

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.

PETITIONER'S EXPLANATION

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

SELECTMEN'S RECOMMENDATION

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on April 10, 2007, on the vote offered by the Advisory Committee.

ROLL CALL VOTE

Favorable Action

- Allen
- Hoy
- Daly
- DeWitt

-----

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

By a substantial majority of the Advisory Committee (15 in favor to 4 opposed) recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

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.

---

PETITIONER'S EXPLANATION

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

---

SELECTMEN'S RECOMMENDATION

There are no Collective Bargaining agreements for Town Meeting to act upon. Therefore, the Board of Selectmen recommends NO ACTION, by a vote of 5-0 taken on April 24, 2007, on Article 2.

-----

---

ADVISORY COMMITTEE'S RECOMMENDATION

Article 2 is inserted into the Warrant for any Town Meeting when there are unsettled labor contracts. Town Meeting must approve the funding for any collective bargaining agreements. There are no collective bargaining agreements to consider at this time.

The Advisory Committee voted unanimously NO ACTION on Article 2.

**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 FY2008 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

---



---

PETITIONER'S EXPLANATION

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

---



---

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 FY2008 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 April 10, 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 FY2008 in accordance with General Laws Chapter 44, Section 53F.

**ROLL CALL VOTE**

Favorable Action

Allen  
Hoy  
Daly  
DeWitt

-----

**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 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; and rescind the unused portion of prior borrowing authorizations, or act on anything relative thereto.

- 1) Special Appropriation Closeouts
- 2) Rescind the bond authorization for repairs to the Larz Anderson Skating Rink, authorized under Article 7, Section 12, Item 62 of the 2005 Annual Town Meeting, in the amount of \$260,000.

---

PETITIONER'S EXPLANATION

Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a warrant article showing the status of all special appropriations. This article is also used for debt rescissions.

---

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.

Part two of the article is related to a bond authorization approved at the 2005 Annual Town Meeting to purchase and install a refrigeration package that met the capacity of the Larz Anderson Outdoor Skating Rink. The \$400,000 project was funded by a \$260,000 bond and \$140,000 of tax-financed CIP funds. The \$260,000 bond authorization was required so that the entire project could be done at once (the alternative was a phased approach that would cost the Town more). Long-term borrowing was never

implemented. Instead, the Town was able to short-term borrow and appropriate \$130,000 in both FY07 and FY08 to pay off the short-term note. The budget article (Article 7) for FY08 includes the \$130,000, which completes the funding package. Therefore, the bond authorization is no longer needed and should be rescinded to clean up the Town's books.

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on April 10, 2007, on the vote offered by the Advisory Committee.

**ROLL CALL VOTE**

Favorable Action

Allen  
Hoy  
Daly  
DeWitt

-----

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 \$260,000 to repair the Larz Anderson Skating Rink was granted to the Town Meeting in 2005. Subsequently, enough free cash became available to affect the necessary repairs. There is no further need for this bond authorization. Today, the authorization remains 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. Town Meeting is the only authority to vote for an authorization and the only authority to rescind it.

RECOMMENDATION

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

VOTED: That the total (\$260,000) Bond Authorization for repairs to the Larz Anderson Skating Rink, authorized under Article 7, Section 12, Item 62 of the 2005 Annual Town Meeting, in the amount of \$260,000, be reduced and be rescinded, effective July 1<sup>st</sup>, 2007.

**Available Budget Report - Capital Funds  
for Fiscal Year 2007  
as of 4/10/07**

<u>Dept</u>	<u>Fund</u>	<u>Project</u>	<u>Revised Budget</u>	<u>YTD Expended</u>	<u>YTD Encumbered</u>	<u>Available</u>	<u>Status</u>
BUILDING	<b>C097</b>	HIGH SCHOOL IMPROVEMENTS	5,373	821	4,552	0	Encumbrance completes projects.
BUILDING	<b>C119</b>	PUBLIC SAFETY FACILITY REN	146,621	110,146	0	36,475	Being re-allocated as part of Proposed CIP.
BUILDING	<b>C120</b>	BAKER SCHOOL RENOVATIONS	217,127	217,127	0	0	Project complete.
BUILDING	<b>C132</b>	SCHOOL LIFE SAFETY SYSTEM	56,548	0	56,548	0	Encumbrance completes projects.
BUILDING	<b>C134</b>	OLD LINCOLN ELEVATOR & REPAIR	15,482	10,361	1,500	3,620	Waiting for final bill. Any unexpended balance to be closed out by 9/1/07.
BUILDING	<b>C135</b>	FIRE STATION #1 RENOVATION	12,632	0	0	12,632	Being re-allocated as part of Proposed CIP.
BUILDING	<b>C139</b>	MAIN LIBRARY RENOVATIONS	33,465	30,680	2,771	14	To be expended by 7/1/07. Any unexpended balance to be closed out.
BUILDING	<b>C141</b>	DRISCOLL SCHOOL	484,664	52,011	244	432,409	Facade work, bathroom work, and interior improvements at the stairwells to be undertaken.
BUILDING	<b>C142</b>	PUTTERHAM MEADOWS GOLF/CLUBHSE	1,740,000	0	0	1,740,000	\$150K to be spent on cart paths in CY07.
BUILDING	<b>C143</b>	LAWRENCE SCH AND LONGWOOD PARK	639,185	260,344	221,652	157,189	Encumbrance in litigation; available balance for roof.
BUILDING	<b>C146</b>	DRISCOLL SCHOOL IMPROVEMENTS	4,791	1,770	0	3,021	Sound attenuation equipment required.
BUILDING	<b>C147</b>	NEWTON ST. LANDFILL (Transfer Sta)	400,000	5,977	12,596	381,427	Bids received for stack demo. To be done this Summer.
BUILDING	<b>C149</b>	DRISCOLL SCHOOL IMPROVEMENTS	6,961	610	5,749	602	Contractor completing work. Any unexpended balance to be closed out by 6/30/07.
BUILDING	<b>C154</b>	TOWN HALL RENOVATIONS	1,193,785	715,131	478,655	0	Project underway.
BUILDING	<b>C155</b>	S G TRAIN HEALTH CTR RENOVATION	381,883	364,198	17,508	177	Contractor completing work.
BUILDING	<b>C156</b>	EVELYN KIRRANE AQ CTR IMP	1,600,000	1,535,695	12,708	51,598	Contractor completing work.
BUILDING	<b>C157</b>	NEWTON ST. LANDFILL (Transfer Sta)	600,000	0	0	600,000	Design underway.
DPW	<b>C057</b>	LIGHTS AT WALDSTEIN/AMORY	3,058	3,058	0	0	Project complete.
DPW	<b>C128</b>	WASTEWATER SYSTEM IMPROVEMENT	17,602	10,962	0	6,639	On-going.
DPW	<b>C137</b>	WATER METER REPLACEMENT	3,623	3,623	0	0	Project complete.
DPW	<b>C144</b>	WASTEWATER SYSTEM IMPROVEMENTS	2,074,970	957,687	339,504	777,778	On-going.
DPW	<b>C145</b>	STORM DRAIN IMPROVEMENTS	732,086	525,283	206,803	0	Substantially complete.
DPW	<b>C147</b>	NEWTON STREET LANDFILL	7,409,170	5,918,040	1,351,077	140,054	To be completed 10/07.
DPW	<b>C148</b>	BEACON STREET RECONSTRUCTION	2,600,000	388,308	2,211,692	0	Project underway.
DPW	<b>C150</b>	MUDDY RIVER RESTORATION	745,000	0	0	745,000	Project in Design phase.
DPW	<b>C152</b>	STORM DRAIN IMPROVEMENTS	500,000	148	327,050	172,802	On-going.
DPW	<b>C153</b>	WATER METER REPLACEMENT	1,335,131	1,040,848	145,221	149,062	On-going.
DPW	<b>C157</b>	NEWTON ST LANDFILL	1,400,000	9,227	0	1,390,773	Assessment completed. Final plan to be determined..
DPW	<b>C158</b>	WASTEWATER SYSTEM IMP	5,500,000	0	0	5,500,000	Part of on-going projects. To be borrowed in amounts of approx. \$1M / yr starting in CY08.
<b>REPORT TOTAL:</b>			<b>29,859,158</b>	<b>12,162,055</b>	<b>5,395,831</b>	<b>12,301,272</b>	

**Available Budget Report - Special Warrant Articles  
for Fiscal Year 2007  
as of 4/10/07**

<u>DEPT</u>	<u>ACCT #</u>	<u>PROJECT</u>	<u>BUDGET</u>	<u>YTD EXP.</u>	<u>YTD ENC.</u>	<u>AVAIL.</u>	<u>STATUS</u>
HR	6E0029	PHYSICAL FITNESS EQUIPMENT	30,000	0	0	30,000	Being re-appropriated as part of Proposed CIP.
FINANCE	6A0005	DATA PROCESSING EQUIPMENT	150,802	22,000	17,161	111,640	On-going implementation of MUNIS (financial system).
FINANCE	6A0013	FURN, FIXTURES, EQUIPMENT	36,321	8,456	0	27,864	To be used for furniture as required during TH moves.
FINANCE	6A0019	SCHOOL FURNITURE UPGRADES	25,000	25,000	0	0	Complete.
TOWN CLERK	6E0018	DRE VOTING MACHINES	110,000	0	0	110,000	Town Clerk to purchase 3-5 machines. Balance to be closed out 6/30/07.
PLANNING	6C0029	COMPREHENSIVE PLAN/RECODI	12,478	12,478	0	0	Complete.
PLANNING	6E0022	STREETSCAPE/CIVIC SPACE	170,748	748	0	170,000	Bid in April. To be coordinated with Beacon St. project.
PLANNING	6T0034	GATEWAY EAST PROJECT	100,000	0	0	100,000	To be spent in 2007-2008 as part of the overall design work.
ITD	6A0005	DATA PROCESSING EQUIPMENT	385,422	164,067	24,015	197,341	On-going IT projects.
ITD	6A0021	HAND HELD INSPECTION EQUIPMENT	727	727	0	0	Complete.
ITD	6B0100	INSTRUCTIONAL TECHNOLOGY STUDY	8,500	8,500	0	0	Study complete.
POLICE	6E0042	BULLET PROOF VESTS	25,000	0	0	25,000	To be encumbered by 6/30/07.
FIRE	6E0010	FIRE LADDER TRUCK	890,000	872,628	3,007	13,516	Balance to be encumbered by 6/30/07.
FIRE	6E0017	REPL SELF-CONTAINED BREATHING	60,000	59,551	440	9	To be closed out 6/30/07.
FIRE	6E0023	FIRE TRAINING MODULE & EQUIPME	46,000	0	0	46,000	On hold until a decision is made on Fleet Maint. Shop facility.
FIRE	6E0030	FIRE ENGINE	636	636	0	0	Complete.
FIRE	6E0032	REPL FIRE TURN-OUT GEAR	135,000	0	0	135,000	Specifications for equipment being finalized.
FIRE	6E0044	FIRE APPARATUS REFURBISHING	250,000	36,673	2,996	210,331	To be used, in conjunction with funds requested in the FY08 CIP, to rehab Ladder #1.
BUILDING	6A0023	FIRE STA DIESEL EXHAUST SYSTEM	7,226	1,476	5,750	0	on-going contract.
BUILDING	6B0002	PUTTERHAM LIB ADA RENOVATIONS	50,000	0	0	50,000	To be re-appropriated in FY09 for HVAC project.
BUILDING	6B0004	FIRE STATION #5 WINDOWS	217,921	4,018	4,999	208,904	Consultant hired.
BUILDING	6B0005	TOWN/SCH BLDG SEC/LIFE SAFETY	191,607	120,065	53,213	18,329	on-going projects.
BUILDING	6B0006	PUTTERHAM LIBRARY FLOOR REPL	25,000	0	0	25,000	To be re-appropriated in FY09 for HVAC project.
BUILDING	6B0007	PUTTERHAM LIBRARY HVAC UPGRADE	323,500	16,000	15,600	291,900	To be undertaken in FY09, after the Assessor's, who will be temporarily housed at Putterham during Town Hall renovations, leave the facility.
BUILDING	6B0008	MUNICIPAL POOL REHAB	1,159,193	901,447	257,747	0	Contractor completing work.
BUILDING	6B0009	OLD LINCOLN SCH ELEVATOR	3,044	1,544	1,501	0	Waiting for invoice.
BUILDING	6B0011	TAPPAN ST GYM	35,284	0	0	35,284	Consultant hired.
BUILDING	6B0012	COOLIDGE CORNER LIB FACADE	425	213	213	0	Any unexpended balance to be closed out 9/1/07.
BUILDING	6B0013	WALDSTEIN BUILDING RENOVATIONS	12,000	0	0	12,000	Funding for renovation work pushed back to FY09 in Proposed CIP.
BUILDING	6B0020	TRAIN MEM PUBLIC HEALTH BLDG	260,291	89,814	38,194	132,284	Contractor completing work.
BUILDING	6B0046	DEVOTION SCH AUD-STUDY	9,172	0	0	9,172	Being re-appropriated as part of Proposed CIP.
BUILDING	6B0061	ASBESTOS REMOVAL	61,836	55,111	6,207	517	on-going projects.
BUILDING	6B0065	MAIN LIBRARY RENOVATIONS	12,066	1,274	10,775	17	To be closed out by 9/1/07.
BUILDING	6B0068	OLD LINCOLN SCHOOL REPAIR	290,000	192,653	75,303	22,044	on-going projects.
BUILDING	6B0086	PIERCE SCHOOL WIND/VENTIL	665,390	143,900	241,701	279,789	on-going projects.
BUILDING	6B0088	PUTTERHAM LIB FIRE ALARM	42,800	0	0	42,800	To be re-appropriated in FY09 for HVAC project.
BUILDING	6B0091	PIERCE SCHOOL IMPROVEMENT	209,640	15,091	53,015	141,534	on-going projects.
BUILDING	6B0092	SCHOOL BLDGS LIFE SAFETY	421,862	139,881	83,667	198,314	on-going projects.
BUILDING	6B0095	FIRE DEPT MOTOR VEH SHOP MOVE	92,948	13,300	4,700	74,948	Being re-appropriated as part of Proposed CIP.
BUILDING	6B0097	BHS REPAIRS	358,573	120,029	799	237,746	Funding for work pushed back to FY09 in Proposed CIP.
BUILDING	6B0098	LYNCH REC CTR WINDOWS/BOILERS	15,642	9,706	3,430	2,507	Any unexpended balance to be closed out by 6/30/07.
BUILDING	6B0099	PIERCE SCH HVAC/PAINT/CARPET	593	593	0	0	Project complete.
BUILDING	6B0101	EMERGENCY OPERATIONS CENTER	8,530	8,530	0	0	Project complete.
BUILDING	6B0102	FIRE TRAINING BUILDING IMP	90,898	0	0	90,898	On hold until decision made on Fleet Maint. Shop.
BUILDING	6B0103	COOLIDGE CORNER LIB FIRE ALARM	35,754	0	500	35,254	Consultant hired.
BUILDING	6B0104	COOLIDGE CORNER LIBRARY HVAC	17,823	9,601	5,400	2,822	Any unexpended balance to be closed out by 9/1/07.
BUILDING	6B0105	TOWN/SCH FACILITY ROOF REPAIR	275,000	0	0	275,000	Committee of Seven to be formed.

