fiscal Policies, during this multi-year period the Town has continued a number of budgetary and management practices that have also contributed greatly to the balanced FY06 budget. Judicious use of a hiring freeze, overall position control, and continuation of the 1994 Override requirements have played an important role. In particular, the Town/School Partnership has helped stabilized funding for education, giving school leadership an invaluable edge of predictability in the effort to sustain quality education.

BUDGET OBJECTIVES

Despite the budgetary pressures of recent years, the Town has been able to implement a number of organizational and/or process changes to improve both efficiency and performance. Among these changes have been the Combined Dispatch Center, Joint Public Safety Business Office, the unified (Town/School) Information Technology Department, expanded employee training, and the formal re-establishment of an organization wide mid-management (non-unionized) supervisory group. In addition, there have been innumerable opportunistic initiatives taking advantage of circumstances as they arose. For example, when the ambulance contract was renewed in the Spring of 2004, the informal stationing of a second ALS back-up unit was officially incorporated into the renewed contract with conditions to improve response times. As a result, the percentage of responses in less than six minutes has increased from 91% to 96%.

The Annual Financial Plan includes several hundred objectives reflecting the planned priorities for each department for the fiscal year. Some are general statements of intent; most are specific tasks expected to be accomplished. The following elaborates upon the 25 Objectives for FY06 identified by the Board of Selectmen. In the aggregate, the Selectmen's Budget Objectives outline much of the Town's policy agenda for the coming year.

1-3. Aaa Credit Rating; Operating Efficiencies; CIP - These financial objectives are addressed throughout the other sections of this Recommendation.

4. Legislative Agenda - The General Legislation that could have had the greatest impact on all cities and towns is the re-enactment of Ed Reform Legislation. The Supreme Judicial Court ruled on claims by students in a number of school districts contending that after 10 years of Ed Reform (1993-2002), equal educational opportunity is still not being provided under the state Constitution. The Supreme Judicial Court (SJC) denied these claims in February. While municipalities certainly will continue to insist upon continued Ed Reform that addresses Equity and Accountability, we must continue to seek funding adequacy to assist all districts in carrying out the undeniable requirements of providing quality education for diverse school populations.

There are also several pieces of Brookline Special Legislation (Home Rule Legislation) that will be taken up in this session. One of the most significant is the bill to enable the Town to enter into a 95-year lease for the redevelopment of the 2 Brookline Place property. State Law allows lease agreements for only 10 years. Passage of this Special Legislation is

essential to the success of the project that is expected to generate more than \$1 million per year in tax revenue.

5. Emergency Preparedness - Grant support for the Town's Emergency Preparedness is becoming more substantial. The Town was awarded a \$578,882 allocation under the \$17 million Urban Area Security Initiatives (UASI), for example. The next round of the UASI grant is expected to increase to \$25 million and the Town's allocation is expected to grow at least proportionately.

6. Brookline 300 - Planning for the Town's Tercentenary Celebration has been premised on the avoidance of Town appropriations to support the two major Brookline 300 programs: the Brookline 300 Festival and the Anniversary Day weekend. Efforts thus far have been able to honor that premise. For the \$150,000 fundraising goal, about \$140,000 in contributions has already been received. The Brookline community has been extremely generous. To the extent that the fundraising requirements can not be met, bequeathed trust funds and special revenue accounts will be reviewed for possible consideration for this purpose.

7. Comprehensive Plan - The proposed FY06 CDBG budget includes \$87,530 for Comprehensive Plan implementation activities. Coupled with remaining funds from previous appropriations, there will be adequate resources for implementing the first year work program to address the issues and opportunities identified in the Comp Plan.

8. Affordable Housing - The Town's Free Cash level was not certified at a high enough level to recommend an allocation in FY06 to the Affordable Housing Trust Fund under the Town's Fiscal Policies. However, previous allocations to the Trust Fund will soon realize a return from the St. Aidan's project. Construction of this 59 unit development with 50 desperately need affordable units will get underway this Spring. Permitting income alone will be \$300,000 and the new tax growth should eventually exceed \$300,000 annually.

9. Fisher Hill Reservoir(s) - Re-use of the adjacent State and Town inactive Reservoirs remains a priority -- the former for open space/recreation needs and the latter for development purposes, preferably housing. Proceeds from the sale of the Town site are expected to help fund the development of the state parcel, once acquired. The purchase price of the state reservoir can not be finalized until the Legislature approves the sale of the property. Because the Town's bill filed in 2003 did not make it through the Legislative Session that concluded in 2004, the bill must be re-filed with the General Court. Article 23 of the Annual Town Meeting requests this.

10. Zoning Administration Project - The FY06 budget includes \$30,000 for half-year start-up funding for a new position of Zoning Administrator. This new position is a direct result of the Zoning Administration Study, which provided a comprehensive overview of the Town's zoning process. The exact nature of this position will not be defined until a work plan for the Study's Interim Actions is completed, anticipated in June, 2005. The \$30,000 is budgeted in the Town Clerk's Office as a holding spot for the proposed position until its permanent organizational location can be determined.

The Zoning Administration Study identified more than 40 recommended actions that were categorized in six Issue Areas - - Initial Zoning Review and Application; Design Review Process; ZBA Decision Making; Consistency and Clarity of ZBA Decisions; Zoning

Enforcement; and Public Notice and Participation. In the course of this comprehensive analysis, the Study touched on as many as three possible staff positions: Zoning Clerk and/or Zoning Administrator and/or Zoning Enforcement Officer. In this period of budgetary constraint, no municipality can afford this quantum increase in staff. Judicious evaluation of the needs underlying these recommended actions has been needed to ensure that the most sound long-term staffing option is pursued.

In addition to the support of the Board of Selectmen and Advisory Committee, a special Citizen Monitoring Committee has voted unanimously in favor of establishing an additional staff position. Further, the type of phased-in approach proposed in this instance is not without precedent. In 1994, Town Meeting voted half-year start-up funding for the Economic Development Director position. This approach not only allows opportunity for the most careful consideration of how to define this position, it also respects the very tight budget constraints under which the Town must operate.

11-12. Economic Development Office; Commercial Tax Base – With a new Director on board, it is expected that the Economic Development Office will again play a prominent role in Town initiatives during the coming year. Proposed funding for the position is set at 1.0 FTE, a year ahead of the planned schedule for establishing full-time equivalency.

13+19 Open Space/Recreation Vision – In addition to the open space development at the Fisher Hill Reservoir, the conversion of the Newton Street Landfill site for active/passive recreational purposes remains on schedule. An Urban Self-Help grant in the amount of \$250,000 was just awarded to the Town to assist with this project. Also, the introduction of synthetic turf for an existing Town recreational/athletic site remains a priority.

External funding is also being pursued in conjunction with the feasibility study for this approach at Downes Field. The Recreation Master Plan, which was funded in FY05, will guide the delivery of recreation, park and open space amenities, services, programs, and facilities within the Town. The goal of this Master Plan is to establish a park and recreation policy framework, management and maintenance program, and capital improvement plan through which the quality of life of all Brookline residents will be enhanced well into the future.

14. Information Technology – The transformation of information technology from a “back-office” operation to a department that leads other Town and School departments in realizing their technology goals has been critically important. The IT Strategic Plan resulted in an IT Department, now led by a CIO who reports to both the Town Administrator and the School Superintendent, that has developed a model municipal website, helped the Fire Department enter the 21st century in terms of technology, and lead a team that chose a robust School Student Information Management System. Much work remains, however, including devising a wireless strategy, rolling out new enterprise-wide systems (maintenance management, records management), and completing the Instructional Technology Plan with the School Department.

15. Utilities - The Town has undertaken many utility-related initiatives in recent years. It is becoming increasingly evident that efforts should be taken to more closely coordinate these initiatives. The establishment of a more comprehensive approach with oversight of these disciplines should be considered. Participants on separate committees for utility deregulation, electric power aggregation, underground wiring, along with potential

representation from recent wireless initiatives, could be convened in a group with an overall mandate.

16. Town Counsel Transition – Recruitment and screening for the critically important position of Town Counsel is now complete. The Board of Selectmen unanimously approved the appointment of Jennifer Dopazo as Town Counsel. She has served as Assistant and Associate Town Counsel for the past 8 years and we are fortunate to have her take on the role as Town Counsel.

17-18. Collective Bargaining/Group Health – All Town and School collective bargaining agreements are settled through June, 2006, except for the firefighters, with whom a successor agreement has not been reached since the expiration of their last contract in 2003. The State Joint Labor Management Committee (JLMC) has taken jurisdiction of the firefighter negotiations. The sub-units for AFSCME have agreements that extend to June, 2007. As the commencement of negotiations approaches, the Town needs to ensure that it has once again structured a long-term approach that can provide equitable settlements within the Town's ability to pay.

20. Putterham Meadows Golf Course - Revenues from the Putterham Meadows Golf Course Enterprise Fund in recent years have not reached levels that can match expenditures for both the operation of the course and the budgeted fee for the Town's General Fund. Recent projections have indicated that course revenue will not even cover operational expenses by the end of this decade unless paid-rounds steadily increase. A comprehensive study of Putterham Meadows is anticipated through the retention of an experienced professional golf consultant. Strategies for increasing the number of paid-rounds will be fully explored. The study is expected to be completed this year in time for any adjustments that might have to be made in the preparation of the FY07 Financial Plan.

21-22. Cable TV/Access Television – The current license with Comcast, the larger of the two cable television providers in the Town, expires on June 30, 2005. The renewal license will need to address many critical issues including continued revenue to the Town, support for Brookline Access Television, and service quality standards. The RFP has been issued by the Town and negotiations are ongoing.

23. Focused Residence Picketing – Though not having a direct budgeting impact, the Selectmen will keep this matter on their agenda per the Town Meeting vote to extend the existing By-Law 18 months. The matter is to be brought back to Town Meeting in the Spring of 2006.

24. Handicapped Accessibility - According to the Building Department, the Town has invested several million dollars in handicapped accessibility over the past decade. This has been accomplished both as part of the capital renovations of most Town/School facilities and as the result of targeted initiatives at isolated needs such as elevators at the Driscoll School and the Old Lincoln School. In 2001, the Town entered into a consent agreement with the Justice Department concerning the remediation of over 100 specific accessibility items. Virtually all of these have been addressed. Recent meetings between the Town Administration and the Commission for the Disabled have helped clarify the misimpression that the Town had not been responsive to these requirements.

25. CDBG – Federal Block Grant Funds continue to support important social programs, in addition to functioning as a critical component of the Town's Capital Improvement Program and support budget. For the coming year, our CDBG allotment is expected to be \$1.85 million. The Town should continue to exert all possible efforts to see to the continuation of this program on the Federal level. Without these resources, housing, human services, and other essential community-based services will be cut back.

BUDGET CUTS / MAINTENANCE OF EFFORT INCREASES

Throughout the departmental budgets presented in the FY06 budget, there are a number of adjustments that unfortunately involve unavoidable cutbacks in many line-items, while other line-items are increased simply to sustain a maintenance of effort for essential needs. The \$242,000 in cutbacks has been spread across departments and are concentrated heavily in capital outlay. One part-time position is eliminated and the balance is being cut primarily from contractual accounts.

- The Assessing Department realized \$36,600 in reductions involving the elimination of a part-time position (-\$6,600) and a revised approach to the upcoming revaluation process (-\$30,000).
- The Police Department budget is reduced through the deferral of two cruisers (-\$68,294) and the Fire Department budget is reduced by (-\$30,000) as a result of eliminating an account that was established in FY03 for start-up purposes for Homeland Security. External funding has displaced the need to continue this Town funding.
- Both the Building Department (-\$24,000) and Health Department (-\$23,000) will be deferring vehicle replacements, including the addition of another hybrid vehicle.
- Contractual services have been reduced for Public Works (-\$45,000) and for the Board of Selectmen (-\$15,513). The DPW reductions are for leaf removal and streetlight repair and maintenance contracts. It is hoped that re-bidding the recycling contract might produce compensating savings. The Board of Selectmen's reduction comes from general consulting, the professional services account that is anticipated to support contractual services for cell tower technical studies and the Putterham Meadows study.

To sustain current services at maintenance of effort levels, a number of upward adjustments had to be made. These entailed the continuation of pay and classification revisions implemented over the prior two years as well as several maintenance and service contracts for technology.

And, as already noted, energy demands have jumped dramatically.

- It is recommended that the **Library** be able to establish a new half-time position to assist with increased demand, especially for the Coolidge Corner branch (+\$15,000).

- Police Department and Fire Department **technology support** (+\$60,035), particularly for wireless technology and communications needs. Increased support requirements for Town's financial system (MUNIS), outsourced payroll system (Harpers), and outsourced property tax accounts receivable system (+\$38,425).
- The recently implemented AFSCME pay and classification plan is continued (+\$68,000) along with step adjustments (+\$94,000) that result from the **pay and classification plans** approved over the past couple of years. Because of the transition from a self-insured to a **fully-insured health program**, personnel costs (+\$86,000) and consulting expenses (+\$10,000) previously charged to the Trust Fund must now be carried by the General Fund operating budget.
- In FY05, the Town's contractual price for **heating oil, natural gas, and gasoline/diesel** increased between 20% - 30%. Since the FY05 budget included an increase of just 5%, there are shortfalls in departmental budgets for these expenses. To fund FY06, the FY05 budget must be increased to reflect the actual costs, and then increased for anticipated cost growth in FY06. The combination of the FY05 underfunding and the FY06 cost increase results in a total budget-to-budget increase of \$296,361 (when Enterprise Funds are included, the increase is \$346,117). Fortunately, the Town's electricity contract is a fixed rate; therefore, no additional expenses are budgeted.

CAPITAL IMPROVEMENT PROGRAM

Over the past decade, the Town has made a significant commitment to its Capital Improvements Program (CIP) to address the backlog of capital needs created by the underinvestment in infrastructure during the late-1970's and the 1980's. Over the past 10 years, the Town has invested more than \$216 million in the CIP. Although there is more to do in the areas of street repairs, parks/open space improvements, and school and town facilities upgrades, the commitment to capital improvements is clearly showing positive results.

The FY06 – FY11 CIP continues the Town's aggressive approach toward reducing its capital project backlog and improving the Town's physical assets. Developed within the parameters of the Board of Selectmen's CIP Policies, which can be found in their entirety after the conclusion of this recommendation, the proposed CIP incorporates a number of major projects along with a financing plan that includes outside funding sources and grant opportunities. The fundamental policy that 5.5% of the prior year's net revenue be allocated to the CIP is observed, avoiding additional burdens on the operating budget.

The recommended CIP calls for an investment of \$73.18 million over the next six years, for an average of \$12.20 million per year. The total appropriations from all financial sources by year, by allocation, and by project category are shown in the table on the following page. (Please see the Planning Board's CIP Report for a complete listing of all projects.)

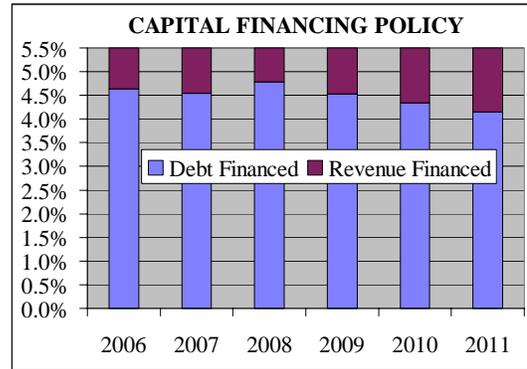
TOWN OF BROOKLINE CAPITAL IMPROVEMENT PROGRAM: FY2006 - FY2011										
REVENUE CODES:				CATEGORY CODES (CC):						
A = Property Tax/ Free Cash / Overlay Surplus		D = Golf Budget		G = Utility Bond		1 = New Facility Construction		4 = Infrastructure		
B = General Fund Bond		E = Golf Bond		H = CDBG		2 = Facility Renovation / Repair		5 = Vehicles		
C = State / Federal Aid		F = Utility Budget		I = Other		3 = Parks / Open Space / Playgrounds		6 = Miscellaneous		
CC	Total	Prior Year (FY05)	2006	2007	2008	2009	2010	2011	Future Years	
GRAND TOTAL BY SOURCE										
A = Property Tax/ Free Cash	48,052,989	10,819,969	5,242,017 36%	4,837,000 21%	4,446,500 44%	4,742,500 81%	5,262,500 38%	5,352,500 39%	7,350,000	21%
B = General Fund Bond	55,439,002	745,000	5,360,000 37%	11,850,000 50%	1,980,000 20%	924,000 16%	7,700,000 56%	- 0%	26,880,000	78%
C = State / Federal Grants	10,556,311	9,168,739	818,786 6%	568,786 2%	- 0%	- 0%	- 0%	- 0%	-	0%
D = Golf Budget	-	-	- 0%	- 0%	- 0%	- 0%	- 0%	- 0%	-	0%
E = Golf Bond	-	-	- 0%	- 0%	- 0%	- 0%	- 0%	- 0%	-	0%
F = Utility Budget	50,000	50,000	- 0%	- 0%	- 0%	- 0%	- 0%	- 0%	-	0%
G = Utility Bond	9,250,000	-	2,500,000 17%	6,000,000 26%	250,000 2%	- 0%	500,000 4%	- 0%	-	0%
H = CDBG	1,848,605	228,605	300,000 2%	220,000 1%	220,000 2%	220,000 4%	220,000 2%	220,000 2%	220,000	1%
I = Other	3,945,000	495,000	200,000 1%	- 0%	3,250,000 32%	- 0%	- 0%	- 0%	-	0%
Grand Total	129,141,902	21,507,313	14,420,803	23,475,786	10,146,500	5,886,500	13,682,500	5,572,500	34,450,000	
GRAND TOTAL BY ALLOCATION										
General Government	19,120,486	681,469	5,749,017 40%	10,750,000 46%	275,000 3%	250,000 4%	275,000 2%	300,000 2%	840,000	2%
Planning and Community Development	1,140,000	245,000	- 0%	- 0%	175,000 2%	- 0%	150,000 1%	- 0%	570,000	2%
Public Safety	2,620,000	415,000	455,000 3%	430,000 2%	120,000 1%	- 0%	150,000 1%	- 0%	1,050,000	3%
Library	1,998,500	793,500	165,000 1%	- 0%	412,000 4%	240,000 4%	73,000 1%	315,000 2%	-	0%
DPW - Transportation	820,000	695,000	- 0%	- 0%	- 0%	125,000 2%	- 0%	- 0%	-	0%
Engineering/Highway	27,004,916	12,882,344	2,473,786 17%	2,158,786 9%	1,752,500 17%	1,752,500 30%	1,917,500 14%	1,827,500 13%	2,240,000	7%
Water / Sewer	9,300,000	50,000	2,500,000 17%	6,000,000 26%	250,000 2%	- 0%	500,000 4%	- 0%	-	0%
Parks & Playgrounds	13,905,000	1,185,000	2,045,000 14%	2,320,000 10%	3,685,000 36%	980,000 17%	1,070,000 8%	980,000 7%	1,640,000	5%
Conservation/Open Space	3,445,000	1,905,000	130,000 1%	190,000 1%	420,000 4%	130,000 2%	180,000 1%	310,000 2%	180,000	1%
Recreation	2,030,000	1,175,000	140,000 1%	160,000 1%	355,000 3%	- 0%	50,000 0%	150,000 1%	-	0%
Public Schools	47,758,000	1,480,000	763,000 5%	1,467,000 6%	2,702,000 27%	2,409,000 41%	9,317,000 68%	1,690,000 12%	27,930,000	81%
Grand Total	129,141,902	21,507,313	14,420,803	23,475,786	10,146,500	5,886,500	13,682,500	5,572,500	34,450,000	
GRAND TOTAL BY CATEGORY										
1 New Facility Construction	-	-	- 0%	- 0%	- 0%	- 0%	- 0%	- 0%	-	0%
2 Facility Renovation / Repair	68,121,500	3,998,500	6,458,000 45%	12,302,000 52%	3,044,000 30%	2,634,000 45%	9,500,000 69%	2,190,000 16%	27,995,000	81%
3 Parks / Open Space / Playgrounds	19,175,000	5,090,000	2,175,000 15%	2,510,000 11%	4,105,000 40%	1,060,000 18%	1,175,000 9%	1,240,000 9%	1,820,000	5%
4 Infrastructure	36,264,916	11,872,344	4,973,786 34%	8,158,786 35%	2,177,500 21%	1,877,500 32%	2,567,500 19%	1,827,500 13%	2,810,000	8%
5 Vehicles	1,575,000	-	375,000 3%	50,000 0%	- 0%	- 0%	100,000 1%	- 0%	1,050,000	3%
6 Miscellaneous	4,005,486	546,469	439,017 3%	455,000 2%	820,000 8%	315,000 5%	340,000 2%	315,000 2%	775,000	2%
Grand Total	129,141,902	21,507,313	14,420,803	23,475,786	10,146,500	5,886,500	13,682,500	5,572,500	34,450,000	

The immediate challenge in balancing the FY06 – FY11 CIP was incorporating a number of major projects within the Town’s strict financing guidelines. These projects will increase the number of playing fields in Town (Newton St. Landfill Closure / Re-Use and the Fisher Hill Reservoir Re-Use), renovate the two Town facilities that serve as the work place for the largest number of town employees (Town Hall and Health Building renovations), renovate two of the Town’s school buildings (Runkle School and Devotion School), and restore a valuable natural resource of the Town (Muddy River Restoration). Another requirement that involves a significant investment is making certain renovations to the Old Lincoln School, work that is necessary so that it can be used as a temporary relocation site for employees of the Health Building and Town Hall and students and employees of the Runkle and Devotion Schools. In addition to these projects, there are a number of smaller, but no less important, projects that continue the Town’s on-going investment in infrastructure (streets, sidewalks, and water and sewer system), in parks and open spaces, in facilities (schools, fire stations, and branch libraries), and in technology.

In order to accommodate these projects, the following approach was formulated, based on the capital financing policies:

- An amount equivalent to 5.5% of the prior year’s net revenue, comprised of debt service and pay-as-you-go financing, is set aside each year of the six-year CIP. In

FY06, 4.63% is earmarked for debt service and 0.87% to pay-as-you-go. This fluctuates from year to year, depending on the level of debt service, but never exceeds the 5.5% total, as shown in the graph to the right.



- Free Cash, after going toward reserve funds per the Town's Reserve Fund Policies, is dedicated to the CIP. In FY06, \$3.78 million of Free Cash is used to support the CIP. The Free Cash estimate for the out-years of the CIP is lowered, resulting in less funding available for projects.

- Grant funds are used to further support the CIP. CDBG funds add \$1.4 million over the six-year CIP, providing much-needed funding for street rehabilitation and tree planting, to name a couple of the projects CDBG supports. State/Federal grants total \$1.4 million over the six-year period, most of which (\$1.1 million) comes from the State's Chapter 90 program (road repairs).

- The other significant funding component of the CIP is "Other" funds, the largest piece being an expected \$3.25 million from the sale of the Town-owned Fisher Hill Reservoir that would be used to fund the construction of a playing field on the State-owned site across the street.

While the proposed CIP is fundamentally and financially sound, it is "tight". As previously stated, there are a number of major projects included in the proposal to be funded via bonding, thereby decreasing the amount of pay-as-you-go available for the CIP. Free Cash continues to play a large role in the CIP: if Free Cash falls below current estimates, smaller projects would have to be delayed. Since Free Cash is projected to decrease, the pressure on the CIP is magnified. This is all evidence of the need to maintain fiscal discipline, avoid adding unscheduled projects, and guard against "scope creep" in any of the proposed projects.

LONG RANGE FINANCIAL PROJECTION

The cornerstone of our strategic budgeting process is the Long-Range Financial projection. Based upon an analysis of the internal and external factors impacting the Town's operations and finances, we have prepared the Long-Range Projection, which is reproduced on the following page, covering the period FY2006 through FY2010. The Town is facing an escalating deficit position for FY2007 and beyond. Collective bargaining costs, the continued increase in health insurance costs, and extreme limitations on local aid, coupled with the structural shortfall caused by Proposition 2½, portend a deficit that will grow to \$8.6 million by FY2010.

Revenues

Overall, annual revenue increases (exclusive of Free Cash and Overlay Reserve Surpluses) are expected to range between \$4.5 million and \$5.5 million, or 2.9% on average.

	FY2006 EST	FY2007 EST	FY2008 EST	FY2009 EST	FY2010 EST	TOTAL CHANGE
REVENUES						
Property Taxes	\$124,540,213	\$129,328,619	\$133,975,557	\$138,758,915	\$143,663,711	\$19,123,498
Local Receipts	\$18,800,300	\$19,029,126	\$19,264,017	\$19,505,142	\$19,752,676	\$952,376
State Aid	\$17,636,724	\$17,826,873	\$18,017,295	\$18,207,995	\$18,398,979	\$762,255
Other Available Funds	\$7,933,797	\$8,138,372	\$7,561,127	\$7,501,830	\$7,642,171	(\$291,625)
Free Cash	\$4,606,534	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000	(\$606,534)
TOTAL REVENUE	\$173,517,567	\$178,322,991	\$182,817,996	\$187,973,882	\$193,457,537	\$19,939,970
EXPENSES						
Municipal Services	\$54,550,090	\$56,721,665	\$58,674,404	\$60,468,461	\$62,008,995	\$7,458,905
School Services	\$56,267,124	\$60,075,874	\$62,862,374	\$65,527,374	\$67,962,374	\$11,695,250
Non-Departmental - Personnel Benefits	\$28,973,687	\$31,359,008	\$33,779,209	\$36,233,855	\$38,886,652	\$9,912,965
Debt Service	\$14,171,495	\$14,293,203	\$15,019,820	\$14,656,981	\$14,635,328	\$463,833
Revenue-Financed CIP	\$5,812,940	\$5,840,235	\$4,686,832	\$5,149,812	\$5,457,715	(\$355,225)
Reserve Fund	\$1,524,420	\$1,586,123	\$1,637,946	\$1,690,266	\$1,740,432	\$216,012
Non-Departmental - General	\$888,781	\$639,432	\$623,660	\$654,204	\$733,187	(\$155,595)
Non-Appropriated Expenses	\$7,939,029	\$8,060,479	\$8,222,465	\$8,388,501	\$8,558,687	\$619,658
TOTAL EXPENSES	\$170,127,567	\$178,576,020	\$185,506,709	\$192,769,453	\$199,983,370	
SURPLUS / (DEFICIT) - BEFORE COLL BARG	\$3,390,000	(\$253,029)	(\$2,688,713)	(\$4,795,571)	(\$6,525,833)	
TOWN COLLECTIVE BARGAINING	\$1,650,000	\$1,400,000	\$1,210,000	\$1,000,000	\$1,020,000	
SCHOOL COLL BARGAINING	\$1,740,000	\$1,490,000	\$1,270,000	\$1,040,000	\$1,060,000	
TOTAL COLLECTIVE BARGAINING	\$3,390,000	\$2,890,000	\$2,480,000	\$2,040,000	\$2,080,000	
TOTAL EXPENSES INCLUDING COLLECTIVE BARGAINING	\$173,517,567	\$181,466,020	\$187,986,709	\$194,809,453	\$202,063,370	\$28,545,803
TOTAL DEFICIT AFTER COLL. BARG.	\$0	(\$3,143,029)	(\$5,168,713)	(\$6,835,571)	(\$8,605,833)	(\$8,605,833)

- The Tax Levy is projected to increase an average of 3.6% per year. In addition to the standard 2.5% increase allowed under Proposition 2 ½, new growth in the tax levy resulting from building construction and condominium conversions is increased to \$1.75 million for FY2006 and FY2007, and \$1.5 million per year thereafter. An amount equal to debt service overrides less any School Building Assistance aid is also included in the calculation.
- Local Receipts are expected to increase by approximately \$820,000 in FY2006, due to an increase in interest income, building permits, and motor vehicle excise taxes. It is anticipated that local receipts will increase by approximately \$250,000 (1.2%) per year thereafter.

- Local Aid is expected to increase by \$543,000 in FY2006, based on the Governor's budget proposal. The phasing-out of the Lottery cap is included in the estimates, resulting in average annual increases of \$190,000. The Police Career Incentive (Quinn Bill) reimbursement is expected to increase based upon a formula of 50% of the previous year's costs. All other Local Aid categories, including Chapter 70 funding and Additional Assistance, are expected to be level-funded in FY07 and throughout the forecast.
- Free Cash, after deducting amounts for strategic reserves, is used exclusively for the Capital Improvement Program (CIP). Free Cash as of 7/1/04 was certified at \$4.6 million, resulting in \$3.8 million augmenting the CIP. The Free Cash estimate decreases to \$4 million for FY2007 – FY2010.
- Other Available Funds, with the exception of enterprise fund overhead revenue, are expected to remain level throughout the term of this forecast.

Expenses

Overall, annual expenditure increases (exclusive of CIP supported by Free Cash and Overlay surpluses) are expected to increase \$7.1 million on average, or 3.9%.

- The cost of Municipal Services is projected to increase by \$6.8 million, an average of \$1.7 million per year. Of the total increase, \$5 million is attributable to the cost of collective bargaining and steps. The balance of the increase, or approximately \$500,000 per year, is for inflation and fixed cost increases such as energy, refuse disposal, capital outlays, etc.
- The cost of School Services is projected to increase by \$11 million, or an average of \$2.8 million per year. Collective bargaining and steps account for \$6.6 million of the total. An increase of \$950,000 per year, on average, is included for Special Education Tuition, Elementary World Language, and inflation on transportation and education supplies.
- Personnel Benefits, which include group health and life insurance, pensions, Medicare, workers compensation, and unemployment compensation, are expected to increase by approximately \$2.5 million per year, or 7.6% per year. Group health insurance alone is expected to increase \$8.5 million, an average of \$2.1 million per year.
- Debt Service figures assume full implementation of the FY2006-FY2011 CIP and Debt Management Plan, which includes the Newton St. Landfill Closure / Re-Use, Beacon Street Improvements, Muddy River Project, Fisher Hill Acquisition / Re-Use, Lawrence School, Town Hall/ Health Department building improvements, the Runkle School and Devotion School renovations, and work at the Old Lincoln School. The debt service amounts comply with the Board's CIP financing policies that require an amount equivalent to no more than 5.5% of the prior year's net revenue, with a goal of 4.25%, be allocated for this purpose. Both Water/Sewer and Golf Debt are included in enterprise revenues paid to the Town in the form of overhead charges.
- The CIP Policies require that an amount equivalent to 5.5% of the prior year's net revenue be dedicated to the CIP, with stated goals of 1.25% of Revenue-Financed

CIP and 4.25% of debt financed capital funding each year. Debt service levels are predicted to be greater than the 4.25% goal in FY's 2006 – 2010, meaning the level of Revenue-Financed CIP is below the 1.25% goal. However, debt service does decline annually, enabling the Revenue-Financed goal of 1.25% to be reached in FY2011.

- Non-appropriated Expenses include State and County assessments, Cherry Sheet offset items, the tax abatement (Overlay) reserve, and court judgments. The two largest expenses are the MBTA assessment and the Overlay reserve. Beginning in FY2007, the MBTA Assessment will begin to increase annually, per the requirements of the funding schedule approved as part of MBTA Reform, also known as the “forward funding” legislation. Due to declining requests for tax abatements, the tax abatement overlay reserve will be funded at \$1.5 million in FY2006 and FY2007, and increased 2.5% per year thereafter.

CONCLUSION

Long-Range Financial Forecast – It is not too early to note that the forecasted shortfall for FY07 is projected at \$3.1 million, with the Town's share at approximately \$877,000. The total deficit is about 75% greater than the \$1.8 million deficit projected at the beginning of the planning cycle for this FY06 Financial Plan. Even if reality turns out to be more favorable than the assumptions contained in the FY06 Financial Plan, it is virtually impossible that it could improve to the point where FY07 preparations would commence in any better position than our starting point for FY06.

So if the budget could be balanced for FY06 without cuts in core services, why shouldn't the same be expected to be done again for FY07? There are several critical factors working against the Town for FY07. First, there will not be another windfall coming to the Brookline Public Schools under the Special Education Circuit Breaker. This unanticipated FY05 revenue will be utilized by the Schools for FY06. Even if the State were to fund its maximum commitment under the Circuit Breaker program, the distribution to the Town would nowhere approach the FY05 level, which alleviated enormous pressure on the school budget for FY06.

Second, within the fixed universe of group health insurance, it is difficult to envision a scenario by which the Town can have the same degree of success in beating the overall cost trends within the municipal sector. While we expect to expand preventative interventions and to introduce consumer driven programs, Town costs are much more likely to be carried by overall trends in FY07.

And finally, collective bargaining budget increases for AFSCME are already set at 3% for FY07. A 2%-1% 'split' has already been negotiated for this largest of all Town unions and the .5% carry forward from the 3%-1% 'split' of FY06 must also be accounted for. Of course, until the Police, Fire, and Teacher contracts are settled, there cannot be complete certainty as to what final collective bargaining costs will be. When pension increases, utility escalation, and other fixed costs are worked into the mix, the overall balancing exercise becomes all the more difficult.

It is urgently recommended that whatever actions are taken proceeding into FY06 – whether for the budget, collective bargaining, or program initiatives – that the outlook for FY07 be kept fully in mind.

FY05 Reserve Fund – The FY05 Reserve Fund is set at \$1.5 million in accordance with the Town's Fiscal Policies. As substantial as this amount seems, it is possible that it could be fully consumed due to the extraordinary demands to be placed upon it primarily by this winter's weather conditions and skyrocketing increases in costs for natural gas and petroleum-based fuels.

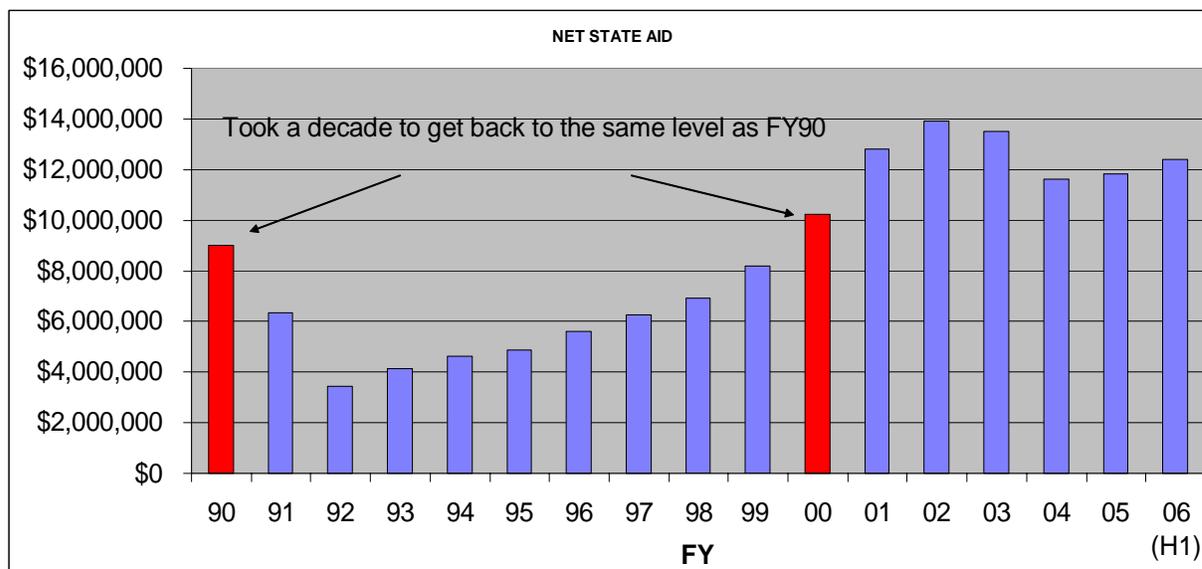
Recent experience indicates that reserve policies have served the Town extraordinarily well. In these times of fiscal stress, the reserve has insulated the operating budget from the irregularities of weather emergencies or energy spikes. For example, 100% of the reserve fund was used in FY01 and FY04. In FY03, more than 83% of it was used.

On the other hand, this consistent drain on the operating reserve does diminish resources potentially available for capital purposes. In a more normalized year for reserve usage, the fund balance at the end of the year is closed out to Free Cash and in that form made potentially available as funding for a subsequent year's CIP. The more of the reserve that is utilized, the less available for future capital needs. In considering future budgets, it is critically important for Town decision-makers not to lose site of these unforeseen pressures that have been persistently intense. Adherence to Town reserve policies going forward should continue to prove vitally important in maintaining overall financial equilibrium.

State Assistance - The future of State assistance to cities and towns is as uncertain as it has ever been. The incumbent Governor in his budget message and other communications seems to be suggesting that localities should, for the foreseeable future, expect increases equivalent to no more than economic indices. While this is encouraging to the extent that it does not suggest further local aid cutbacks, it really conveys only a portion of the much larger uncertain picture.

First, for many communities such as Brookline, the Governor's outlook is premised primarily on the potential restoration of Lottery proceeds that the State had already diverted to help balance its own budget since FY02. The Governor is accelerating the Legislature's restoration plan by one year, plus distributing anticipated growth in Lottery proceeds. According to the Governor's pronouncements, the local aid "growth" to be received by most communities is primarily the delayed payout of what was diverted in prior years. The House's proposal, while better in terms of shortening the phase-out on the Lottery Cap from five years to four years, maintains virtually all other state aid accounts at current levels.

Further, local aid accounts were cut across the board between FY02 and FY04. Brookline's local aid was cut by \$2.8 million during this period. The Governor's perspective suggests that Brookline could not expect to return to FY02 local aid levels until the end of this decade, again relying primarily upon the return of diverted Lottery proceeds to which cities and towns were originally entitled anyway. His budget holds out no expectation for recovering lost Education Aid or Additional Assistance at any point. The bar graph on the following page illustrates how it took a full 10 years to recover the local aid losses suffered in the early 1990's.



Finally, the Commonwealth's share of local education has recently declined. The State's contribution to Required Net School Spending as defined under Ed Reform actually receded from 40.9% in FY02 to 37.6% in FY04. Further perspective on our State's support for local education is provided by the Massachusetts Budget and Policy Center, which contends that Massachusetts state government funding of local public education ranks 43rd nationally as a percentage of average income, despite the infusion of an additional \$2 billion in Chapter 70 Education Aid. The House budget does add \$50 per pupil in Chapter 70 funding, but it remains to be seen to what extent the Senate concurs and whether a Gubernatorial veto might occur and be overridden.

Communities like Brookline will have to actively participate in the movement to increase support for education to all communities, not just resist diversion from one local aid account to another. The ability to cope with the demands associated with quality education transcend local property valuations, the levy from which is capped under Proposition 2 ½. Professional development, accountability for performance, diverse student enrollments, special needs all cost money. Further, the State must reduce the funding disparity among like-situated communities. Brookline is the largest Title I town in Norfolk County, yet it is at the near-bottom in Chapter 70 education aid as a percentage of foundation budget.

RECOMMENDATION

As stated at the beginning of this recommendation, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 26, 2005, on the vote offered by the Advisory Committee. The Board would like to thank the Advisory Committee again for another first-rate job on the Town's budget, paying particular attention to applying the Financial Polices that have guided Town budgeting over the past decade. The willingness of the Advisory Committee, School Committee, this Board, and, ultimately Town Meeting, to work collaboratively throughout the budget process is a major reason why this community has been able to maintain a stable financial position during the recent period budgetary stress.

TOWN OF BROOKLINE'S FISCAL POLICIES **Adopted by the Board of Selectmen on April 27, 2004**

FREE CASH POLICIES

After funding the Town's reserves, as detailed in the Town's Reserve Policies and summarized below, available Free Cash shall be used exclusively to supplement the Capital Improvements Program (CIP).

FREE CASH FOR RESERVES

- Appropriated Budget Reserve – an amount equivalent to 0.25% of the prior year's net revenue shall be appropriated as part of the Town's 1% Appropriated Budget Reserve Fund, as allowed for under MGL Chapter 40, Section 6.
- Stabilization Fund – Free Cash shall be used to fund the Stabilization Fund at a level equivalent to 3% of the prior year's net revenue, as prescribed in the Town's Reserve Policies. If the Fund were drawn down in the immediate prior fiscal year, then an allocation shall be made to the Fund in an amount at least equivalent to the draw down of the immediate prior fiscal year.
- Liability / Catastrophe Fund – to the extent necessary, Free Cash shall be used to reach the funding target of the Town's Liability / Catastrophe Fund, as outlined in the Town's Reserve Policies.
- Affordable Housing Trust Fund – in order to support the Town's efforts toward creating and maintaining affordable housing, Free Cash shall be appropriated into the Affordable Housing Trust Fund according to the following schedule:
 - when Free Cash exceeds \$6 million, 5% shall be allocated to the Affordable Housing Trust Fund.
 - when Free Cash exceeds \$7.5 million, 7.5% shall be allocated to the Affordable Housing Trust Fund.
 - when Free Cash exceeds \$10 million, 10% shall be allocated to the Affordable Housing Trust Fund.
- Special Use – Free Cash may be used to augment the trust funds related to fringe benefits and unfunded liabilities related to employee benefits.

FREE CASH FOR CAPITAL

After providing for the reserves and the Affordable Housing Trust Fund as stated above, 100% of any remaining Free Cash balance shall be dedicated to the Capital Improvement Program (CIP).

RESERVE POLICIES

The Town shall maintain the following general, special, and strategic reserve funds:

- Budget Reserve – to respond to extraordinary and unforeseen financial obligations, an annual budget reserve shall be established under the provisions of MGL Chapter 40, Section 6. The funding level shall be an amount equivalent to 1% of the prior year's net revenue, maintained in the manner set out below. Any unexpended balance at the end of the fiscal year must go toward the calculation of free cash; no fund balance is maintained.
 - Funding from Property Tax Levy – an amount equivalent to .75% of the prior year's net revenue shall be allocated from the Property Tax levy to the Appropriated Budget Reserve.
 - Funding from Free Cash – an amount equivalent to 0.25% of the prior year's net revenue shall be allocated from Free Cash, per the Town's Free Cash Policies, to the Appropriated Budget Reserve.

- Stabilization Fund – a Stabilization Fund shall be maintained, under the provisions of MGL Chapter 40, Section 5B.
 1. The target funding level for the Fund shall be an amount equivalent to 3% of the Town's prior year's net revenue, as defined in the CIP policies. The Fund shall be funded only with Free Cash or one-time revenues.
 2. The Stabilization Fund may only be used under the following circumstances:
 - a. to fund capital projects, on a pay-as-you-go basis, when available Free Cash drops below \$2 million in any year; and/or
 - b. to support the operating budget when Net Revenue, as defined in the CIP policies, increases less than 3% from the prior fiscal year.
 3. The level of use of the Stabilization Fund shall be limited to the following:
 - a. when funding capital projects, on a pay-as-you-go basis under #2a. above, no more than \$1 million may be drawn down from the fund in any fiscal year. The maximum draw down over any three year period shall not exceed \$2.5 million.
 - b. when supporting the operating budget under #2b. above, the amount drawn down from the fund shall be equal to the amount necessary to bring the year-over-year increase in the Town's prior year net revenue to 3%, or \$1 million, whichever is less. The maximum draw down over any three year period shall not exceed \$2.5 million.
 4. In order to replenish the Stabilization Fund if used, in the year immediately following any draw down, an amount at least equivalent to the draw down shall be deposited into the fund. Said funding shall come from Free Cash.

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

- Post-Retirement Benefits Trust Fund – established by Chapter 472 of the Acts of 1998, this fund shall be maintained to offset the anticipated costs of post-retirement benefits of retired employees. The uses of and procedures for accessing the fund are prescribed in the above referenced special act.

The balance in the Fund shall be maintained, but future funding shall be suspended until a comprehensive statewide municipal approach is adopted. When funding is re-activated, funding may come from continued decreases in other fringe benefit line-items; from continued year-end surpluses in appropriations for employee health insurance; from continued assessments on the non-General Funds that support benefit-eligible employees; and Free Cash and other one-time revenues.

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

CAPITAL IMPROVEMENT PROGRAM (CIP) POLICIES

Definition of a CIP Project

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

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

Evaluation of CIP Projects

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

Only those projects that have gone through the CIP review process shall be included in the CIP. The CIP shall be developed in concert with the operating budget and shall be in conformance with the Board's CIP financing policy. No project, regardless of the funding

source, shall be included in the CIP unless it meets an identified capital need of the Town and is in conformance with this policy.

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

The evaluation criteria shall include the following:

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

CIP Financing Policies

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

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

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

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

OUTSIDE FUNDING

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

ENTERPRISE OPERATIONS - SELF SUPPORTING

Capital projects for enterprise operations shall be financed from enterprise revenues solely.

CIP BUDGET ALLOCATIONS - 5.5% OF NET REVENUES

Total net direct debt service and net tax-financed CIP shall be maintained at a level equivalent to 5.5% of prior year net operating revenues.

- TAX FINANCED ALLOCATION - 1.25% OF NET REVENUES
Net tax-financed capital expenditures shall be maintained at a target level equivalent to 1.25% of prior year net operating revenues.
- DEBT-FINANCED ALLOCATION - 4.25% OF NET REVENUES
Net direct debt service shall be maintained at a target equivalent to 4.25% of prior year net operating revenues.

DEBT MANAGEMENT POLICIES

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

- Debt financing shall be reserved for capital projects and expenditures which either cost in excess of \$100,000 or have an anticipated life span of five years or more, or are expected to prolong the useful life of a capital asset by five years or more.
- Bond maturities shall not exceed the anticipated useful life of the capital project being financed. Except for major buildings and water and sewer projects, bond maturities shall be limited to no more than ten years.
- Bond maturities shall be maintained so that at least 60% of the outstanding net direct debt (principal) shall mature within 10 years.
- Total outstanding general obligation debt shall not exceed 2.5% of the total assessed value of property.
- Total outstanding general obligation debt per capita shall not exceed \$2,000. Beginning on July 1, 2004, the \$2,000 per capita shall be adjusted annually by the consumer price index (CPI) for all urban consumers (northeast region all items).
- Total outstanding general obligation debt per capita shall not exceed 6% of per capita income, as defined by the Census Bureau of the U.S. Department of Commerce.

FREE CASH

After using free cash in accordance with the Town's free cash policy, available free cash shall be used exclusively to supplement the capital improvements program.

ADVISORY COMMITTEE'S RECOMMENDATION

OVERVIEW

Each year in our budgeting process we contend with the structural challenge imposed by the constraints of Prop 2^{1/2}, since we are a community that relies heavily on our residential tax base. It is through a combination of creativity, discipline and the thoughtful commitment of many that we are able to accomplish what other communities have not, avoiding some uncomfortable decisions. The budget presented here is not merely a transaction, but the culmination of that engaged, deliberative process in which we actively participate.

A variety of sources contribute to this year's General Fund Revenue of \$173.4M (+0.13%). State Aid increases by 3.2% to \$17.6M under both the Governor's House I Budget and the House Ways and Means Budget. While no one was initially holding their breath expecting an increase in local aid, everyone is breathing a momentary sigh of relief to as both the Governor's proposal and the House proposal signal a commitment to this funding. But, we are realistic enough to know this is a year-to-year exercise that can quickly change direction. All of us should be concerned that the State stays committed to Local Aid. As expected, certified Free Cash decreased by 33.9% from last year, but still contributes \$4.6M (\$3.8M allocated to our CIP). Local receipts increase 5.1% to \$18.9M primarily due to increases in building permits, motor vehicle excise and interest income. Though our economy is not in high gear, building continues and more people are buying new cars. Also, as the Fed increases interest rates, the Town sees commensurate increases in interest income. The greatest contributor to our General Fund Revenue, of course, is property tax (78%). Property tax revenue increases 3.9% to \$124.5M. Of that \$4.8M increase, \$1.8M is attributable to new growth.

Expenditures balance revenues. Of our \$173.4M General Fund revenue, \$7.9M is deducted for non-appropriated expenses (state/county charges, "cherry sheet" offsets, tax abatement overlay). This leaves us with a total of \$165.4M (+0.3%) for appropriating.

Departmental expenditures (composing approximately 69% of our total expenditures) increase by 4.3% for the Town and 3.9% for the Schools over last year. Non-departmental expenditures, which include such things as Employee Benefits (64% of this category) reserves and insurance, increase by 3.9%.

As noted, Free Cash (\$4.6M) is less than last year. Also, we do not benefit from a large contribution of the Abatement Overlay Surplus this year. Therefore, revenue financed Special Appropriations (CIP) decrease by about 49% to \$5.8M in FY'06.

An outline of revenues and expenditures follows:

Revenues

	<u>\$</u>	<u>% change</u>
Property Tax	124,540,213	3.9
Local Receipts	18,900,300	5.1
State Aid	17,636,724	3.2
Free Cash	4,606,534	(34.0)
<u>Other funds</u>	<u>7,691,659</u>	<u>(32.0)</u>
Total Revenue	173,375,430	0.13

Expenditures

	<u>\$</u>	<u>% change</u>
Departmental	114,207,215	4.1
Non-Departmental	45,418,383	3.9
<u>Special Appropriations (CIP)</u>	<u>5,810,803</u>	<u>(49.0)</u>
Total non-appropriated Exp.	7,939,029	(4.0)
 Total Expenditures	 173,375,430	 0.13

PERSONNEL

Towns are service providers so it is no surprise that our budget is primarily dedicated to personnel expenses. 69% of this year's operating budget goes to wages and benefits.

Collective bargaining is a challenge in any economic climate. Everyone, understandably, wants increases in compensation. And, to be competitive and attract the sort of high quality employees we've come to rely on in Brookline we must be competitive in providing that compensation. However, compensation (wages and benefits) composes most of our operating budget, and increases can outpace inflation and our capacity to raise revenues for only so long. We, therefore, must be judicious in our programming and personnel structure if we are to maintain our core services and safeguard the jobs of our valued employees.

In an attempt to maintain a measure of financial stability, the Selectmen's Guidelines provide for no net increases in positions on the Town side of the budget. However, there are a couple of notable changes within the Town's personnel structure reflected in the FY '06 budget.

The Assessing Department has eliminated one part-time position, while the Library establishes a half-time position to help with increased demand at the Coolidge Corner branch. Demand at this branch increased when the main library was undergoing renovations and the increased level of usage remains (though this branch is expected to be relocated for several months during renovations).

The most significant personnel item appearing in the FY'06 budget is the half-year funding of a Zoning Administrator position (appearing in the Town Clerk's budget). Brookline's most valuable cash crop is real estate. While we see our houses & streetscapes as homes & neighborhoods, others see them as development opportunities. Increased development has not only put more stress on our neighborhoods and open space, but on our municipal services as well. Planning, permitting and development oversight falls on the shoulders of various departments, boards and commissions. The position of a Zoning Administrator is seen as not only an inspectional role, but as a nexus, a point of coordination and process oversight. The exact role and placement of this position within the Town's departmental structure must still be fine-tuned. This position, along with full integration of our Permits Plus system and recommendations borne out of our Zoning Administration Study (among other things), will help us better manage development in Brookline to the benefit of our community.

GROUP HEALTH & BENEFITS

Employee benefits (\$29M) will consume nearly 17% of this year's revenues. Benefits include such things as pension, workers' comp, unemployment, life insurance and health insurance. Group health costs (\$16.8M), already accounting for 10.5% for our General

Appropriation, are growing at a substantial rate, and contribute to the overall 5.7% growth in the total Benefits area.