**Available Budget Report - Special Warrant Articles  
for Fiscal Year 2007  
as of 4/10/07**

<u>DEPT</u>	<u>ACCT #</u>	<u>PROJECT</u>	<u>BUDGET</u>	<u>YTD EXP.</u>	<u>YTD ENC.</u>	<u>AVAIL.</u>	<u>STATUS</u>
BUILDING	6B0106	STUDIES FOR RUNKLE/DEVOTION SC	200,000	0	0	200,000	Awaiting feedback on Statement of Interests from the Massachusetts School Building Authority (MSBA).
BUILDING	6B0107	TOWN HALL RENOVATIONS	950,000	19,122	114,926	815,951	Project underway.
BUILDING	6C0010	HANDICAPPED IMPROVEMENTS-ADA	77,656	62,520	4,801	10,336	on-going projects.
BUILDING	6C0026	DRISCOLL SCHOOL	217,230	162,701	14,746	39,783	Bathroom project to be undertaken during Summer.
BUILDING	6E0014	ENERGY CONSERVATION	204,385	48,571	28,870	126,943	on-going projects.
BUILDING	6E0015	FIRE STATION AIR CONDITIONERS	12,480	556	0	11,925	Being re-appropriated as part of Proposed CIP.
BUILDING	6E0016	TRASH COMPACTORS	40,634	39,180	1,455	0	Any unexpended balance to be closed out by 6/30/07.
BUILDING	6E0052	ENERGY MANAGEMENT SYSTEM	147,963	15,424	3,300	129,239	Bids being prepared.
DPW	6B0003	MAIN LIBRARY LANDSCAPING	100,000	0	0	100,000	Contract documents underway. Scheduled to go out to bid Spring 2007.
DPW	6B0031	SKATING RINK RENOVATIONS/IMPRO	130,000	130,000	0	0	Project complete.
DPW	6B0069	LINCOLN SCHOOL WALL	28,178	787	27,391	0	Project complete.
DPW	6B0074	TRANSFER STATION REHABILI	185,922	64,190	64,158	57,574	Design underway.
DPW	6C0011	TREE REMOVAL & REPLACEMEN	169,578	71,265	30,264	68,049	Tree planting contract to be awarded Spring 2007.
DPW	6E0040	BACKFLOW PREVENTOR VALVES	38,261	16,996	0	21,265	To be completed FY2008
DPW	6E0048	WATER SYSTEM HYDRAULIC ANALYSI	150,000	150,000	0	0	Project complete.
DPW	6H0003	PAVEMENT OF FIRE TRAINING AREA	30,000	0	0	30,000	To be coordinated with Fleet Maint Shop move.
DPW	6H0017	STREET/SIDEWALK REHABILIT	11,163	10,631	0	532	To be spent by 9/31/07.
DPW	6H0020	STREET LIGHTING REPLACEME	221,984	17,367	90,692	113,925	On-going projects.
DPW	6H0021	CARLETON STREET FOOTBRIDGE	90,000	0	0	90,000	TEP application filed. Awaiting additional information.
DPW	6H0022	SIDEWALK IMPROVEMENTS	214,442	110,595	100,660	3,187	On-going projects.
DPW	6H0025	CHESTNUT ST DRAIN/WILLOW POND	54,795	1,150	7,010	46,635	Waiting for the Muddy River project to remove the sediment.
DPW	6H0026	STREET REHABILITATION	2,054,976	995,578	549,258	510,139	On-going projects.
DPW	6H0028	COOLIDGE CORNER LIB DRIVEWAY	40,000	0	0	40,000	Overlay driveway 10/07.
DPW	6L0001	NEWTON ST LANDFILL SITE	1,205,587	500,290	705,297	0	Construction to be completed 10/07.
DPW	6P0003	AMORY FIELD IMPROVEMENTS	35,000	11,925	18,505	4,570	Design and construction documents in process.
DPW	6P0004	COOLIDGE PARK IMPROVEMENTS	3,044	3,044	0	0	Project complete.
DPW	6P0005	DANE PARK	224,979	720	0	224,259	Site survey and master planning process underway.
DPW	6P0006	LAWTON PLAYGROUND	349,908	249,371	78,167	22,370	Construction in process.
DPW	6P0007	LONGWOOD MALL	30,304	7,660	0	22,644	Preservation program in process.
DPW	6P0008	DOWNES FIELD TRACK	60,000	51,306	6,300	2,394	Track edge restoration in Spring 2007.
DPW	6P0015	RIVERWAY PARK IMPROVEMENT	86,369	0	0	86,369	Project on hold due to Muddy River Restoration Project.
DPW	6P0018	PLAYGROUND EQUIPMENT,FIELDS,FE	412,783	180,988	100,035	131,759	On-going projects.
DPW	6P0019	SOULE PLAYGROUND	350,000	184	349,816	0	Construction underway.
DPW	6P0021	PATHWAY RECONSTRUCTION	211,174	0	0	211,174	Rawson Path to be bid 8/07.
DPW	6P0022	OLMSTED PARK IMPROVEMENTS	49,471	0	0	49,471	Project on hold due to Muddy River Restoration Project.
DPW	6P0028	TENNIS/BASKETBALL COURT REHAB	191,184	38,164	23,131	129,889	On-going projects.
DPW	6P0030	AMORY WOODS SANCTUARY	898	898	0	0	Project complete.
DPW	6P0031	LARZ ANDERSON PARK	185,000	41	0	184,959	Project being repackaged and re-bid in Fall 2007.
DPW	6P0034	LOST POND CONSERVATION AR	48,997	0	0	48,997	Project being coordinated with Landfill closure.
DPW	6P0035	FORESTRY RESTORATION-CONS	43,100	43,100	0	0	Project complete.
DPW	6P0037	PHRAGMITES CONTROL-MUDDY	6,606	0	0	6,606	In process. Will partially fund Muddy River Restoration Project.
DPW	6P0040	WALNUT HILLS CEMETERY IMP	95,000	0	95,000	0	Entrance construction improvements scheduled for Spring 2007
DPW	6P0044	TOWN/SCHOOL GROUNDS REHAB	219,965	74,432	33,683	111,850	On-going projects.
DPW	6P0045	HEMLOCK TREE ASSESS/REMOV	35,872	4,529	2,988	28,356	Assessment and removals still in process.
DPW	6P0047	MUDDY RIVER REMEDIATION	1,400,100	0	0	1,400,100	Project in design phase.
DPW	6P0048	TREE & SHRUB MANAGEMENT	21,828	9,728	272	11,828	On-going projects.
DPW	6P0049	PARK LAND/OPEN SPACE MASTER PL	15,771	2,400	0	13,371	Planning underway for early action project.
DPW	6P0050	AMORY PARK ENVIRONMENTAL STUDY	27,385	0	0	27,385	In process as part of Amory Park.
DPW	6P0052	AMORY PLAYGROUND IMP	350,000	0	0	350,000	Construction scheduled for Spring 2007.
DPW	6P0053	FIELD IMP-DOWNES & LANDFILL	299,718	6,071	293,647	0	Construction scheduled for Spring 2007.

**Available Budget Report - Special Warrant Articles  
for Fiscal Year 2007  
as of 4/10/07**

<u>DEPT</u>	<u>ACCT #</u>	<u>PROJECT</u>	<u>BUDGET</u>	<u>YTD EXP.</u>	<u>YTD ENC.</u>	<u>AVAIL.</u>	<u>STATUS</u>
DPW	6P0054	PARK LIGHTING UPGRADE	150,000	34,245	2,454	113,301	Assessment and upgrade in process
DPW	6T0009	TRAF SIG-WASHINGTON-THAYE	19,935	19,935	0	0	Completed.
DPW	6T0014	TRAFFIC CALMING	601,727	383,920	55,138	162,669	On-going projects.
DPW	6T0016	TRAF SIG-INDEPENDENCE/BEVERLY	74,430	74,430	0	0	Completed.
DPW	6T0017	TRAF SIG STUDY/INSTALL-GROVE/A	91,131	90,780	0	351	Completed. Balance to be closed out 6/30/07.
DPW	6T0018	TRAF SIG-SOUTH/GROVE ST INTERS	119,921	119,921	0	0	Completed.
DPW	6T0019	NEWTON ST/W ROXBURY PKWY TRAF	147,900	0	0	147,900	100% plans and specs by 11/07.
DPW	6T0020	LONGWOOD/KENT TRAFFIC SIG	69,020	0	0	69,020	Masco completed upgrades. Other improvements to be evaluated by 10/07.
DPW	6T0024	PEDESTRIAN SIGNAL @ 61 PARK ST	3,945	0	3,945	0	Complete.
DPW	6T0026	MOUNTFORT ST TRAFFIC SIGNAL	134,668	3,390	11,278	120,000	25% design completed. 100% expected by 11/07.
DPW	6T0027	BKLN VILL PEDESTRIAN WALKWAY	861	861	0	0	Complete.
DPW	6T0029	STUDY/DES TRAF IMP-HJ/PUT CIRC	310	310	0	0	Study complete.
DPW	6T0030	MOD TRAF SIG-FIRE STATION 6	53,730	0	0	53,730	25% design completed. 100% expected by 11/07.
DPW	6T0031	MOD TRAF SIG-FIRE STATION 7	60,000	60,000	0	0	Complete.
DPW	6T0032	HORACE JAMES CIR TRAFFIC IMP	149,959	0	0	149,959	Coordinating with Chestnut Hill Sq. project.
DPW	6T0033	PEDESTRIAN ACCESS IMPROVEMENTS	45,000	0	0	45,000	Coordinating with Village Square project.
DPW	6T0035	WASH ST/SCHOOL ST/CYPRESS TRAF	103,000	0	0	103,000	Conceptual design to be completed 12/07.
DPW	6T0036	HARVARD ST/BABCOCK ST TRAFFIC	25,700	0	25,700	0	To be completed 11/07.
DPW	6W0003	WATER METER REPLACEMENT	150,000	0	0	150,000	On-going project to be completed in FY08.
LIBRARY	6E0012	LIBRARY SELF CHECK OUT UNITS	50,000	0	0	50,000	Being held awaiting decision on use of RFIP technology in FY09.
LIBRARY	6E0013	COOLIDGE CORNER LIB FURNISHING	28,909	21,611	945	6,353	To be spent by 9/1/07.
LIBRARY	6E0033	PUTTERHAM LIB FURNISHINGS	65,000	0	0	65,000	To be re-appropriated in FY09 for HVAC project.
<b>REPORT TOTAL:</b>			<b>20,805,489</b>	<b>6,966,802</b>	<b>3,743,679</b>	<b>10,083,881</b>	

---

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.

---

PETITIONER'S EXPLANATION

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

---

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. There are two unpaid bills before Town Meeting that total \$300 for stenographer services for the Zoning Board of Appeals (ZBA). The bills were not submitted to the Town Clerk's Office until July 5, 2006, after the close of FY06. The Town Clerk did not encumber these monies because he was not anticipating being responsible for paying for the services. The Selectmen have reviewed the bills and verified that they are valid obligations of the Town. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on March 27, on the vote offered by the Advisory Committee.

**ROLL CALL VOTE**

Favorable Action

Allen  
Merrill  
Hoy  
Daly

-----

---

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Unpaid bills of a prior year cannot be paid without the specific approval of Town Meeting. This article is placed in the warrant for every Town Meeting where such bills arise and are deemed legal obligations of the town.