Containing the rate of growth so it doesn't cannibalize other benefits and wages is a challenge.

This past year, to everyone's benefit, the Town and its employees collaborated to stem the pace of healthcare premium escalations by consolidating all Town employees and retirees under a single group health provider, Blue Cross/Blue Shield. With other municipalities experiencing 20% premium increases, Brookline's held to 10.3% for FY'06. While we fared well relatively, the absolute pace of healthcare premium escalation is tremendous. Compounding this effect is the growing number of retirees. Managing healthcare related costs will continue to be one of our most difficult tasks.

CAPITAL IMPROVEMENTS PLAN (CIP)

Brookline continues to have significant capital needs. How we accommodate those needs, and maintain our physical assets, is based on community standards and sound financial planning. This year we will authorize \$14.4M towards our CIP.

Funding for the CIP comes from grants (including CDBG, State/Federal grants) Enterprise Funds' budgets, tax revenue (\$1.5M) and Free Cash (\$3.8M). The CIP addresses items that need regular attention such as roads/sidewalks and water/sewer – those infrastructure items we often take for granted. It funds parks, playgrounds and many other items. Also, it addresses significant renovations to the two municipal buildings where most of the Town employees (our employees) work, Town Hall and the Health Department building.

Our financial guidelines call for 5.5% of the prior year's net revenues to be applied toward the CIP (4.25% towards debt service and 1.25% toward pay as you go financing). This year's split is 4.54% and 0.96% respectively. By FY'10 this ratio should be back at our goal. During this period of greater debt service allocation, Free Cash becomes more critical in supporting the CIP.

It is still unclear just how changes to the School Building Assistance (SBA) Program will impact our borrowing and debt service load. The plan is for the State to provide all qualified assistance up front rather than the Town having to borrow while waiting for reimbursement (though a lower reimbursement rate is expected). A newly formed State authority is formulating the specifics. The Lawrence School project will be the first to qualify for this change, with future projects falling under this new system.

Over the past 10 years Town Meeting has authorized more than \$216M towards our CIP. We are slated to authorize \$73.5M on CIP items over the next six years, averaging more than \$12M a year. Total outstanding debt is on the order of \$100M, with debt service at around \$14M. These are sobering numbers, yet manageable. It should be noted, though, that of the nearly \$100M in outstanding debt, close to \$19M is funded by enterprise funds and approximately \$34M is funded by the State through SBAB reimbursements, leaving approximately \$50M. While still a significant number, it's about half as sobering as the \$100M figure.

However, we must continue to focus on rigid project definitions and solid cost estimates. Part of good financial planning is the understanding and proper scheduling of debt. It means

leveraging available funds and opportunities, and strategically using favorable economic trends. Brookline's practice of long-term financial planning strives to do exactly that.

SCHOOLS

Brookline values education, and education adds value to Brookline. This year's allocation to the School Department of \$58M acknowledges this understanding. Fully allocated, the Schools comprise approximately 52% of the FY'06 General Fund Operating Budget.

Last year's budget pressures and the expiration of grants conspired to extinguish the Elementary World Language program in our schools. It was noted that budget savings from the discontinuation of that program would be directed toward an effort to intensify the mathematics curriculum with an approach similar to that which was so successful with Literacy several years ago. This year sees a redesign of the math curriculum and focused support there.

While our schools have had to contend with tight finances like every other system, we found ourselves an unexpected beneficiary of the State's new "circuit breaker" formula. Briefly, this means when the cost of a pupil covered under SPED breaches a certain threshold, the State reimburses a larger share of that cost (though Massachusetts reimburses poorly compared to other states). These serendipitous funds (\$1M) we first received last year have been rolled forward to help support the FY'06 budget. This new formula is expected to be maintained, and the Town and Schools will work out how this fits within the Town/School Partnership agreement, which considers SPED expenditures as, shared fixed costs.

A detailing of the School Department budget is provided below.

COMMON COMMITMENT

Brookline is a community with the exuberance of a city and the sensibility of a town, where we are prized for our parks, schools and services. While we have a long tradition of providing excellent services to our citizens, balancing affordability and service is always a challenge. So, we must carefully prioritize our pressing needs and our beckoning wants. This FY'06 budget is a solid and responsible approach to maintaining core services and values, while planning for the future.

As we know, revenue growth is circumscribed, in large measure, by the constraints of Prop 2 ½. We have come to realize how precarious State aid can be. We comprehend the competing needs and limitations of collective bargaining. We have seen our commercial tax base decrease over the years and the pressure that development adds to our neighborhoods. Both space and opportunity for new growth are limited. Neither can be squandered, but must be managed thoughtfully and wisely. We understand the financial challenges these things present. We also understand our town.

Energy and activism have kept this community strong for 300 years, and so long as we continue to channel our efforts towards creative and productive common solutions for the common good, we will remain a strong community for the next 300 years.

ADVISORY COMMITTEE'S REPORT ON THE SCHOOL BUDGET

Introduction

Town Meeting has only the authority to approve or disapprove the entire appropriation of Town funds for the Public Schools of Brookline. The authority to allocate those funds and other funds, such as grants, within the school budget is vested in the School Committee. The school budget offers substantial, detailed information on the allocation of funds. This report provides information on some significant elements of the school budget to focus attention on major fiscal issues facing the Public Schools of Brookline and to help you determine whether the final total is appropriate.

Overview

The FY2006 school budget enables the Public Schools of Brookline to maintain its level of effort from FY2005 and to undertake several program expansions and enhancements. In contrast to recent years, the budget contains no program reductions or fee increases. This situation is largely the result of a significant increase in state "Circuit Breaker" reimbursements for special education (SPED) expenses. The increase in revenue for FY2006 has enabled the Public Schools of Brookline to fund the cost of collective bargaining increases and several modest program expansions, including the hiring of additional elementary math specialists and instructional technology teachers.

Budget Summary

The FY2006 school budget of \$69.6 million (+4.66% over FY2005) is divided into expenditures from the General Fund of \$60 million (+5.56%) and from Special Funds of \$9.6 million (-0.65%).

<u>General Fund</u>		% Change
Town Appropriation:	\$56,907,124	4.76%
Override Funds	\$1,100,000	--
Tuition/Building Revenue	\$260,001	11.66%
Circuit Breaker	\$1,600,000	166.67%
Adult Ed./School Lunch	\$120,000	(31.43%)
 Total:	 \$59,987,125	 5.56%
 <u>Special Funds</u>		
Grant Funds	\$5,128,036	(4.92%)
Revolving Funds	\$4,457,241	4.75%
 Total:	 \$9,585,277	 (0.65%)
 TOTAL ALL FUNDS:	 \$69,572,402	 4.66%
 <u>Expenses by Type</u>		% of Total
Personnel	\$50,590,858	84.34%
Services	\$7,388,185	12.32%
Supplies	\$1,382,515	2.30%
Other	\$260,575	0.43%

Equipment	\$364,992	0.61%
Surplus	\$0	0.00%
TOTAL EXPENSES:	\$59,987,125	100.00%

It is important to note that personnel costs remain a very high proportion of the school budget.

The “Circuit Breaker” and Other State Aid

A bright light in this year’s budget planning process has been the positive impact of the state’s “Circuit Breaker” reimbursements for special education costs, which went into effect in 2004. Previously, the state paid for half of a school district’s out-of-district placement facility tuitions for SPED students. (Individual private placement tuitions can run as high as \$100,000.) Payments went from the state’s “50-50 account” directly to the residential private schools. The Circuit Breaker replaced this system with one that allows school departments to claim reimbursement for payment for outside private placement tuition as well as for any high-cost special education service delivery within the district beyond a set threshold (\$30,000 per student for FY2005).

Because of uncertainty as to what the state would decide, Brookline included a contingency in the FY2004 SPED budget, expecting the FY2004 receipt of \$750,000 to continue to be level-funded. At the end of FY2004, Brookline was advised it would receive \$1.02 million as a final FY2004 Circuit Breaker payment. The Legislature increased total Circuit Breaker funding statewide by \$70 million, increasing Brookline’s FY2005 Circuit Breaker estimates by \$600,000. The FY2005 school budget had already been passed and, with a pending change in superintendent, the Public Schools of Brookline took no action to expend the Circuit Breaker funds. In late September 2004, the Massachusetts Department of Education projected that Brookline would receive a total of \$1.78 million for FY2005. With the increase of \$754,000 over FY2004 funding and of \$1 million over expenditure projections, therefore, Circuit Breaker funds will be carried forward to FY2006. State regulations direct that Circuit Breaker funds received be designated a Revolving Fund and, as this funding is based on prior year actual experience, any available surplus in the Revolving Fund account can be spent in a subsequent year, as actual costs vary from year to year.

The advent of the Circuit Breaker system for reimbursing school departments prompted Brookline to revisit the Town/School Partnership formula for allocating revenue growth. The Town and schools factor into the Partnership formula the annual revenue growth experienced in the Circuit Breaker in the prior year. Thus for FY2006 the Circuit Breaker growth figure is \$765,000—the difference between the preliminary FY2005 Circuit Breaker and final FY2004 Circuit Breaker funding. After taking into account Special Education costs, the net effect of including the Circuit Breaker funds in the Town/School Partnership allocation was to increase funding for the Town budget by \$139,000.

Other Local Aid

For FY2006, state aid to Brookline is expected to increase slightly. The governor’s budget (House 1) level-funds Chapter 70 school aid, which means that in inflation-adjusted terms this assistance remains below what it was in 2002. The Massachusetts House of Representatives on April 29, 2005, voted to amend the budget to increase Chapter 70 aid and to increase METCO funding. This amendment would increase Brookline’s Chapter 70 aid by

\$292,200 over the House 1 amount, but the level of aid in the final state budget remains uncertain.

Charter School Assessment

For the first time, state aid to Brookline will be reduced because students from Brookline will be attending a charter school. The Advanced Math and Science Academy Charter School in Marlboro will reportedly enroll Brookline students in the fall of 2005. It was initially reported that 8 Brookline students will enroll, but subsequent reports suggest that the actual figure may be 5 or fewer. (At least 3 of these students have Chestnut Hill addresses and it is not clear whether they live in Brookline or not. The other 2 apparently live in Brookline.) If 8 students enroll, Brookline will be assessed charges of \$100,640. The charges will be offset by Charter Tuition Assessment Reimbursement from the state. The school department expects to receive full reimbursement for this assessment in the first year, but this depends on legislative action. In the second and third years the level of reimbursement may fall to 60% and 40%, respectively, and then to zero.

Maintenance of Effort

The cost increase necessary to maintain the current effort of the schools is estimated to be \$2,931,935. This includes: growth of \$528,750 in Special Education costs; an increase of \$2,077,348 to maintain current staffing—including collective bargaining and other contractual increases of \$1,671,198; funding to continue summer programs previously paid for through grants is estimated at \$65,193; \$12,000 in increased costs of providing secretarial support to the school-based doctor, through the Health Department; contracts for transportation and cleaning that are estimated to increase by \$58,428; a grant contingency of \$95,216, primarily to cover a 15% reduction in Title I funding; and enrollment adjustments and contingency of \$95,000.

Total revenue growth is projected to be \$3,162,060. Maintenance of Effort growth is \$2,931,935, which leaves a balance of \$230,125. Enrollment changes make it possible to eliminate 1 English Language Learners FTE (\$47,500) and several regular and SPED aides (\$60,696), generating a total of \$338,321 for program enhancements and expansions.

Program Enhancements for FY2006

The FY2006 school budget contains several program enhancements.

Elementary Math: Continuing the effort to improve math proficiency that began last year, the FY2006 school budget allocates \$169,500 to increase the number of math specialists in the elementary schools and to add a Town-wide math specialist. This program follows the model used successfully to improve literacy in the elementary schools. Although a program review is currently examining the math curriculum, there is a consensus that additional resources should be directed to math specialists even before the results of the review are available. The increases in math specialist FTEs will be allocated to increase staffing equity across the elementary schools.

Instructional Technology: To support the implementation of new technologies (e.g., in the classroom and libraries), the school budget allocates \$68,125 to fund a new full-time technologist position and increase staffing levels for instructional technology teachers at Heath, Lincoln, and Runkle so that those schools will have staffing levels comparable to other Brookline schools.

Brookline High School Individualized Instruction: Reducing some teaching loads from five to four classes will increase opportunities for individualized and small-group instruction. Some of this program enhancement can be achieved by revising priorities at Brookline High School. The school budget also reserves \$45,000 for potential further expansions of individualized instruction, pending the development of a more detailed program.

Other: As first steps toward expanding preschool programs, the school budget devotes \$2,000 to moving the offices of the Early Childhood Program from the Sperber Center to the Unified Arts Building and relocates an afternoon preschool program from Runkle to Devotion or Pierce. The budget also reserves \$9,500 that may be used to increase a Runkle equity in staffing (e.g., for assistant principal positions) among elementary schools. The budget also includes \$44,196 to offset Title II funding reductions.

Superintendent Lupini has indicated that after-school programs, early childhood education, and gifted and talented programs are among the potential initiatives that would be funded if additional funds become available. Increases in state aid or grants might provide such funding.

Special Education

The Public Schools of Brookline provide Special Education (SPED) services to students aged 3 to 22 years with disabilities, in compliance with state and federal mandates.

In Brookline, 18.3% of students receive SPED services, compared to 15% in all of Massachusetts. Although the number changes constantly, there are currently 1,100 students in active Independent Education Plans (IEPs). Approximately 100 students have been referred for evaluations. There are now 68 in outside private placements.

In recent years, the Public Schools of Brookline have combined a commitment to providing services to SPED students with creative approaches to ensuring that those services are delivered efficiently. As a result, the rate of increase in SPED costs has slowed from a peak of 13.63% in FY2002 to a budgeted 6.46% for FY2006. Nevertheless, SPED expenses account for a growing share of the budget. In FY2000 SPED was 18.64% of school expenditures. In FY2006, it is projected to be 21.93%, approximately the same level as in FY2004 and FY2005.

The recommended SPED budget for FY2006 is \$13,154,769, up \$702,041 from the FY2005 budget. Expenditure growth is up by \$228,750. The budget includes \$427,000 for private placement growth.

The project SPED total of 212.53 FTEs includes classroom teachers, instructional aides, substitutes, program coordinators, classroom aides, speech and language teachers, occupational and physical therapists, and support staff. Of 128 school positions added since FY1997, 72 have been for SPED services.

In the continued search for good and cost-effective programs, the Public Schools of Brookline have undertaken additions, realignments, and consolidations of in-house programs. The FY2006 budget includes \$14,250 for an adaptive physical education teacher, \$47,500 for a Grade 1 inclusion class at Heath. At Runkle, a class that began in 2005 serves significantly-involved students with autism from across Brookline. This program, which has one teacher and three aides and costs approximately \$90,000, makes it unnecessary to send

these students to more costly private placements. (Autism is currently increasing at a 30% annual rate at the preschool level.) A program at Lincoln for children with therapeutic and adjustment needs will be phased out and placed at Devotion for FY2006. The program will have three sections at Devotion, with no net FTE increase. The budget includes \$10,000 in new funding for summer programs for SPED students.

The FY2006 SPED budget includes \$47,000 for a program for five (possibly six) students transitioning to the High School from the district-wide elementary school programs for students with intellectual disabilities. Other personnel and therapy services are already in place for this program.

In an effort to evaluate children early and thereby head off later and more costly interventions, the SPED department has a joint program with the Early Childhood Division. SPED pays for students identified as having special needs. These children are mainstreamed into Early Childhood programs through an inclusion model. Home-based services are also provided when needed. SPED and Early Childhood are currently discussing the financial implications of a more inclusionary early childhood program—a priority of the superintendent. Data show that students who enroll in Brookline's K-12 program after participating in BEEP tend to be less expensive to educate in the long run than those from other programs. In general, the same holds true for students with some early childhood experience compared to those without any.

Some SPED costs are also embedded in other parts of the school budget. For example, a majority of services under the \$650,551 Psychological Services budget support SPED evaluation and eligibility determination. The Medical Services budget contains a 1.0 FTE nurse at the elementary level for \$65,000 who specifically tends to medically involved children as called for in their IEPs. School nurses occasionally consult about prescribed use of medications at SPED TEAM meetings. In addition, guidance counselors, social workers, adjustment counselors and mental health consultants serve all students, including those who happen to be in SPED. Literacy Specialists also work with some identified as SPED students. Although these embedded SPEC costs are not broken out in the school budget, they are reported to the Massachusetts Department of Education.

The school budget continues to list only Special Education and English Language Learners (ELL-formerly Bilingual) under its category of "Mandated Services," which constitutes 26.09% of staffing for the FY2006 budget. (The total FY2006 budget for ELL is \$1,464,674 with 24.40 FTEs.) The Advisory Committee believes that the Massachusetts Education Reform (MCAS and Teaching & Learning) as well as the federal "No Child Left Behind" act are also mandates and should be included officially in this category.

Enrollment Trends and the School Budget

The Brookline Public Schools are experiencing a modest decline in enrollment. Trend data on enrollment from 1990 to the present show a peak in 1997 with 6,096 students enrolled. In 2005 enrollment is 5,779, a decline of 5% since 1997. The shifts in enrollment are uneven across the school system. Elementary school enrollment has declined 11% percent while high school enrollment has increased by 10%. The decline in elementary school enrollment has enabled the schools to reduce average class size for kindergarten through eighth grade from 21.4 to 19.4 since 1996. Over the next five years, the School department projects a 2% decline in high school enrollment and a 1% increase at the elementary school level. The changes in enrollment are not sufficient to have significant implications for the overall school

budget. Enrollment changes will not create pressures for increased spending; at the same time, expected enrollment declines at the high school will yield only marginal opportunities for increased efficiency in use of resources.

Budget Outlook for FY2007 and Beyond

The Public Schools of Brookline are likely to face greater budget challenges in FY2007 and beyond. FY2006 may turn out to be a pleasant interlude between fiscally challenging periods—a calm between two storms. The relative good health of the FY2006 should not lull anyone into complacency about the fiscal challenges of maintaining excellence in public education.

The schools expect annual shortfalls in FY2007 and beyond, although all projections are tentative at this point and are generally based on conservative assumptions about revenue growth. The anticipated shortfall in FY2007 is most serious (\$2.3 million – compared to a total appropriation of \$61 million). Various factors contribute to the projected shortfalls. Unless there are significant increases in state aid, local receipts, or new growth, revenues are unlikely to grow at the 5.56% rate seen in FY2006. Increased revenues—including significant growth in “Circuit Breaker” funding—enabled the school budget to avoid program reductions in FY2006, but revenue increases of a similar magnitude are unlikely in future years. Brookline also will be challenged to maintain its current level of support from grant funds. In FY2006, grants represent 7% of school spending. The federal government’s efforts to contain its deficits are expected to reduce substantially federal grant funds available for schools. No doubt, Brookline school personnel will be creative and industrious in competing for the federal funds that will remain available, but some grants may have to be replaced with general fund appropriations.

On the expenditure side, personnel costs are expected to be the largest sources of expenditure growth. Of the expenditure growth anticipated in FY2007, for example, 52% is accounted for by various personnel categories (collective bargaining, step increases, and retirement). Special education is also expected to be a continuing source of expenditure growth. Increases of at least \$600,000 per year are projected through FY2010.

Brookline’s schools continue to seek stronger programs. These quality improvement efforts will have fiscal implications. Most conspicuous is an early world languages program at the elementary school level. A proposal for reimplementing a world languages program is projected for the FY2007 budget at an estimated cost of \$500,000, which would create approximately 10.0 FTE positions, including supervision and support, to allow direct service staffing at FY2004 levels. The program cost would grow by \$100,000 in subsequent years as it was added to additional grades. The schools are not projecting for budget increases for FY2007 and beyond for other program enhancements, but the superintendent has identified after-school programs, early childhood education, and gifted and talented programs as potential additions to the school budget. He also may consider lengthening the school day, which would lead to increased personnel costs as determined by the collective bargaining process. (It would probably also have implications for many programs including Early Childhood, METCO, and the after-school Extended Day programs.) In addition, increasing energy costs and the need to address a backlog in repairs and maintenance of school buildings may add to school budgets in FY2007 and beyond.

Conclusion

The Brookline Public Schools will continue to have a strong financial base. Personnel costs and special education will continue to be major factors in driving up costs. Fiscal constraints provide very little room for program enhancements. In FY2007 and beyond the schools may find it increasingly challenging to balance their budget.

Recommendation

The Advisory Committee unanimously recommends FAVORABLE ACTION on the budget appropriation of \$58,007,124 for the Public Schools of Brookline.

**ADVISORY COMMITTEE SUBCOMMITTEE ON CAPITAL
FY-2006 Capital Improvement Program Recommendations
PROJECT DESCRIPTIONS**

36. PUBLIC BUILDINGS FURNISHINGS & EQUIPMENT \$29,017. (T)

The Public Building Furnishings and Equipment capital purchase is an on-going program that began in FY99 to update and improve office furniture in Town offices. Since the majority of furniture at that time was 30+ years old, there were ergonomic, wear, and fire code issues that needed to be addressed. Brands were standardized and materials, office furniture, cabinets, chairs, and related furniture were purchased with a lifetime guarantee. A phased-in approach (two to three departments per fiscal year) allowed the Town to refit all offices in Town Hall, including the School Department on the 5th floor.

Going forward, individual offices and workstations in buildings outside of Town Hall, such as Recreation, Public Works, and Fire Stations, will require replacement due to reconfiguration and personnel changes. The replacement program in Town Hall is continuing on a smaller scale, with various conference room tables, furniture replacements for specific offices, as well as special items such as large file cabinets and lateral files, ordered as required.

37. ASBESTOS REMOVAL - SCHOOL/TOWN \$50,000. (T)

This appropriation, which is requested every year, will allow for the removal of asbestos whenever it is discovered in a Town/School facility. Many times when mechanical system repairs are in progress, expensive asbestos abatement has been required. These funds will allow for the proper abatement of asbestos.

38. ADA RENOVATIONS - SCHOOL/TOWN \$50,000. (T)

This annual program of ADA improvements is requested in order to bring Town/School buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all. These funds will be used on buildings that are not part of currently planned major renovations

39. SCHOOL/TOWN BUILDING SECURITY/LIFE SAFETY **\$100,000. (T)**

Over the last few years, there have been several large capital projects that have improved the security situation of Town/School buildings. This program will extend this effort and improve areas where security may be lacking. In general, the plan calls for making all the doors around the perimeter of a building more secure by replacing the doors, frames, door handles, and locks with electronic locks that may only be opened with a keypad and/or on a specific schedule. Only the front main entrance of the building would allow for general access. At the front door a speaker and doorbell will be added to interconnect to the buildings' existing intercom or phone system for use by visitors. The lighting around each building will also be improved, and be on a timer. A small camera system connected to a computer will be added at the main entrance to monitor access to the building. It is not the intent to install a large scale monitoring system due to complexity, monitoring issues, and costs.

The School buildings would be a priority. Most schools are in good condition, but based on an assessment by the Police Department, things can, and should, be improved. These funds will be used at various locations, including Baldwin School, Baker School, Devotion School, High School, Runkle School, Fire Stations, Soule Recreation Center, and Eliot Recreation Center. These funds would also be used to continue the on-going process of replacement and installation of new fire alarm systems, sprinkler systems, emergency lighting, and egress signs.

40. ENERGY CONSERVATION **\$25,000. (T)**

With large increases in utility costs over the past couple of years, it is imperative that monies be invested to decrease energy consumption in buildings. Programs would include, but are not limited to, lighting retrofit and controls, energy efficient motors, insulation, and temperature equipment. This program would augment existing gas and electric utility conservation programs. Monies would also go toward more efficient heating and cooling equipment to save money.

41. VOTING MACHINES -DRE (ADA) **\$110,000. (T)**

Direct Read Electronic (DRE) voting machines are otherwise known as "touch screen" voting machines. The purchase of these machines, one for each precinct, plus back-ups, is necessary to comply with the ADA requirements of the Help America Vote Act (HAVA) of 2002. Independent voting for disabled persons must be available no later than November, 2006. State reimbursement may be available for the expenditure of such machines.

42. TECHNOLOGY APPLICATIONS **\$250,000. (T)**

This annual appropriation of \$250,000 is for funding the projects detailed in the Information Technology Department's Long-Term Strategic Plan, which was finalized in 2002 and serves as the framework for technology expenditures. These projects meet the short-term objectives set by the Chief Information Officer (CIO) and appropriate committees. Included in these projects are a School and Student Information Management System, a Town-Wide Document Management System, and Public Library Wireless technology. In addition, there will be further deployment of the existing Maintenance Management, Public Safety, Network Storage, and Geographic Information Systems.

43. REPLACE ENGINE #1 **\$375,000. (T)**

The Town's policy is to replace front-line engines every 15 years, as obsolescence usually makes older apparatus less desirable. Engine 1 will be 15 years old in FY06.

44. FIRE STATION HVAC **\$80,000. (T)**

Funding was approved in FY03 (\$20,000) and FY05 (\$80,000) to install permanent air conditioning in each fire station. Existing monies only allowed 3 of the 5 stations to be done this year, leaving two more stations. This \$80,000 will allow the project to be completed.

45. COOLIDGE CORNER LIBRARY - HVAC UPGRADE **\$100,000. (T)**

The Building Department and the engineering firm hired to develop the plans and specifications for the upgrade of the Coolidge Corner Library HVAC system have determined that the original amount set aside for this project will not be adequate to address all of the issues that need to be addressed. The amount of outside air currently being supplied does not meet existing codes. There are three separate air handling units that need to be integrated into one up-to-date system. It has been determined that scaling back the project to within the existing budgetary limit would leave critical aspects of the project incomplete, and in the end, the Town would have to spend an even greater amount to finish the job. These funds now requested will be added to funds already allocated for this project (\$345,000 in FY04 and \$200,000 in FY05). In addition, the Trustees recently learned that it will be necessary to close the facility for between 3-6 months. No funds were requested for temporary quarters or relocation expenses, estimated at between \$10,000 - \$20,000.

46. PUTTERHAM LIBRARY – FURNISHINGS **\$65,000. (T)**

The \$65,000 in FY06 will be used to replace furnishings and the circulation desk, which were purchased in 1961. Modifications to the circulation desk will better accommodate the technology now being used and will meet ADA codes. Proper display fixtures will be purchased for non-print materials.

HANDICAPPED ACCESS – CD **\$40,000. (CD)**

Continuation of the program to provide handicap ramps at public sidewalks in conformance with the latest mandated regulations. Program includes upgrading existing nonconforming ramps as well as addressing access at parks, playgrounds, and other public areas.

47. STREET REHABILITATION – TOWN **\$1,000,000. (T)**

The Public Works Department is working to bring the condition of the streets in the Town to a point where only periodic maintenance is required to keep the streets in good condition. With the pavement management program, the Department of Public Works is able to establish a program to reach this goal. The Town's \$1,000,000 appropriation is used for 1.) reconstruction of streets, 2.) crack sealing of streets, and 3.) annual patching of streets. Approximately 4 - 6 miles of road are maintained annually, with 2.5 miles being reconstructed.

48. STREET REHABILITATION – STATE **\$ 568,786. (G)**

Historically, the State provides monies under its Chapter 90 program for the maintenance of certain streets. About 1/3 of Brookline's streets are eligible for 100% State reimbursement. FY2005 was the first year of a three-year \$450 million Chapter 90 program that was included in the State's 2004 Transportation Bond Bill. These funds will come to the Town in FY05 - FY07.

49. TRAFFIC CALMING STUDIES & IMPLEMENTATION **\$150,000. (T)**

This funding will be used to implement approved traffic calming measures. Approved measures are those that have been reviewed, analyzed, and designed by the Transportation Division using the Traffic Calming Policy as a guide. Projects scheduled for FY06 include a pedestrian signal at the intersection of Kennard Rd. and Walnut St. at the new Lincoln School, school zone flashers at the Lynch Recreation Center at Brookline Ave. and Reservoir Rd.

50. SIDEWALK REPAIR **\$200,000. (T)**

The DPW receives many complaints about the condition of the sidewalks. Some sidewalks are reconstructed as part of the street reconstruction program; however, this program cannot keep up with the demand to replace deteriorated sidewalks. The DPW has prepared a sidewalk management program that will help prioritize repairs. The annual appropriation of \$200,000 will allow for approximately 2 miles of sidewalk work per year to be performed by DPW.

51. STREET LIGHT REPAIR /REPLACEMENT PROGRAM **\$100,000. (T)**

The Town is responsible for the repair and maintenance of the nearly 3,900 street lights within the public ways, public parking lots, playgrounds, and parks. On average, DPW performs 780 repairs to the streetlights. This annual appropriation of \$100,000 will be used for this maintenance work as well as light replacements.

52. VILLAGE IMPROVEMENTS / PEDESTRIAN ACCESS **\$115,000. (T)**

Previously approved funding for the Brookline Village Pedestrian Footbridge was used to evaluate potential structural repairs and drainage issues. The study provided two options: 1.) a full-blown rehab project to extend the life of the footbridge for another 40 - 50 years, which would cost \$950,000, and 2.) undertake some less intensive repairs that would extend the life of the footbridge for another 5 - 10 years, which would cost \$150,000.

After further analysis and discussions between the Department of Public Works and the Department of Planning and Community Development, it was determined that there is, in fact, a third alternative: short-term repairs that would stabilize the structure for 3 - 5 years and allow it to be re-opened. This approach will allow for the departments to complete a multi-phased plan and program for short- and long-term improvements within the Route 9 corridor.

53. LINCOLN SCHOOL WALL REPAIR**\$150,000. (T)**

In 2003, \$150,000 was appropriated to repair the brick masonry wall on Walnut St. and Kennard Rd. at the New Lincoln School. After a comprehensive investigation of the wall, the scope of work was increased to include additional lengths of the wall. An additional \$150,000 will be required to complete this work.

54. PATH RECONSTRUCTION**\$150,000. (T)**

Rawson Path needs to be repaired, as the concrete steps are chipped and cracked, the bituminous walkway is cracked, and it has an uneven surface. The DPW has done a preliminary survey and plans for the needed repairs. This appropriation plus the \$60,000 remaining from a FY03 appropriation will fund this project.

55. AMORY FIELD RE-CONSTRUCTION**\$350,000. (T)**

Amory Playground is a 8.27 acre park with 6 clay tennis courts, a restroom facility, a baseball and a softball diamond, and an outfield that is used for soccer. It has very poor drainage due to subsurface conditions and takes additional time to recover from wet weather and rigorous play. The funding for this project is intended for the reconstruction of the ball fields, new backstops and players benches, the installation of a new irrigation system, improvements to the drainage system, improvements to parking, perimeter benches, planting, and handicapped access to the restrooms.

56. DANE PARK UP-GRADING**\$170,000. (T)**

Dane Park is located in South Brookline, north of Putterham Woods along Hammond Street. This area is 17.23 acres in size and used for walking, wildlife habitat, and picnicking. The park is notable for its unique geological features and its role in a connected group of wooded open spaces that form the Charles to Charles Corridor. Dane Park has enormous potential as a valuable natural, cultural, and educational resource for Brookline residents. In the 1960s, this park was developed and play equipment, parking, and barbeque grills installed. The funding will provide for the creation of trails, markers, pruning, and parking as specified in the Master Plan.

57. NEWTON STREET LANDFILL PARK ENHANCEMENTS**\$175,000. (T)****\$250,000. (G)**

As part of a year-long public Design Review Process, the Park and Recreation Commission and Parks and Open Space Division have developed a design and site plan for the Newton Street Park that will follow site permitting and capping of the former landfill. The design was guided by the requirements of the Selectmen-led and appointed Citizens Advisory Committee that established design parameters for both the front and back landfill. Through the design process, it was discovered that additional loam and plant material would be needed to create a park-like environment due to the extent of capping currently required. This funding is intended to provide additional loam in order to provide appropriate park grading and to plant shade trees, and will provide benches and park amenities that will provide a better environment for both passive and active recreation.

58. TURF @ DOWNES FIELD and NEWTON ST. LANDFILL**\$300,000. (T)**

With the increase in athletic field usage town wide and an overall deficiency in field space, it is essential that the Town research new and innovative technologies for field management, maintenance, and field construction. The Park and Recreation Commission intends to enhance the turf facility at Harry Downes Field and construct a new athletic field at the Newton Street Landfill. The intent is to leverage Town dollars with private and grant funding to install a synthetic that will be able to withstand greater wear and tear, play in wet weather, and require minimal maintenance and capital improvements.

DOWNES FIELD RENOVATION**\$200,000. (G)****\$230,000. (CD)**

There is a great demand in Brookline for playing fields that support a wide number of scheduled, organized recreational sports. Field usage has increased to accommodate the demand and has stressed the Town's ability to provide adequately for quality playing fields throughout the community. To keep up with the demand for playing fields, the Park and Recreation Commission is evaluating emerging technologies that make intense use of existing field space both possible and economically feasible. In the appropriate location, an artificial athletic turf field would reduce long-term maintenance and renovation costs, increase the duration of the sports seasons, and increase playability in all weather conditions. This project will be funded from private, grant, town and CDBG dollars.

The impetus behind the interest in artificial turf results from a number of changes in sports over the last twenty-five years that have led to an increased need for athletic fields. The surge in popularity of soccer, increased involvement in sports by women, and increased school populations have all combined to create a need for more fields. As the region becomes denser, the amount of space available, per active user, for recreation is decreasing. The Park and Recreation Commission feels that it is critical that the Town take advantage of the new technology now in order to improve playing conditions of fields Townwide.

Infill synthetic turf is a relatively new product that is being used successfully in many communities throughout the state and country. It is very different from AstroTurf. It is permeable and relatively soft. According to both research and the experiences of the Town of Lexington, City of Cambridge, Town of Belmont, Catholic Memorial, Boston College, and Framingham State College, there are fewer injuries overall on the artificial turf fields than on natural grass because the new infill systems provide additional shock absorption and lower friction compared to grass. The artificial turf field also has lower maintenance costs, lower water and no fertilizer demands, lower long-term capital costs, less maintenance, and increased playability. While artificial turf clearly does not photosynthesize, it also does not require the use of fertilizers, chemicals or irrigation systems.

The Park and Recreation Commission has identified several locations in Town that would benefit from the installation of artificial turf. As part of the Park and Recreation Master Plan these sites will be evaluated and a recommendation made for installation. While there are many benefits to artificial turf, the Commission also recognizes that all of the Town's facilities serve important roles as neighborhood parks and community spaces. The Park and Recreation Commission would establish a public design review process with a series of public meetings to ensure input on any project of this nature prior to making any final decisions about replacing grass field with artificial turf.

59. PARKS, PLAYGROUNDS REHABILITATION & UPGRADE **\$250,000. (T)**

This is an on-going town-wide program for the repair and replacement of unsafe and deteriorating playground, fence, and field facilities or components. Improvements include fence installations, backstops, masonry work, retaining walls, picnic furniture repairs, turf maintenance and restoration, bench replacements, play structures, safety surfacing, and drainage improvements. This program prevents more expensive rehabilitation that would be necessary if these items were continuously left to deteriorate.

60. TOWN/SCHOOL GROUNDS REHAB **\$120,000. (T)**

The Town/School grounds require the on-going implementation of extensive landscaping, structural improvements, and repair. These funds will be applied to create attractive and functional landscapes and hardscape improvements including plant installation, re-grading, reseeding, tree work, new concrete or asphalt walkways, trash receptacles, bike racks, drainage improvements, retaining walls, and repairs to stairs, treads, railings, benches, or other exterior structures. This program prevents more expensive rehabilitation that would be necessary if these items were continuously left to deteriorate.

61. TREE REMOVAL AND REPLACEMENT**\$100,000. (T)****\$30,000.(CD)**

The tree removal and replacement project represents the Park and Open Space Division's and Tree Planting Committee's effort to balance the Town's street tree removals with plantings. As trees mature or are impacted by storm damage or disease, it is critical to remove these before they become public safety hazards. New tree plantings are also critical as they directly impact the tree-lined character of the community. CDBG funds are used in CD eligible areas only.

62. LARZ ANDERSON SKATING RINK- REFRIGERATION SYSTEM**\$140,000 (T)****\$260.000 (B)**

The refrigeration system at the Brookline Skating Rink is antiquated and in need of replacement in order to keep the outdoor rink operational. Maintenance repairs have become costly due to the age and condition of the equipment. A full system assessment found that the chiller and all three compressors were in need of replacement and that additional repairs were not a cost effective solution for the Town. Delaying this installation may cause the rink to close if there are additional failures in the system. This item will fund the purchase and installation of a complete refrigeration package that meets the capacity of the Larz Anderson Outdoor Skating Rink. The financing of this project this year of (\$140,000 (T) in FY-06 and the additional funding of \$130,000 (B) in FY-07 & \$130,000 (B) in FY-08) will allow this project to be completed in FY-2006.

63. SCHOOL FURNITURE **\$50,000. (T)**

This is a continuous program to upgrade furniture in all schools. The furniture in classrooms absorbs significant wear and tear annually. This replacement program, which will be on-going for several years, will replace the most outdated and worn items.

64. TAPPAN ST. GYM - ROOF REPAIR/POINTING PLANS & SPECS \$48,000. (T)

These funds will be used for plans and specs to replace the roof and point the brick exterior.

65. DRISCOLL SCHOOL BATHROOMS \$100,000. (T)

These monies are required to complete the renovations at the Driscoll School. Specifically, this \$100,000 completes the funding for the bathroom project. This funding will allow for a significant upgrade/renovation to the bathrooms throughout the building.

66 + 67. OLD LINCOLN SCHOOL – GUTTERS ,DOWNSPOUTS and SPRINKLERS \$290,000. (T)

The Old Lincoln School was built in 1932. Since the 1990's, it has served as the temporary location for a number of facilities while those buildings were being renovated, including the Heath School, High School, Police and Fire Headquarters, Baker School, and most recently the Lawrence School. Currently, it is planned that the building will temporarily house the following facilities (in order): the Health Center, Town Hall, Runkle School, and Devotion School. This plan results in the building being in use through 2014; therefore, it is necessary to upgrade the building in order to meet the needs of the temporarily-housed facilities. The building has an excellent "skeleton", however, the building systems are sorely in need of upgrades to improve life/safety aspects and to bring the building up to current industry standards with respect to energy efficiency, indoor air quality, and code related issues.

There was \$390,000 approved in FY05 to complete the elevator project. Of that amount, \$250,000 was actually transferred from an existing appropriation for gutters and downspout work. That work must be completed, so \$250,000 is included in FY06. The \$40,000 in FY06 is for plans and specs for sprinklers, as the building's sprinkler system does not meet current codes.

68. PIERCE SCHOOL –ELEVATOR JACK REPLACEMENT \$50,000. (T)

The \$50,000 in FY06 is for the replacement of the hydraulic piston assembly for the Pierce Elevator. The elevator was installed in the early 1970's and the cylinder is installed 3 stories into the ground. Corrosion and age can cause the assembly to fail. In the last 5 years, the Unified Arts Building and the Devotion School Elevator have failed. Both had to be repaired under an emergency and took two months to get completed. This caused problems with access for the buildings.

The Pierce School, built in the early 70's has an outdated electrical system. The building was equipped with Federal breakers and distribution systems. Federal is a company that went bankrupt due to faulty equipment. Although the equipment that is now at the building is safe, breakers and parts do fail. Replacement parts are not available. The \$15,000 in FY11 is for plans and specs, with the \$150,000 for construction planned for FY12.

69. STORM DRAIN IMPROVEMENTS \$500,000. (EB)

Recent studies indicate that there is storm water entering the Town's sanitary sewer system through public connections (i.e. catch basins, site drains) and private connections (i.e. sump pumps, roof drains, yard drains, etc.). Recently, the Town completed two projects that

separated combined sewers by installing a separate storm drain where there was none, and reconnecting the catch basins and other drain connections. Funding for this project will be used to further this type of work by investigating, identifying, designing, and constructing measures to correct the problem where drain pipes are connected to the sanitary sewer (inflow). This project will also provide funding for the investigation, remediation, and rehabilitation of storm drain systems to remove potential sanitary sewer connections and to improve system capacity and discharge water quality. This program will have three (3) major benefits: 1) increasing the capacity of the sanitary sewers and storm drains; 2) decreasing the amount of storm water the Town is paying to have treated at the Deer Island treatment plant and; 3) improving discharge water quality.

70. WATER METER REPLACEMENT

\$2,000,000. (EB)

This project, initiated in FY 2001, provided for the procurement and replacement of 9,800 residential and commercial water meters and the installation of a new radio frequency meter reading system. The new meters will replace 20 year old meters that have exceeded their useful life (less than 100% accuracy) and the reading system will provide the ability to collect and process readings monthly instead of quarterly using radio frequency technology. Due to rapidly evolving changes in meter reading technology, the best interests of the Town were served by delaying the implementation of the project until the technology had stabilized and reading systems showed a degree of reliability. The project has now moved forward and Request for Proposals were received in September, 2004 for the procurement of the equipment. Because of the improvements in the technology, however, project costs have risen significantly. This project will provide the additional funds needed to complete the procurement of the equipment and award the contract for the installation of the meters and the new reading system. Once completed, in 2006, the Town will have the benefit of a modern, state-of-the-art metering system that will provide reliable service for the next twenty (20) years.

71. TOWN HALL – PLANS & SPECS for FACILITY UPGRADE

\$1,260,000. (B)

Town Hall was built in 1965. Since that time, there have been no major changes or improvements to the building or to its systems. It is anticipated the renovations will include a complete replacement of the HVAC systems including state of the art temperature controls. This system replacement is sorely needed as the current HVAC system is failing. In addition to providing building occupants with greater comfort, the new system will save operating funds due to zoning, improved energy efficiency, and lower maintenance costs. Replacement of the existing fixed windows with all new operable windows is also envisioned. The existing windows cannot be opened and are made of single pane plate glass. The new windows will be able to be opened, thus improving indoor air quality and comfort of occupants, and will also be much more energy efficient as they will be built with low E insulated glass. In addition to these important improvements, the newly renovated facility is expected to include upgrades in the electrical service and distribution to bring the building up to current codes. Also, handicapped accessibility improvements, along with a more efficient use of space, is planned. All of the improvements are consistent with recommendations included in the "Town of Brookline Capital Needs Assessment" done in the 1990's and with the recently completed Town Hall/Health Center feasibility study.

72. HEALTH DEPARTMENT RENOVATIONS**\$4,100,000. (B)**

The funds in FY2006 are for the renovation of the Health Building, based on the plans and specifications developed in FY2005. The building will get a new HVAC system, lighting, windows, elevator, roof, and a new interior layout. The design will bring the building up to present building code and ADA standards. The building design will utilize as many "green" components as possible. While construction occurs, the staff will be housed at the Old Lincoln School.

(B) = General Fund Bond (CD) = Community Development Block Grant (EB) = Enterprise Bond
(G) = State / Federal Grant (O) = Outside Funding (T) = Tax-Financed

RECOMMENDATION

The Advisory Committee unanimously recommends **FAVORABLE ACTION** on the following vote for the fiscal year 2006 budget:

VOTED: To approve the budget for fiscal year 2006 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 only by vote of Town Meeting. 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 \$5,000 to or from the repairs to public building appropriations.
 - v) Transfers within the Department of Public Works from the Parks Division to any other purpose.
- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and upon the condition that 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.

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 FY2006 budget, and to solicit and award contracts for terms of more than three 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 #21) 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 Personal Services Reserve (Item #20), 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.) SALARIES OF ELECTED OFFICIALS: The salaries of members of the Board of Selectmen shall be at the rate of \$3,500 per year for the Chairman and at the rate of \$2,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$84,283 effective July 1, 2005, 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 a 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 \$1,196,950 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	\$414,624
Purchase of Services	\$167,162
Supplies	\$106,165
Capital	\$85,580
Reserve	<u>\$43,866</u>
Total Appropriation	\$817,397
Indirect Costs	<u>\$379,553</u>
Total Costs	\$1,196,950

Total costs of \$1,196,950 to be funded from golf receipts with \$379,553 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling \$21,486,191, 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	1,868,395	251,230	2,119,625
Purchase of Services	125,589	103,266	228,854
Supplies	139,631	16,000	155,631
Other	3,600	0	3,600
Capital	174,800	169,600	344,400
Intergovernmental	4,661,752	9,205,069	13,866,821
Reserve	<u>100,879</u>	<u>111,855</u>	<u>212,735</u>
Total Appropriations	7,074,646	9,857,020	16,931,665
Indirect Costs	<u>3,114,169</u>	<u>1,440,357</u>	<u>4,554,526</u>
Total Costs	10,188,815	11,297,376	21,486,191

Total costs of \$21,486,191 to be funded from water and sewer receipts with \$4,554,526 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, 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 \$1,150,000.
- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2, 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 \$100,000.
- c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2, 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 \$400,000.
- 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, 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 \$3,203,240, 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.) 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 (to the Department of Public Works - \$988,750) (to the Police Department - \$988,750)	\$1,977,500
State Library Aid Special Revenue Fund (to the Library)	\$ 41,555
Cemetery Perpetual Care Expendable Trust Fund (to the Department of Public Works)	\$ 10,000

Cemetery Sales Special Revenue Fund (to the Department of Public Works)	\$ 40,000
Recreation Revolving Fund (to the General Fund for benefits reimbursement)	\$ 119,737

11.) 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.

12.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 36 through 72, inclusive, in Table 1 shall be specially appropriated for the following purposes:

- 36.) Raise and appropriate \$29,017, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen, for furnishings and equipment for Town Buildings.
- 37.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town and School buildings.
- 38.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town and School buildings.
- 39.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to life safety systems in Town and School facilities and for the purpose of improving building security in Town and School facilities.
- 40.) Raise and appropriate \$25,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School facilities.
- 41.) Raise and appropriate \$110,000, to be expended under the direction of the Town Clerk, with the approval of the Board of Selectmen, for the purchase of Direct Read Electronic (DRE) voting machines.
- 42.) Raise and appropriate \$250,000, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for the enhancement of town-wide hardware and software.
- 43.) Raise and appropriate \$375,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a fire engine.

- 44.) Raise and appropriate \$80,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for the design and installation of air conditioning systems at various fire stations.
- 45.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Board of Library Trustees, for the upgrade of the HVAC system at the Coolidge Corner Library.
- 46.) Raise and appropriate \$65,000, to be expended under the direction of the Library Trustees, with the approval of the Board of Selectmen, for furnishings at the Putterham Library.
- 47.) Raise and appropriate \$1,000,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 48.) Raise and appropriate \$568,786, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets, utilizing so-called Chapter 90 funding.
- 49.) Raise and appropriate \$150,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements.
- 50.) Raise and appropriate \$200,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of sidewalks.
- 51.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.
- 52.) Raise and appropriate \$115,000, to be expended under the direction of the Commissioner of Public Works and the Director of Planning and Community Development, with the approval of the Board of Selectmen, for improvements to the physical landscape in Brookline Village, including pedestrian access.
- 53.) Raise and appropriate \$150,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repairs to the Lincoln School wall.
- 54.) Raise and appropriate \$150,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pathway reconstruction.
- 55.) Raise and appropriate \$350,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for improvements to Amory Playground.

- 56.) Raise and appropriate \$170,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for improvements to Dane Park.
- 57.) Raise and appropriate \$175,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the construction of a park at the former Newton Street Landfill.
- 58.) Raise and appropriate \$300,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for improvements to playing fields at Downes Field and the Landfill Park.
- 59.) Raise and appropriate \$250,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.
- 60.) Raise and appropriate \$120,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town / School grounds.
- 61.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 62.) Appropriate \$400,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the construction, remodeling, reconstructing or making extraordinary repairs to the Larz Anderson Municipal Skating Rink, for which refrigeration equipment is required; to meet the appropriation, raise \$140,000 and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$260,000, under General Laws, Chapter 44, Section 7, Clauses (2A), (3A), and (25), as amended; and authorize the Board of Selectmen or said Commissioner to apply for, receive and expend State and Federal funds, aid, grants, loans, reimbursements or other assistance for said project.
- 63.) Raise and appropriate \$50,000, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen and the School Committee, for school furniture upgrades.
- 64.) Raise and appropriate \$48,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for plans and specifications for renovations to the Tappan Street Gym roof and for the pointing of the brick exterior of the Tappan Street Gym.
- 65.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for the renovation of bathrooms at the Driscoll School.

- 66.) Raise and appropriate \$250,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for gutters and downspouts at the Old Lincoln School.
- 67.) Raise and appropriate \$40,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for plans and specifications for the sprinkler system at the Old Lincoln School.
- 68.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen and the School Committee, for the replacement of the elevator jack at the Pierce School.
- 69.) Appropriate \$500,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the construction or reconstruction of surface drains and sewers; to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$500,000, under General Laws 44, Chapter 7, Clause (1), as amended; and authorize the Board of Selectmen or said Commissioner to apply for, receive and expend State and Federal funds, aid, grants, loans, reimbursements or other assistance for said project.
- 70.) Appropriate \$2,000,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the purchase and installation of water meters; to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$2,000,000, under General Laws, Chapter 44, Section 8, Clause (7A), as amended; and authorize the Board of Selectmen or said Commissioner to apply for, receive and expend State and Federal funds, aid, grants, loans, reimbursements or other assistance for said project.
- 71.) Appropriate \$1,260,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for the cost of architectural services for plans and specifications for remodeling, reconstruction or making extraordinary repairs to Town Hall; to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$1,260,000, under General Laws, Chapter 44, Section 7, Clauses (3A) and (22), as amended; and authorize the Board of Selectmen or said Commission to apply for, receive and expend State and Federal funds, aid, grants, loans, reimbursements or other assistance for said project.
- 72.) To appropriate \$4,100,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for the cost of remodeling, reconstruction or making extraordinary repairs to The Stephen Glover Train Memorial Health Building; to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$4,100,000, under General Laws, Chapter 44, Section 7, Clauses (3A) and (22), as amended; and authorize the Board of Selectmen or said Commission to apply for, receive and expend State and Federal funds, aid, grants, loans, reimbursements or other assistance for said project.

13.) FREE CASH: Appropriate and transfer \$4,606,534 from free cash for the following purposes:

- a.) Reduce the tax rate (Capital Improvements) – \$3,779,809;
- b.) Stabilization Fund (MGL Chapter 40, Section 5B) – \$39,004;
- c.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$ 381,105;
- d.) Liability/Catastrophe Fund – \$406,616.