DISCUSSION

For the fiscal year ending 6/30/2006 there was one unpaid bill that now needs Town Meeting approval for payment. This bill is for \$300 and represents payment for copies of transcriptions made of Zoning Board of Appeals Hearings held on May 18 and June 22 of 2006. The ZBA believed that, consistent with common practice, they would receive a free copy of the transcription or one paid for by the petitioner. The petitioner requested only a subset of the entire hearings document and would not pay for the remainder. The Town received a bill for a complete copy of the hearing document from the transcription service and negotiated the cost of the transcription down from \$750 to \$300. These negotiations were completed after June 30, 2006.

It should be noted that the expense was incurred and known before the books were closed for FY2006. As such, it should have been recorded as a payable on the FY2006 books.

RECOMMENDATION

This bill is a legal obligation of the Town for services rendered and received and should be paid.

The Advisory Committee, by a vote of 14-4-0 recommends FAVORABLE ACTION on the following:

VOTED: To authorize the payment of the following unpaid bill of a previous fiscal year from the FY2007 Selectmen budget:

Sidel Court Reporting Services	\$300.00
--------------------------------	----------

**XXX**

---

ARTICLE 6

---

SIXTH ARTICLE

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2008 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

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.

---

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 \$80,000 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	\$400	\$800
Veteran (loss of one hand, foot or eye)	22A	\$750	\$1,500
Veteran (loss of two hands, feet or eyes)	22B	\$1,250	\$2,500
Veteran (special housing)	22C	\$1,500	\$3,000
Veteran (certain widows of soldiers)	22D	\$250	\$500
Veteran (100% disability, cannot work)	22E	\$1,000	\$2,000
Blind	37A	\$500	\$1,000
Elderly	41C	\$500	\$1,000

The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0 taken on April 10, 2007, on the following vote:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2008 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  
Hoy  
Daly  
DeWitt

-----

**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 Chapter 59, Section 5 of the Massachusetts General Laws 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 require annual authorization and have been approved by Town Meeting each year since FY1989. It is hard to imagine the Town denying, for instance, disabled veterans and low-income elderly the additional small exemptions allowed under state law. The Assessor estimates that the cost for FY2008 will be approximately \$80,000 and has already built a reserve for this purpose in the FY2008 tax abatement overlay account.

**RECOMMENDATION**

The Advisory Committee, unanimously (14 in favor, none opposed, and two abstentions) 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 2008 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 2008 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, and fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with the option to purchase, or installment purchase of equipment; 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 53E½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F½, and as otherwise authorized; and provide for a reserve fund.

B.) Fiscal Year 2008 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$225,000, 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.
- 2.) Appropriate \$135,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the replacement of firefighter turnout gear.
- 3.) Appropriate \$200,000, 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.
- 4.) Appropriate \$90,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the rehabilitation of Fire Department apparatus.
- 5.) 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.
- 6.) Appropriate \$50,000, 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.
- 7.) 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.

- 8.) 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.
- 9.) Appropriate \$40,000, 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 Winthrop Square / Minot Rose Garden.
- 10.) 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.
- 11.) 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 and School grounds.
- 12.) 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.
- 13.) Appropriate \$230,000, 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 Trustees of the Walnut Hills Cemetery, for upgrades to the Walnut Hills Cemetery.
- 14.) Appropriate \$130,000, 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.
- 15.) Appropriate \$348,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the upgrade of the HVAC system and fire escape at the Soule Recreation Center.
- 16.) Appropriate \$25,000, 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.
- 17.) 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.
- 18.) 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.
- 19.) 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 a School Facilities Master Plan.

- 20.) 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 boiler replacement at the Baldwin School.
- 21.) Appropriate \$400,000, 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 portable classrooms.
- 22.) 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 rehabilitation of the interior of the Singletree Road water tank.
- 23.) Appropriate \$1,350,000, 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 the purchase of the State-owned reservoir at Fisher Hill and for making said location safe and accessible to the public.
- 24.) Appropriate \$15,950,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for remodeling, renovating, reconstruction or making extraordinary repairs to Town Hall.

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the 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 noted in this Article 7, or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

This is the annual appropriations article for FY2008. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the presentation of the Town Administrator's Financial Plan on March 6<sup>th</sup>. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Board of Selectmen. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

---

SELECTMEN'S RECOMMENDATION

The Board of Selectmen is in complete agreement with the Advisory Committee on the FY2008 Town Budget. At the outset of this Recommendation, the Selectmen would like to thank the Town Administrator and his staff, the Advisory Committee, the School Superintendent and his staff, and the School Committee for all of their efforts and collaboration toward dealing with this FY08 budget, by far the most challenging in more than a decade. Without the cooperation of all involved -- a trademark of Brookline -- we would not have made the progress we did on this difficult budget.

A number of changes have occurred since the Town Administrator's Financial Plan was presented on March 6, as a result of actions taken by both the Selectmen and the State Legislature. Those changes are reviewed in detail later in this Recommendation. The budget proposed by the Advisory Committee totals \$208,900,747, an increase of \$6,549,779 (3.2%). The table below details the entire FY2008 budget, including enterprise / revolving funds:

	FY2007	FY2008	INCREASE/DECREASE	
			\$	%
<b>REVENUE</b>				
General Fund Revenue	182,910,354	188,351,625	5,441,271	2.97%
Water and Sewer Enterprise Fund	22,154,743	22,879,534	724,791	3.27%
(less Water & Sewer Overhead included in General Fund Revenue)	(4,836,456)	(4,513,660)	322,796	-6.67%
Golf Enterprise Fund	1,222,128	1,253,168	31,039	2.54%
(less Golf Overhead included in General Fund Revenue)	(371,402)	(373,004)	(1,602)	0.43%
Recreation Revolving Fund	1,417,202	1,489,440	72,238	5.1%
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(145,602)	(186,355)	(40,753)	28.0%
<b>TOTAL REVENUE</b>	<b>202,350,968</b>	<b>208,900,747</b>	<b>6,549,779</b>	<b>3.2%</b>
<b>APPROPRIATIONS</b>				
General Fund Operating Budget	168,212,069	175,299,840	7,087,771	4.2%
Non-Appropriated Budget *	6,823,723	7,123,786	300,063	4.4%
<u>Free Cash-Supported / Revenue-Financed CIP Budget</u>	<u>7,874,562</u>	<u>5,928,000</u>	<u>(1,946,562)</u>	<u>-24.7%</u>
General Fund Total	182,910,354	188,351,626	5,441,272	3.0%
Water and Sewer Enterprise Fund	22,154,743	22,879,534	724,791	3.27%
(less Water & Sewer Overhead included in General Fund Revenue)	(4,836,456)	(4,513,660)	322,796	-6.67%
Golf Enterprise Fund	1,222,128	1,253,168	31,039	2.54%
(less Golf Overhead included in General Fund Revenue)	(371,402)	(373,004)	(1,602)	0.43%
Recreation Revolving Fund	1,417,202	1,489,440	72,238	5.1%
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(145,602)	(186,355)	(40,753)	28.0%
<b>TOTAL APPROPRIATIONS</b>	<b>202,350,968</b>	<b>208,900,747</b>	<b>6,549,779</b>	<b>3.2%</b>
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	

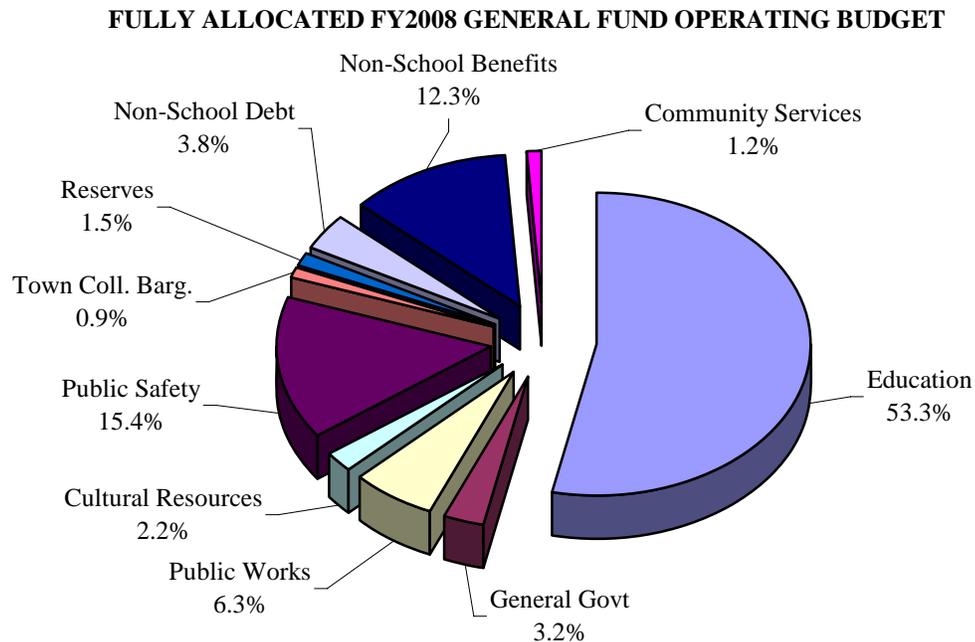
\* State and County Charges/Offsets, Overlay, Deficits/Judgments.

This budget recommendation includes a General Fund Operating Budget of \$175,299,840, which represents an increase of \$7,087,771 (4.2%); revenue-financed capital of \$5,928,000, enterprise / revolving funds of \$25,622,141 (gross); and unappropriated expenses of \$7,123,789. The table on the following page details the FY2008 General Fund revenues and expenditures:

	FY2007 BGT.	FY2008 BGT.	INCREASE/DECREASE	
			\$	%
<b>REVENUE</b>				
Property Tax	130,076,534	134,994,153	4,917,619	3.8%
Local Receipts	20,477,229	21,798,100	1,320,871	6.5%
State Aid	18,021,104	18,890,852	869,748	4.8%
Free Cash	5,387,435	3,814,792	(1,572,643)	-29.2%
Other Available Funds	8,948,052	8,853,729	(94,323)	-1.1%
<b>TOTAL REVENUE</b>	<b>182,910,354</b>	<b>188,351,626</b>	<b>5,441,271</b>	<b>3.0%</b>
<b>(LESS) NON-APPROPRIATED EXPENSES</b>				
State & County Charges	5,229,723	5,481,951	252,228	4.8%
Tax Abatement Overlay	1,451,262	1,500,000	48,738	3.4%
Deficits & Judgments	25,000	25,000	0	0.0%
Cherry Sheet Offsets	117,738	116,835	(903)	-0.8%
<b>TOTAL NON-APPROPRIATED EXPENSES</b>	<b>6,823,723</b>	<b>7,123,786</b>	<b>300,063</b>	<b>4.4%</b>
<b>AMOUNT AVAILABLE FOR APPROPRIATION</b>	<b>176,086,631</b>	<b>181,227,840</b>	<b>5,141,209</b>	<b>2.9%</b>
<b>APPROPRIATIONS</b>				
Town Departments	59,255,307	60,057,443	802,136	1.4%
School Department	60,096,385	62,480,009	2,383,624	4.0%
Non-Departmental Total	48,860,375	52,762,388	3,902,013	8.0%
General Fund Non-Departmental	43,506,915	47,689,369	4,182,454	9.6%
Water and Sewer Enterprise Fund Overhead *	4,836,456	4,513,660	(322,796)	-6.7%
Golf Enterprise Fund Overhead *	371,402	373,004	1,602	0.4%
Recreation Revolving Fund Overhead *	145,602	186,355	40,753	28.0%
<b>OPERATING BUDGET SUBTOTAL</b>	<b>168,212,068</b>	<b>175,299,840</b>	<b>7,087,773</b>	<b>4.2%</b>
Revenue-Financed Special Appropriations	7,874,562	5,928,000	(1,946,562)	-24.7%
<b>TOTAL APPROPRIATIONS</b>	<b>176,086,631</b>	<b>181,227,840</b>	<b>5,141,209</b>	<b>2.9%</b>
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	

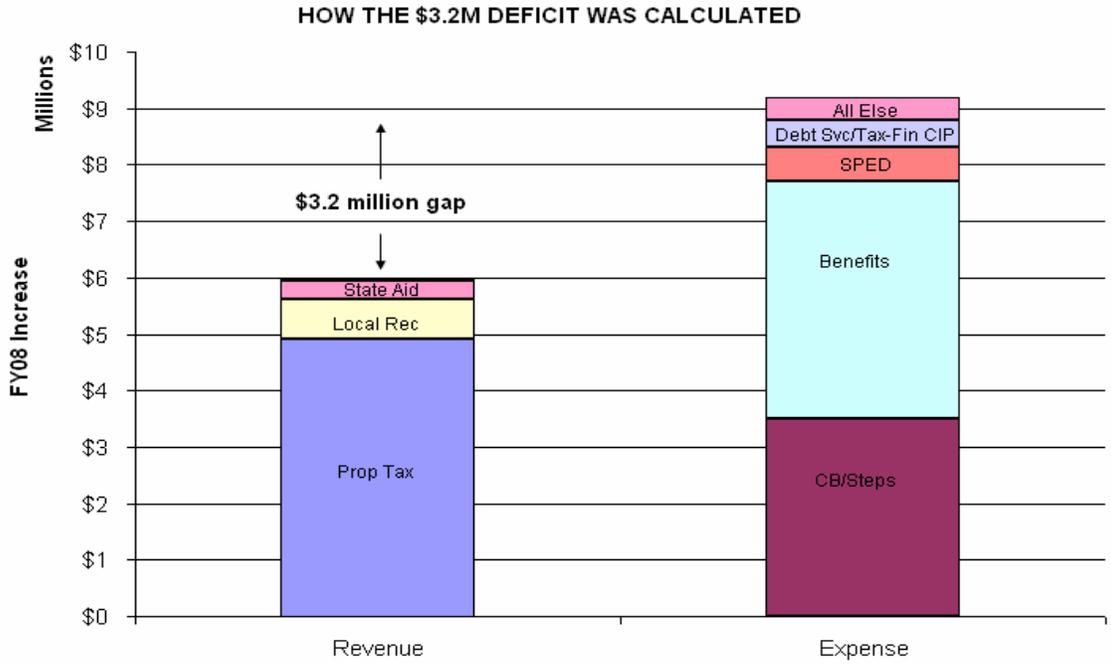
\* These Overhead figures match the Water and Sewer Enterprise Fund Reimbursement, Golf Enterprise Fund Reimbursement, and Recreation Revolving Fund Reimbursement revenue sources found under the "Other Available Funds" revenue category.

The fully-allocated \$175,299,840 General Fund Operating budget is broken out in the pie chart below:



### THE FY2008 CHALLENGE

After taking into account collective bargaining increases, fringe benefits, fixed costs, and estimated state assistance, the FY08 Financial Plan had to address the \$3.2 million deficit identified in the Long-Range Financial Projection, as presented to the Selectmen in December, 2006. The graph and table below summarize how the \$3.2 million forecasted deficit was calculated.



(in millions)	
Add'l Operating Revenue	\$6.0
less Town / School CB	\$2.5
less Town & School Steps / 0.5% Carry Fwd from FY07	\$1.0
less Benefit Increases	\$4.1
<b>Remaining Funds Available</b>	<b>(\$1.7)</b>
less Town Non-Personnel Increases for Maint. Budget	\$0.4
less School Non-Personnel Increases for Maint. Budget	\$0.9
less Non-Dept'al Increases	\$0.2
<b>Deficit</b>	<b>(\$3.2)</b>

In previous years, forecasted deficits could be resolved, for the most part, prior to the submittal of the Financial Plan. For FY08, unfortunately, this was not the case, as the cumulative effects of the mounting benefit and collective bargaining pressures required corrective actions too far-reaching to be carried out purely on an administrative basis.

This is the first cutback budget since the adoption of the 1994 Override. After the Override until FY02, Town budgets could sustain growth in education services, an expanded CIP to

address a backlog of capital needs, and the requirements of collective bargaining agreements with traditional public employee benefits. The combination of override revenue, unprecedented new growth in the tax levy, consecutive local aid increases, minimal inflation, declining school enrollments, and adherence to fiscal policies enabled the Town to target resources to meet specific needs. For example, both in FY00 and FY02 the school budget increased by more than 6%, and in FY02 Town funds were appropriated into the Affordable Housing Trust Fund for the first time ever.

Since the economic downturn earlier this decade, which resulted in a 28% local aid cut in FY03-04, Annual Financial Plans have increasingly reflected the struggle to sustain maintenance-of-effort budgets, a relatively fortunate position in comparison to the experience of other cities and towns. While other municipalities experienced either cutbacks and/or record property tax increases, Brookline educational and municipal services have been maintained in the face of skyrocketing fixed costs and slowing revenue growth. By 2004, a reported 14,000 municipal positions were eliminated statewide. Brookline to date has not been forced to lay off any certified teachers or sworn public safety personnel. And, since 2000, Brookline residential property tax bills have gone up 10 percentage points less than the statewide average.

It now appears that Brookline's ability to continue with even a maintenance-of-effort approach is coming to an end. We remain 19% below FY02 local aid levels adjusted for inflation. The effects of the slowdown in revenue growth have been compounded by five consecutive years of double-digit group health rate increases, incessant special education cost increases, unprecedented retirement benefit increases, skyrocketing fuel and construction prices, and unanticipated growth in kindergarten enrollment.

Employee benefits -- primarily health insurance and pensions -- have grown at rates well above the rate of inflation. Further complicating the budgetary pressures caused by benefits has been the rapid increase in the cost of energy. The table below shows how these two areas have consumed almost 18% more than the entire normal 2.5% allowable growth in the property tax levy since FY06.

	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>TOTAL</u>
Growth in Personnel Benefits	1,572,983	3,184,431	4,127,268	8,884,682
Growth in Utilities	1,108,531	1,223,180	(328,534)	2,003,177
Total	2,681,514	4,407,611	3,798,734	10,887,858
2.5% Growth in Prop. Tax Levy	2,954,709	3,084,730	3,211,590	9,251,030
<b>Growth in Bene's and Utilities as a % of 2.5% Growth in Property Tax Levy</b>	<b>90.8%</b>	<b>142.9%</b>	<b>118.3%</b>	<b>117.7%</b>

Between FY06-FY07, State Aid growth has totaled just 5.3%, or approximately \$915,000. The Town has had to increase revenues under its control (local receipts), encourage neighborhood-sensitive development to grow the tax levy above the allowable 2.5% increase, settle labor contracts within cost of living indices, otherwise absorb inflation in non-personnel accounts, defer the replacement of capital outlay, avoid increasing any services or

programs, and make outright budget cuts. Under the circumstances, attempting new programs has been rendered virtually impossible.

The Town continues to carry out reorganizations and to seek efficiencies to help offset the growth in benefits and utilities. Technology has helped immeasurably in the effort. In addition, the Town has followed its Fiscal Policies, which are reprinted in their entirety at the end of this Recommendation. Primary among them have been the following:

- CIP Financing Policies – adhering to these financing policies has enabled the Town to structure a debt management plan that has controlled the impact of debt service on the Operating Budget.
- Collective Bargaining Guidelines – labor contracts have, for the most part, fallen within the guidelines established by the Board of Selectmen. In instances where wage settlements exceeded guidelines, there were agreements with the unions to help offset the cost. For example when the unions agreed in 2004 to move to a single health insurance provider, some of these savings were negotiated with employee unions in the form of a higher wage increase.
- Position Freeze on Total Employees – a key factor in the Town’s ability to help mitigate the growth in fixed costs has been the position freeze on the Town side of the budget. With a few deliberate exceptions, the Town has followed this policy, helping to offset the pressure on the wage and benefit budgets. If employment levels had grown, the pressures brought on by health insurance and pensions would have been magnified. Somewhat related to this policy was the Town’s decision, on two separate occasions, to avoid adopting state-enabled Early Retirement Incentive Programs. Those programs, if not implemented carefully, only worsen unfunded pension liabilities.
- Use of Fee Cash – the Town’s policy on the use of Free Cash states clearly that it should be appropriated only for the CIP, strategic reserves, or other one-time uses. The Town has resisted the urge to use Free Cash as a stop-gap measure to plug Operating Budget deficits.

### **ORIGINAL DEFICIT CLOSURE PLAN**

As in the past, the anticipated budget shortfall was originally absorbed in accordance with the principles of the Town/School Partnership Agreement. Accordingly, the Town portion of the \$3.2 million deficit was \$1,251,031, as initially identified in the Forecast presented to the Selectmen. This deficit will be \$400,000 - 500,000 worse if wage adjustments for town employees turn out to be in 3% range as carried in the school budget. The Superintendent identified a shortfall of over \$2 million.

The table on the following page illustrates how the deficit in the Town (non-school) budget was originally addressed. First, there were \$203,571 in adjustments that reduced the deficit to \$1,047,460. The most significant change came in the area of utilities: the Chief Procurement Officer, in his lead role on behalf of a regional purchasing group, locked in February's downturn in oil prices. By soliciting quotes much earlier than usual, the positive bids received for fuel reduced estimated FY08 utility figures by \$193,806 for Town budgets. (These bids also reduced the school deficit by more than \$190,000.)

<b>Town Deficit per Forecast</b>	<b>(1,251,031)</b>
<b>Change in Health Insurance Rate Increase (Town Share)</b>	<b>(76,546)</b>
<b>Reduction in Utilities (Town Share)</b>	<b>(193,806)</b>
<b>Net State Aid Loss (Town Share)</b>	<b>66,781</b>
<b>Revised Town Deficit</b>	<b>(1,047,460)</b>
<b>Eliminate Certain Inflation/Maint. Growth</b>	<b>(25,125)</b>
<b>Additional Special Revenue Fund Transfer (to support Ceme.)</b>	<b>(50,000)</b>
<b>CIP Cutback (Town Share)</b>	<b>(210,000)</b>
<b>Departmental Budget Cuts</b>	<b>(762,335)</b>
<b>Surplus / (Deficit)</b>	<b>0</b>

To close the remaining shortfall of \$1,047,460, cuts were required. The approach to the cutbacks was guided by the following principles:

- Cutbacks were spread among departments to the extent feasible. Public safety, public works, human/leisure services, and general administration were all asked to absorb reductions.
- No single service was targeted for elimination, but several functions were significantly curtailed.
- Vacancies were identified for attrition, thereby avoiding layoffs for any permanent full-time personnel.
- Consistent with the approach of service curtailment as opposed to elimination, part-time positions, to the greatest extent possible, were reduced.
- To lessen the extent of reductions in the operating budget, the Capital Improvement Program (CIP) was proposed to be cut by \$420,000.

This approach was greatly facilitated by both the Hiring Freeze and a Town-designed Early Retirement Incentive Program<sup>1</sup>. These steps ensured the success of the strategy to reduce positions through the attrition of vacancies. By adopting the Hiring Freeze in December, vacancies were generated that could be reviewed for possible staff reductions. The Early Retirement Incentive Program (ERI) brought additional flexibility to bear in that of the seven positions that participated in the ERI, two have been included in the list of vacancies identified for attrition. Overall, the cost of the Early Retirement payments were well within existing appropriations, thereby not adding any costs to the budget and resulting in virtually no impact on the pension system itself.

As originally proposed in the Financial Plan, 13.9 town department positions were recommended for elimination from General Fund funding at a savings of \$580,781. Ten permanent positions (all currently vacant or to be vacant in FY08) were proposed to be eliminated altogether. Another was to be shifted onto the Recreation Revolving fund. In addition, several part-time slots equaling 2.9 FTE's were to be eliminated. Beyond personnel cutbacks, reductions were also proposed for capital outlay (\$134,554) and services/supplies

<sup>1</sup> The Early Retirement Incentive (ERI) Program that was implemented was not similar to the State-enabled ERI's that the Town rejected on two separate occasions. Those programs would have increased the unfunded pension liability. The ERI the Town utilized was far more limited and did not increase the unfunded liability.

(\$47,000). Below is a complete list by department of the originally proposed operating budget cuts:

DEPT	ITEM	FTE	AMT.	DEPT	ITEM	FTE	AMT.
Building	Capital		(25,500)	Health	Capital		(24,000)
	<b>Sub-Total Building</b>	<b>0.00</b>	<b>(25,500)</b>	Health	Intern	(0.14)	(3,000)
DPW	Laborer (LN-1)	(1.00)	(37,885)	Health	Mental Health Contract		(10,000)
DPW	Park Maint. Craftsman (LN-3)	(1.00)	(41,779)	Health	Misc Svcs/Supp		(7,000)
DPW	Civil Engineer III (EN-3)	(1.00)	(58,192)		<b>Sub-Total Health &amp; Human Svcs</b>	<b>(0.14)</b>	<b>(44,000)</b>
DPW	Seasonals - Park	(0.70)	(16,546)	ITD	Consulting		(20,000)
DPW	Engineering Coop Student Intern	(0.36)	(11,000)	ITD	Training		(5,000)
DPW	Pest Control Svcs		(5,000)		<b>Sub-Total ITD</b>	<b>0.00</b>	<b>(25,000)</b>
	<b>Sub-Total DPW</b>	<b>(4.06)</b>	<b>(170,402)</b>	Library	Library Assistant II	(1.00)	(36,346)
Econ. Devel. Intern		(0.50)	(12,000)		<b>Sub-Total Library</b>	<b>(1.00)</b>	<b>(36,346)</b>
	<b>Sub-Total Econ Devel</b>	<b>(0.50)</b>	<b>(12,000)</b>	Police	2 Police Officers	(2.00)	(113,355)
Purchasing	Telephone Operator (C-4)	(1.00)	(24,229)	Police	Capital		(68,054)
	<b>Sub-Total Finance</b>	<b>(1.00)</b>	<b>(24,229)</b>	Police	TPT Clerical Workers	(1.20)	(26,155)
Fire	2 Firefighters (Apparatus Out-of-Service)	(2.00)	(101,411)		<b>Sub-Total Police</b>	<b>(3.20)</b>	<b>(207,563)</b>
Fire	Capital		(17,000)	Recreation	Recreation Supervisor I (T-6)	(1.00)	(61,441)
	<b>Sub-Total Fire</b>	<b>(2.00)</b>	<b>(118,411)</b>	Recreation	Locker Attendent	(1.00)	(37,443)
					<b>Sub-Total Recreation</b>	<b>(2.00)</b>	<b>(98,884)</b>
					<b>TOTAL</b>	<b>(13.90)</b>	<b>(762,335)</b>

Finally, pay-as-you-go CIP was reduced by \$420,000 on a one-time basis. Complying with the Town/School Partnership results in the schools and town each receiving 50% of the operating budget relief from that recommendation, or \$210,000 respectively. The \$420,000 reduction, in effect, reduced the capital budget from 5.5% of revenue to 5.25% of prior year's net revenue. The four projects scheduled to be deferred in FY08 are:

- Larz Anderson Park (\$100,000) - Roadway resurfacing, entrance lighting, structural and historical renovation of walls.
- Pathway Reconstruction (\$110,000) - Replacement/repair of stairs at Summit Path.
- Parking Lot Rehab (\$115,000) - Rehabilitation of the Babcock Street and School Street parking lots.
- Waldstein Building Renovations (\$120,000) - New windows, doors, electrical fixtures, roof and plumbing fixtures.