XXX

FY06 BUDGET - TABLE 1

		FY02 ACTUAL	FY03 ACTUAL	FY04 ACTUAL	FY05 BUDGET	FY06 BUDGET	CHANGE FROM FY05
	REVENUES						
	Property Taxes	103,690,844	108,240,242	114,247,135	119,852,045	124,540,213	4,688,168
	Local Receipts	19,390,029	22,956,312	19,033,233	17,981,628	18,900,300	918,672
	State Aid	19,993,861	19,071,684	17,298,584	17,094,030	17,636,724	542,694
	Free Cash	11,536,850	5,261,797	5,602,961	6,966,241	4,606,534	(2,359,707)
	Other Available Funds	6,779,885	8,334,680	7,884,611	11,255,330	7,691,659	(3,563,671)
	TOTAL REVENUE	161,391,468	163,864,715	164,066,523	173,149,274	173,375,430	226,156
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Selectmen	534,684	535,920	557,303	557,187	562,190	5,003
	2 . Human Resources	262,432	382,227	372,256	378,587	449,445	70,858
	3 . Information Technology	1,192,981	1,244,911	1,484,414	1,548,978	1,358,761	(190,217)
(1)	4 . Finance Department	1,615,755	2,678,354	2,544,685	2,540,298	2,866,097	325,798
	<i>a. Comptroller</i>	367,452	310,760	346,011	339,211	430,047	90,835
	<i>b. Purchasing</i>	222,325	980,333	1,004,669	1,016,526	1,022,685	6,159
	<i>c. Assessing</i>	643,776	679,823	637,562	651,712	653,113	1,401
	<i>d. Treasurer</i>	382,202	707,438	556,443	532,849	760,252	227,403
	5 . Legal Services	705,734	706,516	625,823	549,453	573,196	23,743
	6 . Advisory Committee	16,501	17,943	15,187	20,884	21,449	565
	7 . Town Clerk	369,832	484,320	453,174	512,265	444,333	(67,933)
(1)	8 . Planning and Community Development	476,348	585,765	383,595	372,005	360,667	(11,338)
	<i>a. Planning</i>	174,526	304,443	293,893	226,401	229,343	2,941
	<i>b. Housing</i>	113,812	67,427	52,546	101,734	92,069	(9,665)
	<i>c. Preservation</i>	50,323	44,117	37,156	43,870	39,255	(4,615)
	9 . Economic Development	137,687	169,778	163,449	175,124	178,142	3,018
	10 . Police	11,400,777	12,183,285	12,518,772	13,027,694	13,079,369	51,675
	11 . Fire	10,367,886	10,828,037	10,800,522	10,515,297	10,542,657	27,360
	12 . Building	4,533,132	4,600,063	4,857,475	4,922,153	5,050,516	128,362
(1)	13 . Public Works	10,727,692	11,406,533	11,429,023	11,426,874	11,528,199	101,325
	<i>a. Administration</i>	723,366	768,911	783,590	769,372	774,919	5,547
	<i>b. Engineering/Transportation</i>	594,350	611,680	705,177	781,079	793,296	12,217
	<i>c. Highway</i>	4,355,988	4,784,769	4,689,124	4,446,483	4,450,213	3,730
	<i>d. Sanitation</i>	2,747,460	2,816,116	2,736,325	2,893,594	2,912,322	18,728
	<i>e. Water</i>						0
	<i>f. Sewer</i>						0
	<i>g. Parks and Open Space</i>	1,917,502	1,905,660	2,514,808	2,536,345	2,597,449	61,103
	<i>h. Forestry</i>	177,093	339,719				0
	<i>i. Cemetery</i>	153,721	179,678				0
	<i>j. Transportation</i>	58,212					0
	14 . Library	2,714,330	2,847,260	2,947,165	2,977,439	3,037,290	59,851
	15 . Health	937,363	944,404	967,711	934,983	963,312	28,329
	16 . Veterans' Services	144,672	195,089	165,077	192,398	192,829	431
	17 . Council on Aging	568,110	612,202	631,313	682,010	662,283	(19,727)
	18 . Human Relations	213,077	134,123	127,555	131,174	132,529	1,355
	19 . Recreation	1,228,887	1,244,910	1,291,953	1,252,114	1,296,827	44,713
(2)	20 . Personal Services Reserve	780,000	1,474,526	1,100,283	1,180,357	750,000	(430,357)
(3)	21 . Collective Bargaining - Town	1,228,862	1,340,000	1,187,950	1,500,000	2,150,000	650,000
	<i>Subtotal Town</i>	<i>48,010,193</i>	<i>51,631,862</i>	<i>52,336,452</i>	<i>53,897,274</i>	<i>56,200,090</i>	<i>2,302,816</i>
	22 . Schools	51,243,151	53,207,625	53,774,922	55,817,215	58,007,124	2,189,909
	TOTAL DEPARTMENTAL EXPENDITURES	99,253,344	104,839,487	106,111,374	109,714,489	114,207,215	4,492,725

		FY02 ACTUAL	FY03 ACTUAL	FY04 ACTUAL	FY05 BUDGET	FY06 BUDGET	CHANGE FROM FY05
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	21,105,951	23,140,735	26,386,986	27,400,704	28,973,687	1,572,983
	<i>a.) Pensions</i>	8,463,009	8,667,061	9,239,869	9,533,000	9,921,963	388,963
	<i>b.) Group Health</i>	10,605,444	12,026,425	14,372,500	15,419,000	16,781,724	1,362,724
	<i>c.) Retiree Group Health Trust Fund</i>	120,000	229,750	626,133	0	0	0
	<i>d.) Employee Assistance Program (EAP)</i>	14,006	9,827	25,000	25,000	25,000	0
	<i>e.) Group Life</i>	79,327	86,548	114,946	135,000	145,000	10,000
(4)	<i>f.) Worker's Compensation</i>	825,000	1,095,000	895,000	1,048,704	895,000	(153,704)
	<i>g.) Unemployment Compensation</i>	155,000	180,000	228,203	150,000	125,000	(25,000)
	<i>h.) Medical Disabilities</i>	94,970	11,749	14,061	30,000	30,000	0
	<i>i.) Medicare Coverage</i>	749,195	834,375	871,274	1,060,000	1,050,000	(10,000)
(2)	24 . Reserve Fund	930,687	851,935	1,070,000	1,476,305	1,524,420	48,115
	25 . Stabilization Fund	235,000	0	0	246,892	39,004	(207,888)
	26 . Liability/Catastrophe Fund	410,229	711,589	100,000	172,896	406,616	233,719
	27 . Housing Trust Fund	1,000,000	311,225	316,455	348,312	0	(348,312)
	28 . General Services	629,255	0				0
	29 . General Insurance	187,164	193,910	230,000	285,000	251,068	(33,932)
	30 . Audit/Professional Services	104,007	148,949	137,036	137,000	138,987	1,987
	31 . Contingency Fund	16,882	16,693	12,102	18,000	18,000	0
	32 . Out-of-State Travel	539	0	851	3,000	3,000	0
	33 . Printing of Warrants & Reports	19,132	16,775	16,378	20,000	20,000	0
	34 . MMA Dues	10,533	10,713	10,533	11,811	12,106	295
	<i>Subtotal General</i>	2,612,741	1,409,854	823,355	2,719,217	2,413,201	(306,016)
(1)	35 . Borrowing	12,752,494	13,193,367	13,251,400	13,605,246	14,031,495	426,249
	<i>a. Funded Debt - Principal</i>	7,528,518	7,944,798	8,307,613	8,513,890	9,220,587	706,697
	<i>b. Funded Debt - Interest</i>	4,901,313	4,598,159	4,562,078	4,559,356	4,430,908	(128,449)
	<i>c. Bond Anticipation Notes</i>	293,167	647,912	362,167	472,000	320,000	(152,000)
	<i>d. Abatement Interest and Refunds</i>	29,496	2,498	19,542	60,000	60,000	0
	TOTAL NON-DEPARTMENTAL EXPENDITURES	36,471,186	37,743,956	40,461,741	43,725,167	45,418,383	1,693,216
	TOTAL GENERAL APPROPRIATIONS	135,724,530	142,583,443	146,573,115	153,439,657	159,625,597	6,185,941
	SPECIAL APPROPRIATIONS						
	36 . Public Buildings Furnishings and Equipment (tax financed)					29,017	
	37 . Town/School Asbestos Removal (tax financed)					50,000	
	38 . Town/School ADA Renovations (tax financed)					50,000	
	39 . Town/School Building Security/Life Safety (tax financed)					100,000	
	40 . Energy Conservation (tax financed)					25,000	
	41 . DRE Voting Machines (tax financed)					110,000	
	42 . Technology Applications (tax financed)					250,000	
	43 . Fire Engine #1 (tax financed)					375,000	
	44 . Fire Station AC (tax financed)					80,000	
	45 . Coolidge Corner Library HVAC Upgrade (tax financed)					100,000	
	46 . Putterham Library Furnishings (tax financed)					65,000	
	47 . Street Rehabilitation (tax financed)					1,000,000	
	48 . Street Rehabilitation (Chapter 90)					568,786	
	49 . Traffic Calming Studies and Improvements (tax financed)					150,000	
	50 . Sidewalk Repair/Reconstruction (tax financed)					200,000	
	51 . Streetlight Replacement/Repairs (tax financed)					100,000	
	52 . Village Improvements / Pedestrian Access (tax financed)					115,000	
	53 . Lincoln School Wall Repair (tax financed)					150,000	
	54 . Path Reconstruction (tax financed)					150,000	
	55 . Amory Field (tax financed)					350,000	

		FY02 ACTUAL	FY03 ACTUAL	FY04 ACTUAL	FY05 BUDGET	FY06 BUDGET	CHANGE FROM FY05
	56 . Dane Park (tax financed)					170,000	
	57 . Newton St. Landfill Park (tax financed)					175,000	
	58 . Turf - Downes Field / Newton St. Landfill (tax financed)					300,000	
	59 . Playground Equipment, Fields, Fencing (tax financed)					250,000	
	60 . Town/School Grounds Rehab (tax financed)					120,000	
	61 . Tree Removal and Replacement (tax financed)					100,000	
	62 . Larz Anderson Skating Rink (\$140,000 = tax financed; \$260,000 = bond)					400,000	
	63 . School Furniture Upgrades (tax financed)					50,000	
	64 . Tappan St. Gym Roof / Pointing - Plans and Specs (tax financed)					48,000	
	65 . Driscoll School Bathrooms (tax financed)					100,000	
	66 . Old Lincoln School Gutters/Downspouts (tax financed)					250,000	
	67 . Old Lincoln School Sprinkler System - Plans and Specs (tax financed)					40,000	
	68 . Pierce School Elevator Jack Replacement (tax financed)					50,000	
	69 . Storm Drain Improvements (enterprise fund bond)					500,000	
	70 . Water Meter Replacement (enterprise fund bond)					2,000,000	
	71 . Town Hall Renovations (bond)					1,260,000	
	72 . Health Department Renovations (bond)					4,100,000	
(5)	TOTAL SPECIAL APPROPRIATIONS	11,608,792	6,767,794	7,066,117	11,438,708	5,810,803	(5,627,905)
	TOTAL APPROPRIATED EXPENDITURES	147,333,322	149,351,237	153,639,232	164,878,365	165,436,401	558,037
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	1,189,066	1,148,519	1,013,561	1,157,237	1,162,883	5,646
	State & County Charges	5,741,060	5,638,706	5,460,231	5,262,677	5,251,146	(11,531)
	Overlay	2,393,355	2,560,059	1,500,000	1,800,995	1,500,000	(300,995)
	Deficits-Judgments-Tax Titles	0	71,250	6,387	50,000	25,000	(25,000)
	TOTAL NON-APPROPRIATED EXPEND.	9,323,481	9,418,534	7,980,179	8,270,909	7,939,029	(331,880)
	TOTAL EXPENDITURES	156,656,803	158,769,771	161,619,411	173,149,274	173,375,430	226,157
	SURPLUS/(DEFICIT)	4,734,665	5,094,944	2,447,113	0	0	

(1) Breakdown provided for informational purposes.

(2) FY02-04 figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) FY02-04 figures provided for information purposes. Funds were transferred to departmental budgets for expenditure.

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

(5) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #35).

ARTICLE 8

EIGHTH ARTICLE

To see if the Town will terminate the 1988 tax supplement called the “Refuse Disposal Fee”.

The 1988 tax surcharge was structured to raise \$2,500,000 for a fiscal crisis. Brookline was under rent control. It made sense to collect a fee from half of the Town that was not under Rent Control. Rent Control was abolished in 1992. The Fee is unconstitutional now as it adds a surcharge on 13,225 residential units while, today, Brookline has 26,555 tax paying residential units. 13,000 pay a surcharge while the other 13,000 do not pay a surcharge, is not “equal protection of the laws”.

Then, it made sense to add money to the Town’s General Fund when the Town had a slim Cash balance in FY89 of \$8,000,000. In FY 2003, our Cash balance was \$88,000,000; the largest Cash balance in the Commonwealth. There is no need for more cash.

The Fee duplicates paper work for half of our taxpayers. The Real Estate Tax, paid by all tax payers, is comprehensive and it covers the costs of all Town Departments. The Fee surcharge is obsolete and redundant.

SELECTMEN’S RECOMMENDATION

This petitioned article calls for the elimination of the \$165 annual Refuse Fee. This issue has previously been debated on two separate occasions: as part of the 2003 Annual Town Meeting (Article 26) and as part of the 2003 Special Town Meeting in November (Article 19). The facts are unchanged: if the fee were to be eliminated, the Town would lose \$2.1 million in revenue.

Brookline is one of more than 120 communities that charge an additional fee for sanitation services. These charges come in three types:

1. Flat annual fee for curbside pick-up;
2. Flat annual fee for transporting waste to the transfer station for dumping;
3. “Pay-As-You-Throw” (PAYT) programs, which charge residents for each bag used.

Brookline's refuse fee covers not only regular curbside trash pick-up, but also recycling, the pick-up and disposal of "white goods", and the collection of yard waste. Many private haulers do not offer these additional services.

If eliminated, in order to balance the Town budget, the Town would need to do one or some combination of the following:

1. Cut \$2.1 million of essential services
2. Eliminate the entire sanitation operation
3. Raise \$2.1 million through a General Override of Proposition 2 ½

As even the most casual observer of municipal government understands, the past couple of years have been very difficult ones. Since FY02, the Town has lost close to \$3 million in Local Aid from the state, realized significant increases in Health Insurance costs, and been faced with sizable increases in other fixed costs such as pension and utilities. Adding another \$2.1 million of cuts would be extremely difficult to absorb.

If the entire sanitation operation was eliminated, every household in town would have to procure refuse removal services on their own. This would result in a burden on residents, many more trucks driving through neighborhoods, and an overall chaotic set of independent arrangements for trash removal. It should be clearly noted that currently, residents do have the option of opting-out of Town service and hiring a private hauler. History has shown that few homeowners have opted-out of the fee, as the Town's fee is very competitive for the services it covers.

For those reasons, the Board recommends NO ACTION, by a vote of 5-0 taken on April 12, 2005, on the article.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 8 seeks to remove the Town's "refuse removal fee". The cost of rubbish removal in the Town of Brookline is approximately \$5.4M annually. This sanitation service is funded by two sources: (1) a refuse fee set by Town Meeting in 1998 at \$165 annually per household for those using this Town service, and (2) by property tax generated revenue. Each year this trash collection fee contributes ~\$2.1M in revenue to the Town that is applied toward the \$5.4M cost of trash removal.

DISCUSSION

The petitioner's explanation of this warrant article, unfortunately and inaccurately, co-joins the issue of a trash collection fee, with the amount of cash and investments on hand that the Town has to meet its financial and legal commitments.

The ~\$85M of cash and investments on hand that is referenced by the petitioner represents funds for which there are already pending claims. It is there to pay the bills we know are coming. Some of these funds are derived through bond issuance for capital projects such as schools and libraries, other funds come from such things as targeted grants and endowments. Any interest earned on these funds prior to being dispersed is added to the Town's revenue. Any remaining funds at the end of the year that are certified by the State as "Free Cash" are rolled over and appropriated by Town Meeting. The cash and investments at hand are to meet the Town's commitments and obligations.

This has nothing to do with the issue of a refuse fee.

The real discussion is that of the "Refuse Fee" itself.

As we are all aware, our community's ability to increase revenue is largely constrained by the limits of Proposition 2 ½. With many costs, such as construction and healthcare, rising much faster than the rate at which property taxes can increase, we look to other revenue sources. When Town Meeting initiated the Refuse Fee as a way to partially offset the cost of sanitation, the fee covered ~80% of the total cost. Today, the fee covers only about 65% of the total cost. Some have argued the fee should be increased to keep pace with costs or perhaps indexed at a certain percentage of the total cost of refuse removal. This article, however, seeks to completely abolish the Refuse Fee.

Arguably, one of the roles of government and a community is to provide for reasonable sanitation for the common good of the whole community. Refuse removal falls into this category, and through our taxes we all contribute some to that common good. However, those using the Town's rubbish removal service more actively are obliged to pay the \$165 annual fee.

CONCLUSION

Brookline can abolish the Refuse Fee. However, that comes with choices and consequences. We can discontinue the Town's refuse removal service and require all residents to contract with private vendors, or we can underwrite the entire cost of refuse removal with tax dollars.

If we choose to fund the entire service through tax revenue, we must understand that short of an override, we cannot increase taxes to cover the loss of \$2.1M in annual revenue currently generated by the refuse fee.

The reality is that if we choose to reduce our revenue by \$2.1M, we will also have to choose where to reduce our services and programs by \$2.1M annually.

The stark fiscal reality of tight municipal budgets argues for maintaining the Refuse Fee.

RECOMMENDATION

Brookline is one of approximately 150 towns and cities in the Commonwealth that incorporates a refuse fee into its revenue mix, and it is financially prudent to continue doing so.

The Advisory Committee UNANIMOUSLY (12-0) recommends NO ACTION on Article 8.

XXX

ARTICLE 9

NINTH ARTICLE

To see if the Town will, for the purpose of developing the front landfill site and connecting conservation areas (the Property) for park and recreation purposes, designate the front landfill a Public Park in the Town of Brookline, to be known as Front Landfill Park, with the existing access drive within the Property, with the Property to consist of approximately 17.5 acres, as shown on a plan entitled: "Plan of Front Landfill in Brookline, Massachusetts," dated March 10, 2005 prepared by the Department of Public Works Engineering Division, with the Property to be under the care, custody, management and control of the Parks and Open Space Division of the Department of Public Works and the Park and Recreation Commission of the Town of Brookline; and authorize the Board of Selectmen, the Commissioner of Public Works or the Park and Open Space Division to apply for, receive and expend state and federal funds, aid, grants, loans, reimbursements or other assistance for said project and to file on behalf of the Town of Brookline any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts required under the Self-Help Act (Chapter 132A, Section 11) and/or any other funding programs for said project; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 9 designates 15.15 acres of land at the former front landfill as park land. By designating this area as park land, this property will be protected under Article 97 of the State Constitution. Officially designating this parcel as parkland will also enable the Town to receive and use Urban Self-Help grant funding from the Commonwealth of Massachusetts Executive Office of Environmental Affairs towards park improvements. Due to the efforts of the Director of Parks and Open Space, the Town has been awarded \$250,000 from the Urban Self-Help grant program pending the approval of this warrant article.

After nearly six years of public planning, preparation and permitting the Town of Brookline is seeking to create a new community park; the first addition to the Town's public open space inventory in over a quarter of a century. Two landfills are being closed on Newton Street in Brookline under the Solid Waste Management Regulations (310 CMR 19.000) administered by the Department of Environmental Protection (DEP). The Department of Public Works (DPW) operations that used to operate from both sites are being improved and consolidated onto one parcel so that the front landfill parcel can be transformed into a 17.5-acre community park.

The design for the proposed park facility is a result of a comprehensive public planning process, including a Citizen Advisory Committee on the landfill closures, and a Park and Recreation Commission Design Review Committee for the front landfill park. The focus for the park development plan was to design amenities for all ages and all abilities incorporating both active and passive recreation elements. The other clear benefit of this plan is that it provides access to

isolated conservation areas owned by the Town of Brookline, the City of Newton and the Commonwealth of Massachusetts. The Park Design includes:

- ♦ Brookline's first regulation size soccer field
- ♦ Pathway connections and interpretive signage to Lost Pond and Kennard Woods Conservation areas
- ♦ Meadow area for wildlife habitat and a passive grassed area for picnicking
- ♦ A comprehensive play area for both younger and older children
- ♦ Universal Access
- ♦ Ample parking and space for a turnaround and drop off
- ♦ Multigenerational use
- ♦ Extensive berming and planting of large shade trees to provide a naturalistic landscape
- ♦ Picnic areas, shade shelter, benches and water fountains
- ♦ Plantings that provide wildlife habitat and provide opportunities for nature education
- ♦ Numerous walkways and a location for maintenance vehicle access
- ♦ Noise mitigation and visual control
- ♦ All stormwater managed and contained on site

The overall Town plan for capping both landfills, improving site conditions and operations at the DPW site and developing a park facility on the front landfill site will reduce odor incidents, will reduce noise, improve stormwater management, improve wildlife habitat, improve aesthetics to the site from the surrounding neighborhoods, connect isolated conservation areas and provide parkland for active and passive recreation.

Despite the fact that Brookline is largely developed, the Town remains under intense development pressure and the opportunity to create a community park with this land is a unique opportunity that demonstrates the Town's commitment to public open space. There is tremendous need for public open space in Brookline. The Town has a deficiency in athletic playing fields, as demonstrated in the 1992 Halvorson Field Use Study. Furthermore, there are no existing neighborhood parks in this section of Town and access to the public conservation areas abutting this property is insufficient. The addition of 17 acres of dedicated parkland would be an incredibly valuable asset unique to such a highly developed and diverse urban community with over 78% of the population who live in multi-family dwellings with no substantive outdoor space. This Board recognizes the great opportunity to expand the Town's existing inventory of parks and open space and fully supports all of the efforts of the Citizens Advisory Committee and the Park and Recreation Design Review Committee.

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on April 5, 2005, on the vote offered by the Advisory Committee.

ROLL CALL VOTE:

Favorable Action

Allen
Geller
Hoy
Merrill

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 9 designates a portion of the former landfill as parkland, thereby conferring to this land Article 97 protection. Article 97 of the Massachusetts State Constitution offers protection to parkland, which is considered a natural resource and right of every Massachusetts citizen.

For over five years, the Town has been planning to reuse the former landfill area off Newton Street. Formerly the entire landfill area was used by the Department of Public Works for a variety of purposes, including a transfer station, a staging area for DPW projects, and an area for dumping snow and composting leaves. A large portion of the former landfill is being sealed or "capped" in accordance with the regulations of the Department of Environmental Protection. The reuse plan has involved Town staff and a Community Advisory Committee. The final plans dedicate a portion (approximately one-half) of the land to DPW use and the remainder to parkland use. The design has been developed with extensive community input and review and has followed the process outlined by the Town's Design Review By-law for parks.

DISCUSSION

The design for the park includes a regulation size soccer field – the first and only one in Town. There is an ongoing demand for soccer playing fields that remains unfulfilled, and this field will go a long way to satisfy that town-wide need. To respect the quality of the nearby conservation sanctuary and residences, the field will not have lighting. In addition to the playing field, there will be walking paths and a playground area to serve the needs of children from tots to teens. A parking area will accommodate 50 cars.

Many of the park improvements will be phased in after the field is opened for play, and funding of these improvements is important to consider. The Town has applied for and was awarded a \$250,000 Massachusetts urban self help grant for improvements at Land-fill Park. However, the award is contingent upon the new landfill park being given Article 97 protection. Article 97 protection is the goal of this warrant article – not only conferring protection to this new parkland, but also enabling funding for its completion.

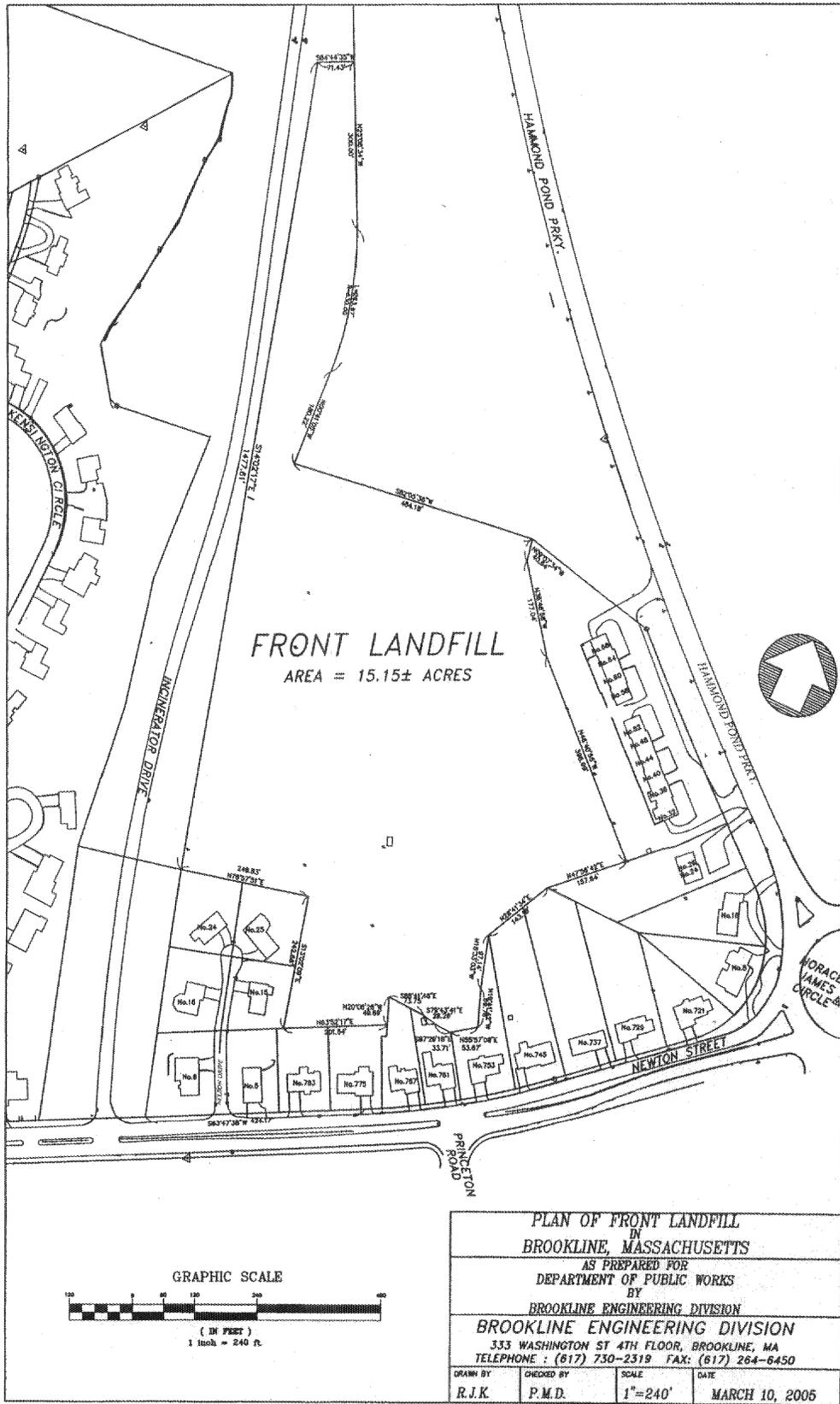
RECOMMENDATION

The Advisory Committee unanimously (18-0) recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town, for the purpose of developing the front landfill site and connecting conservation areas (the Property) for park and recreation purposes, designate the front landfill a Public Park in the Town of Brookline, to be known as Front Landfill Park, with the existing access drive within the Property, with the Property to consist of approximately 15.15

acres, as shown on a plan entitled: "Plan of Front Landfill in Brookline, Massachusetts," dated March 10, 2005 prepared by the Department of Public Works Engineering Division, with the Property to be under the care, custody, management and control of the Parks and Open Space Division of the Department of Public Works and the Park and Recreation Commission of the Town of Brookline; and authorize the Board of Selectmen, the Commissioner of Public Works or the Park and Open Space Division to apply for, receive and expend state and federal funds, aid, grants, loans, reimbursements or other assistance for said project and to file on behalf of the Town of Brookline any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts required under the Self-Help Act (Chapter 132A, Section 11) and/or any other funding programs for said project.

XXX



PLAN OF FRONT LANDFILL IN BROOKLINE, MASSACHUSETTS AS PREPARED FOR DEPARTMENT OF PUBLIC WORKS BY BROOKLINE ENGINEERING DIVISION			
BROOKLINE ENGINEERING DIVISION 333 WASHINGTON ST 4TH FLOOR, BROOKLINE, MA TELEPHONE : (617) 730-2319 FAX: (617) 264-6450			
DRAWN BY	CHECKED BY	SCALE	DATE
R.J.K.	P.M.D.	1"=240'	MARCH 10, 2005

ARTICLE 10

TENTH ARTICLE

To see if the Town will adopt the following resolution:

WHEREAS, there are coverage gaps in the Wireless Telecommunications Network in South Brookline (WTN);

WHEREAS, the WTN provides communications for both private and public cellular telephone users, including the Brookline DPW, Police and Fire Departments and Emergency Services Providers, and the existing coverage gaps have had and continue to have a negative impact upon those users, the citizens of South Brookline, and the services provided by Brookline Departments and Emergency Services Providers;

WHEREAS, the Town did, at the November 16, 2004, Special Town Meeting, authorize a Moderator's Committee (MC) to recommend technically feasible options for siting of equipment and transmission devices in South Brookline to solve existing coverage gaps in the WTN;

WHEREAS, the MC has convened and has worked to develop technically feasible options it can recommend to the town;

WHEREAS, the MC has engaged the services of an expert to assist it in developing and finalizing the technically feasible options, aforesaid, including the use of sites on town owned land in South Brookline and expects to complete its task and recommend technically feasible options to the town before the end of this fiscal year that ends on June 30, 2005;

NOW, THEREFORE, THE TOWN OF BROOKLINE, ACTING THROUGH IT REPRESENTATIVE TOWN MEETING, TAKES THE FOLLOWING ACTION:

1. THE TOWN MEETING HEREBY ACCEPTS THE RECOMMENDATIONS AND REPORT OF THE MC AND REQUESTS THAT AN ARTICLE OR ARTICLES BE INCLUDED IN THE WARRANT FOR THE NEXT TOWN MEETING THAT WILL IMPLEMENT THOSE RECOMMENDATIONS;
2. THE MC IS HEREBY EXTENDED IN ORDER TO IMPLEMENT ITS RECOMMENDATIONS; AND
3. THE TOWN MEETING AGAIN EXPRESSES ITS INTENT TO PROVIDE A TIMELY SOLUTION TO SOLVING THE COVERAGE GAP IN SOUTH BROOKLINE.

SELECTMEN'S RECOMMENDATION

At the November, 2004 Special Town Meeting, Article 11, which called for the siting of a cell tower in the Walnut Hills Cemetery, was referred to a Moderator's Committee. Article 10 is the result of the ModComm's work to date. It calls for extending the ModComm and requests that the ModComm complete its work on a report and recommendations and, if necessary, include an article(s) in the warrant for the next Town Meeting in order to provide a timely resolution to solving the coverage gap in South Brookline.

The lack of cellular communications coverage in South Brookline has existed for some time and the Town has undertaken efforts to ameliorate the issue. Concerns by the Town's Public Safety Services (a number of police communication capabilities are unavailable in S. Brookline), specific requests by large numbers of South Brookline residents, and an undesirable plan by a private developer to locate twin antennae towers atop the shops at Putterham Circle in very close proximity to homes, indicated it was time to comprehensively address this issue.

Background

The Federal Telecommunications Act of 1996 mandates that cellular coverage must be permitted and that all carriers are granted equal access. Federal Court is generally not kind to municipalities in contested cases, as Concord and other towns have learned. Thus far, our community has been effective in dealing constructively with cellular providers in the siting of antennas. There are two primary issues we must resolve. First, are we willing to cede a large measure of control to private developers and thereby have less control over siting, aesthetics, numbers, and duration of operation? Or, do we wish to retain much greater control by providing technically-viable sites on Town property? Second, if we do wish to retain a measure of control by using Town-owned property, what trade-offs and compromises are we willing to accept? There will be an impact - - it's just a matter of how we minimize it.

The issue of a cell tower on Town-owned land is not new to Brookline. In 1999, Town Meeting discussed a proposal to locate a cell tower at the Putterham Meadows Golf Course. The proposal was ultimately rejected by Town Meeting. Below is a brief history of cell towers in Brookline:

- **1996** = Federal Telecommunications Act
- **May, 1997** = Town Meeting approval of a moratorium on antenna permits through November 26, 1997. (Article 16)
- **June, 1997 – October, 1997** = Antenna Zoning Sub-Committee, consisting of two Planning Board members and concerned citizens, worked to formulate a bylaw.

- **November, 1997** = Town Meeting approval of the addition of a Wireless Communications section to the Town's Zoning By-Law. (Article 10. Article 11 was a citizen proposal that did not pass.)
- **January, 1999** = RFPs for a cell tower on Town-owned property is issued.
- **February 1999 - March, 1999** = RFP responses received and reviewed.
- **June, 1999** = Planning Board review of proposed 100' monopole at the Municipal Service Center (MSC).
- **July – August, 1999** = negotiations with Omnipoint for a monopole at the MSC.
- **September, 1999** = decision to postpone negotiating with Omnipoint until TM discusses proposal for "stealth" tower in the woods at the Putterham Meadows golf course.
- **November, 1999** = TM votes No Action on a "stealth" tower at the golf course (Article 11).
- **November 2004** = TM refer issue of "lack of cellular coverage in South Brookline" to a Moderator's Committee (Article 11).

2004 November Town Meeting

In the Spring of 2004, the Board requested that the Town's Chief Procurement Officer convene a Selection Board to develop an RFP as part of the Town's efforts in exploring options regarding wireless technology. This was done for a number of reasons:

- concerns raised by the Police and Fire Chiefs regarding the gaps in the wireless public safety network
- an increasing number of complaints received by the CIO regarding the lack of cell phone coverage in So. Brookline
- the possibility of taking advantage of "wi-fi", and
- future wireless applications for the Schools and Town departments.

The result of the Selection Board's work was the recommendation, contained in Article 11 of the November, 2004 Special Town Meeting, to erect a cell tower at the Walnut Hills Cemetery. Town Meeting Members had a number of concerns about the proposal, so they voted to create a Moderator's Committee to further investigate the matter. The ModComm has worked since December on this issue, yet, due to the complexity of the issue, is unable to make a recommendation at this time. Therefore, the ModComm presents this resolution. It recommends two actions: (1) extension of the ModComm and (2) the ModComm complete its work on a report and recommendations and, if necessary, include an article(s) in the warrant for the next Town Meeting.

The Board of Selectmen appreciates the efforts put forth by the ModComm and is hopeful that the members can develop a recommendation in time for the next Town Meeting. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 12, 2005, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 10 is a resolution proposed by the Moderator's Committee on Wireless Facilities to extend the time period under which they can make a report to Town Meeting and proposed any necessary Warrant Articles to implement their recommendations

DISCUSSION

The Moderator's Committee on Wireless Facilities was established pursuant to a vote on Article 11 at the Fall 2004 Special Town Meeting to examine how to deliver cell phone coverage to South Brookline. Article 11 proposed that the Town lease land at the Walnut Hills Cemetery as the site of a cell phone tower. Town Meeting's vote asked the Committee to examine the siting of cell facilities in South Brookline and report on "immediately actionable recommendations of distinct and technically feasible options" for siting cell equipment for this Town Meeting.

The Moderator's Committee has met a number of times and issued an RFP for a consultant to assist them in determining the best available alternatives. In response to the RFP, Edward Vea has been hired and has made a preliminary presentation to the Committee. His practice specializes in municipalities. A more complete draft consultant report is expected by the time Town Meeting meets. After that, the Committee will meet and evaluate the draft report and determine what their recommendation will be. The Committee's meetings have been productive and they are well on their way towards completing their work but they need some more time.

In the meantime, a number of cell carriers have filed lawsuits in U.S. District Court to force the Town to permit siting of cell towers covering South Brookline. These lawsuits arose out the Board of Appeals decision not to permit cell towers above the Shops at Putterham in Putterham Circle.

RECOMMENDATION

The Advisory Committee supports extending the time for the Moderator's Committee to complete its work but feels that it is imperative that a timely solution to this vexing problem be found and implemented. If Brookline can't agree on a solution, one may be imposed on us by the courts. The Advisory Committee unanimously (16-0) recommends FAVORABLE ACTION on the following:

VOTED: That the Town adopt the following resolution:

WHEREAS, there are coverage gaps in the Wireless Telecommunications Network in South Brookline (WTN);

WHEREAS, the WTN provides communications for both private and public cellular telephone users, including the Brookline DPW, Police and Fire Departments and Emergency Services Providers, and the existing coverage gaps have had and continue to have a negative impact upon those users, the citizens of South Brookline, and the services provided by Brookline Departments and Emergency Services Providers;

WHEREAS, the Town did, at the November 16, 2004, Special Town Meeting, authorize a Moderator's Committee (MC) to recommend technically feasible options for siting of equipment and transmission devices in South Brookline to solve existing coverage gaps in the WTN;

WHEREAS, the MC has convened and has worked to develop technically feasible options it can recommend to the town;

WHEREAS, the MC has engaged the services of an expert to assist it in developing and finalizing the technically feasible options, aforesaid, including the use of town owned property in South Brookline and expects to complete its task and recommend technically feasible options to the town;

NOW, THEREFORE, THE TOWN OF BROOKLINE, ACTING THROUGH ITS REPRESENTATIVE TOWN MEETING, TAKES THE FOLLOWING ACTION:

1. THE MODERATOR'S COMMITTEE IS HEREBY EXTENDED
2. TOWN MEETING REQUESTS THAT THE MODERATOR'S COMMITTEE COMPLETE ITS WORK ON A REPORT AND RECOMMENDATIONS AND, IF NECESSARY, INCLUDE AN ARTICLE OR ARTICLES IN THE WARRANT FOR THE NEXT TOWN MEETING; AND
3. TOWN MEETING AGAIN EXPRESSES ITS INTENT TO PROVIDE A TIMELY SOLUTION TO SOLVING THE COVERAGE GAP IN SOUTH BROOKLINE.

XXX

ARTICLE 10

Report to Town Meeting from the Moderator's Committee on Cellular Facilities

The Moderator's Committee on Cellular Facilities (MC) was created by Town Moderator Sandy Gadsby in response to Article XI passed by Town Meeting at the Fall 2004 meeting. Mr. Gadsby appointed ten citizens to the committee: Selectman Robert L. Allen, Jr.; Dorothy Baldini (Walnut Hills Cemetery); Geoff A. Cohen (TMM 11); Merrick L. Cohen (TMM 15); Mary Duggan (Golf Course); Janice S. Kahn (TMM 15); Jay Mitchell (TMM 16); Joshua Safer, M.D., Lt. Robert Simmons (Brookline Police Dept. and Park & Recreation), and Richard Wheeler (TMM 16).

The committee met for an initial organizational meeting on Tuesday, November 30, and has met eight times since then. Joshua Safer, M.D., and Geoff A. Cohen were elected co-chairs by the committee. In addition to the regular meetings, the MC held a public forum on May 4, 2005, at which the public was invited to make comments.

The MC had some early difficulty in meeting. Three announced meetings were cancelled: one on December 14, 2004 due to an oversight that the meeting, while announced on the Town's website, in the Brookline TAB, and on the Town Meeting Members' Association mailing list, was not posted on the bulletin board outside the Town Clerk's office. Two meetings, one on January 24, and one on February 28, were cancelled due to snow emergencies.

Despite those difficulties, the MC has made a good deal of progress. We prepared a Request for Quotes for professional radiofrequency consulting services, and accepted the quote from Frederick G. Griffin Engineering. Ed Vea of FGGE performed testing and analysis of the options for siting of cellular service antennas in South Brookline, and presented his findings to the committee. Those findings include that there exists no single tower option, and that a system of smaller, distributed antennas (a "DAS") is a viable option for providing wireless telephony services to South Brookline.

The committee's work is not yet complete, and if renewed by Town Meeting, will continue to assess the viability of DAS, and discuss the potential designs and contractual arrangements for such a system. If appropriate, we will then prepare an RFP and shepherd that process to the selection of a vendor. We will bring any necessary warrant articles, such as zoning changes or town leasing arrangements, to the Fall 2005 Town Meeting.

ARTICLE 11

ELEVENTH ARTICLE

That the Town will amend the Zoning By-law as follows:

1. With respect to Sec. 5.22 – EXCEPTIONS AND EXEMPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS

A. In the first paragraph of Sec. 5.22, 2. Conversion of Attic or Basement Space in Single-Family and Two-Family Residential Dwellings, add the following after “as-of-right” and before “under the following conditions”:

“if a Certificate of Occupancy for the original construction [and previous conversions or alterations under this section, if any,] was granted at least ten years prior to the date of this application”

or act on anything relative thereto.

The full paragraph will then read:

Conversions of attics, cellars, or basement to habitable space for use as part of an existing single- or two-family dwelling, not as a separate dwelling unit, and effectively increasing gross floor area of the dwelling, shall be allowed as-of-right **if a Certificate of Occupancy for the original construction [and previous conversions or alterations under this section, if any,] was granted at least ten years prior to the date of this application**, under the following conditions:

In the fall of 2002, Town Meeting approved a zoning amendment warrant article allowing as-of-right conversions of unfinished basements and attics to habitable space in existing single and two-family homes, if certain conditions were met. The purpose of the amendment was to: 1) provide flexibility for interior renovations of existing one and two-family dwellings, 2) encourage residents with growing families to remain in Brookline, 3) provide an alternative to building an addition which would decrease green space, and 4) minimize replacing an older home with one that was out-of-scale with the surrounding homes.

The amendment limited conversions of basements and attics to “dwellings erected and as configured prior to the adoption of this section”. However, subsequent to Town Meeting approval of the amendment, the Attorney General ruled that this limitation was not legal because a zoning by-law must uniformly apply to all property within a particular district. Those words were struck from the By-Law because the amendment would not apply to a homes built after the adoption of the amendment.

The removal of the limitation of applicability to existing homes materially changes what Town Meeting passed and creates a loophole large enough to drive a truck through. Under this loophole, developers can build a home containing the maximum FAR plus a large unfinished attic or other unfinished space. Immediately after the certificate of occupancy is issued, the developer can then apply to finish the attic or other unfinished space as an addition by right. By gaming this loophole, developers will be permitted (perhaps encouraged), by right, to build a larger home than they otherwise would be.

Anecdotally, we have heard of developers already taking advantage of this loophole. Therefore, because the approved amendment could allow for new single and two family construction, additions or alterations that could exceed the FAR allowed by the Zoning By-Law, language should be added, replacing the language that was struck by the Attorney General and applying uniformly to all single and two family homes prohibiting conversions for ten years from construction of the home and any subsequent Floor Area Relief granted by the Board of Appeals for additions. The ten year time limit would limit investment in larger overly massive homes, where there was a ten year wait to finish off a basement and/or attic, and yet would allow for flexibility for homeowners to make interior renovations to “older” homes – Town Meeting’s original intent.

PLANNING BOARD REPORT AND RECOMMENDATION

Article 11, which was submitted by citizen petition, modifies a zoning amendment passed in 2002 by Town Meeting. That amendment allows conversion of basements and attics by-right to usable space in single and two-family homes where certain conditions are met. The purpose of the original amendment was to make it possible for residents with increasing space needs to remain in Brookline, encourage conversions to habitable space within an existing building footprint rather than the construction of additions that replace open space, and discourage tear downs and construction of larger homes out-of-scale with the neighborhood.

When this amendment was originally adopted by Town Meeting in Fall 2002, it applied to single and two family houses that had been built by the time the amendment was passed. However, the Attorney General, citing a “fairness doctrine” declared that it was illegal to restrict the zoning amendment only to houses already constructed at the time of the passage of the zoning amendment. Section 6 of Chapter 40A, the State Zoning Act, requires that a zoning by-law apply uniformly to all buildings within the same zoning district. Thus, at the Attorney General’s request, the Town deleted the phrase: “erected and as configured prior to the adoption of this section.” With this deletion, the amendment applied to all single and two-family homes built *before or after* 2002.

Under the amended language as required by the Attorney General, an owner could build a house to the maximum Floor Area Ratio (FAR) allowed in that zoning district, and then immediately get an additional building permit *by right* to convert a large unfinished basement and/or attic to habitable space or be granted a special permit under Section 5.22, Exception to Floor Area Regulations for

Residential Units, to construct an addition or alteration and then immediately request a building permit by right to convert the basement or attic.

This proposed amendment to the FAR requirements would require a ten year waiting period from either the time of construction of a new house or from the time a special permit was issued for an addition under Section 5.22, Exceptions to Floor Area Regulations, before an unfinished basement or attic could be converted by right to usable space. Although the homeowner couldn't get a building permit by right during the ten year period, the owner could apply to the Board of Appeals for a special permit (as was the procedure before the 2002 amendment) to convert the space, if the Board of Appeals found it met the criteria.

At the close of its public hearing on April 13, 2005, the Planning Board discussed the fairness of allowing a homeowner in an older home to convert the basement/attic by right to habitable space but not allowing a homeowner in a newly constructed home to do so. Some members felt that the proposed ten year waiting period provided a good way of discouraging overly large homes that might be out of scale with those in the surrounding area; others believed that this different treatment for how much of a new home could be finished was not fair. The Planning Board Chair, in response to a citizen comment, proposed that basements be treated differently than attics, since they have less impact on how big a home appears. One Planning Board member observed that there were impacts on the design of a house to be considered. For instance, if an owner anticipated finishing a basement when the home was complete, the basement might be designed higher out of the ground, thus, raising the overall height of the building and resulting in a shallower pitched roof that is less attractive. After further discussion, Planning Board voted unanimously (with one abstention) to eliminate basements from the ten year waiting period.

At its April 28th Planning Board meeting, the Planning Board discussed the Selectmen's recommendation for No Action on this article and having a Zoning By-Law Committee address the issue of appropriate floor area limitations in single and two family homes, along with its consideration of FAR and Height (Article 12). Planning Board members had no objection to including FAR regulations pertaining to single and two-family dwellings to further study by a committee but still supported passage of Article XI at this time with revision.

Therefore, the Planning Board unanimously (with one abstention) recommends FAVORABLE ACTION on a revised Article 11 with a revision to exclude basements from the ten year waiting period, as follows.

To see if the Town will amend the Zoning By-Law as follows:

1. With respect to Sec. 5.22 – EXCEPTIONS AND EXEMPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS

- A. In the first paragraph of Sec. 5.22, 2. Conversion of Attic or Basement Space in Single-Family and Two-Family Residential Dwellings, add the following after “as-of-right” and before “under the following conditions”:

“if a Certificate of Occupancy for the original construction and previous conversions or alterations under this section, if any, was granted at least ten years* prior to the date of this application”

- * **“The ten year waiting period shall not apply to conversions to habitable space for basements and/or cellars which meet the other conditions stipulated in Sections 5.22.1 & 2.”**

or act on anything relative thereto.

SELECTMEN’S RECOMMENDATION

At the 2002 Fall Town Meeting, the Selectmen supported an amendment to allow conversions of basement and attics by-right, if certain criteria were met, in order to encourage families needing more space to stay in Brookline and more fully use existing space in their homes, rather than replacing them with overly large homes. After the amendment was approved, the Attorney General struck down a restriction limiting these by-right conversions to homes built prior to the adoption of the amendment. This petitioned article attempts to address the construction of new homes with very large basements and attics, to be converted to habitable space as soon as the house is built, and thus circumvent the maximum Floor Area Ratio (FAR) requirements in the Zoning By-Law.

After much discussion and consideration, a majority of the Selectmen believe that further study and evaluation should be undertaken to determine the appropriate size limits for single- and two-family homes. The Selectmen were concerned that a 10-year waiting period for the owner of a new home, but not an older home, was not fair to a growing family needing more living space and wanting to stay in Brookline.

The Board recommends FAVORABLE ACTION, by a vote of 4-1 taken on April 26, 2005, on the following vote:

VOTED: To refer Article 11 to the Zoning By-Law Commission for a report to the 2005 Fall Town Meeting.

ROLL CALL VOTE:

Favorable Action

Allen
Geller
Sher
Merrill

No Action

Hoy

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 11, if passed by Town Meeting, would modify a zoning amendment that was originally passed by Town Meeting in 2002. The 2002 amendment allowed homeowners of one- and two-family homes that had been built at the time the amendment was passed to convert useable space in basements and attics to habitable space as of right when certain conditions were met.

The Attorney General, citing a “fairness doctrine”, struck the clause that said the amendment would apply to existing housing. The AG cited Section 6 of Chapter 40A, the State Zoning Act that requires that a zoning by-law apply uniformly to all buildings within the same zoning district. The AG requested that the Town delete the phrase “erected and as configured prior to the adoption of this section.” When this happened, the amendment then applied to all single and two-family homes built before or after 2002. This seemingly innocuous change has potentially significant ramifications.

Under the article as amended by the Attorney General, an owner can build a house to the maximum floor area ratio (FAR) allowed in a particular zoning district and then as soon as an occupancy permit for the property is issued, apply for a building permit to convert an intentionally large attic or basement space to habitable space, thus circumventing the intent of the current zoning. In effect, this would increase the FAR beyond what would otherwise be permissible.

DISCUSSION

The petitioner, attempting to address the AG’s requirement that zoning apply uniformly to all buildings within the same zoning district, filed a warrant article for a zoning amendment that would require a ten-year waiting period from either the time that a house is constructed or from the time a special permit is issued for an addition under Section 5.22, exceptions to Floor Area Regulations. This ten-year waiting period would apply to as of right conversion of basement or attic space. However, any homeowner who otherwise would be subject to the ten-year wait, can always apply to the Board of Appeals for a special permit to convert either basement or attic space. The proposed ten-year wait won’t stop anyone from converting before ten years; it will just make it more arduous.

The petitioner pointed out that at the time the original article was passed in 2002, it was the intent of that article to help current homeowners who needed more habitable space to stay in their own homes by converting interior space. In addition, it was thought by allowing homeowners to convert attics and basement space as a matter of right that it would ultimately preserve green space. And finally, by making it possible to convert as a matter of right, it would save homeowners the expense of having to hire a lawyer and petition the Board of Appeals for a special permit.

What has resulted from the AG’s editing of the original article is that there is now an enormous loophole in Brookline’s zoning by-law. Developers can and are building homes that are ready for build outs. The petitioner referred to this as a “McMansion” loophole. The petitioner by

submitting this article is trying to prohibit builders from building oversized buildings and then immediately converting the attics and basements to habitable space. It is thought that if this additional attic or basement space has to be left vacant for ten years, it will be a disincentive to overbuild additional space.

After checking with the Executive Office of Community Affairs, it is believed that this article will satisfy the AG's office because this by-law amendment will be applied uniformly.

RECOMMENDATION

On April 13 the Planning Board unanimously (with one abstention) recommended favorable action on a revised version of Article 11 that eliminated basements from the ten-year waiting period because they felt that basements have less impact on how big a home appears.

The Advisory Committee supports the Planning Board's revised Article 11 and by a vote of 16 in favor, 1 opposed, and 1 abstention recommends FAVORABLE ACTION on the following vote.

VOTED: That the Town amend the Zoning By-Law as follows:

1. With respect to Sec. 5.22 – EXCEPTIONS AND EXEMPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS

A. In the first paragraph of Sec. 5.22, 2. Conversion of Attic or Basement Space in Single-Family and Two-Family Residential Dwellings, add the following after "as-of-right" and before "under the following conditions":

“if a Certificate of Occupancy for the original construction and previous conversions or alterations under this section, if any, was granted at least ten years* prior to the date of this application”

*** “The ten year waiting period shall not apply to conversions to habitable space for basements and/or cellars which meet the other conditions stipulated in Sections 5.22.1 & 2.”**

XXX

ARTICLE 12

TWELFTH ARTICLE

To see if we can replace two of the present definitions in the Zoning By-Law 'Definitions' section 2.16 in order to make these definitions more specific and understandable, and more in keeping with most of the similar definitions in other Town and City Zoning By-Laws.

The two definitions deal with:

- 1. Gross Floor Area
- 2. Height of Buildings

To amend the Zoning By-law as follows:

By creating new definitions for Gross Floor Area and Height as noted below:

Article 2

Section 2.16 Definitions

Section 2.11 Floor Area Gross

.....

Replace this section in its entirety with the following:

Gross Floor Area

The sum, in square feet, of the gross horizontal areas of all floors of a building, including areas in basements, attics and penthouses, as measured from the exterior faces of walls (except in (8) and (9) below where only interior space shall be measured and in (h) where the area of the parking facility shall be measured) of a building or the centerline of party walls between buildings.

Gross Floor Area shall include:

- (a) roofed porches and balconies whether enclosed or unenclosed;
- (b) unroofed porches and balconies above the third floor;
- (c) elevator shafts and stairwells on each floor;
- (d) attic space, whether finished or unfinished, within the area of a horizontal plane that is five (5) feet above the attic floor and which touches the side walls and/or the underside of the roof rafters and which is not excluded in (5) below;
- (e) interior balconies, mezzanines and penthouses;
- (f) basement and cellar areas, whether finished or unfinished, including trash, laundry and storage rooms, not excluded in (1), (3) and (9) below;
- (g) area of parking facilities in structures except as excluded in (2) below;
- (h) storage areas and tenant storage areas located in parking facilities, and
- (h) any accessory parking spaces not in above ground structures if in excess of the maximum

number permitted on the premises as set forth in this Zoning Code.

Gross Floor Area shall not include:

- (1) areas used for off street loading purposes;
- (2) areas of parking facilities in structures located underground and the area of on grade open parking spaces outside the building footprint at or below the maximum number permitted on the premises as set forth in this Zoning Code;
- (3) basement and cellar areas devoted solely to the operations and maintenance of the building such as heating and cooling equipment, electrical and telephone facilities, and fuel storage;
- (4) open and lattice-work fire escapes;
- (5) unroofed porches and balconies no higher than the third floor;
- (6) attic space and other areas devoted solely to elevator machinery or mechanical equipment necessary for the operation of the building;
- (7) elevator shafts on floors where there is no other area which qualifies to be included in gross floor area;
- (8) attic space not otherwise included in (d) above;
- (9) basement and cellar spaces with less than seven (7) feet of ceiling height measured from the floor to the line of the bottom of the floor joists, or to any subfloor or finished surface above any floor joists that are spaced not less than four (4) feet on center, and further provided that the basement or cellar is not a Story Above Grade as defined in the State Building Code; and
- (10) hvac and mechanical shafts

In a building with more than two floors, the area of each floor level of any interior courtyard whether or not covered by a roof, which has a minimum dimension of less than forty (40) feet in any direction shall be included unless twenty (20) percent or more of the perimeter of such courtyard at each floor level measured consecutively is not enclosed.

Replace this section in its entirety with the following:

Height of Building

The vertical distance of the highest point of the roof, including roof ridges, peaks, gables and towers, as well as mechanical structures if they are a major architectural element, above the mean grade of the ground adjoining the building.

To see if we can replace two of the present definitions in the Zoning By-Law 'Definitions' section 2.16 in order to make these definitions more specific and understandable, and more in keeping with most of the similar definitions in other Town and City Zoning By-Laws.

The two definitions deal with:

1. Gross Floor Area
 2. Height of Buildings
-

PLANNING BOARD REPORT AND RECOMMENDATION

Article 12, which was submitted by citizen petition, amends the definitions of gross floor area and height of buildings in Article II of the Zoning By-Law. It applies to all buildings in Brookline: residential, commercial, and institutional.

At the Planning Board Public Hearing on April 13, 2005, the Petitioner submitted a substantially revised draft of Warrant Article 12. The revised version struck most of the items that were originally proposed to be counted toward Gross Floor Area (GFA), leaving only three main items which the Brookline Zoning By-Law does not currently include as GFA: “roofed porches and balconies enclosed”, “ storage areas and tenant storage areas located in parking facilities”, and “uncovered interior courtyards”.

The Planning Board raised several concerns about the definition of these items, e.g. is a screened porch considered enclosed, is an unheated porch included as GFA? The Board also felt that storage areas in parking facilities should not be included as GFA and that, if they were, many properties throughout the Town would possibly become non-conforming. Lastly, the Board would not like to discourage open air courtyards by including them in FAR calculations.

The warrant article describes height as the tallest point on a building and also defines from where the height should be measured (mean grade of the ground adjoining the building). The current By-Law also defines height as the tallest point on a building but also refers the reader to Section 5.30 to determine from what point on the ground the height should be measured. There are three and a half pages in Section 5.30, Maximum Height of Buildings, describing varying site conditions and how height should be measured. In many cases, height is measured from the mean grade of the street, rather than the grade around the building. Thus, either Warrant Article 12 would need to make a reference to Section 5.30, as our current By-Law does, or to propose deleting this section altogether.

The Planning Board believes that much more analysis needs to be done before the definition of gross floor area and height is changed and does not support Article 12 at this time. This could be accomplished through a Moderator’s Committee, or a Zoning By-Law Committee as suggested by the Board of Selectmen.

Therefore, the Planning Board voted unanimously to recommend NO ACTION on Article 12 and that a Moderator’s Committee be appointed to study the definition of GFA and height definitions and report back to Town Meeting, including a definition of habitable space.

SELECTMEN’S RECOMMENDATION

The Selectmen do not support changing the definitions for Floor Area and Height at this time, even with the revisions offered by the petitioner of the article. More study and evaluation is needed before an amendment is adopted for such a complex and broad issue. Also, any proposed amendment must be evaluated to ensure that it is consistent, or not in conflict with, other sections

in the Zoning By-Law. The Selectmen believe that Floor Area, Floor Area Ratios, Habitable Space, and Height definitions should be evaluated by the Zoning By-Law Commission before any changes are made.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 26, 2005, on the following vote:

VOTED: To refer Article 12 to the Zoning By-Law Commission for a report to the 2005 Fall Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 12 was submitted by citizen petition, and seeks to amend the definitions of “gross floor area” and “height” of buildings. If passed, this would apply to all buildings in Brookline – residential, commercial, and institutional.

The petitioner explains that there are short-term concerns – Building D at Longyear (currently under design) will most likely end up larger than should be permitted. The petitioner filed this article because he wants to prevent a “Longyear debacle” from happening in Brookline again. He feels all Brookline citizens will be better served if by-laws are clear and people understand what they mean and if the by-laws appropriately tie into our Comprehensive Plan.

DISCUSSION

In a process the petitioner believes is broken, there are two threads – interpretation and enforcement.

The petitioner’s belief is that the Building Department is not interpreting the zoning codes correctly and, therefore, not properly enforcing our current by-laws. The petitioner recognizes that the recent zoning study is a great start to solving problems his warrant seeks to address. The article filed by the petitioner seeks to make both the definition of “gross floor area” and “height” clearer. Most of the language in the article was taken from Cambridge zoning by-laws.

Many complications were discussed. A lot of communities don’t use the floor-area-ratio (FAR) model; they use a lot-coverage model. If this article were adopted, many buildings in town would become non-conforming. There was concern that if porches and balconies were included, it might discourage builders from including these sorts of character enhancing elements.

Based, in part, on these expressed concerns, the petitioner reduced the scope of this article. However, there remains concern that passage of this article may create more problems than it seeks to solve.

Zoning enforcement has arisen as a major theme, and clarity, simplicity, and consistency can make enforcement more straightforward. The petitioner has raised valid concerns, but much more analysis may be needed before changing the definitions of “gross floor area” and “height”. In fact, Planning has stated its intent to rethink the concept of FAR and perhaps move toward a lot-coverage model.

RECOMMENDATION

Prior to the commencement of the Comprehensive Plan, there was a zoning group to address issues such as these presented in Article 12. However, that group was disbanded. The Advisory Committee has some concerns about re-establishing this group in the context of this article. Principally, the concerns are about longevity and committee composition. Both are unknown at this point since the zoning committee no longer exists. Therefore, the Advisory Committee, by a vote of 15 in favor and 2 opposed, recommends **FAVORABLE ACTION** on the following vote.

VOTED: To refer Article 12 to a Moderator’s Committee to study and make a report to the 2006 Annual Town Meeting about gross floor area, including a definition for habitable space and height. This Moderator’s Committee should have up to seven members and include an attorney, with no current involvement in design or real estate development in Brookline, an architect/planner with no current projects in Brookline, a member of the Planning Board and up to four other citizens.

XXX

ARTICLE 12

MOTION TO BE OFFERED BY THE PETITIONER

MOVED: To amend Article II DEFINITIONS of the Town of Brookline's Zoning By-Law as follows.

Amend Section 2.07 - "G" DEFINITIONS by deleting the following current definition 1. GROSS FLOOR AREA and inserting the following new definition.

~~1. GROSS FLOOR AREA - The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this By law, except as required in §5.06, paragraph 2., subparagraph e., or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.~~

1. GROSS FLOOR AREA - The sum, in square feet, of the gross horizontal areas of all floors of a building, including areas in basements, attics and penthouses, as measured from the exterior faces of walls (except in (8) and (9) below where only interior space shall be measured and in (h) where the area of the parking facility shall be measured) of a building or the centerline of party walls between buildings.

Gross Floor Area shall include:

- (a) roofed porches and balconies enclosed;
- (b) elevator shafts and stairwells on each floor;
- (c) finished attic space within the area of a horizontal plane that is five (5) feet above the attic floor and which touches the side walls and/or the underside of the roof rafters and which is not excluded in (5) below;
- (d) interior enclosed balconies, mezzanines and penthouses;
- (e) finished basement and cellar areas, including trash, laundry and storage rooms, not excluded in (1), (3) and (9) below;
- (f) storage areas and tenant storage areas located in parking facilities

Gross Floor Area shall not include:

- (1) areas used for off street loading purposes;
- (2) any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet parking requirements of this By-law, except as required in Section 5.06 4. b. 3);
- (3) basement and cellar areas devoted solely to the operations and maintenance of the building such as heating and cooling equipment, electrical and telephone facilities, and fuel storage;
- (4) open and lattice-work fire escapes;
- (5) attic space and other areas devoted solely to elevator machinery or mechanical equipment necessary for the operation of the building;
- (6) attic space not otherwise included in (d) above;
- (7) basement and cellar spaces with less than seven (7) feet of ceiling height measured from the floor to the line of the bottom of the floor joists, or to any subfloor or finished surface above any floor joists that are spaced not less than four (4) feet on center, and further provided that the basement or cellar is not a Story Above Grade as defined in the State Building Code; and
- (8) hvac and mechanical shafts.

In a building with more than two floors, the area of each floor level of any interior courtyard whether or not covered by a roof, which has a minimum dimension of less than forty (40) feet in any direction shall be included unless twenty (20) percent or more of the perimeter of such court yard at each floor level measured consecutively is not closed.

and

Amend Section 2.08 - "H" DEFINITIONS by amending the current definition 3. HEIGHT OF BUILDING as follows:

3. HEIGHT OF BUILDING – The vertical distance of the highest point of the roof ~~beams in the case of a flat roof, or of the top of the rafters at the ridge in the case of a sloping roof, above the level specified in Article V, §5.30.~~, including roof ridges, peaks, gables and towers, as well as mechanical structures if they are a major architectural element, above the mean grade of the ground adjoining the building.

ARTICLE 13

THIRTEENTH ARTICLE

To see if Town Meeting will

rescind ARTICLE IV, titled, “Add a Principal Use 36B in SECTION 4.07 – TABLE OF USE REGULATIONS” approved by Town Meeting on June 2, 2004

Zoning By-law 36B:

Principal Uses	Residence				Business			Industry
	S	SC	T	M	L	G	O	I
<p>36B. Research laboratory for scientific or medical research, with a Bio safety Level of Level 1 or Level 2 as defined by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, and National Institutes of Health, provided the use is located on a lot with no less than 50,000 square feet and no more than 65,000 square feet in area and is operated in compliance with all town, state and federal health and safety regulations, and that thirty days prior to a Board of Appeals hearing on the use, and annually, a report detailing In reply to: hazardous materials operations, processes, disposal and storage shall be reviewed and approved in writing by an independent recognized expert, the Fire Chief and Director of Public Health and Human Services.</p> <p>* Permitted by Special Permit only in a GMR-2.0 District</p>	No	No	No	No	No	SP*	No	No

Recommended Biosafety Levels for Infectious Agents

U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention and National Institutes of Health. Biosafety in Microbiological and Biomedical Laboratories (BMBL) 4th Edition. Washington: GPO, May 1999.

Biosafety Level	Agents	Practices	Safety Equipment (Primary Barriers)	Facilities (Secondary Barriers)
1	Not known to consistently cause disease in healthy adults.	Standard Microbiological Practices	None required	Open bench top sink required
2	<u>associated with human disease. Hazard = percutaneous injury, ingestion, and mucous membrane exposure.</u>	BSL -1 practice plus: *Limited Access * Biohazard warning signs *“Sharps precautions *Biosafety manual defining any needed waste decontamination or medical surveillance policies	Primary barriers= Class I or II BSCs or other physical containment devices used for all manipulations of agents that cause splashes or aerosols of infectious materials; PPEs: laboratory coats; gloves; face protection as needed	BSL-1 plus Autoclave available

Given that in Boston, a neighborhood adjoining Brookline, a Boston University Level II Biolab employee has become infected with a contagious disease due to procedural error, putting surrounding communities at risk, petitioner proposes that Town Meeting rescind Zoning By-law 36B which authorizes a Level II bio-lab at 2 Brookline Place, in order to prevent the potential of similar procedural errors causing contagious disease in the Town of Brookline.

Boston Globe article /evidence of health risk summarized*: “In 1942, when the United States started its biological warfare program, two Columbia University microbiologists, Theodor Rosebury and Elvin Kabat, made a detailed estimate of the anthrax and tularemia, diseases whose agents were best suited for weapons development. They cited **56** laboratory accidents to suggest that the bacteria for this disease could easily become airborne without losing virulence. In the aftermath of 9/11 and the 2001 anthrax letters, Washington began to regulate dangerous pathogens and to encourage research on dozens of select biological agents. Inexperienced workers, the lack of federal government oversight and increasing secrecy in the Department of Health and Human Services and other agencies portend reduced accountability to the public. In its case to authorities, BU Medical Center argued that a potential release of anthrax spores poses "zero risk" to the local community, an assertion that hasn't proven factual. Last May, when **two** BU lab researchers fell ill, no one conjectured that the supposedly innocuous strain of tularemia they were working with might have been virulent. Nor did anyone seem to remember BU's prior tularemia mishap, the exposure in 2000 of a **dozen** lab employees following the death of a Martha's Vineyard man. In June 2003, Rebecca Ryan, BU Medical Center's Biosafety Manager, was e-mailing biodefense colleagues for suggestions about how to contain virulent tularemia to

protect lab workers. Accidental spills, mechanical breakdowns, and the tendency to ignore regulations are endemic to laboratory work. On-the-job learning with exotic pathogens increases the hazard. . . . Now, in Boston, a leak to the press has revealed that **three** cases of lab-caused tularemia were kept secret while BU's proposed BSL4 lab was being debated. If the cases posed no public risk, as BU and city and state health officials argue, they and the Centers for Disease Control should have released the information. Instead, these authorities now find themselves being labeled untrustworthy defenders of civilian health. Government secrecy regarding any disease threat puts the public at risk. While not contagious person-to-person, tularemia can be easily spread by air and via animal and insect vectors. The risks are: a failed ventilation system, the contaminated fur of a lab animal, ticks or flies, blood from patients. Tularemia's clinical symptoms (usually fever and cough, with a possible burning sensation in the chest) can be easily confused with other ailments.” *Full article by Jeanne Buillemin, Globe Article ‘Making BU's biolab safe’ January 31, 2005, http://www.boston.com/news/globe/editorial_opinion/oped/articles/2005/01/31/making_bus_biolab_safe?pg=2

The town officials of Brookline have an obligation to insure that residents are safe. Substantial evidence documents that Level II laboratory research on infectious disease problems has exposed the public to dangerous pathogens. Therefore petitioner requests Town Meeting approval to rescind Zoning By-law 36B approval of Level II laboratory research to reduce the potential harm to the public.

MOTION TO BE OFFERED BY THE PETITIONER

MOVED: That the Town amend the Zoning By-Law by deleting Principal Use 36B in Section 4.07, Table of Use Regulations.

PLANNING BOARD REPORT AND RECOMMENDATION

Article 13, which was submitted by citizen petition, proposes to rescind the article passed by Spring 2004 Town Meeting, which allowed medical research lab use in a General Business and Medical Research (GMR-2.0) district, *by special permit only*, if strict safety criteria are met.

The Planning Board is still satisfied that the use will be safe due to the stringent safeguard conditions included in the Zoning By-Law. Only Level 1 or 2 scientific and medical research use would be allowed; all town, state, and federal health safety regulations would have to be met; and an initial and annual report detailing all hazardous materials operations, disposal, and storage must be reviewed and approved by an independent recognized expert, the Fire Chief, and the Director of Public Health and Human Services. Additionally, an oversight committee will be established to ensure that all safety requirements are rigorously followed.

Both the Fire Chief and Director of Health and Human Services have found that with the above limitations and requirements, any risks to the adjacent community would be minimal and manageable, and that fire personnel would be well-prepared to respond to any incident.

The Planning Board voted to support Town Meeting's 2004 decision to approve this use by special permit in a GMR-2.0 district, because the amendment includes numerous restrictions and safeguard conditions. Therefore, the Planning Board unanimously recommends NO ACTION on Article 13.

SELECTMEN'S RECOMMENDATION

Warrant article 13 seeks to rescind last spring's Town Meeting decision to allow a research laboratory for scientific or medical research use with a Bio Safety of Level 1 or 2 (BSL-1 or BSL-2) as defined by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention which would only be allowable by Special Permit and within a General Business and Medical Research District (GMR- 2.0).

In addition, the zoning requires approvals from the Director of Public Health and Human Services, the Fire Chief and independent lab safety expert(s) and establishes four levels of oversight/review for the Town to manage the use from permitting through daily lab operations. The costs associated with securing an independent lab safety expert(s) for the design, construction and the on-going use (items 2-4) would be paid for by the developer and ultimately the lab tenants while review of the report on the Special Permit use (item 1) would be paid for by the Town. These are the four levels of oversight/review that are currently required:

1. Special Permit - This language is taken directly from the Town's Zoning By-Law: "...and that thirty days prior to a Board of Appeals hearing on use, and annually, a report detailing In reply to: hazardous materials operations, processes, disposal and storage shall be reviewed and approved in writing by an independent recognized expert, the Fire Chief and the Director of Public Health and Human Services."
2. Design - At the outset of the laboratory design, an independent consultant with a demonstrated background in architectural laboratory design/construction and safety would be retained by the Town to review the specifications and laboratory design on the project.
3. Construction - For the construction phase, an independent clerk of the works with experience in the construction of medical research laboratories would be retained by the Town to ensure that all specifications and designs are fully implemented as required in construction.

4. Start-up and On-going Lab Operation - As the tenant(s) are identified; the Town would retain a person with a strong background in bio-safety to serve on the tenant's IBC (Institutional Bio-Safety Committee), to do periodic inspections and reports, and to generally ensure adherences to all NIH guidelines. In addition, each lab would be reviewed and permitted for operation on an annual basis.

While there are risks to lab workers that need to be addressed and to be minimized, the actual risk from a BSL-2 to the adjacent community is minimal and manageable. In addition, the Centers for Disease Control (CDC) have concluded that these laboratories have not been shown to represent a risk to community. After a very focused and careful deliberation of the facts, last spring's Town Meeting voted by more than 2/3 to support this lab use.

There has been no new information presented by the Petitioner or supporters of this Article to suggest that Town Meeting should not have adopted this zoning. Rather the contrary has happened – recent current events at a Boston University lab involving tularemia and a fire at a radiological lab in Boston, have only served to underscore Brookline's proactive actions to ensure public safety through proper review/oversight of a lab design and use. By having the town's independent expert holding a seat on a lab's Institutional Bio-Safety Committee and having the authority to conduct periodic inspections/spot checks the Town can ensure compliance with the conditions of operation established by the Town. After the B.U. incident, Boston is now considering establishing a process of oversight/review very similar to the process that Brookline established at last spring's Town Meeting.

Brookline has done its due diligence in researching, evaluating and recommending the appropriate levels of Bio Safety lab use for our community and establishing a framework for review/oversight from the not only the Town Safety Officials but independent lab expert(s) at each phase of the lab thereby to insuring proper and safe management.

Boston officials estimate they have over 800 BSL-2 labs and 12 BSL-3. Currently, they do not have an estimate of the number of BSL-1 labs. The City of Cambridge has a total of 46 permits for labs ranging from BSL-1 through BSL-3. These permits do not represent the actual number of labs but rather the number of individual holders of the permits which can have multiple addresses for large institutions or corporations. Harvard and MIT alone probably have over 1,000 biolabs within their permits. In Cambridge there are roughly 70 biotech labs or pharmaceuticals that range from the 'mom & pop' (a couple scientists in a start-up doing contract science) to Novartis (employing over 1,000 people at the old NECCO factory). Bio Safety labs are nothing new and there are established practices and procedures to carefully regulate activities and operation.

Currently, in Brookline a single lab building is proposed that has already undergone extensive public review and will be beginning the design review process (DAT) shortly. In addition, this project will have to meet and satisfy Brookline's four step review/oversight from permitting through the on-going lab use. Clearly, the approach we have taken in Brookline allows control and regulation of these labs within a targeted district which avoids the proliferation seen in other communities.

Both Dr. Alan Balsam, our Director of Public Health and Human Services and Fire Chief John Green have stated that a BSL-2 can be safely built, operated and managed in Brookline provided it meets their requirements and follows the four levels of oversight/review. Chief Green has clearly stated that Brookline Firefighters are prepared today to respond to a situation at a BSL-2 lab, although we do not currently have such a facility within the Town.

Again, let it be clearly stated that there has been no new information or situation presented by the Petitioner or the supporters of this warrant to suggest that we should consider rescinding last year's Town Meeting decision. Therefore, the Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 12, 2005, on Article 13.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This article seeks to rescind the zoning by-law (Article IV, titled, "Add a Principal Use 36B in SECTION 4.07 – TABLE OF USE REGULATIONS") approved by Town Meeting on June 2, 2004 that allowed for a bio-safety level 2 research laboratory to be operated at 2 Brookline Place.

DISCUSSION

There are four bio safety levels for research laboratories based on the characteristics of the agent being studied, as defined by the U. S. Department of Health and Human Services, Centers for Disease Control and Prevention, and the National Institutes of Health:

- 1 – Not known to consistently cause disease in healthy adults
- 2 – Associated with human disease hazards from ingestion, mucous membrane exposure and breaks in skin
- 3 and 4 – Very dangerous and can be transmitted through the air

The Appendix includes more complete descriptions and additional material regarding practices and controls.

The Advisory Committee cannot overemphasize the importance of considering the merits of this article within the confines of level 2 facilities, particularly that they do not work with organisms that cause airborne communicable diseases. This would be Brookline's first level 2 facility; it does have level 1 laboratories, involving varying degrees of risk within that category. Dr. Alan Balsam, the Town's Director of the Health Department, believes that level 2 risks are manageable within the Town's resources and will not unreasonably endanger the public; he would not support a level 3 or 4 facility. He also feels the many, very nearby level 3 biolabs most likely pose greater risk and exposure to our citizens and the general public than would a level 2 biolab at 2 Brookline Place.

There is a consensus among the petitioner, other proponents and opponents on the objective, factual issues regarding level 2 operations, including their chemical and radioactive risks. The divergence surrounds the subjective concern that despite the inherent controls that will be

implemented to manage and control the risks, there could be accidental or willful departures that would endanger occupants, responders and the general public.

Much of the petitioner's support is framed by references to specific incidences of public dangers created when the control structure and processes at laboratories were not adhered to, or accidents occurred notwithstanding the controls. Most of these incidences related to level 3 and 4 facilities. The Advisory Committee repeats that it cannot overemphasize the importance of considering the merits of this article within the confines of level 2.

The article also needs to be considered in the context of prior due diligence in the original passage of the zoning. Much of the following discussion went into the judgments that led to last year's zoning by-law approval. Part of the analysis at this time involves determining if there was any omission(s) that would have affected that vote, or if new information has arisen since that would be cause for reconsideration.

The Town's plan to manage and control the inherent risks spans the life-cycle of the project. Initially, it will be involved in the specifications and design of the facility, and in construction, with the objective that statutory requirements and best practices are followed. Then, there will be involvement in the underlying tenant lease and licensing. Among other matters, there will be requirements for compliance with National Institutes of Health standards and on-going participation on a bio-safety committee. This will provide the Town with a day-to-day awareness of the activities taking place and agents present at the biolab. Dr. Balsam's approach to monitoring is exemplary; he is open to receiving additional ideas from concerned parties.

Tenant behavior is a major concern of the petitioner, specifically circumventing the control structure and processes that would raise the level of risk beyond expectations, potentially creating more difficult issues for responders and greater danger to the public. Certain of the incidences referred to earlier involved violations of trust by operators of biolabs, many in the level 3 and 4 categories. Once again, the Advisory Committee emphasizes the level 2 context of this article's consideration, and that Dr. Balsam's non-support of activities beyond this level comprehends this concern. In his Brookline experience, he is aware of one incident involving the improper disposal of material at a level 1 facility.

There is concern that a tenant would violate the trust that is embedded in the expectations for responsible management of a level 2 biolab. The issue is whether such potential behavior is of such concern that the by-law should be rescinded. This is a wholly amorphous, intangible and subjective judgment.

Dr. Balsam says the Town's resources to discharge its responsibilities in the control structure and processes would need to be supplemented by incremental expertise and resources, and that additional funding for such was expected from the developer or tenant as part of future negotiations.

Despite structure and process, there is the potential for an incident from willful or accidental improper performance and execution that would require a response by public safety resources. The important considerations here include:

- General preparedness

John Green, the Fire Chief, compares the level 2 response characteristics and preparedness as being similar to those present in existing health issues, and was comfortable with the availability and sufficiency of Town resources.

- Sufficiency and timeliness of hazardous material (hazmat) capabilities

By design, the Town's hazmat capabilities are limited:

- first responders generally restrict access to the affected area and help those in need
- additional help is provided through the District 2 hazmat team, which is expected to respond in less than one hour
 - even if Brookline had its own hazmat team, the response time would not be substantially less because of preparation requirements
 - this district team is not covered under the mutual aid agreement
 - a Brookline Deputy Fire Chief is on the District 2 hazmat team.
- firefighters receive basic hazmat training, and the Town has benefited from a hazmat grant
- a command /control center for the Town is being put in place, and responders have already engaged in drills
- hazmat training and drills will continue during the next 2 years, encompassing the project's construction period, and thereafter

The issue here is whether risks created by the level 2 biolab are sufficiently incremental to require an increase in Brookline's hazmat capabilities. Town management has evaluated this matter and does not believe there is a need.

- Capacity of equipment to access the roof of the building

The Town's ladders would not be able to reach the roof of the planned B2 building, as is the case with other buildings in Town. The Chief is comfortable that level 2 circumstances do not jeopardize the effectiveness of existing alternative ways to circumvent the limitations on ladder height.

- Training and education

The Chief feels there is no required need for additional education and training of personnel, but would certainly welcome any that was available. A 40-hour hazmat training course is available. The Town expects to make funding for additional education and training part of the developer and tenant negotiations.

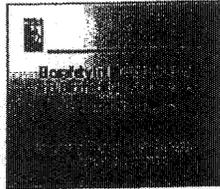
The risks involved in a bio safety level 2 laboratory are extremely serious matters. The Advisory Committee believes they were fully-considered in the approval of the B2 project, and that the efforts triggered by this warrant article have not identified additional concerns. Given the attendant control structure and processes, and public safety resources, it concluded that the inherent risks pose no unreasonable exposure to our community.

RECOMMENDATION

The Advisory Committee, by a vote of 13 in favor, 1 opposed, and 2 abstentions, recommends NO ACTION on Article 13.

XXX

[MENU](#) [INDEX](#)



The 1, 2, 3's of Biosafety Levels

Jonathan Y. Richmond, Ph.D.
Director, Office of Health and Safety
Centers for Disease Control and Prevention
Atlanta, GA 30333

adapted from the CDC/NIH 3rd edition of
Biosafety in Microbiological and Biomedical Laboratories ¹¹



[Slides](#) - 6/page - b/w - Adobe Acrobat Format (.pdf)



Look for this icon
to return to this document.

Introduction

From the earliest days of microbiological research, laboratorians have recognized that acquiring infections from the agents they manipulated was a recognized occupational hazard ([slide 1](#)). The most commonly-acquired lab infections were caused by bacterial agents; as microbiologists learned to culture animal viruses, they also found ways to become infected with these agents ([slide 2](#)). From the literature reviews of Sulkin and Pike, we also learned that a significant number of these infections were fatal and that most infections were of unknown origin. Exposure to infectious aerosols were implicated in about eighty per cent of the reported infections ([slide 3](#)).

Guidelines evolved as a means of protecting microbiological workers based on these data and an understanding of the risks associated with various manipulations of many agents transmissible by different routes. These guidelines work from the premise that safe work sites result from a combination of engineering controls, management policies, work practices and procedures ([slide 4](#)), and, occasionally, medical interventions. The different biosafety levels developed for microbiological and biomedical laboratories provide increasing levels of personnel and environmental protection ([slide 5](#)).

There is a definite hierarchy of administrative controls that need to be in effect. Upper level management must set the general tone that safety is a high priority at their institute. Though this is often expressed in broad policy statements, it must be supported by resource allocation decisions: financial, personnel staffing, training, a safety performance reward structure, etc.

For each biosafety level there are also specific supervisory qualifications as assurance that the laboratorians are provided appropriate role models and knowledgeable mentors (slide 6). Crucial to safe working conditions are the various types of specialized equipment available to serve as primary barriers between the microorganism and the laboratorian. These range from simple gloves and other personnel protective equipment to simple (sealed centrifuge heads) or complex (biosafety cabinets) containment devices (slide 7).

Biosafety Level 1

BSL-1 is appropriate for working with microorganisms that are not known to cause disease in healthy human humans (slide 8). This is the type of laboratory found in municipal water-testing laboratories, in high schools, and in some community colleges teaching introductory microbiology classes, where the agents are not considered hazardous (slide 9). The lay-out of a typical BSL-1 laboratory is shown in slide 10.

There is a door that can be closed to keep visitors out of the lab while work with the agents is in progress. Hazard warning signs may be posted on the door indicating any hazards that may be present, including radioactive materials, laser lights, high noise emitting equipment, or toxic chemicals. There is a hand-washing sink available, preferably near the door. Waste materials are segregated according to hazard type, and there is an appropriate chemical decontamination tray for collecting contaminated implements. Work is done on the open bench, and plastic-backed absorbent pads can be placed on the work surface to collect splatter or droplets associated with the work. The bench tops should be impervious to acid and all furniture should be sturdy (slide 11). If there are openable windows in the lab, they should be fitted with screens.

The lab should be constructed in such a manner that it can be easily cleaned and decontaminated (slide 12). At BSL-1 there is no specific recommendation that the laboratory be isolated from other parts of the building (slide 13). Although there is no specific biological safety reason for having more than six air changes per hour in a BSL-1 laboratory, it may be necessary if there are volatile or toxic chemicals in use. In general, inward directional airflow is the ideal.

At BSL-1, standard microbiological practices include the use of mechanical pipetting devices (slide 14), having a prohibition on eating, drinking and smoking in the lab, and requiring hand washing by all persons when they finish their work or when exiting the laboratory (slide 15, 16). Persons working in the lab should wear a lab coat (slide 17) to protect their street clothes. It is a recommended practice to wear gloves while manipulating the agents. Additional protective equipment may include working behind a splatter shield or wearing eye or face protection (slide 18). At BSL-1, no special precautions are needed (slide 19).

Hand washing is one of the most important procedures that can be used by laboratorians to prevent removal of unwanted microbiological agents, radioactive materials, or chemicals from the laboratory environment (slide 20). Use of liquid soap is generally preferable to bar soap; twenty seconds of vigorous lathering will remove most of these materials very effectively. After drying your hands with a paper towel, you can use the towel to turn off the faucets and thus prevent recontaminating your hands.

The scientist who provides overall supervision to a BSL-1 laboratory needs to have general training in microbiology or a related science (slide 21). The supervisor is responsible for

establishing the general lab safety procedures and for ensuring that each laboratorian is properly educated in these procedures. Lab personnel, on the other hand, need to accept such training and follow the proscribed protocols.

Biosafety Level 2

The facility, the containment devices, the administrative controls, and the practices and procedures that constitute BSL-2 are designed to maximize safe working conditions for laboratorians working with agents of moderate risk to personnel and the environment (slide 22). The agents manipulated at BSL-2 are often ones to which the workers have had exposure to in the community, often as children, and to which they have already experienced an immune response. Unlike the guidelines for BSL-1, there are a number of immunizations recommended before working with specific agents (slide 23). Most notable is Hepatitis B virus immunization which is recommended by the Occupational Safety and Health Administration for persons, including laboratorians, at high risk of exposure to blood and blood products [2]. These agents are generally transmissible following ingestion, exposure of mucous membranes, or intradermal exposure. Eating, drinking and smoking are prohibited in BSL-2 laboratories, and extreme precautions are taken while handling needles and other sharp instruments (slide 24).

The basic lay-out of a BSL-2 laboratory is depicted in slide 25. Access to the laboratory is restricted by the supervisor, who establishes the biosafety level, the need for specified personal protective equipment, the need for training, or other appropriate requirements. The door to the laboratory is kept closed to minimize unnecessary access by casual visitors, vendors, or persons not needing to be in the laboratory. There is no requirement for directional inward air flow in a BSL-2 laboratory, except as may be required for chemical odor control; however, many BSL-2 laboratories opt for this feature.

Some work may be done on the open bench by persons wearing appropriate protective clothing or gear. Any work that may produce splatters or aerosols of infectious materials should be done inside a biological safety cabinet (BSC) or other containment device, such as aerosol-containing centrifuge cups. Waste materials need to be segregated into chemical, radioactive, bio-hazardous, or general waste streams. Infectious waste should be decontaminated (by treating with chemical disinfectants or by steam autoclaving).

As the biosafety level increases, all those microbiological practices and procedures delineated for the lower level(s) are carried forward to the next higher level. Thus, the standard microbiological practices found at BSL-1 are still in effect at BSL-2 (slide 26), with emphasis on wearing gloves, using mechanical pipetting devices, and attention to handling sharps. In any situation, do not break or bend needles; in most situations it is prudent to use single-use needles and syringes. Do not recap needles. Needles and syringes, butterfly needles and associated tubing, and similar devices should be discarded intact into a puncture- and leak-proof container (slide 27, 28). Other sharps items (such as broken glass, slide 29) should not be handled by hand. Consider substituting plastic ware for glass laboratory items (slide 30).

Specific policies and procedures regarding access to the BSL-2 laboratory should be developed and posted (slide 31). On the one hand, it is prudent to allow entry to repair technicians or engineers only if they are very familiar with the activities of the lab or are escorted by a laboratorian who is. On the other hand, it needs to be emphasized that the posting of a BSL-2 biohazard sign on the door does not mean that the agent is everywhere in

the room; rather, the agent is normally confined to the BSC, an incubator or refrigerator or freezer. It is prudent to schedule entry by non-laboratorians to times when there is no active work with the agent being conducted.

A leak proof box, preferably equipped with a gasket seal lid, should be used for transport of infectious materials from one location to another (slide 32). This is particularly important when moving samples from patient care areas to laboratories, or from an off-site collection center to the lab.

Storing a base-line serum sample may be required prior to working in certain laboratories (slide 33). This sample can be used at to compare with future serum samples to determine any changes in immunological response to the agents used in the laboratory. Alternatively, a base-line serum sample may be drawn at the time of a possible exposure, then compared to a future sample for possible rising antibody titer. In any event, written employee informed consent must be obtained before obtaining the sample and for subsequent testing. Informed consent is also needed for any immunizations that are offered.

Other special practices include: decontaminating work surfaces after completing the work with the infectious materials, keeping non-research animals out of the laboratory, and reporting all spills and accidents (slide 34). An incident log book is a useful means for recording events that have gone wrong; it is important to document these events, not for punitive action, but to be able to better understand what happened with an eye to preventing similar events in the future.

At BSL-2, all work that might create aerosols of infectious materials should be done in containment (slide 35). The most common device is the biological safety cabinet, and the most common cabinet in use is referred to as a Class II, type A BSC, shown in cross-sectional diagram in slide 36. Room air is drawn in at the face opening and is immediately drawn through the front grille (A) and under the work surface. The air is then blown (F) through the rear air plenum (E) to the top of the cabinet where it is divided into two chambers (D). Thirty percent of the air is exhausted out of the cabinet (C) through a high efficiency particulate air (HEPA) filter into the laboratory room. The remaining seventy per cent of the air (B) is directed through another HEPA filter down onto the work surface in a laminar flow directional air pattern. The typical HEPA filter removes 99.97% of all particles that are 0.3 micron or larger in size, which means that all microbial agents will be trapped in the filter. The air returned to the laboratory and delivered to the work surface is virtually sterile, which means that an open flame (Bunsen burner) is not needed within the BSC.

Before materials are introduced into the BSC, they should be wiped with 70% alcohol to remove any external contaminants. Experience has shown that clean materials should be kept to one side of the work surface, dirty items on the other (slide 37). Management of workflow within the BSC is crucial to preventing cross-contamination. Rapid air movement outside the cabinet (caused by co-workers walking past, air supply vents directed across the face of the BSC, etc.) will interrupt the rather fragile air curtain, which may cause air-borne contaminants in the cabinet to be drawn into the lap of the worker. The chair should be adjusted so that the lower portion of the sash is even with the worker's armpits.

Any paper or plastic materials introduced into the BSC should not be allowed to interfere with air flow through the front or rear grilles (slide 38). The downward airflow from the supply filter "splits" about one third of the way into the cabinet; in the front third, air moves to the front grille, with the remainder of the air flowing to the rear. This means that aerosol-generating activities should be performed towards the rear of the cabinet to provide further

worker protection.

Infectious waste materials should be chemically disinfected or, preferably, decontaminated in a steam autoclave (slide 39). Infectious waste materials to be removed from a BSC should be placed in a pan or tray that can be covered during transport to the autoclave, or placed in a biohazard autoclave bag. By placing an inch or two of water in the bag before sealing it for transport, steam will be generated within the bag during the autoclave cycle.

The supervisor of a BSL-2 laboratory should be a competent scientist who has a technical understanding of the risks associated with the microbiological agents in use (slide 40). The supervisor limits access to those persons who have received the appropriate immunizations and establishes the personal protective standards for the laboratory; he/she is also responsible for developing the lab's biological safety manual. Laboratory personnel should be aware of the potential hazards associated with the work and be proficient in the specified practices and procedures.

Biosafety Level 3

BSL-3 is suitable for work with infectious agents which may cause serious or potentially lethal diseases as a result of exposure by the inhalation route (slide 41). BSL-3 laboratories should be located away from high-traffic areas. Examples of agents that should be manipulated at BSL-3 are *M. tuberculosis* (research activities), St. Louis encephalitis virus, and *Coxiella burnetii* (slide 42).

There are some specific secondary barriers needed at BSL-3 (slide 43), that tend to set these laboratories apart from BSL-2. At CDC the current main BSL-3 laboratories are located in a unique high containment building (slide 44) that also houses the BSL-4 laboratory (slide 45). A typical BSL-3 laboratory lay out is shown in slide 46. These laboratories are characterized by having a double-door entry (shown here as an ante-room; other configurations are also used). Because the agents manipulated at BSL-3 are transmissible by the aerosol route, particular attention is given to air movement in these labs. Air moves from areas of lesser contamination to areas of higher contamination, such as from the corridor into the laboratory. Air movement is also single pass; exhaust air is not recirculated to other rooms. Exhaust air does not have to be HEPA filtered, unless local conditions are such that reentrainment into building air supply systems is unavoidable.

All work that may create aerosols or splatter is done inside a biological safety cabinet (slide 47). Wall, ceiling and floor penetrations are sealed to keep aerosols in and to keep gaseous decontaminants in. The floor is monolithic, and there are continuous cove moldings that extend at least 4" up the wall. Acoustic tiles are not used in BSL-3 laboratories; ceilings should be waterproof for ease of cleaning. Centrifuge tubes are placed into containment cups or heads in the BSC (slide 48), transferred to the centrifuge, spun, then returned to the BSC to be unloaded. In some laboratories the centrifuges themselves are enclosed in a vented area to minimize possible aerosol exposures created in the event of a centrifuge failure. Vacuum lines are protected with HEPA filters so that maintenance personnel are not exposed to infectious aerosols (slide 49).

Standard microbiological practices are the same as for BSL-1 and BSL-2 laboratories (slide 50). Class II type A biological safety cabinets [3] are suitable in BSL-3 laboratories. Sometimes Class II type B3 cabinets are installed, requiring thimble connection to the building

exhaust systems (slide 51). Depending on the nature of the work being done in the BSL-3 laboratory, additional personnel protective devices may be worn, such as respirators (slide 52). When pulmonary protection is required, the laboratorians need to have appropriate medical evaluations and be trained in proper fit testing and care of their respirators.

Supervisors of BSL-3 laboratories should be competent scientists experienced in working with the agents (slide 53). They establish criteria for entry into the laboratory, restrict access, develop appropriate practices and procedures, and train the laboratorians. They are also responsible for developing the laboratory safety manual. The lab personnel must rigorously follow the established guidelines, demonstrate proficiency in performing their various procedures, and receive appropriate training (slide 54). They must participate in specified medical surveillance programs, and report all incidents that constitute potential exposures.

Summary

The guidelines presented in the CDC/NIH publication *Biosafety in Microbiological and Biomedical Laboratories* present standard and special practices, safety equipment recommendations, and performance standards for the facilities that, taken together, should be considered as optimal for most laboratory situations (slide 55). There may be instances where unique needs, unknown hazards associated with unknown pathogens, or other contributing requirements will cause supervisors or biosafety professionals to seek higher biosafety requirements. These can be established after appropriate risk assessments have been conducted.

References

1. Richmond, JY and RW McKinney, 1993: *Biosafety in Microbiological and Biomedical Laboratories*. US Department of Health and Human Services, CDC/NIH, 3rd Edition. US Government Printing Office, Washington, DC.
2. US Department of Labor, Occupational Safety and Health Administration, 1991. Occupational Exposures to Bloodborne Pathogens, Final Rule. Fed. Register 56:64175-64182.
3. Richmond, JY and RW McKinney, 1995: *Primary Containment for Biohazards: Selection, Installation and Use of Biological Safety Cabinets*. US Department of Health and Human Services, CDC/NIH. US Government Printing Office, Washington, DC.

Office of Health and Safety, Centers for Disease Control and Prevention,
1600 Clifton Road N.E., Mail Stop F05 Atlanta, Georgia 30333, USA
Last Modified: 2/6/98



Send us your Comments.



Summary of Recommended Biosafety Levels for Infectious Agents¹

BSL	Agents	Practices	Safety Equipment	Facilities
			(Primary Barriers)	(Secondary Barriers)
1	Not known to consistently cause disease in healthy adults	Standard Microbiological Practices	None required	Open bench top sink required
2	Associated with human disease, hazard = percutaneous injury, ingestion, mucous membrane exposure	BSL-1 practice plus: <ul style="list-style-type: none"> • Limited access • Biohazard warning signs • "Sharps" precautions • Biosafety manual defining any needed waste decontamination or medical surveillance policies 	Primary barriers = Class I or II BSCs or other physical containment devices used for all manipulations of agents that cause splashes or aerosols of infectious materials; PPEs: laboratory coats; gloves; face protection as needed	BSL-1 plus: Autoclave available
3	Indigenous or exotic agents with potential for aerosol transmission; disease may have serious or lethal consequences	BSL-2 practice plus: <ul style="list-style-type: none"> • Controlled access • Decontamination of all waste • Decontamination of lab clothing before laundering • Baseline serum 	Primary barriers = Class I or II BSCs or other physical containment devices used for all open manipulations of agents; PPEs: protective lab clothing; gloves; respiratory protection as needed	BSL-2 plus: <ul style="list-style-type: none"> • Physical separation from access corridors • Self-closing, double-door access • Exhausted air not recirculated • Negative airflow into laboratory
4	Dangerous/exotic agents which pose high risk of life-threatening disease, aerosol-transmitted lab infections; or related agents with unknown risk of transmission	BSL-3 practices plus: <ul style="list-style-type: none"> • Clothing change before entering • Shower on exit • All material decontaminated on exit from facility 	Primary barriers = All procedures conducted in Class III BSCs or Class I or II BSCs <u>in combination with full-body, air-supplied, positive pressure personnel suit</u>	BSL-3 plus: <ul style="list-style-type: none"> • Separate building or isolated zone • Dedicated supply and exhaust, vacuum, and decon systems • Other requirements outlined in the text

¹ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention and National Institutes of Health. Biosafety in Microbiological and Biomedical Laboratories (BMBL) 4th Edition. Washington: GPO, May 1999.

ARTICLE 14

FOURTEENTH ARTICLE

To see if the Town will amend Article 5.6 of the Town by-laws, entitled Preservation Commission and Historic District By-Law, as follows:

1. By adding a new subsection to section 3, providing as follows:

(_) Chestnut Hill North Local Historic District.

There is hereby established an Historic District, to be entitled the "Chestnut Hill North Historic District," the boundaries of which shall be as shown on the map entitled "Chestnut Hill North Historic District," a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

2. By appropriately renumbering any other subsequent subsection of said section 3.

or act on anything relative thereto.

REPORT OF THE PRESERVATION COMMISSION

At its regularly scheduled meeting on February 8, 2005, the Preservation Commission received a petition signed by a large group of property owners who live within the Chestnut Hill National Register Historic District requesting the establishment of the Chestnut Hill North Local Historic District. The petition from the Chestnut Hill Neighborhood Association was accompanied by the draft text for a study report.

The Preservation Commission, in accordance with procedures outlined in MGL 40C, unanimously voted to accept the petition and authorized the draft study report be finalized for submission to the Massachusetts Historical Commission and the Brookline Planning Board. The commission also voted to authorize the preparation of a warrant article for spring town meeting for the establishment of a Chestnut Hill North Local Historic District.

The proposed Chestnut Hill North Local Historic District includes most of the properties in the Chestnut Hill National Register District, listed in October 1985. The National Register district documented the historic and architectural significance of the area and provides a basis for the justification for the establishing of a new local historic district in this area.

Under Article 5.6, Preservation Commission and Historic District By-law, of the town By-laws, any proposed local historic district must be approved by a 2/3 vote of Town Meeting. There are currently three local historic districts in Brookline: Cottage Farm, established in 1979, Pill Hill, established in 1983, and Graffam-McKay, established in 2004.

PLANNING BOARD REPORT AND RECOMMENDATION

Article 14 proposes the creation of a Chestnut Hill Local Historic District. The impetus for this Warrant Article was neighborhood concern about development pressures on the Chestnut Hill Area and the proposed demolition of some historically and architecturally significant structures. The neighborhood was particularly concerned that new construction be compatible with the overall character of the area.

At the Planning Board Public Meeting on April 28, 2005 on the local historic district warrant article, there was overwhelming support expressed by the residents who would be affected by the new requirements for review and approval by the Preservation Commission for any exterior alterations or construction to homes in the proposed district.

After consideration of the public comments, the majority of the Planning Board members expressed support for this new district as a way of safeguarding the fabric of the area, which consists mostly of late 19th and early 20th century homes. Some Planning Board members, however, did raise concerns about the procedure and methodology used to select and exclude properties for the district, particularly with regard to properties excluded subsequent to the original proposal. The Board members were particularly disappointed that the Brimmer and May School property at 69 Middlesex Road was not included, since it is a contributing property to the National Register District.

After further discussion, the Planning Board voted unanimously to recommend FAVORABLE ACTION on Article 14.

SELECTMEN'S RECOMMENDATION

Article 14 calls for the establishment of the Town's fourth local historic district (LHD), the Chestnut Hill North Local Historic District. There has been overwhelming support for this proposal, which will preserve the architectural character of this neighborhood of single family homes, the majority of which were built between 1890 and 1910.

Chestnut Hill in Brookline is located between the T tracks, which originally served a railroad, and Route 9. The development of this area as a residential neighborhood occurred after the construction of a railroad station in Chestnut Hill, Newton, and the widening of Route 9 for trolley service and increased automobile traffic. Most of the houses were built for Boston businessmen who commuted into the city. Development began in the west half of the neighborhood, closer to the train station, and spread east to Reservoir Road in the early 1900s. The later houses tend to be on larger lots with garages, but are similar in architectural character. Many of the houses were designed by three architectural firms, Chapman & Frazer, Andrews, Jaques & Rantoul, and Putnam & Cox, including the homes of Frazer, Jaques, and Putnam who lived in the vicinity. This partially explains the architectural cohesiveness of the neighborhood. Most of the homes tend to convey an informal picturesque asymmetry that is unlike the other turn-of-the-twentieth-century neighborhoods in Brookline. Due to its architectural and historical significance, this area was listed in the National Register of Historic Places in 1985.

This neighborhood had undergone very few changes since it was listed in the National Register twenty years ago. In the past year, however, there have been significant changes as lots have been sub-divided for new construction. The residents, acting through their neighborhood association, initially pursued changes in the Zoning By-Law, which did not receive approval at Town Meeting. After conducting a series of neighborhood meetings, a consensus developed among a large majority of property owners that the best option to preserve the architectural integrity of area was through a local historic district. Accordingly, the neighborhood association developed a petition in support of a local historic district and prepared a study report for submission to the Brookline Preservation Commission.

At a public meeting on February 8, 2005, the Preservation Commission voted to accept the petitions signed by a substantial majority of property owners in favor of a local historic district. They also voted to accept a draft study prepared by the neighbors for submission to the Massachusetts Historical Commission and the Brookline Planning Board. The Preservation Commission made revisions to the study report, including minor reductions in the boundary of the district, prior to a public hearing held on April 12, 2004. At the public hearing, the Commission voted to finalize the study report and forward it to Town Meeting with the warrant article.

A substantial majority of the neighborhood has made it very clear that they are in full support of the LHD. Therefore, this Board believes that the neighborhood should get the designation as a LHD that they so desire. The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 26, 2005, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 14 was brought forward on the Warrant by the Preservation Commission, acting on a request by citizens in a North Chestnut Hill neighborhood.

A Brief History

North Chestnut Hill is an area familiar to many for its generous lot sizes, mature trees and landscaping and fine houses of the late 19th and early 20th century. Its history is a tale of the early development of suburbs in Brookline and in America. Starting from a few early settlers in 1650, by the 1700s, it had been transformed by new families from bogs and meadows to farms and woodlots, but it was still considered very remote from Boston and Newton.

Things began to change by the mid-1800s, when Beacon Street was extended out from Boston to Newton Center, and soon after, the first rail line came through. Running along Brookline's northern border with Newton, smoke-belching steam engines with passenger cars gave local residents a second and faster route into Boston. That changed everything, and by the 1880s more folks from smoggy Boston saw the attraction of clean air and open spaces -- and the Suburb was born.