### MITIGATION PLAN

In order to help offset the above detailed budget cuts, the Town Administrator laid out a Mitigation Plan that included revamping the plan design of employee health insurance plans to save at least \$1 million and adopting increased fees and fines. On March 27, the Selectmen held a public hearing on the Town Administrator's revenue proposals and approved the following:

- Parking Fees / Fines – a total of \$166,000 was generated by increasing a number of fees and fines that the Transportation Board had recommended. Various parking

finest were increased<sup>2</sup> along with increases to the commercial parking permit program and to the fee for parking signs.

- Meter Rates – a total of \$620,000 was generated by increasing all of the non-10 hour meters from 50¢ / hour to 75¢ / hour effective July 1, 2007, except for those in Coolidge Corner, which will increase by no later than the end of October. All of the 10-hour meters were increased from 25¢ / hour to 50¢ / hour effective July 1, 2007, except for those 10-hour meters along Chapel St. and Brookline Ave, which will go to 75¢ / hour.
- Refuse Fee – the residential refuse fee was increased from \$165 / year to \$200 / year, resulting in an additional \$445,000.

This \$1,231,000 was split \$525,000 for the Town budget and \$706,000 for the School budget. With the \$525,000, the Selectmen approved the restoration of the two police officer and two firefighter positions that were to be cut (\$225,000) and added \$300,000 to the Building Department's repair and maintenance account, with \$100,000 earmarked for school buildings. The capacity of this account, which has been level funded since the 1994 Override, has been eroded by inflation over time. Significant shortfalls this year are being covered by balances in other Building Department accounts, and a Reserve Fund transfer could be required. The table on the following page illustrates the impact cost increases for annual service contracts such as elevator and fire safety services have had on the overall allocation of the budget for Town buildings. The need is just as great for the Schools. The result of price increases for such items has seriously limited the ability of the Department to provide a preventative maintenance program that is consistent with the on-going need. Unscheduled repairs in our widespread and heavily used public facilities have also become increasingly challenging.

### **Building Maintenance Impact of Level Funding-Town**

	<b>FY00</b>	<b>FY08</b>	<b>%Change</b>
<b><u>Annual service contracts</u></b>			
Burner/boiler service	34,500	56,000	62%
Painting/Glazing service	19,500	9,500	-51%
Hvac/Pneumatic/Generator service	30,500	103,500	239%
Elevator service	11,500	47,000	309%
Fire safety service	12,500	43,500	248%
Electrical & Plumbing service	37,500	60,000	60%
Interior/Exterior general	67,000	80,500	20%
	<b>213,000</b>	<b>400,000</b>	<b>88%</b>
<b><u>Repairs</u></b>	<b>187,000</b>	<b>0</b>	<b>-100%</b>
<b>TOTAL</b>	<b>400,000</b>	<b>400,000</b>	<b>(0)</b>

While the unions have yet to agree to group health plan design changes, coming to an agreement is still critical if the Town is to escape the retrenchment budget environment in

<sup>2</sup> Neither the increase in the 2-hour parking fine from \$15 to \$30 nor the \$25 residential permit parking fee were part of this package. Those items are still under review by the Board of Selectmen.

which we find ourselves. Last Summer the Town sought proposals from the area's leading group health insurers to revamp Town health benefits to mirror the comparable program offered by the state's Group Insurance Commission (GIC), which covers over 200,000 state and regional employees. A bill has been filed in the current legislative session to allow municipalities to opt into the GIC. However, last year Town employees expressed visible opposition to home rule legislation that would have provided this option directly to Brookline. Further, the earliest any community could opt into the GIC is July, 2008 and only if the bill is enacted in the next few months. Otherwise, municipalities will not be able to exercise the GIC option until July, 2009, provided that their unions agree.

The proposal received from Blue Cross Blue Shield could yield \$1.9 million in premium savings, if fully implemented. Of these savings, \$1.425 million (75%) would accrue to the Town budget and \$475,000 (25%) would be realized by the employees. Plan co-pays would be increased in the following manner:

	<b>CURRENT</b>	<b>PROPOSED</b>	<b>SAVINGS</b>
Office Visits	\$5	\$15	\$496,099
Emergency Room	\$25	\$50	\$22,550
Prescriptions	\$5, \$10	\$10, \$20, \$45 (2 months co-pay)	\$631,399
Outpatient Surgery	N/A	\$75 /procedure	\$248,049
In-patient Admission	N/A	\$500	\$473,549

These changes were reviewed in detail by the Town's employee Health Insurance Advisory Committee between August and December. That Committee is comprised of union leadership and per its statutory provisions is purely advisory in nature. Last November the unions wrote to the Town that they opposed the proposed changes and that they would insist that any negotiations about the changes be conducted through what is called coalition bargaining. Coalition bargaining is a collective negotiation process authorized by state statute for group health negotiations only.

Municipalities have generally been reluctant to engage in coalition bargaining. Although the coalition bargaining option has been available for approximately 15 years, only about a dozen communities have reached agreements through this approach. Among the principle reasons for municipal reluctance is that coalition bargaining actually expands bargaining rights. In addition, coalition bargaining is also extremely difficult to conclude given that decisions require 70% union approval, including any decision to terminate coalition bargaining and revert to traditional bargaining.

Despite considerable reluctance about coalition bargaining, the Board of Selectmen authorized the Town Administration to engage in coalition bargaining for a period of 90 days in an attempt to avoid an impasse over the method of negotiations creating an obstacle to negotiating the substance of the group health proposal themselves. The Selectmen have agreed to a slight extension of time to the 90-day period, but a settlement has not been reached. If an agreement cannot be concluded, the parties will return to traditional negotiations in order to fulfill bargaining obligations.

## STATE BUDGET

In addition to the increased revenue generated by the Selectmen's votes to increase certain fees / fines, the Legislature adopted a Local Aid Resolution that resulted in Brookline receiving an additional \$563,998 in Local Aid beyond the amount provided in the Governor's budget<sup>3</sup>. This much-welcomed development was due to (1) the Legislature using a different formula for the allocation of Chapter 70 funds and (b) recommending \$20 million more in Chapter 70 funding than the Governor proposed in his budget. The Selectmen recommended that the \$563,998 be split \$363,998 to the Schools and \$200,000 for the Town. The recommended use for the Town's \$200,000 were repair and maintenance of School facilities (\$100,000) and deposits into the Worker's Comp Trust Fund (\$50,000) and the Public Safety Injured on Duty (IOD) Medical Expenses Trust Fund (\$50,000).

The Selectmen understand the desire of some to use the Town's \$200,000 for funding accounts that had not been fully restored. However, doing so would be short-sighted, as the FY09 budget stands to be even more challenging than the FY08 budget has been. Even if any of the proposed cuts in DPW, the Library, or the Recreation Department were to be restored, the likelihood is that those positions will remain unfilled as the Town begins to plan for the FY09 budget.

In addition to more local aid, another positive outcome of the state budget process to date was the inclusion of Debt Relief Assistance for the Massachusetts Water Resources Authority (MWRA). This line-item in the state budget directly impacts Brookline, as it purchases its water from the MWRA and the debt relief helps to hold down the increase in their costs. The estimates used to build the FY08 financial plan used the figures the MWRA had at the time, and those figures did not assume any debt relief assistance from the State. As a result, the enterprise fund budget for water and sewer can be reduced by more than \$1 million.

### SUMMARY OF CHANGES SINCE THE PUBLICATION OF FINANCIAL PLAN

As detailed above, since the presentation of the Financial Plan to the Board on March 6, a combination of actions taken by the Selectmen and the State Legislature have resulted in a set of changes to the Operating Budget that have reduced proposed budget cuts. The table on the following page summarizes where additional revenue has come from and where it has been allocated.

---

<sup>3</sup> It should be noted that a final State budget has yet to be approved. However, since the Legislature has agreed on the amount of Local Aid via the Local Aid Resolution, the figures we now have for Brookline will be the numbers included in the final State budget unless the Governor vetoes the Legislature's plan.

<b>ADDITIONAL REVENUE</b>			
	<u>Town</u>	<u>School</u>	<u>Total</u>
Add'l Local Receipts	\$525,000	\$706,000	\$1,231,000
Add'l State Aid	\$200,000	\$363,998	\$563,998
<b>Total</b>	<b>\$725,000</b>	<b>\$1,069,998</b>	<b>\$1,794,998</b>

<b>ALLOCATION OF TOWN'S SHARE OF REVENUE</b>	
Add'l Local Receipts	
Restore 2 Police Officers and 2 Firefighters	\$225,000
Incr in Bldg Dept Repair & Maint accounts	\$300,000
	\$525,000
Add'l State Aid	
Incr in Bldg Dept Repair & Maint accounts	\$100,000
Incr in Worker's Comp Trust Fund approp.	\$50,000
Incr in PubSaf IOD Med. Exp. Trust Fund approp.	\$50,000
	\$200,000

The result of the changes is a year-over-year increase of 4% in the appropriation for the School Department. When benefits and the School portion of the Building Department budget are included, the total growth in resources available for School purposes is 5.9%. On the Town side, the increase, less the School portion of the Building Department budget and including benefits, the increase is 3.8%.

<b>SCHOOL</b>				
	<u>FY07</u>	<u>FY08</u>	<u>\$ Change</u>	<u>% Change</u>
Appropriation	60,096,385	62,480,009	2,383,624	4.0%
Pers Benefits	12,867,218	14,780,593	1,913,375	14.9%
Bldg Dept Exp's	<u>4,195,289</u>	<u>4,426,528</u>	<u>231,240</u>	<u>5.5%</u>
<b>TOTAL</b>	<b>77,158,892</b>	<b>81,687,130</b>	<b>4,528,238</b>	<b>5.9%</b>

<b>TOWN</b>				
	<u>FY07</u>	<u>FY08</u>	<u>\$ Change</u>	<u>% Change</u>
Town Dept's	59,255,307	60,057,443	802,136	1.4%
<u>Less Sch Dept Exp in Bldg Bgt</u>	<u>(4,195,289)</u>	<u>(4,426,528)</u>		
Net Town Dept's	55,060,019	55,630,915	570,896	1.0%
Pers Benefits	19,040,900	21,284,731	2,243,831	11.8%
<b>TOTAL</b>	<b>74,100,919</b>	<b>76,915,646</b>	<b>2,814,727</b>	<b>3.8%</b>

Also as detailed above, the Water and Sewer Enterprise Fund has been changed since the publication of the Financial Plan. The primary change is a \$1 million decrease in Intergovernmental, which reflects the revised assessment from the MWRA. In addition, the original proposal to move to monthly billing has not been approved, so the costs associated with that proposal have been removed from the services category (for postage and billing).

The table below compares the Water and Sewer Enterprise Fund as proposed in the Financial Plan to the amount recommended in the budget vote.

	AS IN FIN. PLAN	FINAL TO TOWN MTG.
Personnel	2,200,116	2,200,116
Services	360,560	306,560
Supplies	158,989	168,989
Other	3,600	3,600
Capital	324,800	324,800
Intergovernmental	16,136,886	15,134,843
Intragovernmental Reimbursement	4,513,660	4,513,660
Reserve	<u>236,986</u>	<u>226,966</u>
<b>TOTAL</b>	<b>23,935,597</b>	<b>22,879,534</b>

### **CAPITAL IMPROVEMENT PROGRAM (CIP)**

Since the 1994 override, the Town has made a significant commitment to its CIP to address the backlog of capital needs created by the under-investment in infrastructure during the late-1970's and the 1980's. During this period, the Town has invested \$255 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 FY08 – FY13 CIP continues the Town's comprehensive approach toward maintaining and improving the Town's physical assets. Developed within the parameters of the Board of Selectmen's CIP Policies, the proposed CIP incorporates a number of major projects along with a financing plan that includes outside funding sources and grant opportunities. One key fact that has been addressed previously in this Recommendation is deviation from the standing policy that 5.5% of the prior year's net revenue be allocated to the CIP. For FY08 only, it is being recommended to reduce the CIP by shifting \$420,000 to the Operating Budget, thereby helping to reduce cuts to departmental budgets. This effectively reduces the allocation to 5.25%.

The recommended CIP calls for an investment of \$146.5 million over the next six years, for an average of \$24.4 million per year. Section VI of the Financial Plan provides an in-depth discussion of the CIP and how it relates to and impacts the Operating Budget.

The most significant challenge in the preparation of the CIP was complying with the Town's CIP Financing Policies while funding major facility rehab projects in a difficult bid environment (e.g., Town Hall), coupled with the uncertainty surrounding School Building Assistance (SBA) funding by the State. Further complicating this challenge was the need to fund new requests, such as modular classrooms to help address the increase in Kindergarten enrollment. Lastly, Free Cash available for FY08 will be less than the amount planned for FY08 in the FY07 – FY12 CIP. The level of Free Cash has also been reduced in each of the "out-years". These factors have placed such a burden on the CIP that some projects carried in last year's CIP have had to be reduced (e.g., traffic calming, technology applications), delayed (e.g., Warren Field / Playground), or cancelled (e.g., tree/shrub management, small green open spaces). In addition, a number of new projects requested by departments for the

out-years could not be included in this CIP. Overall, although the proposed CIP is fundamentally and financially sound, it is “tight”.

Major projects in the proposed CIP include:

- Devotion School - \$27.65 million of Town funding plus the possibility of \$27.7 million of State funding in FY10-FY13 for feasibility, design, and construction.
- Town Hall - \$15.95 million in FY08.
- Runkle School - \$13.2 million of Town funding plus the possibility of \$13.2 million of State funding in FY09-FY10 for design and construction.
- Newton St. Landfill - \$3.8 million in FY10 to complete the closure of the rear landfill.
- Fisher Hill Reservoir Re-Use - \$4.6 million in FY08-FY09, of which \$3.25 million comes from outside funding.
- High School projects - \$4 million in FY09 for roof, pointing, floors, and the Tappan St. Gym windows.
- Village Square - \$2 million in FY09, funded primarily with outside funding (i.e., CDBG and state/federal grants).
- Baldwin School - \$2 million in FY13 for HVAC, electrical, elevator, windows, and ADA.
- UAB - \$1.4 million in FY11-FY12 for roof, chimney pointing, and gutters / downspouts.
- Parking Meters - \$1.3 million in FY10.

There are six key issues going forward that could significantly alter the CIP in future years:

- Town Hall bids – as of the writing of this Recommendation, the construction estimate is \$13.9 million. Bids will be received prior to the commencement of Town Meeting. If they come in substantially above budget, that could negatively impact the CIP.
- SBA funding for Runkle and Devotion Schools – the CIP assumes 50% State funding for both the Runkle and Devotion Schools. If the new School Building Authority does not award either school a grant, then the Town will be forced with some combination of the following: scale back the project(s), seek a debt exclusion(s), and / or dramatically reconfigure the CIP.
- Construction costs – the cost of capital projects have escalated due, in large part, to the upward trend in utility costs. The CIP is based upon best estimates for projects and assume a certain level of inflation. If the cost of construction escalates faster, then the costs contained in the CIP will need to be revised accordingly.
- Newton St. Landfill Corrective Action – this issue could be of such significant magnitude that dramatic changes to the CIP could occur.
- Future Free Cash levels – Free Cash available for FY08 was the lowest figure since FY95 and is the result of tighter budgets and more aggressive budgeting of local receipts. If Free Cash falls below the estimates for FY09 – FY13 (\$3.75M / year), then adjustments to the CIP would have to be made.

- Further cuts to CIP funding level – some have posited the idea of permanently reducing the level of funding for the CIP to something less than the current 5.5%. Before any such changes are considered, the ramifications of such an action need to be fully understood. Simply put, a reduction in CIP funding means that some projects currently planned for would have to be eliminated and / or pushed back to later years.

## **LONG-RANGE FINANCIAL PROJECTION**

The cornerstone of the Town budgeting process is the Long-Range Financial Projection, often referred to as “the Forecast”. It is essential that a government have a financial planning process that assesses long-term financial implications of current and proposed policies, programs, and assumptions that develop appropriate strategies to achieve its goals. The Forecast also acts as a bridge between a municipality’s annual operating budget and its capital improvement program, bringing all of the fiscal policy and economic variables together to establish coordinated managerial direction. Revenue and expenditure forecasting, along with capital planning and debt management, are key elements in developing a strong municipal fiscal position.

Prepared annually, the five-year Forecast serves as the starting point for the ensuing budget year - - and also enables decision makers, taxpayers, and employees to garner an understanding of the long-term financial challenges the Town faces. In late-November / early-December, the Deputy Town Administrator and the Director of Finance present the Forecast to the Board of Selectmen. This presentation is the culmination of months of work for those two individuals, work involving the analysis of hundreds of revenue and expenditure line-items, making assumptions about economic conditions, and understanding state budget conditions.

The FY08 – FY12 Long Range Financial Projection for the General Fund makes the following key assumptions:

- \$1.75 million of New Growth in the Property Tax levy each year.
- No growth in the Lottery and minimal Chapter 70 funding (\$50/pupil) for “above foundation” communities.
- A 2% wage increase for each year for municipal unions. For the Schools, the approved contract figures are used (3% in FY08 and a base increase of 3% in FY09). In addition, the 4.5% in FY09 for the lengthened school day is assumed.
- Inflation in most Services, Supplies, and Capital Outlay accounts of 1.5% - 2.5% (approximately \$195,000 per year for the schools and \$250,000 for town departments).
- Annual utility increases of \$100,000.
- Annual SPED growth of \$600,000 - \$700,000.
- Enrollment growth cost increases of approximately \$150,000 per year.
- Step increases in the School Department of \$450,000 - \$500,000 per year and \$125,000 per year for Town Departments.
- Health insurance rate increases of 10% (FY09), 9% (FY10), 8% (FY11), and 7% (FY12).
- Additional enrollment in the health insurance program of 65 per year.
- A Pension appropriation based on the funding schedule approved by PERAC.
- Debt Service and pay-as-you-go CIP that reflects current CIP Policies.

These assumptions create an escalating deficit position for FY09 and beyond, starting at \$5.6 million in FY09 and reaching \$13.3 million by FY12. The Long Range Financial Projection is detailed starting below:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
<b>REVENUE</b>					
<b>Property Taxes</b>	<b>134,994,153</b>	<b>140,052,976</b>	<b>145,240,124</b>	<b>150,553,427</b>	<b>155,924,875</b>
<b>Local Receipts</b>	<b>21,798,100</b>	<b>21,991,751</b>	<b>22,194,213</b>	<b>22,372,116</b>	<b>22,553,784</b>
Motor Vehicle Excise (MVE)	5,350,000	5,403,500	5,457,535	5,512,110	5,567,231
Licenses & Permits	839,300	839,300	839,300	839,300	839,300
Parking / Court Fines	4,025,000	4,025,000	4,025,000	4,025,000	4,025,000
General Government	3,172,000	3,204,750	3,242,974	3,253,217	3,263,717
Interest Income	2,719,000	2,774,975	2,832,109	2,890,427	2,949,953
PILOT's	648,800	651,376	654,004	656,684	659,417
Refuse Fee	2,595,000	2,595,000	2,595,000	2,595,000	2,595,000
Departmental & Other	2,449,000	2,497,850	2,548,291	2,600,378	2,654,165
<b>State Aid</b>	<b>18,890,852</b>	<b>19,208,046</b>	<b>19,525,671</b>	<b>19,843,736</b>	<b>20,162,253</b>
General Government Aid	8,636,982	8,654,176	8,671,801	8,689,866	8,708,383
School Aid	10,110,608	10,410,608	10,710,608	11,010,608	11,310,608
Tax Abatement Aid	26,427	26,427	26,427	26,427	26,427
Offset Aid	116,835	116,835	116,835	116,835	116,835
<b>Other Available Funds</b>	<b>8,853,729</b>	<b>7,777,236</b>	<b>7,838,550</b>	<b>7,901,609</b>	<b>7,928,754</b>
Parking Meter Receipts	2,620,000	2,500,000	2,500,000	2,500,000	2,500,000
Walnut Hill Cemetery Fund	100,000	50,000	50,000	50,000	50,000
State Aid for Libraries	41,555	41,555	41,555	41,555	41,555
Reimb./Pymts from Enterprise Funds	4,886,664	4,986,734	5,035,626	5,086,606	5,100,928
Reimb. from Rec Revolving Fund	186,355	198,948	211,368	223,448	236,271
Tax Abatement Reserve Surplus	850,000	0	0	0	0
Capital Project Surplus	169,155	0	0	0	0
<b>Free Cash</b>	<b>3,814,792</b>	<b>3,750,000</b>	<b>3,750,000</b>	<b>3,750,000</b>	<b>3,750,000</b>
Capital Improvements	2,891,385	3,011,873	3,129,015	3,159,161	3,197,017
Operating Budget Reserve	418,778	437,062	450,493	464,551	478,868
Strategic Reserves	504,629	301,065	170,492	126,289	74,115
<b>TOTAL REVENUE</b>	<b>188,351,626</b>	<b>192,780,009</b>	<b>198,548,557</b>	<b>204,420,887</b>	<b>210,319,665</b>
<b>\$\$ Increase</b>	<b>5,441,271</b>	<b>4,428,384</b>	<b>5,768,548</b>	<b>5,872,330</b>	<b>5,898,778</b>
<b>% Increase</b>	<b>3.0%</b>	<b>2.4%</b>	<b>3.0%</b>	<b>3.0%</b>	<b>2.9%</b>

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
<b>EXPENDITURES</b>					
<b>Departmental</b>	<b>59,057,443</b>	<b>60,296,800</b>	<b>61,702,766</b>	<b>63,315,506</b>	<b>64,855,189</b>
<b>Collective Bargaining - Town</b>	<b>1,000,000</b>	<b>1,010,000</b>	<b>1,010,000</b>	<b>1,030,000</b>	<b>1,050,000</b>
<b>Schools</b>	<b>60,960,009</b>	<b>63,922,009</b>	<b>69,277,009</b>	<b>71,945,009</b>	<b>74,636,009</b>
<b>Collective Bargaining - School</b>	<b>1,520,000</b>	<b>3,910,000</b>	<b>1,170,000</b>	<b>1,190,000</b>	<b>1,220,000</b>
<b>Non-Departmental - Benefits</b>	<b>36,315,325</b>	<b>39,675,855</b>	<b>43,302,052</b>	<b>46,980,875</b>	<b>50,784,254</b>
Pensions	11,277,159	11,728,303	12,200,083	12,640,087	13,179,391
Group Health	21,585,166	24,417,677	27,440,452	30,550,356	33,693,211
EAP	25,000	25,000	25,000	30,000	30,000
Group Life	161,000	161,000	176,091	180,494	185,006
Disability Insurance	16,000	16,000	16,000	16,000	16,000
Workers' Compensation	1,600,000	1,617,500	1,638,375	1,662,794	1,690,933
Public Safety IOD Medical Expenses	250,000	250,000	250,000	250,000	250,000
Unemployment Compensation	166,000	135,000	140,000	140,000	140,000
Medical Disabilities	30,000	30,000	30,000	35,000	35,000
Medicare Coverage	1,205,000	1,295,375	1,386,051	1,476,145	1,564,713
<b>Non-Departmental - General</b>	<b>719,041</b>	<b>593,376</b>	<b>548,471</b>	<b>587,980</b>	<b>622,869</b>
Liability/Catastrophe Fund	254,629	27,071	5,646	6,677	6,167
Stabilization Fund	0	73,994	14,847	19,612	17,948
General Insurance	276,175	303,792	334,172	367,589	404,348
Audit/Management Services	138,987	138,987	143,987	143,987	143,987
Misc.	49,251	49,532	49,820	50,116	50,419
<b>Non-Departmental - Debt Service</b>	<b>14,052,910</b>	<b>15,370,532</b>	<b>15,782,816</b>	<b>17,005,809</b>	<b>16,234,477</b>
<b>Non-Departmental - Reserve Fund</b>	<b>1,675,113</b>	<b>1,748,249</b>	<b>1,801,972</b>	<b>1,858,203</b>	<b>1,915,471</b>
Tax Supported	1,256,335	1,311,187	1,351,479	1,393,653	1,436,604
Free Cash Supported	418,778	437,062	450,493	464,551	478,868
<b>Special Appropriations</b>	<b>5,928,000</b>	<b>4,574,819</b>	<b>4,571,332</b>	<b>3,633,465</b>	<b>4,559,570</b>
Tax Supported	2,017,460	1,562,946	1,442,317	474,304	1,362,553
Free Cash Supported	2,891,385	3,011,873	3,129,015	3,159,161	3,197,017
Overlay Supported	850,000	0	0	0	0
Capital Project Surplus	169,155	0	0	0	0
<b>Non-Appropriated</b>	<b>7,123,786</b>	<b>7,290,658</b>	<b>7,461,702</b>	<b>7,637,021</b>	<b>7,816,724</b>
State Assessments	5,481,951	5,611,323	5,743,929	5,879,851	6,019,170
Cherry Sheet Offsets	116,835	116,835	116,835	116,835	116,835
Overlay	1,500,000	1,537,500	1,575,938	1,615,336	1,655,719
Tax Titles - Deficits/Judgements	25,000	25,000	25,000	25,000	25,000
<b>TOTAL EXPENDITURES</b>	<b>188,351,626</b>	<b>198,392,298</b>	<b>206,628,120</b>	<b>215,183,869</b>	<b>223,694,563</b>
\$\$ Increase	5,441,271	10,040,672	8,235,821	8,555,749	8,510,695
% Increase	3.0%	5.3%	4.2%	4.1%	4.0%

<b>CUMULATIVE SURPLUS/(DEFICIT)</b>	<b>(5,612,289)</b>	<b>(8,079,563)</b>	<b>(10,762,981)</b>	<b>(13,374,898)</b>
<b>DEFICIT AS A % OF OP REV</b>	<b>-3.0%</b>	<b>-4.1%</b>	<b>-5.4%</b>	<b>-6.5%</b>

Surplus / (Deficit) Prior to Collective Bargaining	2,520,000	(692,287)	(5,899,563)	(8,542,981)	(11,104,898)
Town Share of Surplus / (Deficit)	1,000,000	19,830	(691,805)	(1,552,638)	(1,423,554)
Town Collective Bargaining	1,000,000	1,010,000	1,010,000	1,030,000	1,050,000
<b>Total Town Surplus / (Deficit)</b>	<b>0</b>	<b>(990,170)</b>	<b>(1,701,805)</b>	<b>(2,582,638)</b>	<b>(2,473,554)</b>
School Share of Surplus / (Deficit)	1,520,000	(712,118)	(5,207,758)	(6,990,344)	(9,681,344)
School Collective Bargaining	1,520,000	3,910,000	1,170,000	1,190,000	1,220,000
<b>Total School Surplus / (Deficit)</b>	<b>0</b>	<b>(4,622,118)</b>	<b>(6,377,758)</b>	<b>(8,180,344)</b>	<b>(10,901,344)</b>

As the tables show, annual revenue growth of 2.3% - 3% is outpaced by annual expenditure growth of 4.0% - 5.3%. The growth in expenditures is driven primarily by wages, health insurance (annual budget growth of between 10% - 13%), pensions (growth of 4% per year),

and School Department non-collective bargaining (approximately 2.5% per year), due to SPED, step increases, and enrollment growth. These are significant issues the Town must cope with over the next few years - - unless, of course, more favorable developments occur, such as state aid being greater than currently assumed; health care costs falling back to more “normal” inflationary levels; employees settling for smaller wage increases; or a slowdown in the growth of SPED.