Of course, meanwhile, the same was happening in other parts of Brookline: in Cottage Farm, North Brookline and the Longwood Mall area. Different economic groups settled in these places. Chestnut Hill was one of the favored home locations for a rising management and executive group working largely in the booming New England textile industry. Some related descendants reside nearby to this day, and remarkably, as late as 1937 the fifth generation of early farm owner Joseph Lee was still living in the immediate area at 15 Circuit Road -- ironically, a property at the epicenter of debate on this Article.

Development started from the western end of this area, roughly bounded there by the Longwood Cricket Club, and spread westward, first with the increased rail usage and then, with the advent of the automobile, the pace picked up again. Luckily, the building boom finished before the Stock Market crash of 29. The earlier houses were primarily wood shingle and clapboard, in the Queen Anne, Colonial, Medieval Revival and Shingle Styles, while the later post-WWI western portion made use of similar or different styles like Tudor, primarily executed in brick and stucco. The two ends are knitted together nicely by houses designed in the then-popular Arts and Crafts style, built between 1900 and 1915.

Recent Events

Last fall a Warrant Article came forward from some citizens in North Chestnut Hill, proposing several changes in their zoning. The Article would have increased the minimum lot size requirement for the zoning districts involved. The impetus for that request was a mounting fear within part of the community about "teardowns" and new oversized houses, lacking in aesthetic quality -- too often a sign of the times, in this booming real estate market. Building proposals were being filed by both homeowners and outside developers to possibly demolish houses, and subdivide larger lots -- all within by-right zoning regulations.

The proposed changes would have made it less likely that larger properties could be subdivided. However, several Boards and the Advisory Committee advised the petitioners that the drawback would be that a large majority of existing properties would become technically undersized or "nonconforming," so that additions would no longer be allowed as-of-right, even if the existing house previously was below the maximum size.

Our town's Demolition Delay By-Law did come into play and several one-year stays started ticking off. Since an application for demolition can be generalized, it is uncertain whether just a garage is all that will come down as a result of an application -- or whether all structures, trees, and topological features will go-- leaving a truly leveled site.

For this Town Meeting a number of owners went to the Preservation Commission to ask that this body research the possibility of recommending a Local Historic District (LHD) for their neighborhood. Part of the process is to determine whether there is a majority of support for a proposed LHD by petition of the property owners.

Besides the Cricket Club on the west, the area is roughly bounded by the Newton border and "T" line on the north, Reservoir Lane and a buried aqueduct on the east, and a former golf course (the later Fairway Road development area) and Route 9 on the south. In 1983 a slightly larger definition of this area was nominated and then placed on the National Register of Historic Places (NRHP), and it covered houses bisected by the Newton line.

Our LHDs, of course, cannot extend across town lines, but it is noteworthy that the adjacent Newton portion of Chestnut Hill is an LHD over there.

Last year the Graffam-McKay LHD, which was also earlier placed on the NRHP, was expanded in the end to include more houses of the same vintage. This time the area has shrunk: partly to leave out an area isolated from it by Route 9 to the south, and most of the houses that are cut through by the Newton border. Also, at least currently, the easternmost tip has been left out: a house and lot thought to be unseen from a public way.

Note that once an Article has been submitted for a proposed district (like all articles), it can only be reduced in scope, if appropriate, but not expanded.

DISCUSSION

In addition to holding a Subcommittee Public Hearing, members of the Advisory Committee attended the other Public Hearings held by Commissions and Boards on Article 14, scheduled through a period of weeks. We have tried to gather as much information and opinion as possible and we have queried various principals. We have received numerous email messages and letters and have heard impassioned presentations in favor and against.

The proponents have been labeled as anti-development, and the opponents as unscrupulous developers. The proponents have been accused of applying undue social pressure on the undecided, and the opponents have been accused of being fear-spreaders with the same group. It is essential to look past the hyperbole.

A large number of objections have been raised by a small minority. They have raised questions about fairness in the process; have wondered about illegalities and even whether or not the neighborhood has a coherent style of architecture. Each of these concerns was addressed.

The Advisory Committee has learned that the process included four informal meetings within the community. The first two were clearly exclusive, in that only those expressing an interest in learning more about what an LHD involves and how to organize the neighborhood and what is required to meet the threshold were welcomed. Exclusionary? At one level, yes. The following two meetings, however, were fully open, and the Commission staff was at all four to provide information and answer questions. These four meetings were not required by Chapter 40C, which gives guidelines for the minimum requirement, which is one (noticed) Public Hearing. That has also happened, plus at least one other noticed hearing -- both at Town Hall. An unfair process?

We have asked and received answers from the Preservation Commission (PC) about the process involved, and we feel assured that they acted in good faith and with fairness, in spite of much pressure and activity with two LHDs pending at once. We trust that the PC will come to its own conclusions on whether any procedures could be refined for the future.

Are there indeed meaningful issues of legality? Should Town Meeting ask for a delay to sort those things out and refer it back to the PC? Certainly, some of the opponents are understandably unsure of what they will face in an LHD, though all the usual information

has been distributed from the Commission. We all might have benefited by hearing from veterans of present longtime LHDs at those hearings. Surely some stories would be positive and some would not -- but LHD residents have survived and prospered overall, as we've learned from letters received.

It's been said by opponents that there's a lack of common architectural styles here -- that there are too many various building styles and dates of construction, which will lead to inevitable discrimination in how reviews of individual proposals are undertaken and in how committee decisions are made. We trust, however, that the design professionals, preservationists and other able citizens involved with the PC will judge each new addition and the rare new house on its merits. No house will be required to look just like its neighbors -- the context is too rich, though all in a span of about 50 years. Who knows, they might even allow a well-designed "modern" house among them someday!

Additionally, opponents believe they will face undue hardship by the imposition of an LHD. They feel they will not be able to easily maintain their houses, and that because they will not be able to install the most modern insulating glass windows (though typical insulating storm windows are acceptable in an LHD), they will remain at the mercy of ever-higher heating costs for their large houses. They say that this would be a loss of property rights and it is being imposed on them against their will. The new design reviews and oversight will be a "needless extra inconvenience and expense." Some claim that they will even suffer undue stress in fear of a Commission that they simply don't trust, after the way they say some have been treated already.

Opponents say they don't want to be part of an LHD and they want to be allowed to "opt out."

Why can't an owner opt out? Some houses have been removed from the proposed LHD (as earlier noted) since the initial boundaries were established, so why not these, too? "Gerrymandering" became the catchword of our Public Hearing. (*The original gerrymander was created in 1812 by Massachusetts governor Elbridge Gerry, who crafted a district for political purposes that looked like a salamander.*) Well, our gerrymandering would be excising a group of houses (instead of voting districts) from the LHD. It would effectively remove the remaining portion of a street from the district. That street, Middlesex Road, already had to be "one-sided" because of the Newton line issue mentioned earlier. The Brimmer & May buildings are clearly bisected by the town line except for one -- which was kept in the LHD -- and they have given their strong support for an LHD.

Recently it has been said that this LHD is being rushed through to stop development, that the Preservation Commission is unaccountable, and that more LHDs are not in the town's best interests. The Committee believes, however, neighborhood protection is firmly in the town's best interest.

The Preservation Commission makes rulings in cases ranging from fence heights and gutter materials to window shapes, additions and whole new house designs (but significantly, not choices of house color). Their decisions are final -- no appeal to our Board of Appeals, as is possible with Planning Board rulings. But one can overturn the BOA in the Superior Court -- and that's what can happen with an LHD. It's a two-level process, vs. a three-level process for Planning Board appeals.

Appealing to the Superior Court is an extra cost, certainly. And conceivably, at a future Town Meeting an article could come forth, again, to propose an "appeal mechanism" for Commission rulings, and it could pass if it is well conceived. Chapter 40C does allow a city or town to create such a layer of extra process, and some on the Committee believe that it is at least worth considering.

Last year the Subcommittee reviewed a Warrant Article asking for the creation of a new LHD in North Brookline. It was approved by a nearly unanimous vote, and now we have three LHDs in town including that one: the Graffam-McKay LHD. To date, the review of Article 14 has been notable for two things. First, it's a different kind of beautiful Brookline neighborhood, steeped in its own special history, and second, the few opponents have had so much more to say against it. In Graffam-McKay, a small group of undecided and opposed property owners chose to air their concerns – and then move on. We wished them well in adapting.

In the current discussion, a similar small minority chose to do something quite different. Opponents of Article 14 claim that having a few special neighborhoods designated as LHDs will take resources away from the need to administer Demolition Delay cases, and more and more LHDs will overburden the Commission. But we are assured that the Commission is currently capable of handling the workload involved with even two new LHDs. Beyond that, future accommodations could be made to suit future needs.

The proponents have been pursuing greater protection for the character and heritage of their neighborhood for close to a year. They understand that an LHD will not stop all development and the potential for extra expenses associated with an LHD. Understanding all of this, the overwhelming majority of the neighborhood strongly supports the establishment of this LHD and has asked for our support.

RECOMMENDATION

The Preservation Commission reported to the Advisory Committee that the final petition results are 84 yes, 10 no, and 8 neutral/uncommitted, for a total of 102 property owners, based on the standard one owner (or co-owners)-one vote, whether owning one or multiple properties. That means 82 percent of owners want to form a Local Historic District in this neighborhood. After hearing and weighing the specific objections of a small, vocal minority, the Advisory Committee believes that this set of arguments does not outweigh the vast majority's desire for a new Local Historic District.

Therefore, by a vote of 16 in favor, 0 opposed, and 1 abstention, the Advisory Committee strongly recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town amend Article 5.6 of the Town by-laws, entitled Preservation Commission and Historic District By-Law, as follows:

1. By adding a new subsection to section 3, providing as follows:

(_) Chestnut Hill North Local Historic District.

There is hereby established an Historic District, to be entitled the "Chestnut Hill North Historic District," the boundaries of which shall be as shown on the map entitled

14-8

"Chestnut Hill North Historic District," a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

2. By appropriately renumbering any other subsequent subsection of said section 3.

XXX

Proposed Chestnut Hill North Local Historic District

Town of Brookline
Massachusetts

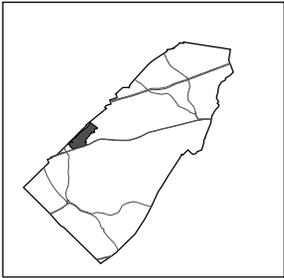


- Proposed Chestnut Hill LHD
- National Register District
- Building Footprints
- Property Lines
- Street Edges
- Town Boundary

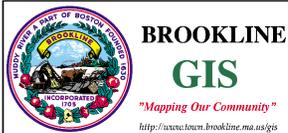
Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map



0 100 200 400 Feet



Map created by Brookline GIS on January 8th, 2005.
projects/historic/proposedchestnuthill-bw8.5x11.mxd



ARTICLE 14

REPORT OF THE PRESERVATION COMMISSION

Date: May 12, 2005

To: Board of selectmen
Advisory Committee

Re: Explanation for the boundary revision for Chestnut Hill North LHD (Art. 14) —
removal of 153 Crafts Rd.

The introduction to the Commission's public hearing on the proposed Chestnut Hill North LHD, included an explanation of the proposed boundaries. It was noted that, consistent with the boundary explanation for the 1983 Chestnut Hill National Register District (NRD), the LHD boundary excluded the 1930s (and post war) Boston Gas Co. (BGCo) development of the former Chestnut Hill Golf Club — the area including Denny, Valley, Hilltop, and Fairway Rds.

After the hearing and the Commission's vote, we were approached by one of the owners of 153 Crafts Rd. who said his house should not have been included in the NRD, and thus not in the LHD either, because it had been built as part of the BGCo development. A review of maps and deeds shows that is correct. While the northern lot line of 153 Crafts clearly aligns with the rest of the northern boundary of the BGCo development (which constitutes the backyard lot lines between Denny and Crafts Rds.), those who had drafted the original NRD map may have been confused by 153's Crafts Rd. address and orientation. In addition, the neighboring property to the west, 135 Crafts, which is properly within the LHD, had acquired some BGCo land — thus obscuring the continuity of the original BGCo boundary.

The owners of 153 Crafts had signed the petition in support of the LHD and continue to say they support it. However, they say they feel strongly that they are part of the BGCo neighborhood. They also know there have been conversations in the past between the BGCo neighborhood and the Planning Dept. about the Neighborhood Conservation District concept currently being studied by a consultant under a grant from MHC and they say they are not opposed to that.

Given the unique circumstances of this property, in relation to the Commission's guidelines for creating this boundary, and given the owners' wishes, the Commission felt it had no choice but to correct the boundary — and thus delete this house. The Commission feels that this correction does not have any bearing on any other property in

the LHD. The abutters within the LHD were notified of the meeting to consider this change.

Because the Commission knew of this issue and was studying it when Art. 14 was presented to the Board of Selectmen and the Advisory Committee, this property was then counted as “opposed” to the LHD, despite the owner’s expressed support.

Since those presentations, one house, which has recently changed hands and had been counted as “neutral”, has expressed support. As a result, with the deletion of 153 Crafts, the count of owners is now:

85 in support
9 opposed
7 neutral
101 total

SELECTMEN’S RECOMMENDATION

As its May 17, 2005 meeting, the Board of Selectmen discussed the recommended change to the proposed Chestnut Hill North Local Historic District (LHD). The Board understands the explanation for the proposed amendment, as detailed in the Report of the Preservation Commission, and agrees that such an amendment is warranted. Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 4-0, on the amended article below, which references the revised map that follows the Advisory Committee’s Recommendation:

VOTED: That the Town amend Article 5.6 of the Town by-laws, entitled Preservation Commission and Historic District By-Law, as follows:

1. By adding a new subsection to section 3, providing as follows:

(_) Chestnut Hill North Local Historic District.

There is hereby established an Historic District, to be entitled the "Chestnut Hill North Historic District," the boundaries of which shall be as shown on the map entitled "Chestnut Hill North Historic District," a copy of which is on file with the Town Clerk’s office, which accompanies and is hereby declared to be part of this By-law.

2. By appropriately renumbering any other subsequent subsection of said section 3.

ROLL CALL VOTE:

Favorable Action

Hoy

Sher

Merrill

Daly

ADVISORY COMMITTEE'S RECOMMENDATION

After the combined reports were published, the Preservation Committee held a follow-up hearing to discuss whether or not one property at 153 Crafts Rd., should remain in the proposed district. It was decided that the house really was part of the later adjoining Boston Gas Co. development from the 1930's and post WWII, and further it was possibly included by mistake in the 1983 National Register District. In order to maintain consistency and cohesion of the proposed district, the Preservation Commission voted to remove this outlying property from the district boundaries.

The owners of this property had been in support of the new LHD, but had been erroneously counted as "opposed" in the previous petition total. The Preservation Commission now reports that the final petition results are 85 yes, 9 no, and 7 neutral/uncommitted, for a total of 101 property owners. That is based on the standard one owner (or co-owners)-one vote, whether owning one or multiple properties. 81 percent of the owners want to form a Local Historic District in this neighborhood.

Because of the change mentioned above, the Advisory Committee reconsidered the article. The overall arguments in favor of Article 14, however, have not changed

By a vote of 17-0, the Advisory Committee UNANIMOUSLY recommends FAVORABLE ACTION on Article 14, as amended and evidenced by the updated map of the proposed district.

May 24, 2005
Annual Town Meeting
Article 14 – Supplement No. 1
Page 4

ARTICLE 14

Motion to amend proposed by Cynthia Silbert, 106 Spooner Road

MOVED: to amend the main motion by deleting 106 Spooner Road from the Chestnut Hill North Local Historic District.

ARTICLE 14

Motion to amend proposed by Jeremiah and Cynthia Silbert, 106 Spooner Road

I move that the Properties known and numbered as

106 Spooner Road and Zero (0) Middlesex Road

be deleted and excluded from the Chestnut Hill North

Local Historic District.

The Motion is submitted for the following reasons:

Our house fronts at 106 Spooner Road with property extending to 0 Middlesex Road and has 200 feet along the side on Reservoir Road. It is directly across Middlesex Road from the six properties removed at the far Northeast corner of the proposed Chestnut Hill North Local Historic District. These properties were deleted, as described at a Preservation Commission hearing by R. Reed, because they were newer post World War 1 and did not share the period nor the common historical and architectural significance of the proposed District. The six houses of varying style are at 206, 210, 218, 230, 234, and 240 Middlesex and were constructed in 1920, 1919, 1923, 1928, 1928, and 1923 respectively. They range in size from 2500 to 3500 square feet.

Our house of approximately 3600 square feet was built in 1926. It is the only Tudor style house in the proposed District, and its adaptation of that style is much more modern than the shingle and stucco style houses of the late 19th and early 20th century that constitute a large majority of the houses in the proposed District. Thus it is neither historically nor architecturally similar to the District, but as well as the location, bears a great similarity to the houses that were previously removed by the Preservation Commission. We do not believe that our property belongs in the proposed District.

Jeremiah E. Silbert
Cynthia K. Silbert

ARTICLE 15

FIFTEENTH ARTICLE

To see if the Town will amend Article 5.6 of the Town by-laws, entitled Preservation Commission and Historic District By-Law, as follows:

1. By adding a new subsection to section 3, providing as follows:

() Harvard Avenue Local Historic District.

There is hereby established an Historic District, to be entitled the "Harvard Avenue Historic District," the boundaries of which shall be as shown on the map entitled "Harvard Avenue Historic District," a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

2. By appropriately renumbering any other subsequent subsection of said section 3.

or act on anything relative thereto.

REPORT OF THE PRESERVATION COMMISSION

At its regularly scheduled meeting on January 18, 2005 the Preservation Commission received a petition signed by a large number of property owners who live on Harvard Avenue requesting the establishment of a Harvard Avenue Local Historic District. The area proposed includes several properties listed in or eligible for listing in the National Register of Historic Places. It is also an area that had been identified as worthy of preservation in the town's 1983 Preservation Plan.

Following procedures established under MGL Chapter 40C, a draft study report was prepared which describes the historical, architectural, and cultural significance of the residential neighborhood that comprises the west half of Harvard Avenue (including one attached property with a Park Street address).

Based upon the information in the report, the Brookline Preservation Commission voted at its February 8, 2005 meeting to accept the draft and the district's boundaries for submission to the Massachusetts Historical Commission and the Brookline Planning Board as required by the state's enabling legislation, and to prepare a warrant article for spring town meeting.

Under Article 5.6, Preservation Commission and Historic Districts By-law, of the Town By-laws, any proposed local historic district must be approved by a 2/3 vote of Town Meeting. There are currently three local historic districts in Brookline: Cottage Farm, established in 1979, Pill Hill, established in 1983, and Graffam-McKay, established in 2004.

PLANNING BOARD REPORT AND RECOMMENDATION

Article 15 proposes the creation of a Harvard Avenue Local Historic District. The impetus for this Warrant Article was neighborhood concern about a proposed redevelopment of 63-71 Harvard Avenue and the change this development would bring to the fabric of this area of predominantly nineteenth century housing. An overwhelming majority of homeowners in the proposed district wanted to prevent demolition of historically and architecturally significant structures and replacement with buildings that would not be compatible with the overall character of the area.

At the Planning Board Public Meeting on April 28, 2005 on the local historic district warrant article, there was overwhelming support expressed by the residents who would be affected by the new requirements for review and approval by the Preservation Commission for any exterior alterations or construction to homes in the proposed district. However, the owners of 63-71 Harvard Avenue expressed strong opposition which they felt would unfairly restrict their property values.

After consideration of the public comments, the majority of the Planning Board members expressed support for this new district as a way of safeguarding the fabric of the area. Some Planning Board members, however, did raise concerns about the fairness of limiting the redevelopment potential of specific owners. The Board also expressed concerns regarding the notification process.

After further discussion, the Planning Board voted (3-0, with one abstention) to recommend FAVORABLE ACTION on Article 15.

SELECTMEN'S RECOMMENDATION

Article 15 calls for the establishment of the Town's fifth¹ local historic district (LHD), the Harvard Avenue Local Historic District. This is a small district compared to the existing LHDs in Brookline. Harvard Avenue contains 21 principal structures (including the block of 12 row houses), compared with 82 in Graffam-McKay, 110 in Cottage Farm, and 227 in Pill Hill. This small district, however, has generated very substantial support among property owners. In terms of percentages, the district has the support of over 80% of property owners.

Harvard Avenue, like many of Brookline's neighborhoods, has its own distinct history. The area includes properties already listed in the National Register of Historic Places (63 Harvard Avenue and 76-96 Harvard Avenue), as well as at least one property that is eligible for listing (71 Harvard Avenue.) Thus, a substantial portion of the properties are architecturally and historically outstanding individually. Two of the properties include their original carriage barns, while the design of the block of row houses at 76-96 Harvard Avenue is unique among that type of architecture in Brookline. The remaining properties in the district all contribute to the historic character of this small district.

¹ Assuming that Article 14 (Chestnut Hill North LHD) is approved by Town Meeting.

The boundaries of the district were developed in response to a petition submitted to the Preservation Commission by the Harvard-Marion Neighborhood Association. At a meeting on January 18, 2005, the Preservation Commission voted to prepare a study report on the eligibility of a local historic district on Harvard Avenue. The draft study report, accepted by the Commission on February 8, 2005, recommended a small district on the west end of Harvard Avenue. It was determined that the east end of the street, with its mixture of post-war housing, undistinguished triple deckers and a park, provided a substantial break from the few historic structures not included at the end of the street. Excluded on the west end of Harvard Avenue was a parking lot, followed by an apartment block whose age and orientation placed it among the largely non-historic group of multi-family buildings on Park Street.

Following a public hearing on April 14, 2005, the Preservation Commission voted to finalize the study report and submit it to town meeting with a warrant article to establish the local historic district.

A majority of the Selectmen believe that a significant majority of the neighborhood wants to become a LHD and that the proposal meets the criteria for a LHD. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 3-1-1 taken on April 26, 2005, on the following vote:

VOTED: That the Town amend Article 5.6 of the Town by-laws, entitled Preservation Commission and Historic District By-Law, as follows:

- 1. By adding a new subsection to section 3, providing as follows:

(_) Harvard Avenue Local Historic District.

There is hereby established an Historic District, to be entitled the "Harvard Avenue Historic District," the boundaries of which shall be as shown on the map entitled "Harvard Avenue Historic District," a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

- 2. By appropriately renumbering any other subsequent subsection of said section 3.

ROLL CALL VOTE:

Favorable Action

No Action

Abstain

Geller

Allen

Hoy

Sher

Merrill

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Harvard Avenue is a one block long street that runs between Park Street and Harvard Street on the northern edge of Brookline Village. The one way tree-lined street includes single family houses, multifamily houses, condominiums and apartment buildings. Pierce

Park abuts a portion of the southeasterly street edge. The block runs on a small ridge parallel to what was once a stream running to the Muddy River. Imagine a continuation of Park Vale Street as a meadowy vale heading to the Fens with homes overlooking the center of Brookline Village. The block's 19th century homes and early 20th century townhouses have long been considered important elements of Brookline's architectural heritage. Over twenty years ago, Harvard Avenue was recommended for Neighborhood Preservation Area status in the **1983 Preservation Plan for Brookline** because of the unique character of this valued cluster of architecture dating from 1847. The proposed district includes the western end of the street, running from the corner of Park Street to approximately the middle of the block. **(Please see attached map of the proposed district.)**

In December 2004, residents of the street were informed of the development potential of some of the properties in the neighborhood when two adjoining historic properties were simultaneously brought to their attention. Demolition permits had been filed with the town in preparation for a joint proposed redevelopment plan for the two properties. Although the demolition permits were withdrawn, the neighborhood has felt the need to work to establish mechanisms to maintain the neighborhood scale and character which drew so many new and longtime residents to reside on the avenue.

Residents are aware of the Town's efforts to "maintain local character and a high quality of life while accommodating change.", as enumerated in the Comprehensive Plan. Because of the value many in the neighborhood place on the historic character of their street, a representative group approached the town to explore their interest in designating a portion of Harvard Avenue as a Local Historic District (LHD). They see this designation as an appropriate means to ensure that future development in the neighborhood will complement the scale and design of the existing properties.

A petition of neighborhood residents in the proposed district was organized and submitted to the Brookline Preservation Commission in mid-January 2005. The proposed district included 35 properties with 34 owners. At that time, 29 of the 34 supported the proposed district. Three owners in the proposed district opposed the proposal and two were uncommitted. At the date of publication of this report, those numbers remain the same.

DISCUSSION

Discussion at the Advisory Committee's public hearings and public meeting regarding the proposed designation of Harvard Avenue as an LHD focused on the limited tools available to a community and neighborhood concerned about preservation of neighborhood character and scale. The relationship between character, land use and zoning has been at the center of the town's planning policy. These are issues that the town has worked to address through the long planning process that resulted in the most recent comprehensive plan and have been part of town planning strategy for many decades.

The Planning Department has been working to establish several new zoning and regulatory tools that address the concerns of balancing growth and neighborhood character. Town Meeting recently voted to support the use of Interim Planning Overlay Districts as a zoning tool and also supported the establishment of the Town's third Local Historic District, Graffam-McKay Local Historic District in North Brookline. Special

District Regulations are part of our current zoning regulations and Neighborhood Conservation Districts are proposed as a possible tool in the Comprehensive Plan.

Each of these tools is designed to address various nuanced issues of scale and character in the aim of preserving what is unique about the town's physical design and layout. For neighborhoods with clearly significant historical features that are a benefit to both immediate neighbors and the greater community, designation as a Local Historic District is an appropriate and valuable tool for maintaining the desired street condition. The use of LHDs as a neighborhood preservation tool has a long history in town. In Brookline, the impetus to establish an LHD has generally been driven by citizen interest in preservation of the historic character of their neighborhood. The establishment process is outlined in the attached flow chart prepared by the Massachusetts Historical Commission.

At the Advisory Committee's public hearing on Article 15, the overwhelming majority of attendees supported an LHD for Harvard Avenue. These included residents living in the single and multifamily houses, townhouses and condominiums that would make up the proposed district as well as residents living in homes adjacent to the district and others living elsewhere in Brookline who also support efforts to retain the historic character of the town. Those in opposition to the district include owners of the two mid-19th century homes and carriage barns that are an extant pair of significant structures from the pre-Civil War era. One of those properties is on the National Register of Historic Places. The other is not, but the Preservation Commission did not see any reasons it should not be. The third owner opposed to the district stated that while not opposed to the district in concept, she did not want her home included in the proposal because it has been substantially altered over the years and has sustained a fire.

The following are some comments made by those in opposition to the district:

One owner stated that this neighborhood "is about change" and that residents of a neighborhood zoned M (multifamily) should expect development. He also stated that it isn't possible to build as of right in Brookline. He felt that it is not reasonable to expect to override zoning (with the LHD designation) to prevent development.

Another owner in opposition to the proposed LHD designation felt that allowing a district of this size and type would encourage "every block in North Brookline" to seek designation as an LHD. He did not seem to think that multifamily districts should be granted the opportunity for historic preservation status. He also questioned how property ownership was calculated in the proposed district.

Comments in support of the district included the following:

One resident clarified that the neighborhood's interests and expectations were realistic and the community was not advocating for or expecting a complete cessation of development. They instead felt that adding a layer of Preservation Commission review would help change in the neighborhood to occur in a context that placed a value on the historical quality of the existing built fabric.

Many residents spoke of the unique character of the neighborhood, its integrity and its stable, diverse residential scale that has been maintained for over the past 40 and more years. The neighbors acknowledged that in the recent economic climate, they felt a

definite sense of vulnerability to over-scaled development and felt that the Local Historic District designation would reinforce and guide good design for future projects.

It was stressed that the buildings designated for inclusion in the LHD are all architecturally significant structures which makes for an unusually rich collection of Brookline's built history that is a short walk from the Town's historic Brookline Village center. The opportunity to walk from the commercial hub of Washington and School Streets and to experience the relative tranquility of this well settled neighborhood is an added benefit to the street's more urban surrounding character and situation.

In addition, it was noted that the two properties that spurred the neighborhood response are the pair of mid-nineteenth century homes and carriage barns that are considered one of the most impressive features of the proposed district.

The juxtaposition of this neatly contiguous collection of homes to the surrounding streets adds to their prominence in the streetscape and is perhaps one of the less quantifiable but important attributes of Harvard Avenue.

RECOMMENDATION

The Harvard Avenue neighborhood has followed the procedure required by the Preservation Commission and the Massachusetts Historical Commission and many neighbors have strongly voiced their support for this form of regulatory review and recognition. Of the neighbors in opposition, some have also voiced their support for preservation of historic character but for a range of reasons involving issues of perceived trust and appropriateness of process, they do not want to have their properties included in the proposed LHD. Based on their written comments, it seems that they would prefer to develop their properties under the current Planning Board review process without the added layer of Preservation Commission oversight.

Since December of 2004, the neighborhood of Harvard Avenue has worked diligently to define a proper mechanism to protect a well defined cluster of historic structures that many neighbors feel will make Brookline a richer community for future generations. This seven-month process is equivalent in timeframe to the process that brought the Graffam-McKay district before Town Meeting last year. Consideration at Town Meeting will undoubtedly include discussions that extend beyond the boundaries of the defined Harvard Avenue proposed Local Historic District. These discussions should help the town continue to define and appropriately use the tools it feels are most adequate in protecting our rich and varied built environment.

The Advisory Committee supports the majority of residents in the Harvard Avenue neighborhood who are seeking designation of a portion of Harvard Avenue as a Local Historic District. The Advisory Committee unanimously (17-0) recommends FAVORABLE ACTION on the vote offered by the Selectmen.

Proposed Harvard Avenue Local Historic District

Town of Brookline
Massachusetts

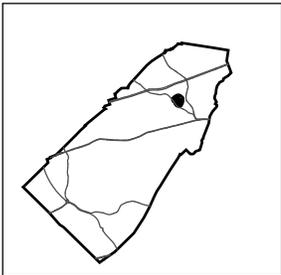
1

- Harvard Avenue LHD
- Building Footprints
- Property Lines
- Street Edges

Data Sources

The information shown on this map is from the Brookline Geographic Information System (GIS) database

Locus Map



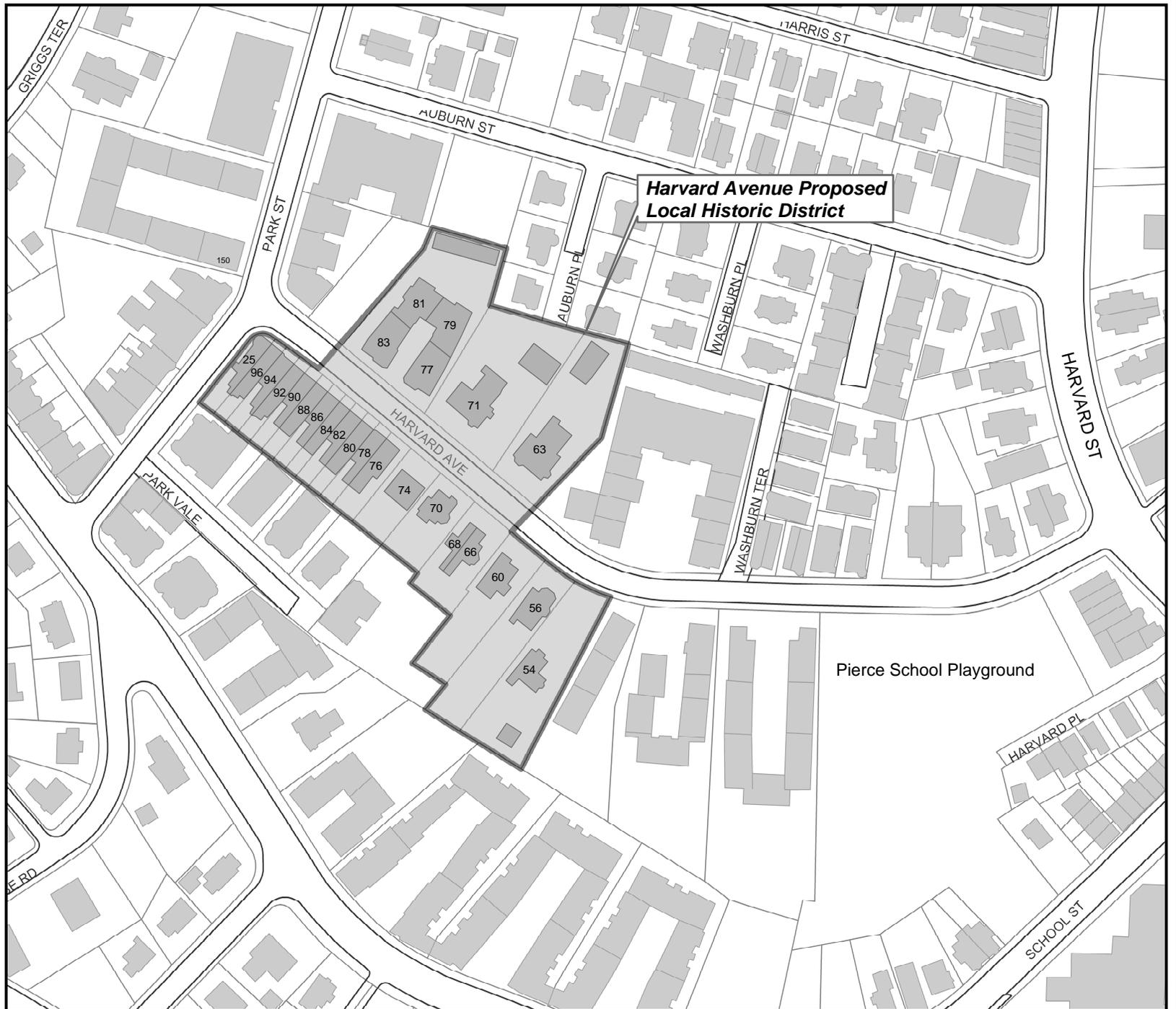
0 50 100 200 Feet



**BROOKLINE
GIS**

"Mapping Our Community"
<http://www.town.brookline.ma.us/gis>

Map created by Brookline GIS on January 2005
projects/historic/proposed/Harvardave8.5x11.mxd



ARTICLE 15

Motion to amend proposed by Betsy Polatin, 54 Harvard Avenue

MOVED: to amend the main motion by deleting 54 Harvard Avenue from the Harvard Avenue Local Historic District.

ARTICLE 16SIXTEENTH ARTICLE

To see if the Town will amend Article 5.6.8 of the Town By-Laws concerning the Preservation Commission and Historic Districts By-Law by striking the third paragraph of that section and inserting the following replacement language (or act in relation thereto):

“The Preservation Commission shall propose changes in Brookline Local Historic District boundaries as it deems appropriate. Massachusetts General Laws, Chapter 40C, as supplemented by this bylaw, shall guide the procedures for these activities.

Before the Town Meeting votes to place any new land in a Local Historic District, the Preservation Commission, with the assistance of the Planning and Community Development Department, shall determine the percentage of property owners within the proposed Historic District who support and oppose the Historic District. This shall be accomplished by secret ballot as follows:

Each current property owner(s) of record for each parcel within the proposed Historic District will receive by first class mail a package, no less than thirty days prior to the town meeting vote, containing:

- 1) a statement (300 words or less, plus a map) providing a description of the proposed Historic District, plus a summary of the changes that will result from establishment as a Local Historic District,
- 2) a statement (300 words or less) provided by supporters concerning their reasons in favor, if one is prepared by supporters,
- 3) a statement (300 words or less) provided by those who oppose concerning their reasons for opposition, if one is prepared by opponents,
- 4) a ballot requesting a yes or no answer for establishment of the Local Historic District, to be placed in a blank envelope, with no identification of the sender, to be placed in a stamped envelope addressed and mailed to the Planning and Community Development Department. This will have a return address of the property owner so that responders can be identified and a follow up can be made to those who have not responded.

The blank envelopes containing the executed ballots will be collected by the Planning and Community Development Department, separated from the mailed return envelopes, and opened without any identification of the sender. Owner(s) of record or their agents for each separately listed property, as identified using Assessors Department and Planning and Community Development Department information, will have one vote for each such property.

The Planning and Community Development Department shall count the votes and print the results on a document. That document shall be provided at Town Meeting so that the Town Meeting voters shall know the results prior to voting upon the proposed Historic District.

This bylaw is not intended to, nor shall it be construed to, require that a certain percentage of the ballots be in favor of the Historic District in order for Town Meeting to enact it. Instead, it is intended to ensure that the Town Meeting representatives have an accurate understanding of the level of support for the Historic District by the affected property owners before voting.

This bylaw is established under the Town of Brookline's home rule authority to designate the procedures it will follow in enacting Local Historic Districts. It is not intended to conflict with the procedures set forth in G.L. c. 40C, but rather to provide additional protections to Brookline residents."

The Massachusetts Historic Commission has provided "Establishing a Local Historic District Flow chart "Establishing a Local Historic as a guide for local usage in establishment of a Local Historic District as contained in General Law Chapter 40C. This flow sheet states that the "LHDSC (Local Historic District Study Committee) conducts property owner opinion survey, prepares educational material, conducts informational meetings and prepares the Preliminary Study Report." In the past and at present the Preservation Commission has undertaken little or no responsibility to measure local approval by property owners for establishment of a Local Historic District. The Committee has relied upon petition signatures provided by property owners who are proposing the district, and there may be a number of owners who are non-responsive or who feel pressured for or against this important and contentious modification of property rights. No formalized statement of purpose together with positive and negative opinions has been circulated by the LHDSC to property owners, and informational meetings have not been organized by the LHDSC. The only meetings have been conducted by proponents without any opportunity for detailed presentation by opponents. Thus only those who have attended meetings have received any information, and this information tends to be biased. For these reasons information and opinions plus a secret ballot should be provided by the Local Historic District Study Commission as the only way to ascertain that a fair and accurate determination of property owner support can be made. A Local Historic District should not be taken lightly, and should only be voted upon by Town Meeting after owners have had every chance to understand its implications and Town Meeting members have received information regarding the percentages of owners who are positive and who are negative.

MOTION TO BE OFFERED BY THE PETITIONER

MOVED: that the Town amend Article 5.6.8 of the Town By-Laws concerning the Preservation Commission and Historic Districts By-Law by striking the third paragraph of that section and inserting the following replacement language (or act in relation thereto):

The Preservation Commission shall propose changes in Brookline Local Historic District boundaries as it deems appropriate. Massachusetts General Laws, Chapter 40C, as supplemented by this bylaw, shall guide the procedures for these activities.

Before the Town Meeting votes to place any new land in a Local Historic District, the Preservation Commission, with the assistance of the Planning and Community Development Department, shall determine the final percentage of property owners within the proposed Historic District who support and oppose the Historic District. This shall be accomplished by secret ballot.

REPORT OF THE PRESERVATION COMMISSION

Summary of Article 16 as revised Its requires that the Preservation Commission determine the “final” percentage of property owners supporting and opposed to any proposed Local Historic District (LHD) – something the Commission already does. It stipulates that it must be done with the assistance of the Department of Planning and Community Development, of which the Commission’s staff is already a part. It imposes a secret vote.

Preservation Commission’s assessment The Preservation Commission and staff have reviewed the revised Article 16 and find it unnecessary and an imposition upon a process that presently works well. It was drafted without consultation with the Commission or its staff, which may explain why all of its justifications and 90% of its original unworkable stipulations had to be abandoned.

The remaining portion would impose upon a well ordered and informative process, which leads towards neighborhood enhancement, a potentially disruptive overlay which, under some conditions, is likely to confuse and mislead more than enlighten.

No commission in the state is mandated to have such a secret vote. In reviewing a proposed LHD it is often useful to understand how support and opposition are distributed. That information is lost in a secret ballot.

It assumes only the possibility of “Yes” or “No” opinions It proposes a simplistic “yes”/“No” alternative with no recognition of “I abstain” or “I’m undecided”, even though that is a conscious choice for some. In each of the three recent LHDs about 80-85% of owners have said “Yes” and about 5-10% “No”, while the balance remain “Uncommitted” or deliberately “Neutral” or occasionally “unaccounted for,” despite reasonable efforts — something this yes/no assumption doesn't recognize.

Neighborhood exploration of the issue, open assessment of support, and a 2/3 TM vote are the appropriate process Unlike some cities and towns, Brookline’s Preservation Commission never initiates an LHD process. It either starts from the neighborhood grass roots or at the direction of the Board of Selectmen or of Town Meeting. Rational discussion of the complex issues that are often involved in deciding to establish an LHD takes time and should occur in the

open. For that same reason Town Meeting makes all its legislative decisions by an open vote, following open and full debate. Establishing an LHD should work the same way. Finally, any LHD requires the acid test of a 2/3 vote of Town Meeting. That should be the one appropriate vote in this process.

If it ain't broke, don't fix it. The Commission's present procedures for creating LHDs meet or exceed the requirements of MGL 40c and of the MHC, which has reviewed and approved them. This open process also comports with Brookline's tradition of fairness. Attached are the Commission's guidelines for establishing LHDs. They include public meetings that allow for extensive public discussion prior to the public hearing required by MGL 40c. In addition, an initial neighborhood petition is required. All these meetings encourage verbal and written statements of support and opposition. It is our experience that opponents of Local Historic Districts, including the present petitioners, are never shy about letting the Commission know who they are and how they feel.

The Commission concurs with the unanimous votes of the Advisory Committee and Board of Selectmen in opposition to this article

Procedures for establishing a Local Historic District

In Brookline a request for consideration of the establishment of a Local Historic District (LHD) can be initiated by The Board of Selectmen, Town Meeting, or a neighborhood. LHDs for primarily residential areas are not imposed from the top down but must arise from neighborhood grass roots and, in their early stages, will require substantial work by the neighborhood. The following procedural guidelines are intended to set down and refine the process that has generally been used for the Graffham-McKay LHD and the proposed Harvard Ave. and Chestnut Hill North LHDs.

Once a group of residents expresses interest in the possibility of establishing an LHD for their neighborhood, the process should be as follows (allowing for adjustments to suit specific circumstances, such as available time, size of area, available material for Study Report, immanent risks, etc.):

First steps

The Commission Chair and staff make a preliminary review of the area to determine if an LHD is feasible and what its approximate boundaries might be. At this stage the objective is simply to eliminate areas clearly unsuitable for an LHD, although they might be suitable for some other sort of overlay design control district, as has been suggested under the Town's comprehensive plan. The staff also reviews its files to determine the extent and quality of the available documentation on properties in the area.

The commission should encourage the interested neighbors to work through their local neighborhood association, if there is one suitable for the area, or to consider creating one. Pill Hill's High St. Hill Association, whose boundaries are coterminous with those of the LHD, is a good example.

The Commission staff establishes a timeline of last dates for all the events required for the

process of bringing the proposed district to the next reasonable Town Meeting.

The Chair may appoint one or more commissioners as a sub-committee for the proposed LHD who, together with staff, should meet with the group of residents to discuss the benefits, obligations, and restrictions associated with living in an LHD, the feasibility of the timetable suggested by the timeline of events, and to consider the possible boundaries of the proposed LHD in greater detail. This is an important preliminary step in determining if they want to take the idea to the whole neighborhood.

The Commission staff must estimate the work involved in creating a Draft Study Report and whether it can be done by staff or must be done by others — in which case the neighborhood may be asked to budget funds for a Study Report by an outside consultant.

Neighborhood exploratory meetings

If the neighborhood association or group of residents wants to propose the idea to the neighborhood as a whole, it should organize one or more informational meetings with notification to the potentially affected property owners, to explain the concept of an LHD and explore the depth of neighborhood support. Commission sub-committee members and/or staff should be at the meetings to answer questions and explain how an LHD works. Such meetings are part of the neighborhood's process to see if an LHD is of interest. They are not part of the public hearing process required by 40c nor of the Commission's additional non-mandated public meetings — both of which happen later.

Petitioning the Commission

If, based upon the neighborhood meetings, it appears to both the neighborhood and the commission representatives that there is significant support, a petition should be prepared by the neighborhood, in a format and with content acceptable to the commission, stating that its signers have received the commission's guidelines and that they understand that being in an LHD will affect what changes they can make to the exterior portion of their house visible from a public way. There should also be an explanatory cover letter from the commission. The petition should be accompanied by a suggested map of the proposed LHD. The neighborhood group can then begin to circulate the petition to the property owners in the neighborhood, providing each with a copy of the Commission's guidelines for LHDs and the cover letter.

When the petition has been signed by not less than majority of the resident owners, the neighborhood can present the petition to the Commission and request that it begin the process for establishing an LHD, per the requirements of 40c, the Town's by law, and these guidelines. All property owners in the proposed district shall be notified of a Commission meeting at which a petition for the proposed LHD will be presented to the Commission. The Commission should allow time at that meeting for all questions and comments from the neighborhood. At that time, with respect to the petition process, the neighborhood should also report to the Commission in writing those owners who 1) could not be contacted and what attempts were made, 2) were contacted and didn't want to sign but did not say they were opposed —some owners may choose to remain "neutral", 3) were contacted but were undecided, and 4) were opposed. The commission staff shall confirm that the petitioning property owners plus the four categories of non-petitioning owners account for all of the owners in the proposed LHD. Experience suggests that, while the opinions of the great majority of property owners will eventually become known (those opposed will especially make themselves known), a handful may remain completely non-

responsive. For the purposes of this process each condo unit should be considered a separate property, except that multiple condo units or other multiple properties owned by one individual or entity should be collectively considered one property.

As the process continues, the neighborhood may add additional owners to its petition and should inform the commission of any changes in the four categories of non-petitioning owners. Other opponents may also come forward. Commission staff shall keep a record of all written and verbal communications from owners within the proposed LHD (including letters, phone messages, and statements in meetings) and will correlate them with the count provided by the neighborhood to be sure there are no discrepancies.

Draft Study Report — MGL 40c requirement

If the petition is in order and the Commission believes the proposed LHD is worth considering, it will then direct staff or the outside consultant to prepare a Draft Study Report including a boundary map, as required by 40c.

When the Draft Study Report and its map have been prepared and are ready for acceptance (as a draft) by the Commission, the Commission shall notify all property owners of the Commission meeting at which the draft report will be considered for acceptance. Again, the Commission should be prepared to take all questions and comments. If accepted by the Commission, the draft report will be sent to the Mass. Historical Commission (MHC) and the town's Planning Board, as required by 40c. Both bodies can make comments back to the Commission. Both will accept written and oral comments from interested parties. At any time after acceptance of the Draft Study Report the LHD's boundary may be reduced, but not enlarged, by the Commission and the text edited accordingly.

Public hearing — MGL 40c requirement

Not less than sixty days after transmittal of the Draft Study Report to the MHC and Planning Board, the Commission must hold a Public Hearing, as stipulated by 40c. All property owners in the boundary shall be notified and should be sent a copy of the Commission's Guidelines for LHDs and an explanatory cover letter. That hearing should be separate from the Commission's regular meeting to ensure there is no limitation to the time for questions and comments. After closing the public comment portion of the Public Hearing, the Commission must vote on whether to accept the Draft Study Report and map, with whatever changes may seem appropriate, as the "Final Study Report" to be submitted with the warrant article. All public written comments to date shall be appended to and become part of the Final Study Report.

Town Meeting process

The commission must put an article for the LHD on the warrant. If the warrant closes before the Public Hearing can be held, a "placeholder" article shall be placed in the warrant, in case the Commission accepts the Study Report after the Public Hearing.

Between the Public Hearing and Town Meeting, the Advisory Committee's sub-committee will hold a hearing and vote a recommendation, followed by a discussion and vote on its recommendation by the full Advisory Committee, the Planning Board will hold a "discussion" and take a vote on a recommendation, and the Board of Selectmen will hold a hearing and vote on a recommendation. As part of the material prepared for those bodies, the Commission staff shall provide an accounting of the petitioning owners, those opposed, and those who are either

neutral, undecided, or could not be contacted.

The warrant article (an amendment to the existing LHD Bylaw) must pass Town Meeting by a 2/3 vote.

SELECTMEN'S RECOMMENDATION

Article 16 proposes to amend the Historic District By-Law by mandating a secret ballot of affected property owners as part of the process to establish a local historic district (LHD). The secret ballot would be administered by the Preservation Commission, with the assistance of the Planning and Community Development Department, in order to determine the percentage of property owners who support or oppose a proposed local historic district.

The establishment of local historic districts in Massachusetts is governed by Chapter 40C, which makes no provision for a secret ballot. No municipality in the Commonwealth has taken it upon itself to establish a secret ballot for the creation of local historic districts. The Massachusetts Historical Commission is opposed to the use of a secret ballot for this purpose. The Brookline Preservation Commission has prepared guidelines that lay out Brookline's process for establishing a local historic district that exceed the requirements for public notification, education, and participation laid out in Chapter 40C. (Please see the Preservation Commission's report above for the complete text of the procedures.)

This proposal is both unnecessary and contrary to Brookline's values and its tradition of open, frank, and informative discussion of issues concerning changes to our by-laws. There may be room for improvement in the Preservation Commission's processes for establishing LHDs, but a warrant article drafted without consultation with any of the affected stakeholders, including the Commission, is not the appropriate means for doing so. Nor do we believe that the proposed secret vote will aid the affected neighborhood, the Preservation Commission, or Town Meeting as they deliberate the appropriateness of a proposed LHD.

Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on April 26, 2005, on Article 16.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 16 is a citizen's petition filed by Cynthia Silbert which would impose a new procedural requirement for a secret ballot prior to the establishment of a Local Historic District (LHD).

DISCUSSIONThe Existing Town By-law

Article 5.6.8 of the Town's By-laws contains the following language:

“The Preservation Commission shall propose changes in Brookline Historic District boundaries as it deems appropriate. Massachusetts General Laws, Chapter 40C, will guide the procedures for these activities.”

This proposal would require, in addition to any of the MGL Chapter 40C requirements, that a secret ballot be held to determine the percentage of property owners within the proposed historic district who support, oppose the district or are neutral/(undecided). Currently, a survey is conducted and whether a particular property owner supports or opposes the district (or is neutral) is a matter of public record. The Preservation Commission has recently issued guidelines which outline the process for establishing an LHD. Those process guidelines are included under the Report of the Preservation Commission.

Points made in support of Article 16

At the well attended public hearing held by the Advisory Committee's Planning and Regulation Subcommittee, the petitioner explained that Article 16 was filed in response to what was described as a flawed process in proposing the Chestnut Hill North Local Historic District.

Points made in support of the proposed warrant article included:

1. Property owners within the proposed Chestnut Hill North District have faced undue pressure and “intimidation” to support the district.
2. A secret ballot would give a more accurate and honest expression of the views of neighbors.
3. The current process is unfair.
4. For the Chestnut Hill district, there were two neighborhood meetings where opponents were not invited where support for the district was solicited. There were two additional meetings which opponents of the district attended. Fewer people signed in support of the district at the meetings the opponents attended. Since opponents were not present at all meetings they are unsure how many affected people have seen the Preservation Commission (PC) Guidelines and how many people would have opposed the proposed district had they been aware of the PC guidelines.
5. In the case of the Harvard Avenue proposed LHD, there were neighborhood meetings where the opponents were not invited.
6. A ballot is important because the demeanor of a meeting can influence whether someone supports or opposes a project.
7. The current process puts too much influence in the hands of private parties. The entire process should be administered by the town.