## CONCLUSION

As noted at the outset of this Recommendation, the vision embodied in the 1994 Override is threatened. Cutbacks are unavoidable; town service reductions must be proposed; and longstanding fiscal policies can not be fully carried out. This was the first Financial Plan since FY95 that recommended actions that were at such variance with the expectations associated with the general override. A Mitigation Plan was recommended that helped avoid the worst of the FY08 budget impacts. However, this does not blunt an even more pronounced shortfall forecasted for FY09. Next year the projected deficit is nearly twice the level of the original FY08 deficit.

The picture emerging for FY09 has understandably prompted consideration of whether another Proposition 2 ½ override should be considered. In comparison to other Aaa rated communities, it is clear that these other municipalities have expanded their tax levies by ballot questions to a greater extent than Brookline. Since 2000 Aaa rated communities have adopted general overrides during the same period as follows:

<b>Community (Pop.)</b>	<b># Overrides since 2000</b>	<b>Override Levy Increase</b>
* <b>Andover (31,200)</b>	-	--
<b>Belmont (23,600)</b>	2	<b>\$5,400,000</b>
<b>Brookline (57,000)</b>	-	--
* <b>Cambridge (101,000)</b>	-	--
* <b>Concord (17,000)</b>	6	<b>\$10,788,159</b>
<b>Dover (5,600)</b>	3	<b>\$1,900,000</b>
* <b>Hingham (21,000)</b>	1	<b>\$753,682</b>
* <b>Lexington (30,400)</b>	3	<b>\$9,523,604</b>
* <b>Newton(84,000)</b>	1	<b>\$11,500,000</b>
* <b>Wayland (13,000)</b>	4	<b>\$6,550,000</b>
* <b>Weston (11,600)</b>	4	<b>\$3,560,000</b>
<b>Wellesley (26,600)</b>	6	<b>\$13,907,927</b>
<b>Winchester (21,000)</b>	1	<b>\$4,550,000</b>

Those with asterisks have also adopted the Community Preservation Act tax surcharge, or in one instance have a ballot question pending. Finally, Brookline is below the median in the extent of levy growth resulting from debt exclusions that were approved here for the Lincoln and High School renovation projects.

Clearly there appears to be a basis for evaluating whether an override should be considered as part of the Town’s financial strategy going forward. In addition, however, there are at least four other vitally important elements that also need to be considered for any long-term approach to town finances:

- General Revenue Sharing (local aid)
  - Municipal Partnership Act
  - Group Health/Retiree Benefits
  - On-going Expenditure Controls
- General Revenue Sharing – The FY08 net local aid increase proposed by the Legislature for Brookline is 4.4% over last year, an increase that is clearly more favorable than the 0.4% that was contained in the Governor’s budget. However, for the long-term, local aid is neither adequate nor predictable. This past year local officials across the state unanimously endorsed a new Revenue Sharing program that would index local aid to 40% of state growth revenues. This program would be phased in over five years and include Chapter 70 education aid (based upon the Senate's FY07 formula), SBA school building assistance, SPED circuit breaker, and a new general Partnership Aid formula replacing outdated additional assistance/lottery distribution formulas.

The new Partnership Aid replacing additional assistance/lottery is particularly desirable. Additional Assistance has been cut back over the years to the point where its original needs-based formula has become useless. Lottery proceeds are currently in a state of decline with a very uncertain future. The Partnership Aid formula would provide a minimum aid of \$15/capita of population under a statewide distribution level of about \$150 million. When coupled with last year’s Senate version for Chapter 70 education aid, the revenue sharing approach in total could mean more than an additional \$1 million a year in predictable local aid increases for Brookline.

- Municipal Partnership Act – The Governor’s proposed revenue package of hotel and restaurant local option taxes coupled with closing telecommunication industry tax loopholes could reportedly yield in the area of \$2.5 million of additional revenue annually for Brookline if fully enacted by the Legislature and fully adopted by the Town. While this can have quite a substantial impact over the long-term, none of these options can be fully realized in FY08 even if the Legislature were to approve them this year. Below are a set of figures that have been revised since the Financial Plan was published which show how much new revenue could be provided to the Town if it were to fully implement the items as proposed by the Governor:

Increase Hotel Tax from 4% to 5%	\$140,000
Institute New 2% Meals Tax	\$1,495,800
Close Telecomm Tax Loopholes	\$900,000
<b>TOTAL</b>	<b>\$2,535,800</b>

- Group Health Reform – This Recommendation already outlines a detailed approach for changing group health benefits for FY08. For the long-term, however, this should be seen as only the first step in attempting to get group health costs under control.

The highlighted FY08 changes would reduce the premium increase from 12% to 3%, a significant first step. Over the long-term further changes such as the option of

joining the State's Group Insurance Commission (GIC) will also have to be considered. It is possible that participation in the GIC could more regularly bring the Town single digit annual rate increases. In addition, steps also need to be taken to address the Town's unfunded post-retirement obligation for group health, which is estimated in the \$200 million to \$300 million range. Co-pays for prescription drugs need to be reviewed. And the fundamental disparity of providing 75% contribution to group health premium for an increasing number of pensions over \$50,000 a year also should be evaluated.

- On-going Expenditure Controls – Between FY2000 and FY2006, annual wage adjustments for Town employees have ranged between 18.26% and 18.8% for municipal workers and public safety personnel respectively. The CPI during this same period has increased 19.8%. Because personnel constitutes such a high proportion of Town expenditures, the Town must continue to work with unions for equitable collective bargaining agreements within the community's ability to pay.

Beyond the core economics of labor agreements, additional steps need to be taken in the future to control not only the annual costs of functioning in such a labor intense service environment, but also the legacy costs associated with traditional public sector fringe benefits. The manner in which the Town delivers its services should be further reviewed, as alternative delivery methods could well save the Town money. While the Town has historically been opposed to major outsourcing, these budget times require that everything be on the table. There have been a number of notable successes -- private EMS service since the early 80's; private recycling collection since the 90's; contractual IT support services --- and this approach could be more widely considered in the future.

Long-term contracts that lock in the costs for goods and services need to be continued for both cost stability and control. The Town's energy contracts have demonstrated this point. Since deregulation, electric power contracts have been constantly below available utility prices. Unfortunately, even these long-term contracts have seen incredible price escalation from about 3¢/kwh when deregulation first occurred to the current contract of 10.816¢ kwh (all-in, inclusive of green certificates). However, the current five year contract remains below the current utility supply rate of 12.4¢ kwh.

Another example of long-term price stability and control is the most recent contract for solid waste hauling and disposal. This contract held annual escalation to 2.5%/year despite skyrocketing energy costs in the waste industry. Future agreements like this need to be pursued. These efforts should also include innovative utilization of Town assets. The Town controlled transfer station, for example, holds the potential to process waste materials from private operators that under strict controls could yield significant financial benefit to the Town.

Balancing the budget for FY08 is only the beginning. Next year another deficit is projected at nearly twice the level of this year's deficit. Clearly steps must be taken now to anticipate this eventuality. The prospects for some measure of long-term relief from the Governor's Municipal Partnership Act and from a Revenue Sharing Program are encouraging. However, as hard as we might work to enact these possibilities we simply can not assume that they will be available. Further, even if they do materialize, they will not anywhere near offset the

totality of the structural deficit ahead of us. Expenditure controls will help, but they too alone will not resolve the situation unless the Town is willing to accept service cutbacks at what heretofore have been considered unacceptable levels.

To assist with Town financial planning, the Board has just appointed a nine person Override Study Committee. These nine individuals, many of whom are new to town government, bring a strong collective professional portfolio along with diverse perspectives about government finance and operations. This Committee is expected to consider the following, among other possible areas:

- Evaluation of Long-Range Financial Projections
- Comparability of Brookline Expenditures / Revenues
- Viability of Fiscal Policies
- Selected Best Practices for Department Operations
- Examination of Non-Override Revenue Sources
- Assessment of Future Needs
- Town Capacity for Increased Tax Burden

In light of the breadth of the Committee's review, it is strongly recommended that Town Meeting refrain from introducing additions to any budget line items at this time. The Committee's report is anticipated by the end of this year. Its work should provide invaluable assistance for guiding future budget actions with an even more informed assessment of Town finances than is currently available.

### **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 24, 2007, on the vote offered by the Advisory Committee. The Board would like to thank the Advisory Committee again for another excellent job on the Town's budget, paying particular attention to applying the Financial Policies 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 relative budget stability through such a protracted period of municipal budget 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.
    - c. 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

Our municipal budget must be balanced within the constraints of Prop. 2 ½, statutory obligations and collective bargaining agreements. This means there is little discretionary spending available to us. FY '08 commences an earnest tightening trend, which comes as no surprise since we have been forecasting it for some time. We began this budget cycle with a greater than \$3M deficit (assuming we intended to maintain the same levels of service and not push up revenue collections). In the end, the budget is balanced through a combination of cuts, consolidations, and revenue enhancements. The FY '08 budget addresses our acute financial stresses and needs, but we will need to go farther in curing the underlying chronic condition. We will need to gird ourselves for future larger deficits – structural changes will be required.

### **REVENUES AND EXPENSES**

- **Revenues**

A number of sources contribute to this year's General Fund Revenue of \$188.4M (+ 3.0 %). Our greatest revenue source is the local property tax, comprising nearly 72% of total revenues. Property tax increases 3.8 % to \$135M. Of that \$4.9M increase, \$1.75M is attributable to new growth, which falls outside the restriction of Prop. 2 ½. Property enhancements (and the permit fees they generate (+21%)) have continued at a strong pace in Brookline. Another significant contributor is State Aid (\$18.9M). This is an increase by the Legislature over the Governor's original Local Aid figure. However, inflation adjusted Local Aid is still ~20% less than it was five years ago. A more predictable and equitable State Revenue sharing formula must be devised if municipalities are expected to survive. Local Receipts increase by 3.5 % to \$ 21.2 M. Much of this is attributable to the Board of Selectmen's increases in the Refuse Fee, Parking Meter Rates and Traffic Fines. In aggregate, these fee increases added an additional \$1.2M to our budget; staving off some rather uncomfortable cuts (Schools, Public Safety). Free Cash is less this year at \$3.8M (- 29.2 %). As we budget tighter, we can expect less Free Cash in the coming years, which in turn will put pressure on our CIP.

- **Expenditures**

Departmental expenditures (~ 65 % of total expenditures) increase by 1.4% Town/4% Schools. \$60.1M is allocated to Town Departments and \$62.5M to the School Department. Non-Departmental expenditures total \$52.8M (+8%) and include such things as Employee Benefits (~69% of this category), Reserves, Insurance, and Debt Service (~26.5 %). Additionally, there are Special Appropriations (CIP) of \$5.9M (- 24.7%) as well as Non-Appropriated expenses of ~\$7.1M (including such things as State assessments and Cherry Sheet offsets).

\$188.4M in revenue meet \$188.4M in expenditures. After allowing for the ~\$7.1M in non-appropriated expenses, we are left with a total of \$181.2M for appropriation – an increase of 2.9% over last year.