Points made in opposition to Article 16

Dennis Dewitt, Vice Chair of the Preservation Commission (PC) explained that the PC currently follows guidelines and procedures established by the Massachusetts Historical Commission pursuant to MGL Chapter 40C. As part of the process, the PC carefully polls all affected property owners to gauge support for the district. Owners can change their mind at any time on

the process. In addition to meetings in the neighborhood where a Commission member and staff is made available, the PC holds two meetings and produces a draft study report in addition to the statutory 40C Public Hearing for which notice is sent to all property owners.

He also stated that a public process lets the PC see where there are pockets of opposition and the reasons for the opposition to the proposed district and allows them to evaluate whether their concerns can be addressed. For example, in the proposed Chestnut Hill District there was opposition on the north side of Middlesex Road. The PC looked again at the properties and determined they were “non-contributing” and voted to remove them from the district. In a secret process, they would not have been able to respond to concerns in the same manner.

Points by a number of other speakers in opposition to the proposed warrant article included:

1. The open process has been valuable to identifying concerns, correcting mistaken impressions and responding to them.
2. The current process encourages dialogue and problem solving among neighbors.
3. It gauges opinion within a neighborhood with more precision than a secret ballot can.
4. 40C is not an election. The opponents are trying to undo the results of a series of meetings and discussions.
5. In the Chestnut Hill process, multiple meetings were held to try to keep the number attending the meetings manageable to encourage dialogue among neighbors and fit into people’s homes. The substance of the meetings was the same.
6. The process works better with an open dialogue.

Advisory Committee Analysis

Currently, Town By-laws adopt the provision of MGL Chapter 40C with no additional requirements in establishing new LHDs. The framework set up by 40C requires extensive due process and neighborhood notification. First, the Preservation Commission does not self initiate the process to establish an LHD. It must first receive a petition from the affected neighborhood (recent examples are Graffam-McKay, Chestnut Hill North and Harvard Avenue) or a resolution from Town Meeting (as in St. Aidan’s.) In addition to neighborhood meetings, meetings of the Preservation Commission (with appropriate notification of affected property owners) and the statutory 40C hearing, the Advisory Committee Planning and Regulation Subcommittee holds a public hearing, the Board of Selectmen holds a public hearing, and the Advisory Committee holds a public meeting. The Preservation Commission widely distributes its guidelines for approving projects in LHDs plus staff and Commission members are available to answer very specific questions.

Everyone agrees that how affected property owners feel about a proposed LHD is an important aspect of the approval process. Yet as we saw with St. Aidan’s, that is not necessarily dispositive to the question of whether or not to establish an LHD. Currently, through petitions submitted by the neighborhoods or through direct contact with property owners, affected property owners express their support or opposition (or neutrality) to the LHD. Very importantly, owners are free to change their mind at any time during the process as new information becomes available (and some have in Chestnut Hill North.)

A secret ballot would certainly allow affected property owners to “vote” without regard to how their neighbors might react. A secret ballot is just that; secret. The Preservation Commission

and others involved in the approval process will not necessarily know where the opposition is coming from. The process, which is now a dialogue with reevaluation and adjustment, will change fundamentally to become a campaign ending in a vote. The results of the vote will be presented to Town Meeting as one more fact upon which to make a decision. Town Meeting will have less information than it has now.

The Town Meeting form of government is one which encourages, in fact expects open discourse among neighbors to make the large public policy decisions facing the community. A secret vote in a particular neighborhood seems antithetical to the Town Meeting open discourse tradition.

Lastly, this warrant article will change a process in existence since Brookline began designating districts as LHDs almost 30 years ago. If we are going to change this process, we should do so only after careful study of the consequences, both, intended and unintended. This careful study has not occurred.

RECOMMENDATION

The Advisory Committee by a vote of 16 in favor, 0 opposed, and 1 abstention recommends NO ACTION.

XXX

ARTICLE 17

SEVENTEENTH ARTICLE

To see if the Town will extend the effective dates of the italicized language in Article 8.6.7(a) of the By-laws of the Town of Brookline, which language is due to expire on June 30, 2005, until June 30, 2006; or act on anything relative thereto.

REPORT OF THE PARK AND RECREATION COMMISSION

The Town of Brookline By-laws pertaining to the control of dogs are embodied in Article 8.6. Currently, Section 8.6.7(a) authorizes the Park and Recreation Commission to establish designated off leash areas, as part of a pilot program, such pilot program to expire on June 30, 2005. If Article 8.6.7(a) is not amended, the off leash program will cease because the article will revert back to the language existing prior to the amendment. This request will extend the term of the “Dog Off-leash Pilot Program” for one year. The pilot off-leash program has been very successful. Dog owners have done a good job of assisting the Park and Recreation Commission in making this program work. Although there have been a few minor problems, the immediate response to alleviate any inconvenience to the citizens has been excellent. There is significant public interest in continuing the present off leash program. However, a comprehensive evaluation with public input has not been completed. The proposed amendment would permit the Commission to continue establishing designated off leash areas within the Town during designated off-peak hours and to conduct public meetings and a survey to gather information both positive and negative concerning the off-leash program. Areas adjacent to schools will not be used as off leash areas. Dog runs are not a viable option for Brookline, because they would carve up valuable play areas, create serious maintenance problems leading to undesirable places, and incur extensive fencing costs.

By extending the pilot program for one year, dog owners will still be required to accompany, control, and pick up after their dogs at all times. The Park and Recreation Commission has held many public meetings to discuss what programs would be appropriate and effective for Brookline. Off-leash programs have been established in other places for achieving better dog control. Using other programs as examples, the Commission could develop a program to establish designated off-leash areas at off-peak hours, subject to dog owner etiquette and education, public review and annual evaluation.

**PROCEDURE FOR DECLARING A PARK, PLAYGROUND OR OPEN SPACE
AS AN “OFF-LEASH AREA FOR DOGS”,
AS OUTLINED IN BY-LAW NUMBER 8.6.7.
Presented by the Park and Recreation Commission**

Prior to any park, playground, and/or open space being designated as an “Off-Leash Area for Dogs”, the Park and Recreation Commission will conduct a meeting to discuss the possibility of such action, during which all in attendance may voice their suggestions, objections, and support for a proposed Off-Leash Area. Items to be discussed may include duration of Off-Leash time, rules and regulations associated with Off-Leash Areas, notification methods to all dog owners and citizens, special considerations in each proposed area, development of a Green Dog program, self-policing by dog owners, that in each designated Off-Leash area signs will be posted, in a conspicuous place, stating the authorized hours when that area can be used and any other conditions concerning the use of that area, etc.

The Park and Recreation Commission shall notify all abutters, Town Meeting Members (in the affected precinct), Neighborhood Associations, the School Committee, School Principals, PTO’s, the Conservation Commission, the Tree Planting Committee, the Board of Selectmen, the Police Department, identified users, and all those requesting notification. The meeting shall be posted in the Town Clerk’s Office, in the newspaper, on cable television, on Brookline’s homepage (www.townofbrooklinemass.com) and bulletin board, and in all prominent locations in the area affected. This initial meeting shall be conducted as part of a regularly scheduled Park and Recreation Commission meeting.

Attendance will be taken at all meetings and if additional meetings are required, all of those listed above will be notified, as well as all of those who sign the attendance sheet. Only after such meeting as described above is held will the Park and Recreation Commission make a decision concerning proposed areas. The Park and Recreation Commission may, at any time, reconsider the designation of any area as an Off-Leash Area, as they deem necessary. Monitoring and evaluation of all such designated areas shall be conducted on a regular basis.

SELECTMEN’S RECOMMENDATION

Article 17 calls for the extension of the Off-Leash Area for Dogs By-Law for one more year, to June 30, 2006. As originally approved by Town Meeting in May, 2003, the provision is set to expire on June 30, 2005. Due to the success of the program, the Park and Recreation Commission is recommending that it continue, but not indefinitely, as a comprehensive evaluation with public input has not yet been completed. The proposed amendment would permit the Commission to continue establishing designated off leash areas within the Town during designated off-peak hours and to conduct public meetings and a survey to gather information, both positive and negative, concerning the off-leash program.

The Board recognizes the Park and Recreation Commission for the commendable work on this issue and appreciates their desire to gather additional information from the public before making a recommendation on whether to make the by-law permanent or not. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 15, 2005, on the following vote:

VOTED: That the Town extend the effective dates of the italicized language in Article 8.6.7(a) of the By-laws of the Town of Brookline, which language is due to expire on June 30, 2005, until June 30, 2006.

ROLL CALL VOTE:

Favorable Action

Allen
Geller
Hoy
Merrill

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 17 asks for a one year extension for the Dog Off-Leash Pilot Program which is currently set to expire on June 30, 2005. Two years ago, Town Meeting passed Article 27, amending the Dog Control By-law and authorizing the Park and Recreation Commission to undertake a pilot program to select off-leash areas during designated off-peak hours of use. In these specific areas at specific times, dog owners are permitted to let their dogs exercise off-leash while still being required to accompany, control, and pick up after their dogs at all times.

DISCUSSION

After approval of Article 27, participating parks were chosen, and rules and procedures for the program and its participants were developed through a public process which included five hearings. Currently there are 13 park areas available for the Off-Leash Program. Seven can be used from dawn to 1 p.m., four from dawn to 9 a.m., and two from dawn to dusk in the 3 winter months and dawn to 1 p.m. during the rest of the year.

In the 18 months during which the pilot program has been in operation, there have been no reported dog bite incidents. Twelve complaints have been received by the Commission, six of which pertained to parks without off-leash designation. In the other six instances, the dog owner contact for each park was notified, and the complaint was addressed.

Although the Park and Recreation Commission believes that the program has been successful (and the designated parks are cleaner as a result of it), it also believes that a comprehensive evaluation should be completed before seeking a permanent amendment to the Dog Control By-law. In the coming fiscal year, the Commission plans to undertake a user survey and to seek input from Park Department maintenance crews, park abutters, and athletic groups. In addition it will pursue the development of a new category in the police log pertaining specifically to complaints regarding the Off-leash Program.

17-4

The Advisory Committee believes that an evaluation should be undertaken and completed before Town Meeting considers amending the Dog Control By-law. Public comment and feedback indicate that the Pilot Program is successfully meeting its objectives and that dog owners have been diligent in observing the rules.

RECOMMENDATION

The Advisory Committee, by a vote of 11-1 recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 18

EIGHTEENTH ARTICLE

To see if the Town will add the following Section to the Town By-laws:

SECTION 1.1.5 THE HOLDING OF PUBLIC HEARINGS

With the sole exception of public hearings held under the auspices of the Council on Aging, all Boards, Commissions, Committees, and other governmental bodies that hold public hearings shall schedule such hearings so that those hearings in their entirety or portions thereof will be held after 5:30 P.M. on weekdays. This requirement can be waived only for sufficient cause on a case-by-case basis by vote of the Board of Selectmen, or by vote of the School Committee in the case of public hearings held under the auspices of the School Committee, or by vote of the Library Trustees in the case of public hearings held under the auspices of the Library Trustees.

or act on anything relative thereto.

Inasmuch as public hearings are intended to provide an opportunity for members of the public to voice their opinions on matters to be decided by governmental bodies and thereby exert some measure of influence over those decisions, it is important that such public hearings be held at times when members of the public are most likely to be able to attend. Although there may be no single time period that will make attendance possible for everyone, the current practice of holding certain public hearings during or just prior to the normal work day when many Town residents are either commuting to or at their places of employment is a particularly poor choice for enabling substantial public attendance at public hearings. This proposed by-law would mandate that at least some portion of each public hearing be scheduled after 5:30 P.M. by which time many Town residents employed during the normal work day would be able to attend.

The effect of this by-law might require certain Town employees -- primarily administrators or department heads -- to attend public hearings being held after the end of their normal working day. However it is already the case that such employees are routinely expected to attend certain evening meetings held by the Selectmen, Advisory Committee, and other governmental bodies. Requiring their attendance at a relatively small number of additional after-hours public hearings in accordance with this proposed by-law would be much in the public interest that is served by providing maximum public accessibility to all public hearings.

SELECTMEN'S RECOMMENDATION

Article 18 is a petitioned Article that would require all public hearings -- not all public meetings, which is a very important distinction -- to be held, either in their entirety or portions thereof, after 5:30 p.m. on weekdays. The petitioner's motivation, as contained in his description, is that the current practice of holding public hearings at times earlier than 5:30 p.m. is not conducive for the participation of all who might want to attend.

The petitioner accurately notes that "there may be no single time period that will make attendance possible for everyone", and that is the concern this Board has with this Warrant Article. Mandating a post-5:30 p.m. public hearing could very well end up excluding segments of the population who would like to attend a public hearing. The responsibility should be, and is, on boards, commissions, and committees to work with the public in finding the time that works best for both interested citizens and the citizens volunteering their own time on the board, commission, or committee.

The Selectmen are also less than fully persuaded that this Article is fully warranted. There have been relatively few complaints about scheduled hearing times and attempts have been made to address these situations as they have arisen. For the most part, that is because most of them are already held in the evening. In those instances where a board/commission/committee determines that the best time for a hearing is in the morning (sub-committees of the Advisory Committee often times find this to be the best time to hold a public hearing), again, based on the lack of complaints, those public hearings appear to work well.

The Advisory Committee has recommended, and the petitioner concurs with, making the Article a resolution instead of a by-law. Doing so continues the current practice of placing the responsibility of finding the best time to hold a public hearing in the hands of the Town's citizen-based boards, commissions, and committees. If those volunteer bodies themselves can find a hearing time other than 5:30 p.m. that works best for them and interested residents, they should be able to schedule the public hearing for that time.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 4-1 taken on April 12, 2005, on the vote offered by the Advisory Committee.

ROLL CALL VOTE:

Favorable Action

Allen

Hoy

Sher

Merrill

No Action

Geller

ADVISORY COMMITTEE'S RECOMMENDATIONBACKGROUND

Article 18 is a petitioned article, originally filed to be an addition to the Town By-laws, which would have required that public hearings either in part or their entirety be held after 5:30 p.m. on weekdays. It exempted hearings held under the auspices of or relating to the Council on Aging from the requirement and anticipated other exemptions by authorizing the Board of Selectmen, School Committee or Library Trustees to issue waivers on a case-by-case basis.

DISCUSSION

In his explanation, the petitioner pointed out the importance of maximizing public input and participation in matters which come before the Town's Boards, Commissions, and Committees. He asserted that in general, early morning hearings conflict with the work and commuting schedules of many residents, and he identified early evening as a more convenient time for most members of the public. The initial exemption for senior citizens was offered in recognition of the fact that some seniors could have difficulties in attending evening meetings.

Although the Advisory Committee supports the intent of the Article, it also recognizes that selecting a time for a public hearing that best suits everyone's schedule is close to impossible. In addition, the Committee has no specific numbers as to how many public hearings are currently held at times other than 5:30 p.m. or later. Finally, the Committee has questions regarding the early evening availability of meeting space, already at a premium, should a time for public hearings be mandated.

Both the petitioner and the Committee are in agreement that a resolution rather than a by-law change might better serve the petitioner's concerns while allowing for a bit more flexibility. They believe that with good will and a conscious effort to schedule public hearings at times when the public is able to attend, the purpose of Article 18 can be achieved.

RECOMMENDATION

The Advisory Committee, by a vote of 15-1, recommends FAVORABLE ACTION on the following vote:

VOTED: That Town Meeting adopt the following Resolution:

Be it resolved that Town Meeting urges all Boards, Commissions, Committees, and other governmental bodies that hold public hearings to schedule such hearings so that they in their entirety or portions thereof are held after 5:30 P.M. on weekdays.

XXX

ARTICLE 19

NINETEENTH ARTICLE

To see if the Town will amend the existing Living Wage By-Law of the Town of Brookline by adding the following SECTION to be numbered by the Town Clerk:

Whereas the Town of Brookline enacted a “Living Wage By-Law” on November 13, 2001 “in recognition that the wages of many workers nationwide have not kept pace with the cost of providing for themselves or their families;”

Whereas upon enactment of the “Living Wage By-Law” Town Meeting expressed that “town government must lead town businesses and contractors by example to engage in and support fair wage practices in Brookline;”

Now, therefore, in recognition of the foregoing, the Town of Brookline amends the Living Wage By-Law which shall also apply to town contractors and subcontractor wages, and their employees.

Brookline Living Wage By-Law: This article shall be known as the “Brookline Living Wage By-Law.” The purpose of this article is to ensure that that employees of the town and employees of town contractors and subcontractors earn a sufficient hourly wage.

SECTION 8: Contracts

a. Definitions:

Covered employer means anyone who has been awarded a service contract or subcontract with the Town after the effective date of the By-law.

Covered employee means a person employed by a covered employer who directly expends his or her time on the service contract with the Town.

Person means one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this commonwealth,

Services means the furnishing of labor, time, or effort by a contractor and/or covered employer.

Service contract means a contract for services awarded to a vendor by the town for no less than the following amounts: (i) \$25,000.00 for contracts commencing in fiscal year 2006, (ii) \$10,000.00 for contracts commencing in fiscal year 2007 (iii) \$5,000.00 for contracts commencing in fiscal year 2008 and thereafter. Any bids opened prior to fiscal year 2005 shall not be subject to this article.

b. Application of Living Wage By-Law to Contracts

After the applicable date of this By-Law, the guidelines outlined in the Living Wage By-Law, Section 4.8.2 Living Wage, shall apply to all service contracts of the Town of Brookline.

These guidelines shall be followed to ensure that all covered employers shall pay their covered employees (both as defined above) providing services to the Town of Brookline and any of its Departments a Living Wage as defined in Article 4.8 Section 2.

The exceptions referred to in Article 4.8 Section 2, as outlined in Article 4.8 Section 5, are inapplicable to service contracts and thus shall not be applied to service contracts awarded to covered employers.

d. Enforcement

Grievance procedures and nondiscrimination. Any covered employee who believes that his or her employer is not complying with requirements of this article applicable to the employer has the right to file a complaint with the town's Chief Procurement Officer or Board of Selectmen. Complaints of alleged violations may also be filed by concerned citizens or by a town official or employee. Complaints of alleged violations may be made at any time and shall be investigated promptly by or for the officer or board that received the Complaint. Statements written or oral, made by a covered employee, shall be treated as confidential and shall not be disclosed to the covered employer without the consent of the covered employee.

Investigations. The Chief Procurement Officer or Board of Selectmen who received a complaint, as aforesaid, shall investigate or have the complaint investigated and may, in conjunction with the Town Counsel, require the production by the covered employer of such evidence as required. The covered employer shall submit payroll records on request. Upon receipt by the town of information of possible noncompliance with the provisions of this article, the covered employer shall permit representatives of the Chief Procurement Officer or Board of Selectmen to observe work being performed upon the work site, to interview employees and to examine the books and records relating to the payrolls being investigated to determine whether or not the relevant payment of wages complies with this By-Law.

Retaliation and Discrimination Barred. A covered employer shall not discharge, reduce the compensation of, or otherwise discriminate against any employee for making a

complaint to the Town or otherwise asserting his or her rights under this article, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the article. The Town shall investigate allegations of retaliation or discrimination and may, in conjunction with Town Counsel, and in accordance with the powers herein granted, require the production by the employer of such evidence as may be deemed necessary or desirable during such investigation.

Remedies

In the event that the town shall determine, after notice and hearing, that any covered employer has failed to pay the living wage or has otherwise violated the provisions of this article:

- (1) The town may order any or all of the following penalties and relief:
 - a. Fines in the sum of \$500.00 for each week, for each employee found to have not been paid in accordance with this article; and
 - b. Suspension of ongoing contract and subcontract payments.
- (2) If the covered employer has failed to pay the living wage, the town shall terminate all service contracts with the covered employer unless appropriate relief, including restitution to each affected covered employee, is made within a specified time.
- (3) If the covered employer has discharged, reduced the compensation or otherwise discriminated against any covered employee for making a complaint to the town, otherwise asserting his or her rights under this article, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the ordinance, the town shall terminate all service contracts with the covered employer unless appropriate relief, including restitution to each affected covered employee and reinstatement of each discharged covered employee, is made within a specified time.

or act on anything relevant thereto.

The living wage movement has been steadily growing since its inception ten years ago. In 1994 labor and religious organizations in Baltimore passed the first modern living wage law, requiring city service contractors to pay a fair wage. Since then, living wage campaigns have been successful across the country. 123 cities and counties have passed living wage laws that cover direct city employees, service contractors to the city, recipients of economic assistance, or any combination of the three. An additional 75 campaigns similar to Brookline's are currently underway nationally, from Maine to California and from Louisiana to Iowa. The strength of this grassroots movement has led syndicated columnist Robert Kuttner to describe the living wage movement as "the most interesting (and underreported) grassroots enterprise to emerge since the civil rights movement."

Locally, Boston passed the first living wage law within Massachusetts in 1997. Cambridge and Somerville followed suit with similar laws in 1999. Their living wages are currently \$11.27,

\$11.87, and \$9.91, respectively. An expanded living wage law for Brookline would continue to spread this movement through Massachusetts. While among the highest in the nation, the state minimum wage is inadequate for families to live on. We believe that a full-time worker should not have to rely on welfare to survive. We ask that any company who contracts with the town should pay its workers enough that they do not rely on food stamps and that they follow the standard we have set for our own employees. Because, effectively, we are paying these workers with our tax dollars through the contracts the Town provides, we have a responsibility to treat them as our own direct employees.

There is a growing need for living wage legislation. The federal minimum wage was raised to \$5.15 in 1996 and has not been increased since then. However, inflation has raised prices by 17.3 percent since 1996. The minimum wage has not kept pace. If the federal minimum wage had increased at the same rate as productivity since 1968, it would have reached \$11.20 in 1999. As workers produce more for their employers, their compensation should increase as well. Many families have fallen through the cracks of the minimum wage. Living wage legislation is an attempt to use the purchasing power of towns and cities to help these families.

As taxpayers, we are indirectly paying workers poverty wages. This is morally unacceptable. Our society has historically valued human equality and our religions teach us that we must act to fix injustice. Our most revered texts serve as a moral guide to the values we hold. In John I, we are asked "How does God's love abide in anyone who has the world's goods and sees a brother or sister in need and yet refuses help?" (1 John 3:17). The Town of Brookline is in this situation today and should follow the teachings of Scripture. The Old Testament, too, stands firmly in support of a living wage. The fourth commandment exhorts us to "Remember the Sabbath Day, to keep it holy" (Exodus 20:8). When fathers and mothers must work two full-time jobs just to pay the rent, we are denying them the important day of rest that we value as a civilization. Eastern religious texts, from the Baghavad Gita to the Koran, also all emphasize the need to protect the least among us. The Town of Brookline is responsible for its actions. A living wage would stop the unethical practice of providing contracts to companies that do not follow the same moral standards we have set for ourselves.

We should not have to bear this moral burden. The Town of Brookline has the power to make any laws not in conflict with state law. The living wage ordinances of Boston, Cambridge and Somerville have been in effect for 8 years and no one has challenged the laws in court or through grievance clauses in the ordinances themselves. Because the living wage is party-neutral, it does not disrupt the competitive bidding process in any way and so does not conflict with state law. Every contractor still is on an equal playing field and can offer whatever bid they choose, so long as they agree to pay their employees a living wage. Additionally, the living wage would not conflict with the Massachusetts minimum wage. Every contractor would still be required to pay \$6.75/hr., but they would also be required to pay the town's set living wage. Because the living wage would be higher than the minimum wage, Brookline would not be in conflict with the State. In the debate surrounding the legal status of a living wage, the evidence on the ground is clear for all to see: three functioning living wage ordinances in the Boston area.

Opponents of the living wage will claim that it will cost the town and that it will sap money away from our schools and our police. However, history has shown this to be untrue. In

Baltimore, a study by the Preamble Center for Public Policy showed that the real cost of city contracts decreased after their living wage ordinance passed. Another study conducted by Florida International University showed that a living wage ordinance in Miami-Dade County cost 0.1% of the operating budget in its first year of implementation. That number dropped to 0.01% by the living wage's second year. A survey conducted by the City of San Jose showed that its living wage policy did not have an adverse effect on small business. Similar success stories have occurred across the country in every community that has passed a living wage law.

It is clear that living wage ordinances have not had the negative effects that opponents expect from them, but how have cities avoided the costs of raising wages? Many opponents claim that the Town of Brookline would bear the full financial burden of the living wage. They say that all companies in Greater Boston that paid their workers less than a living wage would pass the increased cost directly onto the Town. This is based on a fundamental misconception about contracts. First, many companies already treat their employees with the dignity they deserve. A living wage rewards these companies for their commendable labor practices by prohibiting the Town from doing business with competitors who lack their commitment to fair wages. Those companies who already pay fair wages can submit lowest responsible bids because they already meet the standards of the living wage ordinance. Therefore, many bids will remain the same because the firms have no need to increase their labor costs. Second, the Town has some bargaining power in its contracting process. The desire to submit the low bid will result in some companies absorbing some of the costs of the living wage in order to win the contract. Finally, businesses can save money as a result of the living wage. Because higher paid employees value their jobs more, businesses covered by the living wage report lower turnover, higher productivity, fewer sick days taken and greater punctuality. Theodore Williams, the CEO of Bell Industries, stated that "firms with human resource policies such as those contained in the LA Living Wage Ordinance reap a range of benefits that actually reduce costs and enhance product quality." The living wage is often the means to do well by doing good.

In other towns that have passed living wages, two peripheral benefits have frequently been noted: improved performance by some students and the availability of additional information about Town government. Currently, one of Brookline's highest priorities is its wonderful school system. The living wage, along with other policies to help low-income families, helps school systems succeed. Currently, the lowest performing group on nearly every measure of academic success is those students who receive free or reduced-price school lunches. They often lack the necessary parental support or home environment needed to prepare them for school. If some of those parents can work fewer hours due to Brookline's living wage, their children have a greater chance of performing better in school. This will free up valuable resources for the school system as a whole and contribute to a positive learning environment for all students.

We encountered the second benefit first-hand. As we prepared this bill for submission, our research took us to Town Hall. We were searching for the wages of all the contracted employees of the town. However, the Town does not have this information about the men and women who provide us the services we depend upon. Taxpayers have a right to transparency in government. A large part of this is knowing how the workers who help the town run are compensated. A living wage would assure taxpayers that they have some understanding of where and how their

tax dollars are being spent. Transparent government is good government, and the taxpayers of Brookline deserve this information.

The final section of the warrant article outlines the enforcement policies of the living wage. These grant the Town the powers it needs to investigate and enforce the living wage. Recent studies have shown that, even where strict living wage laws have been passed, implementation is a concern. The Town needs to have the power to enforce compliance with its bylaw for any effect to take place. This includes monetary fines and the termination of contracts with non-compliant companies. It is also imperative that employees be able to file grievances without fear of retaliation. If employees are silenced, the living wage will never be implemented as the Town intends. As such, there are penalties for companies that retaliate against employees filing grievances and there are measures insuring the confidentiality of all grievances.

The benefits of a living wage have been outlined in this explanation. Besides the moral imperative to compensate our workers fairly, the living wage comes with many other benefits. Because it increases productivity and efficiency, living wage businesses are often more profitable than those who do not pay a fair wage. Additionally, the living wage carries almost no costs along with it. In the 123 municipalities who have enacted living wages, the competitive bidding process has kept the price of contracts down to around pre-ordinance levels. In an age where the gap between rich and poor keeps growing and when the minimum wage is falling in real dollars, we as a Town must work to support low-income families. The living wage is a proven way to do so efficiently and inexpensively.

SELECTMEN'S RECOMMENDATION

Article 19 is a petitioned Article that would amend the Town's Living Wage By-Law by extending its provisions to services contracted for by the Town. Currently, the By-Law applies to Town employees; this Article would have it apply to the employees of companies the Town contracts with.

The Board commends the work of the petitioner and his classmates. Their enthusiasm for and interest in this issue is proof that Brookline's future is in good hands. The professional manner in which they all conducted themselves was quite impressive. Extending the living wage to employees of contractors is a logical step for Brookline and will assure that those employees are treated fairly while undertaking work on behalf of the Town.

The financial impact of this Article is negligible, as most work contracted for by the Town falls under the prevailing wage statute, and that wage is well above the living wage. For those contracts not covered by the prevailing wage, staff's research indicates that most, if not all, companies performing work for the Town currently pay their employees an amount that exceeds the living wage. Therefore, the financial impact is negligible.

Town Counsel has advised that the Town of Brookline might not have the Home Rule authority to extend the Living Wage By-law to private contractors. However, as was the case with the

Cell Phone Warrant Article in 1999, the Board believes that the will of Town Meeting should be expressed on this policy matter, but State authorities can determine whether legal basis for this by-law exists.

There remains one issue that the Board and the Advisory Committee will attempt to resolve prior to the commencement of Town Meeting, and that is the definition of a “covered employee”. Our concern is that the definition, as currently written, is too vague and could be construed as applying to all employees in a company associated with the contract, such as payroll staff and other clerical employees who expend time on aspects associated with the contract, but not on the actual service delivery itself. An example: the Town contracts for sidewalk replacement. Obviously, the employees tearing up the old sidewalk and laying the new concrete would be subject to the living wage (in fact, they are subject to the prevailing wage, which is significantly higher than the living wage); but what about the payroll clerk who processes the pay for the employees directly working on the job? This is just one example. The financial implications of the proposed by-law are greater if it extends deep into a company.

Even with this concern, the Board firmly believes in the merits of the proposed by-law and recommends FAVORABLE ACTION, by vote of 5-0, taken on April 26, 2005, on the following vote:

Whereas the Town of Brookline enacted a “Living Wage By-Law” on November 13, 2001 “in recognition that the wages of many workers nationwide have not kept pace with the cost of providing for themselves or their families;”

Whereas upon enactment of the “Living Wage By-Law” Town Meeting expressed that “town government must lead town businesses and contractors by example to engage in and support fair wage practices in Brookline;”

Now, therefore, in recognition of the foregoing, the Town of Brookline amends the Living Wage By-Law which shall also apply to town contractors and subcontractor wages, and their employees; as follows:

VOTED: TO AMEND ARTICLE 4.8 OF THE TOWN’S BY-LAWS BY DELETING THE PRESENT SECTION 4.8.7, BY RENUMBERING THE PRESENT SECTION 4.8.6 TO SECTION 4.8.7 AND BY ADDING A REVISED SECTION 4.8.6 TO READ AS FOLLOWS:

SECTION 4.8.6

a. Definitions:

In construing SECTION 4.8.6, the following words shall have the meanings herein given, unless a contrary intention clearly applies.

Covered employer means anyone who has been awarded a service contract or subcontract with the Town after the effective date of the By-law.

Covered employee means a person employed by a covered employer who directly expends his or her time on the service contract with the Town.

Person means one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this commonwealth,

Services means the furnishing of labor, time, or effort by a contractor and/or covered employer.

Service contract means a contract for services awarded to a vendor by the town for no less than the following amounts: (i) \$25,000.00 for contracts commencing in fiscal year 2006, (ii) \$10,000.00 for contracts commencing in fiscal year 2007 (iii) \$5,000.00 for contracts commencing in fiscal year 2008 and thereafter. Any bids opened prior to fiscal year 2006 shall not be subject to this article.

b. Application of Living Wage By-Law to Contracts

After the applicable date of this By-Law, the guidelines outlined in the Living Wage By-Law, Section 4.8.2 Living Wage, shall apply to all service contracts of the Town of Brookline.

These guidelines shall be followed to ensure that all covered employers shall pay their covered employees (both as defined above) providing services to the Town of Brookline and any of its Departments a Living Wage as defined in Article 4.8 Section 2.

c. Enforcement

Grievance procedures and nondiscrimination. Any covered employee who believes that his or her employer is not complying with requirements of this article applicable to the employer has the right to file a complaint with the town's Chief Procurement Officer or Board of Selectmen. Complaints of alleged violations may also be filed by concerned citizens or by a town official or employee. Complaints of alleged violations may be made at any time and shall be investigated promptly by or for the officer or board that received the Complaint. **To the extent allowed under the Public Records Law, G.L.c.66,** statements, written or oral, made by a covered employee, shall be treated as confidential and shall not be disclosed to the covered employer without the consent of the covered employee.

Investigations. The Chief Procurement Officer or Board of Selectmen who received a complaint, as aforesaid, shall investigate or have the complaint investigated and may, in conjunction with the Town Counsel, require the production by the covered employer of

such evidence as required. The covered employer shall submit payroll records (**meaning records that relate to wages paid**) upon request, **and the failure to comply with the request may be a basis for terminating any contract between the parties.** Upon receipt by the town of information of possible noncompliance with the provisions of this article, the covered employer shall permit representatives of the Chief Procurement Officer or Board of Selectmen to observe work being performed upon the work site, to interview employees and to examine **payroll records**, the books and records relating to the payrolls being investigated, to determine whether or not the relevant payment of wages complies with this By-Law.

Retaliation and Discrimination Barred. A covered employer shall not discharge, reduce the compensation of, or otherwise discriminate against any employee for making a complaint to the Town or otherwise asserting his or her rights under this article, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the article. The Town shall investigate allegations of retaliation or discrimination and may, in conjunction with Town Counsel, and in accordance with the powers herein granted, require the production by the employer of such evidence as may be deemed necessary or desirable during such investigation.

d. Remedies

In the event that the town shall determine, after notice and hearing, that any covered employer has failed to pay the living wage or has otherwise violated the provisions of this article:

- (1) The town may pursue the following remedies and relief:
 - a. Fines **not to exceed \$300.00** for each week, for each employee found to have not been paid in accordance with this article; and
 - b. Suspension of ongoing contract and subcontract payments.
- (2) If the covered employer has failed to pay the living wage, the town may terminate all service contracts with the covered employer unless appropriate relief, including restitution to each affected covered employee, is made within a specified time.
- (3) If the covered employer has discharged, reduced the compensation or otherwise discriminated against any covered employee for making a complaint to the town, otherwise asserting his or her rights under this article, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the ordinance, the town may terminate all service contracts with the covered employer unless appropriate relief, including restitution to each affected covered employee and reinstatement of each discharged covered employee, is made within a specified time.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 19 proposes to extend the Living Wage Bylaw passed at the November 2001 Town Meeting to cover employees of Service contractors. The Article adds definitions necessary to implement the new provisions. It also adds enforcement language modeled after the City of Somerville's Living Wage by law

This warrant article was proposed by Student Action for Justice and Education (SAJE), a Brookline High School student organization, whose goal is to build a town-wide coalition to support the expansion of the Living Wage bylaw.

DISCUSSION

The proposed Bylaw would cover employees of service contractors and subcontractors who work directly on town contracts awarded after the effective date of this bylaw. Services mean the furnishing of labor, time, or effort by a contractor and/or covered employee. Covered employee means a person employed by a covered employer who directly expends his or her time on the service contract with the town.

The bylaw contains a phase in threshold as follows:

(i) \$25,000.00 for contracts commencing in fiscal year 2006, (ii) \$10,000.00 for contracts commencing in fiscal year 2007 (iii) \$5,000.00 for contracts commencing in fiscal year 2008 and thereafter. Five thousand dollars is the base amount whereby the Town must enter into a contract for services.

The Bylaw would not cover any employees of contractors or subcontractors who have contracts for the purchases of goods. In addition, the Bylaw would not cover employees who might indirectly work on contracts such as employees of a general mail room who might happen to open letters from the Town pertaining to the contract. Another example of indirect work would be employees in a general billing department who might, work on some aspects of billing the town.

Also, the proposal contains the same exceptions as the original Living Wage Bylaw that now covers our Town employees (i.e., participants in job training programs, work study employees, seasonal employees, CDBG employees etc.)

The Petitioner is recommending an enforcement scheme similar to the City of Somerville where contractors would certify that they are in compliance. Investigations of compliance as outlined in the proposed bylaw would be complaint based.

Rationale

It is a matter of fairness that employees of contractors performing work on behalf of the Town should be subject to the same minimum pay as Town employees. This would negate any pay incentive for the Town to outsource jobs currently held by Town employees and in fact protect Town positions which would result in an increase in

employee moral and therefore a more stable workforce. There is the hope that if Town Government leads the way that other business in Brookline would follow the example and support fair wage practices for all employees working for business located in the Town.

Impact

Assessing the impact of the proposed bylaw is not as straight forward as assessing the effects of the Living Wage for town employees. The reason for this is that the town has no specific knowledge of exactly how much a contractor or subcontractor is paying its employees. However, it is surmised that about 95% of the Town's service contracts are already covered by the State's prevailing wage statute that requires wages well in excess of the living wage proposed in this bylaw. One category of contracts that is not subject to the prevailing wage statute is cleaning services. It is believed that this would still have minimal impact on any increase in costs for the Town. This is also true for any additional costs on the School side.

RECOMMENDATION

Since the financial impact to the Town is minimal the Advisory Committee, by a vote of (14-3-1), recommends FAVORABLE ACTION on the Article as amended by the Board of Selectmen.

Chart 1: Living Wage Bylaw Comparison

Legal Issues	Brookline (Current)	Brookline (Proposed)	Boston	Cambridge	Somerville
<u>Wage level</u>	\$10.72	\$10.72	\$11.29	\$12.19	\$9.93
Who Covers	Town Employees Only	Town employees plus employees of Service Contractors working directly for the town	(1) City employees (2) Employees of Service Contractors, Subcontractors working directly for the city (3) employees of Beneficiaries of Assistance	(1) City employees (2) Employees of Service Contractors, Subcontractors working directly for the city (3) employees of Beneficiaries of Assistance	(1) City employees (2) Employees of Service Contractors, Subcontractors working directly for the city
Threshold for Coverage	NA	FY 2006 \$25,000 FY 2007 \$10,000 FY 2008 \$ 5,000	Contracts: \$25,000 Assistance: \$100,000 assistance plus 25 ees if for profit, 100 ees if non profit	Contracts: \$10,000 Assistance: \$10,000	FY 2004 \$10,000
Exceptions	1. Seasonal employees 2. Work Study or Coop Education 3. Positions funded by CDBG or State Elder Services 4. Library Junior Pages 5. Golf Course Rangers	None for service contracts	1. Construction contracts covered by state prevailing wage laws 2. Youth Programs 3. Work Study or Coop Education 4. Job Training Programs	1. Youth Programs 2. Work Study or Coop Education 3. Job Training Programs 4. Programs where other services provided (ie., housing) 5. Positions exempt from Federal or State Minimum Wage laws	1. Youth Programs

Legal Issues	Brookline (Current)	Brookline (Proposed)	Boston	Cambridge	Somerville
				6. City employees where to position is primarily a benefit or subsidy	
Waivers	None	None	1. When law conflicts with state or federal laws 2. “Hardship waivers” allowed on case by case basis	1. When law conflicts with state or federal laws 2. “Hardship waivers” allowed on case by case basis to non profits 3. Waiver can be granted when compliance would be “inordinately expensive”	1. Violation of Law 2. Curtail Services of employer 3. Adverse Financial impact on City 3. Otherwise not in best interest of City

Sources: Town of Brookline Web Site
 City of Boston Web Site
 City of Cambridge Web Site
 City of Somerville Web Site

Chart 1: Living Wage Bylaw Comparison

Legal Issues	Brookline (Current)	Brookline (Proposed)	Boston	Cambridge	Somerville
<u>Wage level</u>	\$10.72	\$10.72	\$11.29	\$12.19	\$9.93
<u>Who Covers</u>	Town Employees Only	Town employees plus employees of Service Contractors working directly for the town	(1) City employees (2) Employees of Service Contractors, Subcontractors working directly for the city (3) employees of Beneficiaries of Assistance	(1) City employees (2) Employees of Service Contractors, Subcontractors working directly for the city (3) employees of Beneficiaries of Assistance	(1) City employees (2) Employees of Service Contractors, Subcontractors working directly for the city
<u>Threshold for Coverage</u>	NA	FY 2006 \$25,000 FY 2007 \$10,000 FY 2008 \$ 5,000	Contracts: \$25,000 Assistance: \$100,000 assistance plus 25 ees if for profit, 100 ees if non profit	Contracts: \$10,000 Assistance: \$10,000	FY 2004 \$10,000
<u>Exceptions</u>	1. Seasonal employees 2. Work Study or Coop Education 3. Positions funded by CDBG or State Elder Services 4. Library Junior Pages 5. Golf Course Rangers	None for service contracts	1. Construction contracts covered by state prevailing wage laws 2. Youth Programs 3. Work Study or Coop Education 4. Job Training Programs	1. Youth Programs 2. Work Study or Coop Education 3. Job Training Programs 4. Programs where other services provided (ie., housing) 5. Positions exempt from Federal or State Minimum Wage laws	1. Youth Programs

Legal Issues	Brookline (Current)	Brookline (Proposed)	Boston	Cambridge	Somerville
				6. City employees where to position is primarily a benefit or subsidy	
Waivers	None	None	1. When law conflicts with state or federal laws 2. "Hardship waivers" allowed on case by case basis	1. When law conflicts with state or federal laws 2. "Hardship waivers" allowed on case by case basis to non profits 3. Waiver can be granted when compliance would be "inordinately expensive"	1. Violation of Law 2. Curtail Services of employer 3. Adverse Financial impact on City 3. Otherwise not in best interest of City

Sources: Town of Brookline Web Site
City of Boston Web Site
City of Cambridge Web Site
City of Somerville Web Site

XXX

ARTICLE 20

TWENTIETH ARTICLE

To see if the Town will amend the Town's By-Laws, by numbering the first paragraph in Article 6.8 as Section 6.8.1 and by adding a new Section 6.8.2, entitled: Naming Public Facilities, to read as follows:

Section 6.8.2 REVIEW COMMITTEE

(A) Appointment - The Board of Selectmen shall appoint a Committee of five members for staggered three year terms to review all proposals for naming public facilities except rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees as specified above in Section 6.8.1. The Committee shall include a member of the Advisory Committee, of the Park and Recreation Commission, and of the School Committee.

(B) General Duties – The Review Committee shall be responsible for reviewing and reporting its recommendations on proposals for naming public facilities. The Committee may also, from time to time initiate its own proposals for naming public facilities.

SELECTMEN'S RECOMMENDATION

Article 20 proposes an amendment to the procedure for naming public facilities, including buildings and parks. The Article recommends the establishment of a committee that would be responsible for reviewing all proposals for naming prior to action taken by Town Meeting. Town Meeting would continue to have the ultimate authority over the naming of public facilities; the Review Committee would simply vet any proposals prior to Town Meeting vote.

In recent years, the number of naming articles coming before Town Meeting has increased, and members of this Board, along with members of the Advisory Committee, think that a more thorough review process should occur before becoming a warrant article for Town Meeting to act upon. We believe that this extra step will make for a better process.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 12, 2005, on the following vote:

VOTED: That the Town amend the Town's By-Laws, by numbering the first paragraph in Article 6.8 as Section 6.8.1 and by adding a new Section 6.8.2, entitled: Naming Public Facilities, to read as follows:

Section 6.8.2 REVIEW COMMITTEE

(A) Appointment - The Board of Selectmen shall appoint a Committee of five members for staggered three year terms to review all proposals for naming public facilities except rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees as specified above in Section 6.8.1. The Committee shall include a member of the Advisory Committee, of the Park and Recreation Commission, and of the School Committee.

(B) General Duties – The Review Committee shall be responsible for reviewing and reporting its recommendations on proposals for naming public facilities. The Committee may also, from time to time initiate its own proposals for naming public facilities. All recommendations of the Committee shall be subject to criteria to be established by the Committee and approved by the Board of Selectmen.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 20 amends Town By-Laws by adding a new Section 6.8.2 entitled "Naming Public Facilities". It states that "The Board of Selectmen shall appoint a Committee of five members for staggered three year terms to review all proposals for naming public facilities except rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees as specified...in Section 6.8.1. The Committee shall include a member of the Advisory Committee, of the Park & Recreation Commission, and of the School Committee....The Review Committee shall be responsible for reviewing and reporting its recommendations on proposals for naming public facilities. The Committee may also from time to time initiate its own proposals for naming public facilities."

DISCUSSION

The purpose of this Article expressed by the proponents was the desire for a formal mechanism for handling the many naming requests received from citizens. The Advisory Committee agrees. There has been some dissatisfaction with past choices made via the current process which is as follows: a petition signed by ten citizens is placed on the next Town Meeting Warrant. The Selectmen and Advisory Committee each hold public hearings on the Article and make recommendations to Town Meeting which makes the final decision. (NOTE: Under this Article, Town Meeting would still make the final decision.) It was stated that relevant boards and commissions often do not have time to give adequate consideration to the requests.

The School Committee and Library Trustees would still, under this Article be able to name specific rooms and spaces within buildings (e.g., the School Committee room at Town Hall dedicated to former Superintendent James Walsh) but not the facilities themselves. Naming of park benches is currently determined by the Parks and Open Space Division of the Department of Public Works.

Our preliminary research of other MA municipalities showed none with a separate naming entity for all public facilities:

In Newton, requests are referred by the Board of Aldermen to its own Public Facilities Sub-Committee whose recommendations are voted on by the entire Board.

Belmont and Lexington have no official naming process. Selectmen make the final decisions.

Natick was one of the few towns in our survey where Selectmen hold a public hearing. They also seek recommendations from the Historical Society before making their final decision.

Needham currently has no official facilities- naming process but is, coincidentally, in the process of drafting a proposal on the issue. It will require the Selectmen to hold a public hearing on naming requests before making the final decisions, and that the requests not be duplicative.

Cambridge has no formal naming committee. Requests can be referred to their Government Operations Committee, (which has been known to hold some requests for up to three years). The Cambridge City Council makes the final decision. The City Council did, however, order the Government Operations Committee “to determine if the time had come to consider criteria for the naming of city squares”.

Norwell has a Veterans Memorial Committee concerned only with the establishment of a veterans’ memorial in the town square.

Westfield has a school facilities-naming committee but concerned citizens have requested information via the MA. Municipal Association bulletin board on other towns’ policies on naming public buildings and spaces. They are upset by the fact that ad hoc requests for naming can be made from the floor of their (open) Town Meeting, often resulting in long, chaotic debates. (Resolutions do not have to appear first on their TM Warrant.)

Criteria for Review Committee

The Advisory Committee believes that guidelines should be included for the Review Committee’s decision-making. However, our subsequent research revealed that such criteria can become quite complicated for us to include within the Article. Should the honoree be living (special benefactor?) or deceased (if so, for how long?). Ashland’s criteria for naming school facilities state that “that person shall be of exemplary, moral character; or have made an outstanding contribution to education, humanity or community; or have displayed outstanding leadership; or be a person of historical significance...” In Corvallis, Oregon, criteria include naming “after a place or location, or after an event that has created an important legacy or achievement. A person’s name is eligible for consideration after two years of their death, with

special benefactors excepted. "...The honoree should be "a noteworthy public figure or official; a person, place, or event of historical or cultural significance, special benefactor(s) (living or dead); a person, group, place, or feature, particularly identified with the public land or facility..." The Chapel Hill, N.C. Council Naming Committee is required to "give a strong preference to naming a facility for the deceased and that naming a facility for a living person will only be considered under extraordinary circumstances".

Oversight of Review Committee

Advisory Committee members also believe that criteria developed by the Review Committee should be subject to Selectmen approval. Therefore, we proposed an amendment to Article 20 to add to the end of Part B of the original Article as follows:

"All recommendations of the Review Committee shall be subject to criteria to be established by the Committee and approved by the Board of Selectmen."

RECOMMENDATION:

The Advisory Committee unanimously (16-0) recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

ARTICLE 21

TWENTY-FIRST ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT THAT REMOVES THE TOWN OF BROOKLINE AS A MEMBER COMMUNITY IN NORFOLK COUNTY.

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline shall, on the first day of July, in the year two thousand and six, cease to be a member community in Norfolk County.

SECTION 2. Notwithstanding the provisions in SECTION 1., above, the town of Brookline shall continue to be in the Norfolk Registry District, court system and penal system.

SECTION 3. This act shall take effect upon its passage;

or act on anything relative thereto.

In 1997 and 1998 the Massachusetts Legislature abolished most county governments in the Commonwealth (Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk, and Worcester Counties). Therefore, many of the duties of the former county offices were transferred to state offices. For example, the duties of the Registries of Deeds all now come under the Office of the Secretary of State while the Sheriffs and jails come under the Executive Office of Public Safety. However, several counties in southeastern Massachusetts remained untouched, including Norfolk County.

The Town of Brookline has been a part of Norfolk County since Norfolk County broke away from Suffolk County in 1793. (Interestingly, “In 1795, Brookline petitioned the Supreme Judicial Court to “change its allegiance” back to Suffolk County; the court however, ignored the petition”.¹) Brookline became an island of Norfolk County (meaning it is completely non-contiguous to the rest of the County) when several former towns in Norfolk County, including West Roxbury, were annexed by the City of Boston. Brookline is therefore contiguous to Middlesex County (Newton) and Suffolk County (Boston).

¹ See the Secretary of State’s web site at www.sec.state.ma.us/cis/cisctlist/ctlistidx.htm

Because Norfolk County was not abolished, Brookline continues to pay mandatory assessments to the County. (These assessments are taken out of the Town's portion of the State aid and distributed to the County.) In Fiscal Year 2006, the county assessment for Brookline is over \$572,000. In addition, the assessment has grown by between 2.5% and 4.5% over the last 4 years. (While the County assessment to all cities and towns is capped at 2 ½%, there is no cap on an individual town's Brookline's assessment increase.) At a 3% growth rate, Brookline will pay nearly \$610,000 to Norfolk County in assessments by FY2008. However, Town officials question what the citizens of Brookline get for that money and most residents would be hard pressed to even name what services Norfolk County provides. On the other hand, cities and towns in abolished counties pay no county assessments. If you look at the budget for the City of Newton, they pay no county assessment. Just think what Brookline could do with \$600,000! Think what the schools could do with another \$300,000 under the Town-School partnership.

This home rule petition would ask the Legislature to remove Brookline as a member community in Norfolk County. It would also keep Brookline as a part of the Norfolk Registry and Courts which are administered by the State.

SELECTMEN'S RECOMMENDATION

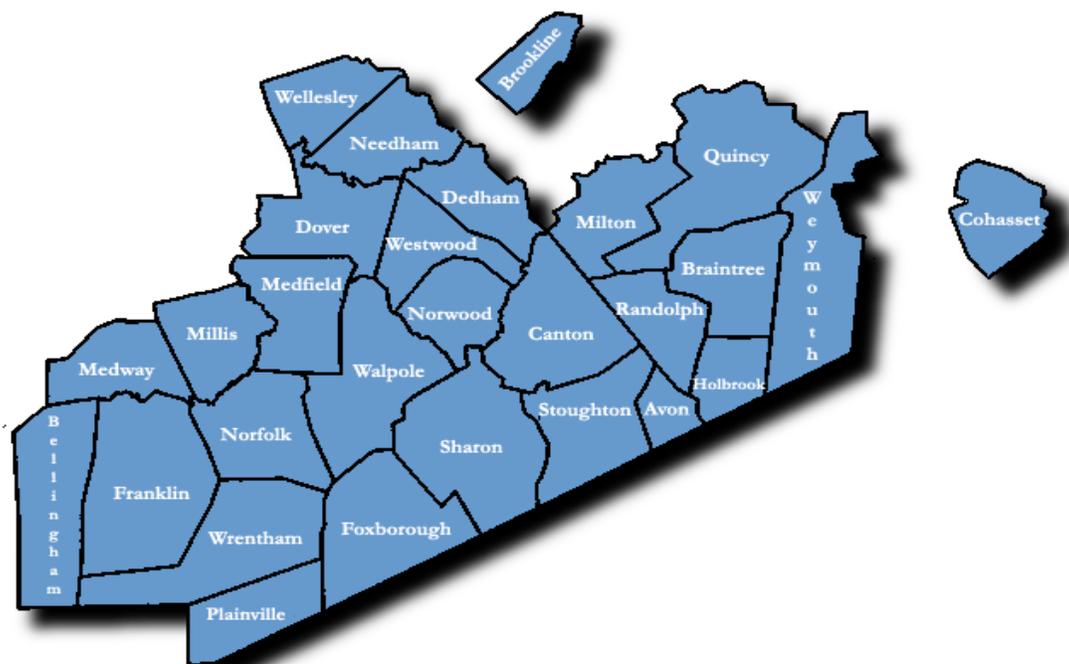
Article 21 is a petitioned Article calling for the removal of the Town from being a member of Norfolk County. The core of the issue is the Town's annual assessment, which is approaching \$600,000. The petitioner argues that these funds, which are not even approved by Town Meeting (they are so-called "Non-Appropriated Expenses"), could be applied directly to Town needs.

NORFOLK COUNTY

Norfolk County consists of 28 eastern Massachusetts communities, located to the South and West of Boston. The County was incorporated as a regional governmental entity in 1793, and has its county seat at the town of Dedham. A map is shown on the following page. The executive authority of Norfolk County is vested in the County Commissioners, who are popularly elected by its residents. The three Commissioners are elected for a four-year term with only one permitted from any one city or town.

The county provides regional services, including the following:

- Superior, probate and trial courthouses
- Norfolk County Agricultural High School
- President's Golf Course in Quincy
- Registry of Deeds
- Sheriff's Department
- Engineering Services for Communities
- Retirement Board Administration



Since the County is without a popularly elected legislative authority, it is therefore dependent upon its Advisory Board and the General Court for its budgetary appropriations and capital outlay proposals, which require borrowing. The Advisory Board is composed of a representative from each Norfolk County municipality. The executive authority (Selectman, Mayor, Manager, etc.) of each municipality appoints its own representative annually. Each municipality and their representative's vote on the Advisory Board is weighted in accordance with the valuation of the assessment of the combined land values in that community. In Brookline's case, its Advisory Board member's vote accounts for 12% of the total vote.

County revenues are derived from the Registry of Deeds, a tax on the cities and towns of Norfolk County based on their land values, the Commonwealth of Massachusetts, and various grants. The County Tax is estimated to total \$4.6 million in FY06, with Brookline providing \$572,204 for the County, or 12.5% of the total tax. The total tax levy, per the provisions of MGL Ch 35, Sec.31, cannot increase by more than 2½ % each year; however, individual tax assessments can increase more or less than that, since the formula is based on equalized valuation (property value), and that value changes every two years.

COUNTY ABOLITION

In 1997 and 1998, the State abolished eight of the 14 counties. The six remaining counties are Barnstable, Bristol, Dukes, Nantucket, Norfolk and Plymouth. Of the eight abolished counties, only two (Hampden and Worcester) continues to pay a county tax—and they are frozen at FY01 and FY98 levels, respectively. Municipalities in the other six counties pay no county tax.

When a county was abolished, the state absorbed both the assets and liabilities of the county, and if assets exceeded liabilities, the county tax was eliminated. If liabilities exceeded assets, the county tax remained until the outstanding liability was paid off.

ARTICLE 21

As originally proposed, Brookline as a municipality would no longer be a member of Norfolk County as of July 1, 2006; however, for purposes of the registry district, court system, and penal system, Brookline residents and businesses would utilize regional services located in Norfolk County. This means that Brookline individuals and businesses would continue to use, and pay for, the Registry of Deeds; have legal matters heard in the County; and have the services of the Norfolk County jail, which is funded by a combination of State funding and Registry of Deeds revenue (again, which Brookline pays for on a fee for service basis).

One major unanswered question is whether the Brookline District Court would continue to operate if the Town of Brookline was not paying County tax. The pure judicial function (e.g., judges, court security officers, stenographers) is funded by the State, but the operational aspects (e.g., custodial services), are paid for by the County. While the State does pay lease payments to the county for the courthouse, it is not sufficient to cover all of the operational costs associated with the courthouse. As a result, county funds (e.g. county tax, Registry of Deeds) must make up the difference. Therefore, an argument could be made that with Brookline paying no county tax, the other 27 communities within the county could choose not to support the maintenance of the courthouse, since the court is used for Brookline cases. The Selectmen would be quite concerned about the impact on the community if the District Court were no longer located in Town, especially from losing the availability of the Juvenile Court.

CONCLUSION

It is quite evident that Brookline does not avail itself to all of the services the county offers. That is not the fault of the county; rather, it is due to the extremely professional operation run by the Town. For example, the Town has a full-service Engineering Division, so it does not use the county engineering services as much as communities with a small engineering staff. Similarly, with its own Retirement Board, the Town is not part of the county's retirement system. Brookline has its own Municipal Golf Course at Putterham, with which the County's course in Quincy actually competes.

A majority of the Board believes that having Brookline leave Norfolk County on its own is not the proper course to take. It would send the wrong message to the other Norfolk County communities, perhaps reduce needed support from other legislators in the county for the special legislation the Town now has before the General Court, and, Most importantly, could result in the closing of the Brookline Municipal Court. This Article has focused the Town on our relationship with the County and we will work with the County to investigate how the Town can take better advantage of their services.

The Board recommends NO ACTION, by a vote of 4-1 taken on April 26, 2005, on the article.

ROLL CALL VOTE:

No Action

Allen
Geller
Hoy
Sher

Favorable Action

Merrill

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

The proposal calls for a home rule petition to the Legislature to remove Brookline from Norfolk County. If Brookline were removed from the County, Brookline would continue to use Norfolk County courts, the Sheriff's department, and the Norfolk County Registrar of Deeds. However, Brookline would cease using other services provided by Norfolk County.

DISCUSSION

Brookline is currently assessed nearly \$600,000 per year by Norfolk County. This nonappropriated expense is increasing at a rate of approximately 2.5% per year. Benefits for the Town of Brookline that justify an expenditure of \$600,000 per year are difficult to identify.

Present Norfolk County was established in 1793 with Brookline as a member. Over the years, the boundaries of the County have changed. Brookline became an "island off the shore" of Norfolk County when other towns left. West Roxbury left Norfolk County to join Boston in 1872; Hyde Park left in 1911. Cohasset is also a noncontiguous town in Norfolk County. These are the only instances in the United States in which counties include noncontiguous towns.

In many other states, counties are a major unit of government. In Massachusetts, the role of counties is marginal. Seven years ago, the Legislature sought to eliminate all county governments. In fact, most county governments were dismantled through that reform effort. However, Norfolk County has survived as a functioning entity.

The State has assumed responsibility of financing of the "county" courts. The salaries of judges and other court personnel are paid by the State. In Norfolk County, the County continues to own and maintain the court buildings. The state leases the buildings from the County. One of the Norfolk County courts is in Brookline.

The Registrar of Deeds is financed entirely on the basis of user fees.

A major service offered by Norfolk County is an agricultural high school located in Walpole. The school enrolls 419 students; one of the students is from Brookline. County residents are eligible to attend the school without charge. Students from outside the County pay tuition.

Norfolk County operates the Presidents Golf Course in Wollaston. County residents receive a discount on season tickets.

Norfolk County operates a correctional center in Walpole located between the north and southbound lanes of Route 128.

The County engineering department provides services that assist cities and towns in designing and maintaining their roads. Brookline makes some use of the engineering services.

The County Treasurer chairs the county retirement board. The retirement system has 9,250 members. (Current Massachusetts Treasurer Timothy Cahill campaigned for the office on the basis of his experience as Norfolk County Treasurer.) Chairman of the Norfolk County Commissioners Peter Collins suggested that Brookline might save \$150,000 annually if it were to use the County retirement system.

The County budget is reviewed and approved by an advisory board with 28 members. Each city and town in the county is represented. Municipalities have weighted votes based on their share of total county property tax assessments. Sean Becker is the current Brookline representative on the Norfolk County Advisory Board.

Cities and towns contribute to the County's financing on the basis of their proportion of the total property tax assessments. In FY2006, County taxes total \$4.6 million. Brookline is the largest contributor accounting for 12.5 percent of the budget. Brookline has an estimated 8.7 percent of the population of the County. Brookline is not the only town paying a disproportionate share of County expenses. Wellesley, for example, with 4.1 percent of the County population pays 8.1 percent of County taxes.

RECOMMENDATION

The Advisory Committee recommends that Article 21 be referred to a Moderator's Committee to study the proposal and make recommendations to the 2006 Annual Town Meeting. The Committee should consider a variety of possibilities including Brookline's removal from the County, more extensive use of County services, a funding formula more favorable to Brookline, and encouragement to the County to provide services that are more responsive to Brookline's needs.

Rationale

The proposal to remove Brookline from a number of services offered by Norfolk County is intriguing because the annual cost to Brookline appears to exceed substantially the benefits to the Town. Brookline appears to get little from the County services that are financed through property tax assessments. The County Agricultural high school is a conspicuous example of a county service which provides only a minimal benefit for Brookline. Further, because mandated payments to the County are based on property tax assessments, Brookline's financial contribution is disproportionate to its population. A study will be useful to determine the following:

1. The full extent to which Brookline makes use of various services offered by Norfolk County,

2. The extent to which Brookline might benefit by taking greater advantage of County services such as those provided by the Engineering and Sheriff's Departments and the County Retirement Board,
3. Implications for the Brookline Municipal Court (Would the municipal court continue? If the Court were to close, how adversely would Brookline be affected? If the court were to remain open, would the Town purchase the courthouse? Alternately, would the State purchase the courthouse?)
4. The extent to which the County might offer Brookline more attractive services,
5. Financial options that would make continued participation by Brookline more attractive,
6. Interest on the part of other towns in the County for reexamination of their continued participation in the County.

Consultation with other towns may initiate a useful process through which participating towns seek collectively to negotiate services from the County that are more responsive to their needs. In the event that efforts to negotiate more cost-effective services from the County were unsuccessful, Brookline would have the basis for a coalition of towns that would collectively seek their removal from Norfolk County. Such a coalition would be more likely to attract the support that would ultimately be needed in the Legislature.

The committee will require strong staff support to assure that that various Town departments provide necessary information about their experiences in using County services and offer advice on the potential for making more extensive use of County services.

The Advisory Committee, by a vote of 13 in favor, 2 opposed, and 1 abstention, recommends FAVORABLE ACTION on the following vote:

VOTED: To refer Article 21 to a Moderator's Committee to study the proposal and make recommendations to the 2006 Annual Town Meeting.

XXX

ARTICLE 22

TWENTY-SECOND ARTICLE

To see if the Town will authorize and approve the filing of a petition, by the Board of Selectmen, with the General Court in substantially the following form:

AN ACT AUTHORIZING THE TREASURER OF THE TOWN OF
BROOKLINE TO INVEST THE TRUST FUNDS OF SAID TOWN IN
ACCORDANCE WITH THE PRUDENT MAN RULE

Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, the treasurer of the town of Brookline is hereby authorized to invest the funds of said town in the custody of the treasurer in accordance with the Prudent Man Rule, and General Laws, Chapter 203C, Sections 3, 4, 5, 8, and 9.

Section 2. Section 54 in general laws, chapter 44, shall not apply to the town of Brookline.

Section 3. This act shall take effect upon its passage.

SELECTMEN'S RECOMMENDATION

Article 22 is the re-filing of a Home Rule petition that was vetoed by the Governor on November 9, 2004. The bill would allow the Treasurer to invest trust fund assets outside of the so-called Commonwealth of Massachusetts List of Legal Investments, as set forth in MGL Ch. 44, Sec. 54, thereby expanding the number of potential investment opportunities the Town may have in its investment of trust fund assets. The proposed warrant article would change only the existing rules on how the Town could invest the assets of public trust funds; it would not alter the manner in which assets within the general fund, which support on-going government services, could be invested.

Current laws allow communities to invest trust fund assets in the market. However, investments can be made only from a limited list of investments, included in the Commonwealth of Massachusetts List of Legal Investments. The Legal List was created many years ago, and has been updated from time to time. Unfortunately, the list contains only 25 common stocks, a small selection of railroad bonds, and a small selection of bank stocks. (Please see the appendix at the end of the report on this article for the current Legal List.)

The limited selection has a negative effect upon diversification and does not allow opportunities to invest in established, solid companies. Acceptance of the proposed warrant article by Town Meeting and, subsequently by the State Legislature, would expand the “Legal List” selection of investments to that which is available to all investors, provided that the custodian of the funds utilizes prudent behavior in investment practices.

The “Prudent Man” rule of asset investment resembles the “Reasonable Person” rule of tort law. That is, a prudent person responsible for the investment of public trust funds should behave as other trustees in similar situations would behave. This rule contains the following standards:

1. A trustee would invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust;
2. A trustee shall diversify the investments of the trusts;
3. Within a reasonable time, a trustee shall review the trust assets and make and implement decisions concerning retention and disposition of the assets in order to bring the portfolio into compliance with the purposes, terms, and distribution requirements of the trust;
4. A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries; and
5. In investing and managing the trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purpose of the trust, and the skills of the trustee.

In order to meet the requirements of the “Prudent Man” rule, the Town has implemented the following:

1. The Town, utilizing the Chapter 30B Procurement Act, is in the process of selecting professional fund managers. These managers will have the minimum requirements of currently managing at least \$500 million in assets and have clients in the government or non-profit sectors. Once the minimum requirements are met, the final selection will be made based upon historical returns, investment strategies, and administrative cost.
2. The Town has adopted an investment policy that includes balancing a portfolio in a 65% equity / 35% income mix. The manager would have some discretion of +/- 10% from the established portfolio mix, depending on the current condition of the market. The policy establishes benchmarks in which to measure the performance of the fund manager, establishes limits on investments to any single security or

any single sector of the market, and restricts the manager from investments in derivatives.

The City of Boston was excluded from the Legal List when the law was authorized and the Town of Concord has a legal opinion from Palmer and Dodge stating that the Town can invest trust fund assets outside of the legal list of investments. Both communities now follow the "Prudent Man" standard.

The Finance Director believes that this change will preserve the assets of the funds by enhancing diversification of investments. In addition, he believes that adoption of the Prudent Man Rule should, over a period of time, increase returns. The Board agrees with the Finance Director and strongly recommends re-filing this legislation. If the Governor chooses to veto this bill, which simply enables the Town increase its return on investments - - something every custodian of funds strives for - - it is our hope that the Town's legislative delegation would get the veto overridden.

The Selectmen recommend **FAVORABLE ACTION**, by a vote of 4-0 taken on March 29, 2005, on the following vote:

VOTED: That the Town authorize and approve the filing of a petition, by the Board of Selectmen, with the General Court in substantially the following form:

AN ACT AUTHORIZING THE TREASURER OF THE TOWN OF BROOKLINE TO INVEST THE TRUST FUNDS OF SAID TOWN IN ACCORDANCE WITH THE PRUDENT MAN RULE

Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, the treasurer of the town of Brookline is hereby authorized to invest the funds of said town in the custody of the treasurer in accordance with the Prudent Man Rule, and General Laws, Chapter 203C, Sections 3, 4, 5, 8, and 9.

Section 2. Section 54 in general laws, chapter 44, shall not apply to the town of Brookline.

Section 3. This act shall take effect upon its passage.

ROLL CALL VOTE:

Favorable Action

Allen

Geller

Hoy

Merrill

ADVISORY COMMITTEE'S RECOMMENDATIONBACKGROUND

This article came before Town Meeting in the fall of 2003 when it was passed by a substantial margin. Subsequently it has been vetoed by the Governor. We believe this article is a good idea and ask Town Meeting to approve it, again, so it might be reconsidered.

DISCUSSION

In brief, the town has about \$7 million in different scholarships and special purpose funds, which are on deposit in a Massachusetts Municipal Association money market fund. Under current law, if the Town wished to invest these funds it could only invest in a list of about 25 different stocks that have been approved by the State Banking Commission. On Wall Street, this would be regarded as an intensely small investment universe, possibly subject to excessive risk by virtue of a lack of diversification. Were the "Prudent Man" rule accepted, a professional money manager could choose from among 6000 publicly traded company stocks and create a portfolio that could match or exceed long-term stock market returns. The Town Treasurer is loath to ask a professional money manager to work within the tight strictures of the "Legal List" and so the money reposes in a savings account.

RECOMMENDATION

We respectfully disagree with the Governor's veto of this home rule petition to allow us to invest in accordance with the Prudent Man Rule. The implication of his veto is that the Banking Commission can create a State approved investment fund that is better than what a first-rate, professional money manager might be able to accomplish. The Advisory Committee unanimously (16-0) recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

ARTICLE 23TWENTY-THIRD ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

**AN ACT AUTHORIZING THE TRANSFER OF THE FORMER FISHER HILL RESERVOIR
IN THE TOWN OF BROOKLINE.**

SECTION 1. The commissioner of the division of capital asset management and maintenance (the commissioner) may, notwithstanding the provisions of sections 40E to 40H, inclusive, of chapter 7 of the General Laws, convey by deed a certain parcel of land in the town of Brookline to the town of Brookline. The parcel, known as the “former Fisher Hill Reservoir” is located on the southwest side of Fisher Avenue. The boundaries of the parcel shall be established by a survey commissioned by the commissioner.

SECTION 2. The parcel is currently open space and after conveyance, the parcel shall be used for open space or active or passive recreation purposes.

SECTION 3. The sale price paid by the town of Brookline for the parcel described in section 1 shall be not less than the full and fair market value of the parcel determined by the commissioner based on an independent appraisal and based on its use as described in this act. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. The inspector general shall have thirty days to prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance for submission within fifteen days thereafter to the house and senate committees on ways and means and to the joint committee on state administration.

SECTION 4. The town of Brookline shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the parcel. Upon completion of the transfer of the parcel, the town shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel. In the event the parcel ceases at any time to be substantially used for the purposes set forth in section 2 or for municipal use, the commissioner shall give written notice to the town of the unauthorized use. The town shall upon receipt of the notice have thirty days to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is not thereafter established, the title to the parcel shall, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, revert to the commonwealth with the parcel to be under the care and control of the division of capital asset management and maintenance. Any further disposition of the parcel shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

SECTION 5. The sale price paid under section 3 shall be deposited in the General Fund of the commonwealth.

SECTION 6. This act shall take effect upon its passage.

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 23 is a Home Rule petition that authorizes Town Meeting to file legislation with the State authorizing the Division of Capital Asset Management (DCAM) to transfer the State-owned former MWRA reservoir on Fisher Avenue to the Town of Brookline. This 10-acre property, located on the top of Fisher Hill, was identified over a decade ago by Dan Ford, former Chair of the Park and Recreation Commission, as a rare opportunity to increase public open space in Brookline. Purchase of this property offers the Town a unique opportunity to create a park that provides passive walking areas, natural wildlife habitat and an active playing field. DCAM will appraise the property only after legislation approving a sale is passed and signed by the Governor. Once the site appraisal is complete, Town Meeting will be asked to review and authorize funds for the purchase of the property.

Background:

- In June of 2001, the State Division of Capital Management (DCAM) notified the Town that the State-owned former reservoir property on Fisher Avenue had been declared surplus property. The Town was offered the property for a direct municipal use. The Town requested and was granted permission to review use alternatives for the site.
- In the Spring of 2001 a Master Planning Committee was established by the Board of Selectmen to evaluate the reuse potential of the 10-acre State-owned site on Fisher Avenue as well as the 4.8 acre Town-owned underground reservoir site immediately across the street from the state site.
- The Committee evaluated several types of municipal uses for both sites, including affordable housing, active recreation, passive recreation, open space, and public amenities such as a skating rink or public pool.
- In December, 2002 a presentation was made to the Board of Selectmen with the Committee's recommended uses for both properties. The recommended use for the State-owned site was a scenic amenity and public park that incorporates an athletic field, passive recreation, and open space. The design was to be compatible with the character of the neighborhood, be handicap accessible, provide a reasonable amount of parking, provide wooded areas and habitat, protect the historic gatehouse, and provide pedestrian access.

- On January 7, 2003 the Board of Selectmen established a Design Review Committee to work within the guidelines set by the Master Planning Committee to develop a plan and program for the park with associated costs.
- The Design Review Committee held public meetings over a period of nine months and developed a preliminary plan and cost estimate for a design that incorporates all of the required elements. The total estimated budget for land acquisition, improvements, and playing field development is \$4.6 million. (This article does not request funding nor does it mandate that the Town appropriate funds for the stated purposes.)

If Town Meeting authorizes the Town to file legislation with the State, the following will take place:

- Legislation will be filed by the Town's local legislative delegation;
- If approved by the Legislature, it will move on to the Governor to be signed;
- DCAM would then be authorized to begin the appraisal process;
- DCAM would draft documents for the transfer of land to the Town;
- At a future date, Town Meeting would be requested to appropriate funding for the purchase of the property;
- The sale would be finalized.

The time frame for the legislation to pass and for development of the sale documents is estimated at 12-16 months, or more.

This Board recognizes the great opportunity to expand the Town's existing inventory of parks and open space and recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 12, 2005, on the following vote:

VOTED: That the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT AUTHORIZING THE TRANSFER OF THE FORMER FISHER HILL RESERVOIR IN THE TOWN OF BROOKLINE.

SECTION 1. The commissioner of the division of capital asset management and maintenance (the commissioner) may, notwithstanding the provisions of sections 40E to 40H, inclusive, of chapter 7 of the General Laws, convey by deed a certain parcel of land in the town of Brookline to the town of Brookline. The parcel, known as the "former Fisher Hill Reservoir" is located on the southwest side of Fisher Avenue. The boundaries of the parcel shall be established by a survey commissioned by the commissioner.

SECTION 2. The parcel is currently open space and after conveyance, the parcel shall be used for open space or active or passive recreation purposes.

SECTION 3. The sale price paid by the town of Brookline for the parcel described in section 1 shall be not less than the full and fair market value of the parcel determined by the commissioner

based on an independent appraisal and based on its use as described in this act. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. The inspector general shall have thirty days to prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance for submission within fifteen days thereafter to the house and senate committees on ways and means and to the joint committee on state administration.

SECTION 4. The town of Brookline shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the parcel. Upon completion of the transfer of the parcel, the town shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel. In the event the parcel ceases at any time to be substantially used for the purposes set forth in section 2 or for municipal use, the commissioner shall give written notice to the town of the unauthorized use. The town shall upon receipt of the notice have thirty days to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is not thereafter established, the title to the parcel shall, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, revert to the commonwealth with the parcel to be under the care and control of the division of capital asset management and maintenance. Any further disposition of the parcel shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

SECTION 5. The sale price paid under section 3 shall be deposited in the General Fund of the commonwealth.

SECTION 6. This act shall take effect upon its passage.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

This article, if passed, would authorize the Board of Selectmen to file a petition with the General Court to transfer the former Fisher Hill Reservoir to the Town of Brookline. The reservoir site, approximately ten acres in size, is located on the west side of Fisher Avenue. A Master Plan for its future use (as well as the Town-owned reservoir on the east side of Fisher Avenue) has been developed by Halvorson Design Partnership. The Master Plan Committee, by a vote of 13-1, has recommended the plan with conditions to the Board of Selectmen.

DISCUSSION

If this article is approved and the Legislature authorizes transfer of the land, the Commonwealth's Department of Capital Asset Management (DCAM) will be permitted to sell the parcel for not less than full and fair market price, based on an independent appraisal of its value for public use. Based on the experience of other municipalities, the estimate for acquisition is \$500,000. Funds totaling \$1,350,000 for the purchase and preliminary

development of the site, including \$500,000 to acquire the property, \$800,000 to make it safe and accessible to the public for open space use and \$50,000 to cover the costs of design and construction documents, were allocated in the FY2004 CIP. At a later date, a separate vote of Town Meeting will be needed to appropriate these funds. Mechanisms to finance further improvements to the site, currently estimated at \$3,250,000, will continue to be explored.

The Town expects to sell 4.8 acres of Town-owned property in the same area for a price of \$3.25 million to a developer. The developers are expected to develop residential housing with an affordable housing component. This leaves a balance of \$1.35 million, which will be financed from a bond authorization.

The balance of the property will be used for a combination of active and passive recreational uses, but additional time will be needed to explore available options. Based on the current proposal, the annual maintenance costs have been estimated at \$40,000-\$50,000. The purchase of the former reservoir property will add to the Town's inventory of open space and will address the current shortage of recreational fields.

RECOMMENDATION

The Advisory Committee unanimously (13-0) recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 24

TWENTY-FOURTH ARTICLE

To see if the Town will limit the hours of basketball play at the Billy Ward Playground to the hours of 8:00 a.m. to 7:00 p.m., by amendment of the noise control by-law or otherwise,

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 24 is a petitioned article that would limit the hours of basketball play at the Billy Ward Playground to 8:00 a.m. to 7:00 p.m. from the current dawn to dusk. The dawn to dusk policy, as laid out in the Park and Recreation Commission's "Rules and Regulations for the use of Parks, Playgrounds, School Grounds and other Open Space in the Town of Brookline", has been in place since the Commission adopted it on May 11, 1964. These rules and regulations were last reviewed and approved by the Park and Recreation Commission on May 12, 2003.

Billy Ward Park is located in a densely populated area (Brook Street and Aspinwall Avenue) that is deficient in outdoor space. In this very small playground (0.60 acre), basketball is one of the few active activities available. Many children who use Billy Ward Park could be at risk if required to travel to Pierce Playground to use the basketball courts. The Commission is very aware of the quality of life issues related to abutters to playgrounds and parks and recognizes that it is a constant struggle to balance abutters' issues with noise and the needs of children and adults within all our play areas.

The Park and Recreation Commission has received only one request for an adjustment of hours of use for Billy Ward Playground. The Commission, in an effort to remain consistent throughout the Town with its rules and regulations concerning hours of use, is opposed to this article. The policy that citizens may use public places to gather from dawn until dusk has been very successful. Although the Commission has had a few complaints about basketball areas over many years, these complaints have always been addressed without changing the regulation concerning hours of use.

The Board of Selectmen recognizes the dilemma inherent in having parks and playgrounds located in densely populated areas and is grateful for the Park and Recreation Commission's efforts to balance noise issues with the needs of those using the play areas. One of the most appealing aspects of Brookline is the number of neighborhood parks located throughout town

and the Board does not want to limit the hours during which certain athletic activities can be enjoyed by residents. It is our sincere belief that the Park and Recreation Commission, working together with the Police Department and the neighbors, can alleviate any existing noise issues in our parks and playgrounds. The Board has been notified that the Park and Recreation Commission will invite the Billy Ward Playground neighborhood to meet with the Commission and staff to resolve these issues.

Therefore, the Board recommends NO ACTION, by a vote of 4-1 taken on April 26, 2005, on the article.

ROLL CALL VOTE:

No Action

Allen
Geller
Sher
Merrill

Favorable Action

Hoy

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 24 seeks to limit the hours of basketball play at the Billy Ward Playground to the hours of 8:00 a.m. to 7:00 p.m.

History of the Park

The Billy Ward Playground is located between Aspinwall Avenue and Brook Street (across from St. Paul's Church) and has an upper playground section as well as a lower playground section which contains one basketball hoop.

The lower part of the playground was a full court until 1990. With considerable input from the neighborhood to maintain the court (upwards of 20 design review meetings) the current playground was built to alleviate noise concerns from an abutter on Perry Street. The hoop was located as far removed from the Perry Street abutter as possible and a barrier of plantings of five feet between the court and abutters was included.

The rules and regulations of the use of parks, playgrounds, school grounds and other open space in the Town of Brookline regulate the hours of this play ground as well: ALL PUBLIC AREAS SHALL BE OPEN FROM DAWN UNTIL DUSK.

DISCUSSION

The article was filed after the town received \$10,000 from the Raymond Development Company for improvements to the park. Currently the court is not slated for improvements as part of the

CIP until FY2011. As the nearest Town Meeting member, the petitioner was informed of the donation and, in collaboration with Brookline Green Space Alliance, formed the Friends of Billy Ward Playground. This group developed a neighborhood survey which, according to the petitioner, was delivered to 40 neighbors and was also included in newsletters of the precinct as well as those of St. Mary's School and Pierce School. According to the petitioner, 20 responses were returned and indicated a concern about noise generated at the park during basketball games.

The petitioner presented detailed maps to illustrate the reasons for the request and noted the proximity of the one basketball hoop to the dwellings surrounding this park. The petitioner cited excessive noise and drinking on the court. A letter from one abutter supporting the petition addressed the possibility of resurfacing the court with material used by another town owned court which, according to this petitioner, is less noisy.

The Park and Recreation Commission cited their opposition to this article and noted the importance of the park being used by all members of our community, regardless of age; adults, as well as children and adolescents, need to remain active to maintain health.

Neighbors at the public hearing disagreed with the petitioner's concerns of excessive noise and drinking on the court. One abutter whose house is located at an equal distance from the petitioner's house noted no concerns about noise or behavior concerns of users of the basketball court. According to this abutter, it is a true neighborhood court used by children of all ages, as well as many adults from the neighborhood (including a 70-year-old woman). She feels that when noise is produced it comes from abutters hanging out on the steps of their residence". Another abutter noted the importance of her teenager using this court after he is finished with his homework, in order to get the exercise he needs. A third abutter mentioned that he has used the court with his 5-year-old daughter and does not feel upset or overburdened by the noise during summer evenings with his windows open.

It was noted by the abutters who were present that the neighborhood enjoys having the court (it took 20 meetings during the 1990 redesign of the park to keep at least one hoop), and they support the dawn-dusk hours.

The Recreation Department noted that whenever noise at other locations became excessive they developed a series of meetings with users of the court to teach the use of appropriate language and how to be more respectful of abutters. At this point in time the Recreation Department has not received concerns from the neighborhood about foul language or disorderly behavior that warrant this type of intervention. During summer hours a park ranger is often present at this park.

Town Counsel suggests it is inappropriate for Town Meeting to become involved in the management of a specific department.

The Parks Department shared the improvements planned to the park which involve better fencing and additional plantings.

The Advisory Committee noted the importance of the basketball court for the neighbors who enjoy use of the court. It was also noted that all of our courts act as a deterrent to mischievous behavior by keeping our youth occupied in healthy cooperative activities.

RECOMMENDATION

The Advisory Committee, by a vote of 12 in favor, 1 opposed, and 1 abstention, recommends NO ACTION on this article.

XXX

May 24, 2005
Annual Town Meeting
Article 24 – Supplement No. 1

ARTICLE 24

MOTION TO BE OFFERED BY THE PETITIONER

MOVED: that Town Meeting request the Park and Recreation Commission to limit the hours of basketball play at the Billy Ward Playground to the hours of 8:00 a.m. to 7:00 p.m.

ARTICLE 25TWENTY-FIFTH ARTICLE

To see if the Town will adopt the following resolution:

WHEREAS the nation's pediatric professionals and children's advocates oppose the use of corporal punishment of children;

WHEREAS research shows that corporal punishment teaches children that hitting is an acceptable way of dealing with problems and that violence works;

WHEREAS there are effective alternatives to corporal punishment of children;

WHEREAS national surveys show that corporal punishment is common and 25% of infants are hit before they are 6 months old;

WHEREAS adopting national policies against corporal punishment has been an effective public education measure in various countries;

WHEREAS accumulated research supports the conclusion that corporal punishment is an ineffective discipline strategy with children of all ages and, furthermore, that it is sometimes dangerous;

WHEREAS studies show that corporal punishment often produces in its victims anger, resentment, low self-esteem, anxiety, helplessness, and humiliation;

WHEREAS research demonstrates that the more children are hit, the greater the likelihood that they will engage in aggression and anti-social behavior as children imitate what they see adults doing;

WHEREAS in a study of 8000 families, children who experience frequent corporal punishment are more likely to physically attack siblings, develop less adequately-developed consciences, experience adult depression, and physically attack a spouse as an adult;

WHEREAS, according to human rights documents, children, like adults, have the right not to be physically assaulted;

WHEREAS the U.N. Committee on the Rights of the Child has consistently stated that persisting legal and social acceptance of corporal punishment is incompatible with the U.N. Convention on the Rights of the Child;

BE IT HEREBY RESOLVED that Town Meeting encourages parents and caregivers of children to refrain from the use of corporal punishment and to use alternative nonviolent methods of child discipline and management with an ultimate goal of mutual respect between parent and child.

Town Meeting requests that appropriate Town groups such as the Advisory Council on Public Health and PTOs explore how they can raise awareness of this issue, and organizations that deal with children's welfare shall be informed of this resolution.

This voluntary resolution is in no way intended to undermine parental authority or familial autonomy. Its goal is to promote and advocate mutual respectful relationships between children and their parents and encourage thoughtful determination of discipline methods. It seeks to bring attention to this issue and is meant to be a gentle, reasonable, and respectful suggestion. It could result in more support and discussion of options for disciplining children.

Corporal punishment is the intentional infliction of physical pain for the purpose of punishment. Examples of corporal punishment include slapping, spanking, hitting with objects, shaking and pinching. Such incidents are not reported to any agency. Child abuse is already subject to State law and is not the focus of this resolution. Discipline is training to act in accordance with rules of conduct.

This resolution is supported by the Massachusetts Society for the Prevention of Cruelty to Children, Massachusetts Citizens for Children, and the Massachusetts Chapter of the National Association of Social Workers.

A large-scale meta-analysis of 88 studies (Gershoff, 2002) published by the American Psychological Association, found strong associations between corporal punishment and ten negative outcomes, including eroded trust between parent and child, more aggression toward siblings, bullying, spousal abuse as adults, and other anti-social behavior.

American Academy of Pediatrics Recommendations

Parents should be encouraged and assisted in the development of methods other than spanking for managing undesired behavior. According to the American Academy of Pediatrics, the following consequences of spanking lessen its desirability as a strategy to eliminate undesired behavior.

- Spanking children <18 months of age increases the chance of physical injury, and the child is unlikely to understand the connection between the behavior and the punishment.
- Although spanking may result in a reaction of shock by the child and cessation of the undesired behavior, repeated spanking may cause agitated, aggressive behavior in the child that may lead to physical altercation between parent and child.
- Spanking models aggressive behavior as a solution to conflict and has been associated with increased aggression in preschool and school children.

- Spanking and threats of spanking lead to altered parent-child relationships, making discipline substantially more difficult when physical punishment is no longer an option, such as with adolescents.
- Spanking is no more effective as a long-term strategy than other approaches, and reliance on spanking as a discipline approach makes other discipline strategies less effective to use. Time-out and positive reinforcement of other behaviors are more difficult to implement and take longer to become effective when spanking has previously been a primary method of discipline.
- A pattern of spanking may be sustained or increased. Because spanking may provide the parent some relief from anger, the likelihood that the parent will spank the child in the future is increased.

Consequences of Corporal Punishment

- Children whose parents use corporal punishment to control antisocial behavior show more antisocial behavior themselves over a long period of time, regardless of race and socioeconomic status, and regardless of whether the mother provides cognitive stimulation and emotional support (Gunnoe & Mariner, 1997; Kazdin, 1987; Patterson, DeBaryshe, & Ramsey, 1989; Straus, Sugarman, & Giles-Sims, 1997).
- A consistent pattern of physical abuse exists that generally starts as corporal punishment, and then gets out of control (Kadushin & Martin, 1981; Straus & Yodanis, 1994).
- Adults who were hit as children are more likely to be depressed or violent themselves (Berkowitz, 1993; Strassberg, Dodge, Pettit, & Bates, 1994; Straus, 1994; Straus & Gelles, 1990; Straus & Kantor, 1992).
- The more a child is hit, the more likely it is that the child, when an adult, will hit his or her children, spouse, or friends (Julian & McKenry, 1993; Straus, 1991; Straus, 1994; Straus & Gelles, 1990; Straus & Kantor, 1992; Widom, 1989; Wolfe, 1987).
- Corporal punishment increases the probability of children assaulting the parent in retaliation, especially as they grow older (Brezina, 1998).
- Corporal punishment sends a message to the child that violence is a viable option for solving problems (Straus, Gelles, & Steinmetz, 1980; Straus, Sugarman, & Giles-Sims, 1997).
- Corporal punishment is degrading, contributes to feelings of helplessness and humiliation, robs a child of self-worth and self-respect, and can lead to withdrawal or aggression (Sternberg et al., 1993; Straus, 1994).
- Corporal punishment erodes trust between a parent and a child, and increases the risk of child abuse; as a discipline measure, it simply does not decrease children's aggressive or delinquent behaviors (Straus, 1994).
- Children who get spanked regularly are more likely over time to cheat or lie, be disobedient at school, bully others, and show less remorse for wrongdoing (Straus, Sugarman, & Giles-Sims, 1997).
- Corporal punishment adversely affects children's cognitive development. Children who are spanked perform poorly on school tasks compared to other children (Straus & Mathur, 1995; Straus & Paschall, 1998).

Alternatives to Corporal Punishment

- Set firm, consistent, age-appropriate, and acceptable limits. For example, although a 5-year-old child may be able to resist the urge to touch things, it is not reasonable to expect that a 2-year-old will be able to handle such limits. Therefore, parents may need to childproof their homes to protect breakable items, and to keep children away from dangerous objects.
- Teach children conflict resolution and mediation skills, including listening actively, speaking clearly, showing trust and being trustworthy, accepting differences, setting group goals, negotiating, and mediating conflicts.
- Reason and talk with children in age-appropriate ways. Verbal parent-child interactions enhance children's cognitive ability.
- Model patience, kindness, empathy, and cooperation. Parents and teachers should be aware of the powerful influence their actions have on a child's or group's behavior.
- Provide daily opportunities for children to practice rational problem solving, and to study alternatives and the effect of each alternative.
- Encourage and praise children. A nonverbal response such as a smile or a nod, or a verbal response such as "good" or "right" not only provides incentives for accomplishment, but also builds primary grade children's confidence.
- Allow children to participate in setting rules-and identifying consequences for breaking them. This empowers children to learn how to manage their own behavior.
- Provide consistency, structure, continuity, and predictability in children's lives.
- Encourage children's autonomy-allow them to think for themselves, and to monitor their own behavior, letting their conscience guide them.

Responses to Cultural Myths

"Spanking is an effective way to manage behavior."

Hitting a small child will usually stop misbehavior. However, other ways of discipline such as verbal correction, reasoning, and time-out work as well and do not have the potential for harm that hitting does. Hitting children may actually increase misbehavior. One large study showed that the more parents spanked children for antisocial behavior, the more the antisocial behavior increased (Straus, Sugarman, & Giles-Sims, 1997). The more children are hit, the more likely they are to hit others including peers and siblings and, as adults, they are more likely to hit their spouses (Straus and Gelles, 1990; Wolfe, 1987). Hitting children teaches them that it is acceptable to hit others who are smaller and weaker. "I'm going to hit you because you hit your sister" is a hypocrisy not lost on children.

"I got hit when I was a kid and I turned out OK."

Being spanked is an emotional event. Adults often remember with crystal clarity times they were paddled or spanked as children. Many adults look back on corporal punishment in childhood with great anger and sadness. Sometimes people say, "I was spanked as a child, and I deserved it." It is hard for us to believe that people who loved us would intentionally hurt us. We feel the need to excuse that hurt. Studies show that even a few instances of being hit as children are associated with more depressive symptoms as adults (Strauss, 1994, Strassberg, Dodge, Pettit

& Bates, 1994). While many of us who were spanked "turned out OK," it is likely that not being spanked would have helped us turn out to be healthier.

"If we don't spank children, they'll grow up rotten."

Children in eleven countries are growing up without being hit in homes, in daycare or in schools. Norway, Sweden, Germany, Denmark, Austria, Israel, Finland and other countries that have banned corporal punishment of children have remarkably low rates of interpersonal violence compared to the United States. Professor Adrienne Haeuser who studied these educational laws in Europe in 1981 and 1991 said, "Children are receiving more discipline since the law in Sweden passed. Parents think twice and tend to rely more on verbal conflict resolution to manage their children." Discipline is important. We need more discipline of children such as explaining and reasoning, establishing rules and consequences, praising good behavior in children and being good models for our children. Such methods develop a child's conscience and self-control. Children are then less likely to misbehave and more likely to become self-disciplined adults.

Ethics

The harmful consequences of corporal punishment are not primary for some people. For them it is enough that corporal punishment breaches ethical principles by deliberately causing pain to another person. From this perspective, if it is not acceptable to hit a person who is 18 years old or over, then it should not be acceptable to hit a person who is under 18 years old.

Statements from Professionals

"If we are ever to turn toward a kinder society and a safer world, a revulsion of physical punishment would be a great place to start." –Dr. Benjamin Spock

"After nearly two decades of research on the causes and consequences of family violence, we are convinced that our society must abandon its reliance on spanking children if we are to prevent intimate violence."

–Richard J. Gelles, Ph.D. and Murray A Straus, Ph.D., sociologists

"The cultural acceptance of violence should be decreased by discouraging corporal punishment at home."

–U.S. Surgeon General's Workshop on Violence and Public Health

"Americans need to re-evaluate why we believe it is reasonable to hit young, vulnerable children, when it is against the law to hit other adults, prisoners and even animals."

–Psychologist Elizabeth Gershoff, Ph.D., author of comprehensive study on corporal punishment

Penelope Leach, John Bradshaw, and Alice Miller have also advised against corporal punishment.

References and Resources

Berkowitz, L. (1993). *Aggression: Its causes, consequences, and control*. Philadelphia: Temple University Press.

Bitensky, S. H. (1998). Spare the rod, embrace our humanity: Toward a new legal regime prohibiting corporal punishment of children. *University of Michigan Journal of Law Reform*, 31(2), 354-391.

Brezina, T. (1998). *Adolescent-to-parent violence as an adaptation to family strain: An empirical examination*. Manuscript submitted for publication.

Cohen, C. P. (1984). Freedom from corporal punishment: One of the human rights of children. *New York Law School Human Rights Annual*, Volume II, Part 1

Durrant, J. E., & Olsen, G. M. (1997). Parenting and public policy: Contextualizing the Swedish corporal punishment ban. *Journal of Social Welfare and Family Law*, 19, 443-461.

EPOCH-USA. (1999a). *Legal reforms: Corporal punishment of children in the family as reported by EPOCH-Worldwide*. [On-line]. Available: www.StopHitting.org

EPOCH-USA. (1999b). *U.S. progress in ending physical punishment of children in schools, institutions, foster care, day care and families*. [On-line]. Available: www.StopHitting.org

Gelles, R. J., & Edfeldt, A.W. (1986). Violence toward children in the United States and Sweden. *Child Abuse and Neglect*, 10, 501-510

Gershoff, E. (2002). Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review. *Psychological Bulletin*, 128, 539-579.

Greven, P. (1991). *Spare the child: The religious roots of punishment and the psychological impact of physical abuse*. New York: Knopf.

Gunnoe, M. I., & Mariner, C. L. (1997). Toward a developmental-contextual model of the effects of parental spanking on children's aggression. *Archives of Pediatric and Adolescent Medicine*, 151, 768-775.

Haeuser, A. (1992). Swedish parents don't spank. *Mothering*, 63, 42-49.

Hyman, I. A. (1995). Corporal punishment, psychological maltreatment, violence, and punitiveness in America: Research, advocacy and public policy. *Applied & Preventive Psychology*, 4, 113-130.

Hyman, I. A. (1997). *The case against spanking*. San Francisco: Jossey-Boss.

Julian, T. W., & McKenry, P. C. (1993). Mediators of male violence toward female intimates. *Journal of Family Violence*, 8, 39-56.

Kadushin, A., & Martin, J. A. (1981). *Child abuse: An interactional event*. New York: Columbia University Press.

Kazdin, A. E. (1987). Treatment of antisocial behavior in children: Current status and future directions. *Psychological Bulletin*, 102(2), 187-203.

Kirchner, J. T. (1998). Childhood spanking and increased antisocial behavior. *American Family Physician*, 57(4), 798.

Myles, B. S., & Simpson, R. L. (1998). Aggression and violence by school age children and youth: Understanding the aggression cycle and prevention/intervention strategies. *Intervention in School and Clinic*, 33(5), 250-262.

Patterson, G. R., DeBaryshe, B. D., & Ramsey, E. (1989). A developmental perspective on antisocial behavior. *American Psychologist*, 44(2), 329-335.

Pete, S. (1998). To smack or not to smack? Should the law prohibit South African parents from imposing corporal punishment on their children? *South African Journal of Human Rights*, 14, 431-460.

Rohner, R. P., & Cournoyer, D. E. (1994). Universal and cultural specifics in children's perceptions of parental acceptance and rejection: Evidence from factor analyses within eight societies worldwide. *Cross Cultural Research*, 28, 371-383.

Sternberg, K. J., Lamb, M. E., Greenbaum, C. D., Dawud, S., Cortes, R. M., Krispin, O., & Lorey, F. (1993). Effect of domestic violence on children's behavior problems and depression. *Developmental Psychology*, 29, 44-52.

Strassberg, Z., Dodge, K. A., Pettit, G. S., & Bates, J. E. (1994). Spanking in the home and children's subsequent aggression toward kindergarten peers. *Development and Psychopathology*, 6, 445-461.

Straus, M. A. (1991). Discipline and deviance: Physical punishment of children and violence and other crimes in adulthood. *Social Problems*, 38, 133-154.

Straus, M. A. (1994). *Beating the devil out of them: Corporal punishment in American families*. San Francisco: New Lexington Press.

Straus, M. A., & Gelles, R. J. (Eds.). (1990). *Physical violence in American families: Risk factors and adaptations to violence in 8,145 families*. New Brunswick, NJ: Transactions.

Straus, M. A., Gelles, R. J., & Steinmetz, S. K. (1980). *Behind closed doors: Violence in the American family*. Beverly Hills, CA: Sage.

Straus, M. A., & Kantor, K. G. (1992). *Corporal punishment by parents of adolescents: A risk factor in the epidemiology of depression, suicide, alcohol abuse, child abuse and wife beating*. Durham, NH: University of New Hampshire, Family Research Laboratory.

Straus, M. A., & Mathur, A. K. (1995, April). *Corporal punishment and children's academic achievement*. Paper presented at the annual meeting of the Pacific Sociological Society, San Francisco.

Straus, M. A., & Paschall, M. J. (1998). *Corporal punishment by mothers and child's cognitive development: A longitudinal study*. Paper presented at the 14th world conference of sociology, Montreal, Quebec, Canada. Durham, NH: Family Research Laboratory, University of New Hampshire.

Straus, M. A., Sugarman, D. B., & Giles-Sims (1997). Corporal punishment by parents and subsequent antisocial behavior of children. *Archives of Pediatrics and Adolescent Medicine*, 155, 761-767.

Straus, M. A., & Yodanis, C. L. (1994). Physical abuse. In M. A. Straus (Ed.), *Beating the devil out of them: Corporal punishment in American families* (pp. 81-98). San Francisco: New Lexington Press.

Turner, H. A., & Finkelhor, D. (1996). Corporal punishment as a stressor among youth. *Journal of Marriage and the Family*, 58, 155-166.

UNICEF. (1997, June). *UN Convention on the Rights of the Child*. [On-line]. Available: www.unicef.org/crc/conven.htm

Weiss, B., Dodge, K. A., Bates, J. E., & Pettit, G. S. (1992). Some consequences of early harsh discipline: Child aggression and a maladaptive social information processing style. *Child Development*, 63, 1321-1335.

Widom, C. S. (1989). The cycle of violence. *Science*, 244, 160-166.

Wolfe, D. A. (1987). *Child abuse: Implications for child development and psychopathology*. Newbury Park, CA: Sage.

www.endcorporalpunishment.org

www.nospank.net

Internal Virus Database is out-of-date.

Checked by AVG Anti-Virus.

Version: 7.0.300 / Virus Database: 266.0.0 - Release Date: 2/18/2005

MOTION TO BE OFFERED BY THE PETITIONER

WHEREAS the nation's pediatric professionals and children's advocates oppose the use of corporal punishment of children;

WHEREAS research shows that corporal punishment teaches children that hitting is an acceptable way of dealing with problems and that violence works;

WHEREAS there are effective alternatives to corporal punishment of children;

WHEREAS national surveys show that corporal punishment is common and **35%** of infants are hit before they are **one year** old;

WHEREAS adopting national policies against corporal punishment has been an effective public education measure in various countries;

WHEREAS accumulated research supports the conclusion that corporal punishment is an ineffective discipline strategy with children of all ages and, furthermore, that it is sometimes dangerous;

WHEREAS studies show that corporal punishment often produces in its victims anger, resentment, low self-esteem, anxiety, helplessness, and humiliation;

WHEREAS research demonstrates that the more children are hit, the greater the likelihood that they will engage in aggression and anti-social behavior as children imitate what they see adults doing;

WHEREAS in a study of 8000 families, children who experience frequent corporal punishment are more likely to physically attack siblings, develop less adequately-developed consciences, experience adult depression, and physically attack a spouse as an adult;

WHEREAS, according to human rights documents, children, like adults, have the right not to be physically assaulted;

WHEREAS the U.N. Committee on the Rights of the Child has consistently stated that persisting legal and social acceptance of corporal punishment is incompatible with the U.N. Convention on the Rights of the Child;

BE IT HEREBY RESOLVED that Town Meeting encourages parents and caregivers of children to refrain from the use of corporal punishment and to use alternative nonviolent methods of child discipline and management with an ultimate goal of mutual respect between parent and child.

Town Meeting requests that appropriate Town groups **explore how they can further raise awareness of this issue**, and organizations that deal with children's welfare shall be informed of this resolution.

This voluntary resolution is in no way intended to undermine parental authority or familial autonomy. Its goal is to promote and advocate mutual respectful relationships between children and their parents and encourage thoughtful determination of discipline methods. It seeks to bring attention to this issue and is meant to be a gentle, reasonable, and respectful suggestion. It could result in more support and discussion of options for disciplining children.

Corporal punishment is the intentional infliction of physical pain for the purpose of punishment. Examples of corporal punishment include **assault and battery that do not cause bodily injury**, slapping, spanking, hitting with objects, shaking and pinching. Such incidents are not reported to any agency. Child abuse is already subject to State law and is not the focus of this resolution. Discipline is training to act in accordance with rules of conduct.

This resolution is supported by the Massachusetts Society for the Prevention of Cruelty to Children, Massachusetts Citizens for Children, and the Massachusetts Chapter of the National Association of Social Workers.

A large-scale meta-analysis of 88 studies (Gershoff, 2002) published by the American Psychological Association, found strong associations between corporal punishment and ten negative outcomes, including eroded trust between parent and child, more aggression toward siblings, bullying, spousal abuse as adults, and other anti-social behavior.

American Academy of Pediatrics Recommendations

Parents should be encouraged and assisted in the development of methods other than spanking for managing undesired behavior. According to the American Academy of Pediatrics, the following consequences of spanking lessen its desirability as a strategy to eliminate undesired behavior.

- Spanking children <18 months of age increases the chance of physical injury, and the child is unlikely to understand the connection between the behavior and the punishment.
- Although spanking may result in a reaction of shock by the child and cessation of the undesired behavior, repeated spanking may cause agitated, aggressive behavior in the child that may lead to physical altercation between parent and child.
- Spanking models aggressive behavior as a solution to conflict and has been associated with increased aggression in preschool and school children.
- Spanking and threats of spanking lead to altered parent-child relationships, making discipline substantially more difficult when physical punishment is no longer an option, such as with adolescents.
- Spanking is no more effective as a long-term strategy than other approaches, and reliance on spanking as a discipline approach makes other discipline strategies less effective to use. Time-out and positive reinforcement of other behaviors are more difficult to implement and take longer to become effective when spanking has previously been a primary method of discipline.
- A pattern of spanking may be sustained or increased. Because spanking may provide the parent some relief from anger, the likelihood that the parent will spank the child in the future is increased.

Consequences of Corporal Punishment

- **Children whose parents use corporal punishment to control antisocial behavior show more antisocial behavior themselves over a long period of time, regardless of race and socioeconomic status, and regardless of whether the mother provides cognitive stimulation and emotional support (Gunnoe & Mariner, 1997; Kazdin, 1987; Patterson, DeBaryshe, & Ramsey, 1989; Straus, Sugarman, & Giles-Sims, 1997).**
- A consistent pattern of physical abuse exists that generally starts as corporal punishment, and then gets out of control (Kadushin & Martin, 1981; Straus & Yodanis, 1994).
- Adults who were hit as children are more likely to be depressed or violent themselves (Berkowitz, 1993; Strassberg, Dodge, Pettit, & Bates, 1994; Straus, 1994; Straus & Gelles, 1990; Straus & Kantor, 1992).
- The more a child is hit, the more likely it is that the child, when an adult, will hit his or her children, spouse, or friends (Julian & McKenry, 1993; Straus, 1991; Straus, 1994; Straus & Gelles, 1990; Straus & Kantor, 1992; Widom, 1989; Wolfe, 1987).
- Corporal punishment increases the probability of children assaulting the parent in retaliation, especially as they grow older (Brezina, 1998).
- Corporal punishment sends a message to the child that violence is a viable option for solving problems (Straus, Gelles, & Steinmetz, 1980; Straus, Sugarman, & Giles-Sims, 1997).
- Corporal punishment is degrading, contributes to feelings of helplessness and humiliation, robs a child of self-worth and self-respect, and can lead to withdrawal or aggression (Sternberg et al., 1993; Straus, 1994).
- Corporal punishment erodes trust between a parent and a child, and increases the risk of child abuse; as a discipline measure, it simply does not decrease children's aggressive or delinquent behaviors (Straus, 1994).
- Children who get spanked regularly are more likely over time to cheat or lie, be disobedient at school, bully others, and show less remorse for wrongdoing (Straus, Sugarman, & Giles-Sims, 1997).
- Corporal punishment adversely affects children's cognitive development. Children who are spanked perform poorly on school tasks compared to other children (Straus & Mathur, 1995; Straus & Paschall, 1998).

The anti-social behaviors associated with corporal punishment may not be exhibited in most cases. However, the increase in the prevalence of such behaviors is significant.

Alternatives to Corporal Punishment

- Set firm, consistent, age-appropriate, and acceptable limits. For example, although a 5-year-old child may be able to resist the urge to touch things, it is not reasonable to expect that a 2-year-old will be able to handle such limits. Therefore, parents may need to childproof their homes to protect breakable items, and to keep children away from dangerous objects.

- Teach children conflict resolution and mediation skills, including listening actively, speaking clearly, showing trust and being trustworthy, accepting differences, setting group goals, negotiating, and mediating conflicts.
- Reason and talk with children in age-appropriate ways. Verbal parent-child interactions enhance children's cognitive ability.
- Model patience, kindness, empathy, and cooperation. Parents and teachers should be aware of the powerful influence their actions have on a child's or group's behavior.
- Provide daily opportunities for children to practice rational problem solving, and to study alternatives and the effect of each alternative.
- Encourage and praise children. A nonverbal response such as a smile or a nod, or a verbal response such as "good" or "right" not only provides incentives for accomplishment, but also builds primary grade children's confidence.
- Allow children to participate in setting rules-and identifying consequences for breaking them. This empowers children to learn how to manage their own behavior.
- Provide consistency, structure, continuity, and predictability in children's lives.
- Encourage children's autonomy-allow them to think for themselves, and to monitor their own behavior, letting their conscience guide them.

Responses to Cultural Myths

"Spanking is an effective way to manage behavior."

Hitting a small child will usually stop misbehavior. However, other ways of discipline such as verbal correction, reasoning, and time-out work as well and do not have the potential for harm that hitting does. Hitting children may actually increase misbehavior. One large study showed that the more parents spanked children for antisocial behavior, the more the antisocial behavior increased (Straus, Sugarman, & Giles-Sims, 1997). The more children are hit, the more likely they are to hit others including peers and siblings and, as adults, they are more likely to hit their spouses (Straus and Gelles, 1990; Wolfe, 1987). Hitting children teaches them that it is acceptable to hit others who are smaller and weaker. "I'm going to hit you because you hit your sister" is a hypocrisy not lost on children.

"I got hit when I was a kid and I turned out OK."

Being spanked is an emotional event. Adults often remember with crystal clarity times they were paddled or spanked as children. Many adults look back on corporal punishment in childhood with great anger and sadness. Sometimes people say, "I was spanked as a child, and I deserved it." It is hard for us to believe that people who loved us would intentionally hurt us. We feel the need to excuse that hurt. Studies show that even a few instances of being hit as children are associated with more depressive symptoms as adults (Strauss, 1994, Strassberg, Dodge, Pettit & Bates, 1994). While many of us who were spanked "turned out OK," it is likely that not being spanked would have helped us turn out to be healthier.

"If we don't spank children, they'll grow up rotten."

Children in eleven countries are growing up without being hit in homes, in daycare or in schools. Norway, Sweden, Germany, Denmark, Austria, Israel, Finland and other countries that have banned corporal punishment of children have remarkably low rates of interpersonal violence compared to the United States. Professor Adrienne Haeuser who studied these educational laws in Europe in 1981 and 1991 said, "Children are receiving more discipline since the law in Sweden passed. Parents think twice and tend to rely more on verbal conflict resolution to manage their children." Discipline is important. We need more discipline of children such as explaining and reasoning, establishing rules and consequences, praising good behavior in children and being good models for our children. Such methods develop a child's conscience and self-control. Children are then less likely to misbehave and more likely to become self-disciplined adults.

Ethics

The harmful consequences of corporal punishment are not primary for some people. For them it is enough that corporal punishment breaches ethical principles by deliberately causing pain to another person. From this perspective, if it is not acceptable to hit a person who is 18 years old or over, then it should not be acceptable to hit a person who is under 18 years old.

Statements from Professionals

"If we are ever to turn toward a kinder society and a safer world, a revulsion of physical punishment would be a great place to start." –Dr. Benjamin Spock

"After nearly two decades of research on the causes and consequences of family violence, we are convinced that our society must abandon its reliance on spanking children if we are to prevent intimate violence."

–Richard J. Gelles, Ph.D. and Murray A Straus, Ph.D., sociologists

"The cultural acceptance of violence should be decreased by discouraging corporal punishment at home."

–U.S. Surgeon General's Workshop on Violence and Public Health

"Americans need to re-evaluate why we believe it is reasonable to hit young, vulnerable children, when it is against the law to hit other adults, prisoners and even animals."

–Psychologist Elizabeth Gershoff, Ph.D., author of comprehensive study on corporal punishment

Penelope Leach, John Bradshaw, and Alice Miller have also advised against corporal punishment.

References and Resources

Berkowitz, L. (1993). *Aggression: Its causes, consequences, and control*. Philadelphia: Temple University Press.

Bitensky, S. H. (1998). Spare the rod, embrace our humanity: Toward a new legal regime prohibiting corporal punishment of children. *University of Michigan Journal of Law Reform*, 31(2), 354-391.

Brezina, T. (1998). *Adolescent-to-parent violence as an adaptation to family strain: An empirical examination*. Manuscript submitted for publication.

Cohen, C. P. (1984). Freedom from corporal punishment: One of the human rights of children. *New York Law School Human Rights Annual*, Volume II, Part 1

Durrant, J. E., & Olsen, G. M. (1997). Parenting and public policy: Contextualizing the Swedish corporal punishment ban. *Journal of Social Welfare and Family Law*, 19, 443-461.

EPOCH-USA. (1999a). *Legal reforms: Corporal punishment of children in the family as reported by EPOCH-Worldwide*. [On-line]. Available: www.StopHitting.org

EPOCH-USA. (1999b). *U.S. progress in ending physical punishment of children in schools, institutions, foster care, day care and families*. [On-line]. Available: www.StopHitting.org

Gelles, R. J., & Edfeldt, A.W. (1986). Violence toward children in the United States and Sweden. *Child Abuse and Neglect*, 10, 501-510

Gershoff, E. (2002). Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review. *Psychological Bulletin*, 128, 539-579.

Greven, P. (1991). *Spare the child: The religious roots of punishment and the psychological impact of physical abuse*. New York: Knopf.

Gunnoe, M. I., & Mariner, C. L. (1997). Toward a developmental-contextual model of the effects of parental spanking on children's aggression. *Archives of Pediatric and Adolescent Medicine*, 151, 768-775.

Haeuser, A. (1992). Swedish parents don't spank. *Mothering*, 63, 42-49.

Hyman, I. A. (1995). Corporal punishment, psychological maltreatment, violence, and punitiveness in America: Research, advocacy and public policy. *Applied & Preventive Psychology*, 4, 113-130.

Hyman, I. A. (1997). *The case against spanking*. San Francisco: Jossey-Boss.

Julian, T. W., & McKenry, P. C. (1993). Mediators of male violence toward female intimates. *Journal of Family Violence*, 8, 39-56.

Kadushin, A., & Martin, J. A. (1981). *Child abuse: An interactional event*. New York: Columbia University Press.

Kazdin, A. E. (1987). Treatment of antisocial behavior in children: Current status and future directions. *Psychological Bulletin*, 102(2), 187-203.

Kirchner, J. T. (1998). Childhood spanking and increased antisocial behavior. *American Family Physician*, 57(4), 798.

Myles, B. S., & Simpson, R. L. (1998). Aggression and violence by school age children and youth: Understanding the aggression cycle and prevention/intervention strategies. *Intervention in School and Clinic*, 33(5), 250-262.

Patterson, G. R., DeBaryshe, B. D., & Ramsey, E. (1989). A developmental perspective on antisocial behavior. *American Psychologist*, 44(2), 329-335.

Pete, S. (1998). To smack or not to smack? Should the law prohibit South African parents from imposing corporal punishment on their children? *South African Journal of Human Rights*, 14, 431-460.

Rohner, R. P., & Cournoyer, D. E. (1994). Universal and cultural specifics in children's perceptions of parental acceptance and rejection: Evidence from factor analyses within eight societies worldwide. *Cross Cultural Research*, 28, 371-383.

Sternberg, K. J., Lamb, M. E., Greenbaum, C. D., Dawud, S., Cortes, R. M., Krispin, O., & Lorey, F. (1993). Effect of domestic violence on children's behavior problems and depression. *Developmental Psychology*, 29, 44-52.

Strassberg, Z., Dodge, K. A., Pettit, G. S., & Bates, J. E. (1994). Spanking in the home and children's subsequent aggression toward kindergarten peers. *Development and Psychopathology*, 6, 445-461.

Straus, M. A. (1991). Discipline and deviance: Physical punishment of children and violence and other crimes in adulthood. *Social Problems*, 38, 133-154.

Straus, M. A. (2001). *Beating the devil out of them: Corporal punishment in American families and Its Effects on Children*. Transaction Publications.

Straus, M. A., & Gelles, R. J. (Eds.). (1990). *Physical violence in American families: Risk factors and adaptations to violence in 8,145 families*. New Brunswick, NJ: Transactions.

Straus, M. A., Gelles, R. J., & Steinmetz, S. K. (1980). *Behind closed doors: Violence in the American family*. Beverly Hills, CA: Sage.

Straus, M. A., & Kantor, K. G. (1992). *Corporal punishment by parents of adolescents: A risk factor in the epidemiology of depression, suicide, alcohol abuse, child abuse and wife beating*. Durham, NH: University of New Hampshire, Family Research Laboratory.

Straus, M. A., & Mathur, A. K. (1995, April). *Corporal punishment and children's academic achievement*. Paper presented at the annual meeting of the Pacific Sociological Society, San Francisco.

Straus, M. A., & Paschall, M. J. (1998). *Corporal punishment by mothers and child's cognitive development: A longitudinal study*. Paper presented at the 14th world conference of sociology, Montreal, Quebec, Canada. Durham, NH: Family Research Laboratory, University of New Hampshire.

Straus, M.A., & Stewart, J. (1999). Corporal punishment by American parents: National data on prevalence, chronicity, severity, and duration, in relation to child and family characteristics. *Clinical Child and Family Psychology Review*, 2, 55-70.

Straus, M. A., Sugarman, D. B., & Giles-Sims (1997). Corporal punishment by parents and subsequent antisocial behavior of children. *Archives of Pediatrics and Adolescent Medicine*, 155, 761-767.

Straus, M. A., & Yodanis, C. L. (1994). Physical abuse. In M. A. Straus (Ed.), *Beating the devil out of them: Corporal punishment in American families* (pp. 81-98). San Francisco: New Lexington Press.

Turner, H. A., & Finkelhor, D. (1996). Corporal punishment as a stressor among youth. *Journal of Marriage and the Family*, 58, 155-166.

UNICEF. (1997, June). *UN Convention on the Rights of the Child*. [On-line]. Available: www.unicef.org/crc/conven.htm

Weiss, B., Dodge, K. A., Bates, J. E., & Pettit, G. S. (1992). Some consequences of early harsh discipline: Child aggression and a maladaptive social information processing style. *Child Development*, 63, 1321-1335.

Widom, C. S. (1989). The cycle of violence. *Science*, 244, 160-166.

Wolfe, D. A. (1987). *Child abuse: Implications for child development and psychopathology*. Newbury Park, CA: Sage.

www.endcorporalpunishment.org

www.nospank.net

SELECTMEN'S RECOMMENDATION

The Board of Selectmen endorses the core concept of this resolution, which is to encourage parents and caregivers of children to refrain from the use of corporal punishment. Selectmen commend the petitioner for attempting to heighten awareness of this issue through Town Meeting debate. However, Town Meeting voted against this resolution just last November.

The Board provided full and ample opportunity for the Petitioner to present this Article in an evening televised session. In this, the third attempt at adoption of this Article, the relative lack of citizen expression of support at the public hearing was noteworthy. Last Fall, a majority of this very same Board voted Favorable Action on an identical Warrant Article. An upsurge in community support for this item in the aftermath of its defeat at Town Meeting last year is clearly lacking. A majority of the Board now believes it is time to address the issue of reasonable limitations on multiple petitions of the same item over a period of years. A majority believes that the limit has been reached in this matter.

Therefore, the Board recommends NO ACTION, by a vote of 4-1 taken on April 5, 2005, on the article.

ROLL CALL VOTE:

No Action

Allen
Geller
Sher
Merrill

Favorable Action

Hoy

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 25 is a citizen's petition asking the Town to adopt a resolution encouraging parents and care givers to refrain from the use of corporal punishment.

This proposed resolution returns to us for the third time in as many Town Meetings.

This is not legislative; it is a voluntary resolution meant to express the concerns of the Town and raise awareness about an issue. This is not about child abuse, which is prohibited by various laws and monitored by many agencies. Rather, it concerns the corporal punishment of children (defined as spanking among other things).

DISCUSSION

The petitioner made it clear that this is not intended to undermine the authority of parents. The expressed goal is to advocate for mutual respect between parents and children and encourage

thoughtful methods of discipline. The petitioner offered studies to support the contention that corporal punishment is harmful and counter productive.

The petitioner noted that smacking one's wife was once tolerated, but that times, attitudes and awareness changed. He also pointed to other countries (Sweden in particular) where corporal punishment is illegal, and many feel these laws are positive and productive.

Several members of the committee supported this resolution. They found it relatively benign and that it might serve to raise public awareness. Additionally, it would not preclude the Town or community from providing additional support and programming around these issues.

It was pointed out that we do not assume parents to be totally free agents in raising their children. Legally, we require parents to provide a certain level of care (e.g. children must attend school and wear safety belts). These committee members felt this resolution makes a reasonable statement of community values and expectations.

While it was acknowledged that any issue is fair game to bring to Town Meeting for consideration, the overwhelming majority of the Committee felt this resolution should not be supported. Many members felt that implicit in this resolution was the notion that Brookline has a problem and no mechanism to address it. (The petitioner advises there is no such implicit message in the resolution.) Neither the Police Department nor the Department of Health found evidence of an acute or chronic problem. Substantial resources are allocated toward family and child issues, and a variety of Town organizations and programs exist to deal with associated issues (e.g. schools, social agencies and the Domestic Violence Roundtable).

It was also questioned whether adoption of the resolution would have any real impact toward realizing the stated goals. It was suggested a more productive approach would be through existing programs and organizations.

It surprised many members to learn that since the first introduction of this resolution, the petitioner has not attempted to engage those programs and organizations in addressing the issue of corporal punishment (beyond contacting a couple of PTO's to see if they were aware of this).

Many felt this resolution would serve to blur the distinction between child abuse (which must be reported by teachers, social workers and others) and the mild corporal punishment some parents may employ.

The supposition regarding the effectiveness of anti corporal punishment laws in other countries was challenged as well. A recent study appearing in a British journal entitled "The Swedish Myth" maintains that no behavioral benefit was seen directly from the anti corporal punishment laws, but rather was correlated to family access to support and services.

Lastly, it was pointed out that shaming children who exhibit inappropriate behavior can be a far more debilitating issue which this resolution does not address. It is clear that at some point on some issues people will agree to disagree. The question becomes one of where to draw a reasonable line when considering Town Meeting resolutions, particularly one like this that reaches so far into family life.

Town Meeting has discussed, voted on, and supported a variety of resolutions in the past. Generally, these were issues with national or international aspects where we cannot legislate.

RECOMMENDATION

There is a very strong feeling by nearly the full committee that Town Meeting should not set a precedent that opens the door for legislating the moral values of families. It is felt that this resolution is an inappropriate invasion of the government into parenting.

The Advisory Committee, by a vote of 13 in favor, 3 opposed, and 2 abstentions, recommends NO ACTION on Article 25.

XXX

ARTICLE 26

TWENTY-SIXTH ARTICLE

Reports of Town Officers and Committees



Town of Brookline

Massachusetts

HOUSING ADVISORY BOARD

Roger F. Blood, Chair
Steven Heikin
Michael Jacobs
Kathryn Cochrane Murphy
David Rockwell
Kathy A. Spiegelman

333 Washington Street
Brookline, MA 02445
(617) 730-2130
FAX (617) 730-2442

Annual Affordable Housing Update

Town Meeting

May, 2005

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.

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 purchase and/or underwriting of affordability 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; and
- to assure that housing so created is kept affordable for as long as possible.

During the past year, the Town has accomplished the following:

1. **Assisted the Brookline Improvement Coalition (BIC) to rehabilitate and refinance, as permanently affordable housing, a six-family building at 154-156 Boylston Street.** The Town originally committed up to \$525,000 in Housing Trust funds which, along with favorable financing from Brookline Bank, enabled the BIC to acquire the property in January, 2004. Rehabilitation is almost complete and the building is undergoing rent-up. The property will soon be refinanced with the Massachusetts Housing Partnership, including \$495,000 in "soft" loans, and the Town has substituted long term Community Development Block Grant (CDBG) funds for the Housing Trust advances, making the latter available for future acquisitions.
2. **Continued to speak with residential brokers and property owners in an effort to identify additional rental housing which might be transferred in ways which would achieve long term affordability.** As a result, the Paul Sullivan Trust has assumed management of two long term lodging houses, with a right of refusal when the properties come on the market.
3. **Worked with the Planning Office for Urban Affairs (POUA) to advance the St. Aidan's Project,** which will provide 30 affordable condominiums and 20 affordable rental units, preserve the historic church through adaptive reuse for nine market rate condominiums, and conserve the historic courtyard. The Town has committed \$3.5 million to this effort, which has leveraged over \$6.5 million in State, federal and private gap funding. During the past year, the Town worked with

POUA to record conservation easements on designated open space and a preservation easement on the former church building, complete the design review process and to advance other predevelopment requirements. The developer recently completed a model unit in the former church. Closing on all sources of funding is expected within the next few months, at which time construction will commence, beginning with the underground garage.

4. **Continued to explore opportunities for preserving affordable housing units at the Brookline Cooperative**, a 116-unit affordable housing project built in the 1960s under urban renewal. The Co-op, which is the fifth of the so-called “expiring use” projects that the Town has addressed, will complete its affordability commitments to the U.S. Department of Housing and Urban Development (HUD) in 2006.
5. **Continued to work with a subcommittee of the Fisher Hill Town Site Committee** to seek an acceptable affordable housing component as part of the redevelopment of this five acre former Town reservoir. The subcommittee is reviewing a draft Request for Information (RFI) that will seek to stimulate developer feedback and interest.
6. **Continued to provide financial and/or technical assistance to low and moderate income households and Town employees seeking to purchase a home in Brookline.** The Housing Division counseled dozens of prospective purchasers. Housing Division staff assisted two eligible households to purchase condominiums using federal HOME and CDBG funds, and helped these two and eight other buyers to qualify for the Commonwealth’s Soft Second Program funding, in which the Town participates in collaboration with Boston Private Bank and Trust Company. The Town competed for and was awarded a new Soft Second funding set-aside.
7. **Worked with developers of new market-rate projects subject to the inclusionary zoning provisions** of the Zoning By-law, including
 - completing the occupancy of eight affordable units at the 49-unit condominium development at St. Paul Crossing, and five low income rentals at the 45-unit condominium development at 110 Cypress Street;
 - marketing and qualifying tenants for one low income rental at the five-unit condominium development at 75-83 Boylston Street, and two moderate income rentals developed in the former parish house of the Infant Jesus Church, part of an 11-unit rental development at 900-916 West Roxbury Parkway/ 6 Woodcliff Road;
 - marketing and selecting, by lottery, a buyer for one affordable unit at the 11-unit condominium at 75 Winchester Street, and initiating the process for two affordable units at the nine-unit condominium at 55 Park Street;
 - developing an affordable housing plan, including nine affordable units, for a new 59-unit project proposed at 635 Hammond Street, and initiating affordable housing planning for a proposed project at St. Paul Street and Sewall Avenue.

Included above are four projects of 15 or fewer units where the Town negotiated on-site affordable housing in lieu of a financial contribution to the Housing Trust.

8. **Worked with developers of small projects** at 1601 Beacon Street, 121 Centre Street, 64 Sewall Avenue and 1140 Beacon Street -- eligible to choose a cash payment in lieu of providing on-site units -- **to make contributions to the Housing Trust** totaling almost \$900,000. Worked with other Town departments to “market” the tax foreclosed property at 154 University Road, the sale of which yielded \$677,000 to the Housing Trust.

9. **Helped to complete the Town's Comprehensive Plan and the development of an Action Plan**, seeking to preserve the character of Brookline's neighborhoods while increasing the affordable housing inventory. **Prepared a Planned Production Plan** based upon the Comprehensive Plan to inform the State on how the Town would proceed toward meeting the goals of Chapter 40B, that is, achieve an affordable housing inventory which comprises 10 percent of the Town's housing units.
13. **Contributed to the development of a five year HUD Consolidated Plan**, outlining the Town goals and strategies with regard to its use of annual federal Community Development Block Grant and HOME Partnership Program funding.
14. **Collaborated with the Brookline Housing Authority (BHA)**, largest provider of affordable housing in Brookline, in identifying opportunities to reduce BHA costs and/or increase BHA resources in light of decreasing subsidy support for both state- and federally-supported programs.

In 2004, the lodging housing property at 1754 Beacon Street, sponsored by the Brookline Improvement Coalition and acquired, rehabilitated and operated by the Pine Street Inn with financial assistance from the Town and State, was awarded the Terrence R. Duvernay HOME Program Award of Excellence by the National Community Development Association for "exemplary and innovative use" of HOME funds.



Town of Brookline

Massachusetts

Department of Planning and
Community Development
Town Hall, 2nd Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2130 Fax (617) 730-2442

Robert J. Duffy, AICP
Director

To: Board of Selectmen
Advisory Committee

From: CDBG Advisory Committee

Date: May 10, 2005

Re: Recommendations on FY 2006 CDBG Entitlement Grant

The Community Development Block Grant (CDBG) Advisory Committee is pleased to submit our recommendations for the FY 2006 CDBG entitlement grant for consideration by the Board of Selectmen.

The CDBG Advisory Committee held public hearings on November 23rd and November 30th, 2004 on proposals for funds from the anticipated FY 2006 CDBG Budget. The Committee then met on December 7th, 2004 to discuss recommendations. The requests were carefully reviewed in light of the former and newly approved Consolidated Plans, which identify the Town's priorities and strategies to address housing, homelessness, special needs, and human development needs in a comprehensive and coordinated fashion. They were also reviewed based on the U.S. Department of Housing and Urban Development's (HUD) criteria for the use of funds, including eligibility requirements and the need to demonstrate improved performance and demonstrated, measurable outcomes. Utilizing the final entitlement budget of \$1,823,713, the Committee was faced with difficult choices, given the dollar amount of the requests, caps placed on use of the entitlement for planning, program management and public services, and the range of needs identified.

Attached is a proposed budget as developed by the Committee, which outlines our consensus on specific activities that the Selectmen should consider for funding under the grant. Primary to the grant is benefit to low- and moderate-income persons in accordance with the national HUD goals to provide a suitable living environment; provide decent housing; and expand economic opportunities. All of the proposed activities fall within this realm.

The 15 percent cap on Public Service activities precluded the Committee from meeting the funding requests of many worthy subrecipients. However, the Committee did its best to ensure that key objectives from the Consolidated Plan were being met and that funding was provided to as many worthy programs as possible. In addition, the Committee's recommendations meet the national goals of HUD and have been developed through a local approach that will ensure the Town's entitlement grant, with the addition of other public and private funding, will address the needs of the Brookline community.

On behalf of the Committee, we would like to thank Gail Lewis' ongoing support and commitment of the Town's CDBG program. We also thank Selectmen Michael Sher for his participation and contribution during this process.

FY2006 CDBG Entitlement Budget

	Budget
A. <u>Program Management/Planning</u>	
1. CD Grant Administration	\$151,500
2. CD Comprehensive Planning	\$87,530
3. Preservation Planning	\$86,500
4. Legal/Professional Service	\$10,000
5. Coolidge Corner District Plan - T & P Assistance	\$42,500
	<u>\$378,030</u>

(Projected 20% CAP on Program/Management & Planning: \$384,400)

(20% w/PI CAP: \$378,742)

B. <u>Housing</u>	
1. Housing Division	\$233,105
2. Col. Floyd Exterior Restoration	\$48,000
3. Affordable Housing Program	\$274,565
	<u>\$555,670</u>

C. <u>Commercial</u>	
1. Brookline Village Public Facility Improvements	\$35,000
	<u>\$35,000</u>

D. <u>Community Facilities</u>	
1. Street Tree Removal & Replacement	\$30,000
2. Facility Renovation for BCMHC	\$200,000
3. Humanity House Bathroom Renovation Project	\$100,000
4. Handicapped Access	\$40,000
5. Harry Downes Playground Renovation	\$230,000
	<u>\$600,000</u>

E. <u>Public Services</u>	
1. Youth Employment Program	\$80,000
2. Brookline Creative Start	\$19,000
3. BCMHC Comprehensive Services for Children & Families	\$30,000
4. Wellness Program	\$5,000
5. BCMHC Adolescent Outreach Program	\$43,000
6. Parent Child HOME Program/Brookline	\$8,000
7. Home and Escort Linkage Program/Brookline	\$12,000
8. Brookline Elder Taxi System (BETS)	\$39,000
9. Brookline Learning Project	\$10,050
10. After Hours U	\$15,000
11. JOBS - Job Opportunities for Brookline Seniors	\$12,500
12. Brookline Visually Impaired Elders Project	\$2,000
13. REACH (Hotline, Support & Advocacy Services)	\$4,000
14. NEXT STEPS	\$4,506
	<u>\$284,056</u>

TOTAL ENTITLEMENT

\$1,852,756

Note: Based on Final '06 Entitlement amount from HUD of \$1,823,713 (\$98,287.00 difference) plus program income

**Committee on Town Organization and Structure (CTO&S) Report
Regarding a Proposed Change to the Selection Method
of Members of Brookline's Planning Board from Appointed to Elected**

The issue of Brookline changing the method with which Planning Board members are selected came before the Fall 2004 Town Meeting as a petition article. In the petitioners' statement in favor of the proposed change from an appointed to an elected board, it was argued that an elected board would be more:

- responsive to neighborhood concerns
- open, participatory and democratic
- in line with other high level elected boards such as the Selectmen, School Committee, Housing Authority and Library Trustees
- consistent with the practices of the majority of towns in Massachusetts with populations over 25,000

On the recommendations of the Board of Selectmen, Advisory Committee and CTO&S, Town meeting did not act on the article, but referred the subject matter of the article to CTO&S for a report to the 2005 Annual Town Meeting. This report is in response to that charge.

Beginning in the Fall of 2004 and continuing into the Spring of 2005, CTO&S met eight times on the issue, including a public hearing in which attendees were invited to provide the committee their thoughts and recommendations on elected rather than appointed Planning Board members. In the course of those meetings CTO&S also heard from some of the original petitioners, a number of interested citizens who had been following the issue, past and present Planning Board Members, the present and past Planning Department Directors, the Town Administrator, the Town Manager from Arlington (and prior Deputy Town Administrator in Brookline), Planning Directors from other communities and a member of the Town's Economic Development Advisory Board. CTO&S also sent a questionnaire to 11 neighboring communities regarding the makeup of their planning boards and the method of selecting their members.

Arguments for the election of Planning Board members generally fell into three categories:

1. elections provide the opportunity for citizen input into the makeup of the board;
2. elected members would tend to be more supportive of citizen and neighborhood concerns and less responsive to developers and development pressures, and would make the procedures -- now seen by some as favoring the latter -- more "user-friendly" to the former;
3. a board made up of elected members would tend to be more courteous, respectful and civil to lay citizens who appeared before it to offer public comment on proposals; and
4. the election of members was simply a more democratic, and therefore a preferred, process.

Arguments against the election of Planning Board members tended to center around four major lines of reasoning:

1. election of members by popular vote is unlikely to result in the kind of technical expertise that many believe is central to the board's duties and obligations;
2. there is no certainty that an elected board would lead to the benefits sought by the proponents, and indeed there is some concern that elections could be dominated by campaign contributors and therefore backfire;

3. the relationship between the Board, the Selectmen and the Planning Director would get complicated and awkward with an elected board; and
4. with a history of the Board seeming to work reasonably well in performing their duties and with few, if any, complaints in recent years regarding the Boards' fairness, objectivity and influence from the Selectmen, there was little need or motivation to make what was perceived to be a major change.

CTO&S discussed and debated these issues and concerns over the course of its meetings. The committee researched the duties of the Board and the activities that consumed most of its time. It found that few of the Board's duties are associated with establishing policy, which is primarily the province of Town Meeting through its votes on amendments to the zoning by-law (albeit with recommendations from the Board). Its primary functions are to implement the zoning by-law and to provide rulings (i.e. interpreting zoning laws), advisory opinions and technical advice, first, to applicants on design and sign review and, second, to the Zoning Board of Appeals (ZBA) on special permits and variances. It was estimated by a previous Planning Board Chairman that approximately 75% of the Board's time is devoted to these two functions — design review and ZBA recommendations.

The committee also researched the professional backgrounds of members of the Planning Board for approximately the past forty years to determine if its makeup had been consistent with the functional needs identified above. The history shows that over the period a minimum of two to three members have had technical expertise in the areas of architecture, engineering or real estate; one member was generally an attorney; and, although not consistently, some members have had no special expertise relating to building or development. Since the mid to late eighties, however, the makeup of the Board has reached a relatively consistent pattern of four members with architecture or real estate expertise and one attorney.

CTO&S' survey of "like" communities was interesting, but the data from the seven that responded were not terribly conclusive. In general, the three largest communities (with the exception of Framingham) appointed members of the planning board and the three smaller communities plus Framingham elected them. There was little correlation between any other statistics.

Although there was little sentiment within CTO&S for changing to a fully elected board, one member raised the possibility of a "hybrid" board - with the majority of members appointed but with the remaining members elected. He felt that a hybrid board would:

- retain, through appointments, the technical expertise required to fulfill many of its duties, which we have been very fortunate to obtain from many board members over the years;
- leave room for one or more "generalist" or "public interest" members — with no attachment to the building or development profession, and whose priority would be to represent lay Brookline residents and to preserve neighborhoods;

and was joined by a second member of the committee in feeling that a hybrid board would also:

- be a step towards a more democratic process, not an inconsiderable benefit, and consequently the perception of a more independent, representative, and accountable board.

These two members felt that the development and planning issues will be among the most difficult challenges of the next few decades, that a hybrid board had the potential to meet these challenges in a fair and equitable way and that it should be tried at least for a few years.

In arriving at CTO&S' recommendations, the CTO&S chairperson adopted the standard voting procedure of starting with the most extreme position (a wholly elected board) and working backwards towards the status quo.

No one on the Committee was in favor of a change to a wholly elected Planning Board, with all members understanding and being sensitive to the desirability and need for some technical expertise on the Board. The Planning Board's limited policy function was also a strong factor in many members' decision process.

Two of CTO&S' seven members favored a hybrid board, for the reasons stated above, but the majority of the Committee felt that such a board would be awkward, particularly in regard to the interplay and dynamics between the two classes of members. The majority also felt that with a lack of any truly major problems having been raised, the issues that do arise could be addressed without requiring what was perceived to be a significant structural change.

Thus, the majority position of CTO&S is that there is no compelling reason for a legislated change in the manner in which Planning Board members get selected. However, all members of CTO&S were sensitive to some of the issues raised both by the petitioners of the original article and again in the public hearing held on April 6. Therefore, CTO&S voted to take the following actions:

- To further study the issue of recommending language for possible consideration at the Fall 2005 Town Meeting regarding the composition of the appointed Planning Board. CTO&S will debate the specific parameters of that composition between now and the Fall, but the intent is to ensure that the Board always has the technical expertise that has proved so valuable to the Town while also providing for some degree of generalist or public interest voice on the Board.
- To encourage the Board of Selectmen to take the issue of diverse representation on the Planning Board into account as part of any possible appointments prior to the Fall 2005 Town Meeting.

Throughout the discussions and public comments on the issue directly before CTO&S, there were several recurring themes that members felt should be addressed with recommended action or further study. Therefore, CTO&S also:

- encourages the Board of Selectmen to consider developing a periodic "training" session for members and particularly chairpersons of all Board & Commissions, including elected ones. CTO&S believes that many of the complaints it heard (not necessarily related to the Planning Board) regarding treatment of the public at meetings and a lack of explaining how decisions were made and were not due to any particular malice by anyone, but rather through inexperience in dealing with the public. This being the case, some degree of training would be beneficial. It would also be helpful for all appointees charged with implementing a by-law or statute to have an annual workshop to ensure that they are well prepared and up to date on any changes or judicial rulings that may affect their duties;
- will undertake to research and study the issue of a Town of Brookline Conflict of Interest Standard. This arose as a corollary issue during the Committee's discussions and was not related to any problem, perceived or otherwise, with any Board or Commission. Nevertheless, there was an initial feeling expressed by some members that a documented standard for all elected and appointed members of Boards and Commissions might be desirable. CTO&S will report back its findings and recommendations, if any, on this issue to the 2006 Annual Town Meeting.

INTERIM REPORT TO THE BROOKLINE TOWN MEETING OF THE TOWN MODERATOR'S COMMITTEE ON CAMPAIGN FINANCE

INTRODUCTION

The Town Moderator's Committee on Campaign Finance (the "Committee") is pleased to submit this interim report to Brookline's 2005 Annual Town Meeting. This report focuses on the work and progress of the Committee thus far. It does not aim to present any findings or recommendations of the Committee regarding campaign finance in Brookline, as the Committee believed it would not be responsible to publish any such findings or recommendations until they have been finalized following the full process of Committee consideration. The Committee anticipates submitting a final report containing its findings and recommendations to the Fall 2005 Town Meeting.

CREATION OF THE COMMITTEE

The Committee was assembled by Town Moderator Edward N. "Sandy" Gadsby, Jr., pursuant to a motion passed by the Fall 2003 Town Meeting under Article 27 of the Warrant before it. That article was one of three submitted to that Town Meeting by citizen petitioner Ronald Goldman concerning conflicts of interest among Town officials and the financing of campaigns for Town office.

Article 25 of the Fall 2003 Town Meeting Warrant, as initially submitted, put forward a resolution recommending that former selectmen and their immediate family members not represent others before any Town bodies consisting of individuals appointed by such selectmen. It also proposed the creation of a system in which candidates for selectman would be given the opportunity to commit to such restrictions, and the Town Clerk would publicize whether they had made and subsequently honored such commitments. At the time of Town Meeting, Mr. Goldman offered a motion to replace his initial article with a resolution simply urging former

selectmen and their professional associates to avoid the apparent conflicts of interest created by their representation of others before Town bodies consisting of individuals appointed by such selectmen. Town Meeting did not pass either the initial article or the substitute motion.

Article 26 of the Fall 2003 Town Meeting Warrant, as originally presented, offered a resolution establishing that the acceptance by a selectman or school committee member, or by the immediate family member or campaign committee of such an official, of anything exceeding \$100 in value would create a conflict of interest with regard to that official's debate or vote on any issue affecting the donor, unless the affect on the donor was merely incidental. The article further proposed a system for giving such officials the opportunity voluntarily to disclose such conflicts, withdraw from debate on such issues, and abstain from voting on them. At Town Meeting, Mr. Goldman offered a motion to replace his original article with a resolution establishing that transactions of the type described above appear to be conflicts of interest, and urging officials to disclose such conflicts, withdraw from debate on such issues, and abstain from voting on them. Town Meeting passed neither the original article nor the substitute motion.

In its original form, Article 27 offered a resolution concerning the adoption of voluntary limits on campaign spending and contributions. In particular, it proposed a system in which candidates for selectman would be given the opportunity to commit to any or all of the following: limiting total campaign spending to \$15,000 or less; limiting donations from individual donors to \$100 or less; limiting self-donations to \$4000 or less; limiting total donations from outside Brookline to \$2000 or less; returning donations over \$200 that are not accompanied by identification of the donor's occupation and employer; refusing donations from real estate interests, political action committees, other selectmen's campaign committees, and other entities substantially likely to have matters pending before the Town; and participating in

public debates. Such amounts would be adjusted for inflation, and the Town Clerk would publicly post the extent to which each campaign accepted and adhered to such commitments. At Town Meeting, Mr. Goldman offered a motion to replace his initial article with a resolution simply urging candidates for selectman to commit voluntarily to any or all of the following: limiting donations from individual donors to \$100 or less; limiting self-donations to \$5000 or less; limiting total donations from outside Brookline to \$3000 or less; and returning donations over \$200 that are not accompanied by identification of the donor's occupation and employer.

Instead of adopting either of Mr. Goldman's proposals under Article 27, Town Meeting passed a motion offered by Town Meeting Member Jesse Mermell "to refer this article to a Moderator's Committee, including if he is willing the petitioner or his designee, charged with reviewing the financing of campaigns for election to the Board of Selectmen and, if appropriate, proposing measures that could be taken by the Town to limit campaign donations, to limit campaign spending, and to minimize the influence of special interests" (the "Motion to Refer Article 27").

COMMITTEE MEMBERSHIP AND PARTICIPATION

Mr. Gadsby has appointed the following Brookline residents as Committee members: Christine Desan, an attorney and a Professor of Law at Harvard University; Gilbert Hoy, an attorney and a Town Selectman; Rita McNally, an attorney and a Town Meeting Member; Randall Ravitz, an attorney and a Town Meeting Member; Sloan Sable, a teacher and a Town Meeting Member; Patrick Ward, an attorney and Town Clerk; and Barbara Pastan, the designee of the Brookline chapter of the League of Women Voters. The Committee has elected Mr. Ravitz as its Chair, and Ms. McNally and Ms. Sable as its Secretaries.

Additionally, the Committee has benefited greatly from the dedicated involvement of the following: Frank Farlow, a Town Meeting Member; Ronald Goldman, the original petitioner of Article 27; Nicole Mariani, Michelle Petersen, and Daniel Richenthal, all of whom are students at Harvard Law School; and Harvard Law School itself.

In addition to being an active participant in all Committee meetings, Mr. Farlow volunteered to devote countless hours analyzing the campaign finance reports filed with the Town Clerk's Office by candidates for Town office since 1988. He has also produced a series of detailed tables reflecting the data collected from this analysis and dissecting such data in multiple ways. The format of each table and the range of data presented therein incorporate the feedback provided by participants at Committee meetings.

Mr. Goldman had previously conducted extensive research on the need for campaign finance restrictions in Brookline, the ability of the Town to enact such restrictions, and the types of restrictions enacted by other municipalities throughout the nation in the course of developing his initial warrant articles. In doing so, he consulted with several Town officials and bodies. He generously shared his findings with the Committee at a meeting devoted exclusively to that purpose and at subsequent meetings in which he participated.

Ms. Mariani, Ms. Petersen, and Mr. Richenthal were selected to aid the Committee by Ms. Desan, who recognized shortly after the Committee's creation that the Committee could benefit from legal research by dedicated law students. They have prepared a series of thorough legal memoranda that reflect many, valuable hours of legal analysis and that received high praise from experts in campaign finance law from the Massachusetts Office of Campaign and Political Finance ("OCPF"). The topics of their memoranda are discussed below. They have also prepared graphs reflecting campaign finance data, developed a website for collecting and

tabulating questionnaire responses from Town Meeting Members, and have offered astute comments as regular participants at Committee meetings. The institution at which they study, Harvard Law School, has generously supported the Committee's work by making its students available as interns and by financing the cost of the aforementioned website.

The Committee is very grateful for the substantial contributions provided by all of these parties to the Committee, the Town of Brookline, and the study of campaign finance reform.

COMMITTEE ACTIVITY

Committee Operations Generally

The Committee was convened by Mr. Gadsby on January 14, 2004. At that time, he directed the Committee to study the issues presented in Article 27 and, if appropriate, propose measures that could be taken by the Town to regulate campaign financing. Citing the broad language of the Motion to Refer Article 27, he advised the Committee not to view its charge as limited to the issues raised by Mr. Goldman's proposals. Mr. Gadsby further indicated that the Committee might wish to consider the following: whether and to what extent the Town can regulate the campaign process; whether campaign fundraising promotes corruption; whether the cost of running for office in Brookline is too high; the amount of funds required to run for Town office; and whether the Committee should issue any recommendations. Additionally, he suggested that the Committee meet with experts in relevant fields, hold a public hearing on the issues before it, and consider whether the submission of a warrant article is appropriate. At that time, Committee members expressed an intention to set aside any preconceptions they might have and view the issues before them with an open mind. As it has executed its responsibilities, the Committee has remained mindful of the language of the Motion to Refer Article 27, Mr. Gadsby's instructions, and its pledge of open-mindedness.

Since the Committee was assembled, it has held approximately fifteen Committee meetings and a number of subcommittee meetings. As referenced above, its members and other participants have also conducted considerable research and drafting outside of those meetings. Each participant has offered unique contributions based on his or her involvement in town offices and affairs, educational training and professional experience, participation in political campaigns, and viewpoints. All participants agree that the Committee's operations thus far have been characterized by a high level of dedication, enthusiasm, collegiality, and productivity. From its inception, the Committee has welcomed the participation of interested citizens, and it will continue to do so.

Analysis of Campaign Finance Data

Consistent with the Committee's charge of "reviewing the financing of campaigns for election to the Board of Selectmen," its participants have devoted considerable attention to the analysis of campaign finance data gleaned from candidates' campaign finance reports. In particular, participants have examined issues such as the amounts raised by campaigns; the amounts spent by campaigns; the size of individual contributions; the extent of contributions made by those who are not Brookline residents, by candidates themselves, and by relatives of candidates; the occupations of contributors; whether particular occupations are disproportionately represented; the items on which funds are spent by campaigns; the relationship between incumbency, and raising and spending; and the relationship between electoral victory, and raising and spending. With respect to each of these factors, participants have looked at whether any temporal trends or other patterns are revealed.

Analysis of Legal Issues

Another major undertaking of Committee participants was to analyze the legal issues arising from the consideration of municipal campaign finance restrictions. Certain individuals in town suggested to the Committee that the relevant legal issues were settled and uncomplicated. Committee participants, however, sought to examine such issues independently. As indicated above, the Committee enlisted the aid of Ms. Mariani, Ms. Petersen, and Mr. Richenthal, three Harvard law students who have served as interns for the Committee for over a year. The interns have researched and written thorough legal memoranda on several issues identified by Committee participants, including the following: the extent to which the Town is authorized to enact its own campaign finance restrictions under relevant provisions of the Massachusetts Constitution, including its Home Rule provisions and in light of the provisions of Chapter 55 of the Massachusetts General Laws; the extent to which the interpretation of other state constitutions is instructive in construing the Massachusetts Constitution; the limitations on the regulation of campaign finance under the United States Constitution; the nature of campaign finance restrictions enacted by other municipalities throughout the nation, and the legal challenges thereto; the various methods by which the Town may enact its own campaign finance restrictions; and the parameters of state conflict-of-interest laws applicable to Town officials. The Committee has found the legal issues involved in municipal campaign finance reform to be more complex than originally suggested and is taking such findings into account in developing its conclusions.

Questionnaires Concerning Issues, Attitudes, and Perceptions

Committee participants additionally believed that, in order to consider “the influence of special interests” in town government arising from campaign contributions, it would be useful to identify the types of issues that special interests may wish to influence. At the same time,

participants believed that such identification should be made by those most qualified to do so and not by the same body charged with analyzing campaign finance data. Accordingly, the Committee asked the Town Moderator, members of the Board of Selectmen, and members of the Advisory Committee to “list what [they] believe to have been the several most significant questions to come before Town Meeting in each of the last five years or so,” and in doing so, to “judge a question’s ‘significance’ by its perceived impact on the Town at the time that it came before Town Meeting.” The responses received will be incorporated into the Committee’s analytical process and discussed in its final report.

Committee participants further recognized the need to gather information on the attitudes and perceptions of Brookline residents regarding campaign finance, campaign activity, and the operation of government in Brookline. The Committee therefore developed a questionnaire to residents’ elected representatives in Town Meeting. In particular, the questionnaire sought the respondents’ beliefs about: what successful campaigns for Town office do cost and should cost; the consequences resulting from the size of that cost; the extent to which citizens have equal access to Town officials; the extent to which appointments and decisions are influenced by or are perceived to be influenced by campaign contributions; the extent to which elections and/or decisions are affected by contributions from particular industries or from outside Brookline; residents’ sources of information about Town affairs; the extent to which various types of campaign activity are noticeable and effective; and the desirability of several types of possible reforms. The questionnaire also asked respondents whether their constituents have raised concerns involving campaign finance or related matters, and what suggestions they have for the Committee’s work and for ensuring fair elections and minimizing any influence that campaign contributions may have on Town government.

The Committee values the viewpoints of those who are most involved in Town government and wishes to give all current and newly elected Town Meeting Members the opportunity to express their opinions on the issues listed above. It also recognizes that the usefulness of this questionnaire, like any other, is enhanced by the submission of each new response. That is, a higher degree of feedback will enable the Committee to be of greater assistance to Town Meeting. *Thus, the Committee continues to accept responses to this questionnaire and strongly encourages all Town Meeting Members to respond if they have not yet done so.*

Discussions with Experts

In order to enhance their understanding on the topics discussed above, Committee participants met with the following five experts: Denis Kennedy, Director of Public Information for OCPF; Gregory Birne, General Counsel of OCPF; David Barron, a Professor of Law at Harvard University; Galen Nelson, Director of the Massachusetts Money and Politics Project, a program of the Commonwealth Education Project; and Lisa Danetz, an attorney at the National Voting Rights Institute. All of these individuals graciously agreed to appear before the Committee to share their knowledge and viewpoints and answer questions from those present. Mr. Kennedy and Mr. Birne discussed Massachusetts statutory and regulatory provisions regulating campaign finance, the methods by which municipalities may enact new regulatory measures generally, and the procedural steps and practical issues that must be confronted by a municipality that seeks to do so. Mr. Barron, drawing upon his expertise in the field of local government law in Massachusetts, spoke about the extent to which the Town possesses the legal authority to enact its own campaign finance restrictions, the methods by which the Town could enact such restrictions, and the practical and political issues that would be raised by such an

endeavor. Mr. Nelson and Ms. Danetz addressed the range of possible reforms that the Town might consider, particularly with respect to disclosure requirements and campaign spending, the experience of other municipalities throughout the nation that have enacted campaign finance restrictions, and the legal challenges that have arisen from such enactments.

The Committee also devoted a full session to hearing from Mr. Goldman regarding what he had learned in developing his initial warrant articles. He discussed, the impetus for his warrant articles, reforms undertaken by other municipalities nationwide, legal opinions that he had received concerning the Town's ability to enact campaign finance restrictions, and the reactions to his warrant articles provided by other Town officials.

The Committee is very appreciative of the time and effort contributed by these individuals, the useful information that they have imparted, the clarity of their presentations, and the patience that they displayed in responding to inquiries. Their expertise was obvious, and their presentations were of great value.

Other Activities

In addition to these pursuits, the Committee has studied the history of campaign activity in Brookline and those trends that have been observed. Particularly informative in this regard were Mr. Ward and Mr. Hoy, in light of their experience and resources, and Mr. Farlow's research. Committee participants have attended relevant programs sponsored by other organizations, raised questions of interest to the Committee at such programs, and then reported what they learned back to the group. Such programs have included a forum sponsored by Brookline Voters for Fair Elections, candidate nights held in connection with Brookline elections, and a conference sponsored by the Federal Election Commission. Tapping outside sources, Committee participants have also regularly distributed compilations of campaign

finance data, materials on campaign finance law, and relevant news articles at Committee meetings.

Based on all of the foregoing, Committee participants have spent considerable time discussing the range of measures the Town could take to further the public interest, as well as the need for, wisdom and practicality of, and possible methods of instituting each measure.

FUTURE PLANS

The Committee plans to distribute an initial set of recommendations to Town Meeting Members in the early Fall of 2005. It expects to then hold a public hearing in order to obtain reactions to its initial recommendations and thoughts on the larger issues involved. Such reactions and thoughts will be taken into account in preparing a final set of recommendations and possibly a warrant article. The Committee anticipates submitting a final report, along with any warrant article developed, for consideration at the Fall 2005 Town Meeting.

The Committee appreciates the opportunity it has been given to study these important topics and contribute to the public interest; it is also grateful for the support that it has received from others in Town government. Its participants look forward to continuing their work.

Respectfully submitted,

TOWN MODERATOR'S COMMITTEE
ON CAMPAIGN FINANCE