In the face of a budget-to-budget increase in revenue of 3%, we are contending with escalating construction costs, pension fund obligations and continued double-digit increases in healthcare costs. An outline of revenues and expenditures follows:

**Revenues**

	<u>\$</u>	<u>% change</u>
Property Tax	134,994,153	3.8
Local Receipts	21,187,100	3.5
State Aid	18,890,852	4.8
Free Cash	3,814,792	(29.2)
<u>Other Funds</u>	<u>8,853,729</u>	<u>(1.1)</u>
Total Revenue	188,351,626	3.0

**Expenditures**

	<u>\$</u>	<u>% change</u>
Departmental	122,537,452	2.7
Non-Departmental	52,762,390	8.0
Special Appropriations (CIP)	5,928,000	(24.7)
<u>Non-Appropriated Exp.</u>	<u>7,123,786</u>	<u>4.4</u>
Total Expenditures	188,351,626	3.0

**CAPITAL IMPROVEMENTS PLAN (CIP)**

Brookline continues to have significant capital needs. How we satisfy those needs, and maintain our physical assets, is based on community standards and sound financial planning. This year \$12.7M is available for the General Fund CIP.

Funding for the CIP comes from grants (including CDBG, State/Federal grants, BAA) Enterprise Funds' budgets, tax revenue (\$2M) and Free Cash (\$2.9M). 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 schools, parks, playgrounds and many other items.

This year there is a \$1.35M appropriation for the purchase and first phase development of the State-owned reservoir on Fisher Hill. It is anticipated that future work will be funded by development proceeds from Town owned land across the street.

There is a seemingly odd item of “portable classrooms” for \$400K. This is the School’s response to a surprising surge in Kindergarten enrollment and the possibility of even more students and related modular classrooms. While no one is eager to embark on such a program, we must prepare ourselves for that possibility. This proposed appropriation will allow the school Department to do the necessary work if the need arises during this next fiscal year.

The most significant item in this year’s CIP addresses major renovations to Town Hall where most of our Town employees work. This will require bonding authorization of \$13.8M. Town Hall has not seen major work in over 40 years and we tempt fate with each day we prolong its renovation. No one disputes the pressing need to carry out this project, though some raise concerns about the manner and timing of the project. The longer we wait the greater the chance of a major, expensive and potentially dangerous breakdown of vital components (heat, water, air, electric). It is work that must be done and will not get any cheaper by waiting. Additionally, if further delayed, employees contend with ever

deteriorating conditions. We quite rightly expect a high degree of performance from our employees. But as employers, we have an obligation to provide a safe and comfortable working environment. This project will revamp the mechanical systems (improving efficiency and comfort), make improvements to the Board of Selectmen's public hearing room, and make reconfigurations that will render Town Hall more usable, more often, by more people.

Our financial guidelines call for us to apply 5.5% of the prior year's net revenues toward the CIP (4.25% towards debt service and 1.25% toward pay-as-you-go financing). During periods of greater debt service allocation, Free Cash becomes more critical in supporting the CIP.

This year, in a departure from that practice, only 5.25% of the prior year's Net Revenue is proposed to be applied toward the CIP. This is in order to provide more funding toward our stressed Operating Budget. Financial flexibility is important and guidelines are not rigidly legislated, but a disciplined respect for them helps to ensure fiscal stability. While departing from our guidelines may well be warranted given this year's financial strains, we must remain mindful that reliance on capital funds to support operating expenses can set us up for financial disappointments down the road.

Over the past 10 years, Town Meeting authorized expenditures of more than \$174 M towards our CIP. We are slated to authorize more than \$146M on CIP items over the next six years. Much of this will be a function of available revenue, bonding capacity and the nature of SBA reimbursements. This means that we must continue to focus on rigid project definitions and solid cost estimates. We will have to assess opportunities for consolidations and collaborations, and take a hard look at the trade-offs between repairs and replacements. 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 this.

## **DEBT AND DEBT FINANCING**

As has been noted, the CIP is largely financed through debt (bonding). Projected outstanding debt for FY'08 is just over \$101M with debt service (annual payments on that debt) at a bit over \$14M. These are sobering, yet manageable numbers. Of that \$14M in debt service, \$2.8 M is financed through the Enterprise Funds, \$3.4M through State SBA and \$ 4.4M through debt exclusion funding. State law limits a town's level of debt to 5% of its Equalized Valuation (EVU). At approximately 0.7%, Brookline's level is nowhere near that limit, and our CIP policy would not allow for such outstanding debt levels. Our practice of long-term financial planning, and use of a relatively short maturation period of debt (more than 75% amortized in 10 years), help to prudently manage our debt levels. This is important, as debt service immediately impacts our Operating Budget.

Below are two tables, one details the anticipated funding source (as percentages) for the proposed FY'08-FY'13 CIP, and the other table breaks out the CIP allocation by category for the same period. These figures do not account for possible (and not easily predictable) changes in SBA reimbursements.

CIP (6 Yr) Funding by Source (%)		CIP (6 Yr) Allocation by Category (%)	
General Fund Bond	47.3	Facility Renovation/Repair	75.0
Free Cash	11.9	Infrastructure	11.7
State/Federal Grants	30.6	Park/Open Space / Playgrounds	11.1
Utility Bond	0.5	Misc.	1.6
Property Tax	5.0	Vehicles	0.6
Other	2.8	<b>Total</b>	<b>100.0</b>
CDBG	1.3		
Overlay Res. Surplus	0.6		
<b>Total</b>	<b>100.0</b>		

### GROUP HEALTH & BENEFITS

Brookline, being primarily a service organization, expends most of its budget on personnel expenses. Employee Benefits, including such things as pension, workers' comp, unemployment, life insurance and health insurance, increase 12.9% to \$36.3M. With regards to healthcare premium costs, Brookline finds itself swimming in a financial riptide – trying to keep our heads above water, we see little prospect of solid ground.

- **Group Health**

At \$ 21.6M, Group Health costs already account for 12.3% of our General Appropriation, and are growing at a substantial rate – 12% this year. Containing the rate of growth so it does not cannibalize other benefits and wages has been a challenge.

In FY '05, 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. This saved the Town \$1.1M and our saved our employees \$400K. Since then, annual rate increases have been between 10% - 14%. This line item is a potent "budget buster" that will continue to erode the other items in our municipal budget, eventually forcing reductions in services, capital and personnel. Compounding this effect is our growing number of retirees who receive post-retirement healthcare benefits. Managing healthcare related costs continues to be one of our most difficult tasks, requiring that we look at our healthcare insurance structure anew. The Town must continue to aggressively negotiate with providers, explore opportunities for collaborative buying, and revisit the cost and co-pay structure. The \$5 co-pay may be a relic of the past as financial realism settles in. There is the concern that higher co pays may shift the costs of insurance more towards our employees. This could be true if there is no change in habits – such as not using generics when available. However, one of the purposes of co pays is to have people more closely consider the choices they make. Additionally, higher co-pay levels significantly reduce premium costs. If higher co-pays were adopted this year, premium increases could be dropped to the low single-digits. Also, it may be time to consider the State's Group Insurance Commission (GIC). Entering the GIC could provide a number of benefits. Employees would have a variety of plans from which to choose. More importantly, the

State's group buying power translates to lower premium costs for everyone (Brookline could realize a \$1 million premium savings). Additionally, the Town could realize a reduction in administrative costs since management and negotiation around healthcare would be removed. While Brookline and her employees have had to contend with double-digit premium increases year after year, members of the GIC have seen average increases of less than 10%. For FY'08, the premium for GIC plans is increasing just 5%. How well this program fits into the Town's employees' benefits package or how it works for individuals may vary. While this should not be viewed as an instant cure-all or "magic bullet", it is a potential opportunity worth exploring.

Surging healthcare premiums are a heavy burden at the national, state and local level. While it may be true that this country needs a fundamental overhaul of healthcare, Brookline must grapple with the immediate effects now.

- **Pensions**

Pension benefits are provided for Town and School employees not covered as teachers. Many newer positions in the schools tend to be aides, and therefore may be eligible for the Town Pension System. Currently, there are 2,257 employees (active and retired) enrolled in the Town Pension System, and each year the Town must allocate funds for their pensions. That amount is determined by a State-authorized funding schedule. Full funding is legally required by no later than 2028. In the past, Brookline has had a payment schedule designed to reach full funding by 2023. Much like paying down your mortgage early, this allows the Town to reduce its total costs considerably. However, it also means higher annual payments that put greater pressure on the Operating Budget. This year Brookline's Pension Board voted to reschedule pension payments to reach full funding by 2026. This still brings the Town to full-funding sooner than the 2028 requirement (maintaining some savings), but reduces the annual payments required so as to relieve some pressure on the Operating Budget. The amount of annual payments needed to accomplish this is currently ~ \$11.3M in FY'08, based on the current value of assets in the pension, the Pension Board's assumed rate of return, and disability retirement assumptions. While the Town's investment returns have outperformed major indices, other communities and the State system, there had been a couple of inordinately tough years (for everyone). This, and the real probability that future returns would be at a somewhat lower rate (some argue realistic), conspired with increased pension pressures, such as increased disability retirements, to push up the pension's calculated unfunded liability. That is, the amount we must still pay in to the system. That unfunded liability is now estimated at \$107M.

The State indicated it believes Pension Boards will have to become more sophisticated and look at investments in such things as private equities, hedge funds and inflation-indexed treasury bonds if they expect to keep up. The Brookline Pension Board and its advisors have already demonstrated their ability to use some of these instruments to increase relative returns and decrease relative risks. However, the Town will have to be ever mindful of new ways to be creative, as this item will continue to exert significant pressure on the Town's operating Budget in the years to come.

## **PERSONNEL**

Earlier this year the Town provided an Early Retirement Incentive program. This, in combination with the Town's hiring freeze, allowed for the removal of approximately 11 FTE positions from the General Fund without requiring any layoffs. 10 FTE's will be

eliminated entirely, and one other will be shifted into the Recreation Revolving Fund. 4 FTE's were eliminated in the DPW for a savings of \$165K. These include a Park Maintenance Craftsman, Engineer, Laborer, a 0.7 Seasonal Park position, and 0.36 Student Engineering Co-op Intern. A 0.5 Econ. Dev. Intern, Purchasing Operator, Library Assistant, Recreation Supervisor, Locker Attendant, and 1.2 Police Department Clerical Worker positions were eliminated as well -- again, through vacancies and attrition, without any layoffs. There were also several controversial Public Safety positions that had been listed as candidates for elimination. In particular, two Firefighter positions had been identified for reduction in the Town Administrator's Recommended Financial Plan. It should be noted that these are not positions that are filled (nor expected to be). By funding these positions, we budget for needed Firefighter overtime. Overtime can arise as the result of sickness, injury, vacations or a high number of vacancies. It is particularly needed when there is a convergence of vacations, sick call-ins, and usage of A-days (earned bonus days). These convergences tend to have relatively predictable patterns. Without sufficient overtime funds, it would have necessitated taking a fire truck out of service for a portion of the summer months, potentially leaving some areas of town vulnerable. Clearly, Public Safety is one of the community's core functions. When compared to other fire departments, Brookline does not stand out as being over staffed or over equipped. Efforts were made to identify strategies for preserving these positions within the budget. As a result of the Town's fee increases, funds were made available and there is no proposed cut in the number of budgeted positions. It was observed during this process, though, that the scheduling of vacations and A-days should be looked at with regard to the effect on overtime usage.

Personnel numbers, structure and job descriptions will change over time as service needs change. The goal is to find levels of efficiency. Brookline will also, from time to time, have to assess the most advantageous staffing structure. This may require consideration of consolidations, eliminations, or creations of positions, departments and services. We will need to assess what is best done in-house (both from a financial and service standpoint) or perhaps contracted.

At the end of the day, good service is the result of good people, and good employees are a result of good employers. 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.

## **SCHOOLS**

Brookline derives much of its value because of the way it values education. Our schools are the envy of most because of the commitment and effort of our schools, families and community. Our revered system, however, is feeling extreme financial pressure.

The School Department began the year looking at a \$2M deficit. Flexibility in the Town/School Partnership Agreement resulted in the Schools receiving greater than 50% of additional revenues. Chapter 70 State Aid came in a bit higher than expected, and one-time funds of \$600K were available. Even with a helpful infusion of additional funds, the School Department was forced to make reductions in staff and consolidate some classes. Additionally, there is the pressure of increased enrollment. Kindergarten has increased by

36% in the last three years. Again, in anticipation of more students, we have budgeted \$400K in our CIP towards modular classrooms (an option no one hopes will be exercised).

As difficult as this year is, next year will be that much more difficult. Contract negotiations have allowed for the exercising of an option to extend the school day by 20 minutes. The associated cost is ~\$2M. Any program enhancements, such as an elementary world language program, will require even more funding.

Maintaining a top-notch school system has long been considered a Herculean feat. Facing severe budget pressure, this may become a Sisyphean feat.

An in-depth analysis of the School Budget by the Advisory Committee appears later in this Recommendation.

### **GOVERNOR'S MUNICIPAL PARTNERSHIP ACT**

The Governor proposed a significant revenue package aimed at aiding towns and cities. The package is comprised primarily of local-option taxes. Significant among these are an optional 1% Local Hotel Excise Tax, Local Meals Tax of up 2%, and a closing of the so-called Telecommunications Tax Loopholes (allowing localities to levy a property tax on telecoms). In total, should Brookline vote to adopt them, these three items could generate nearly \$2M in annual revenue to the town. Of course, the amount would be dictated by the level to which the town chose to apply them (or not). The Hotel Excise Tax has the lowest potential for raising revenue (\$140K). At a full 2%, the Meals Tax could generate \$975K annually. Closing the Telecommunications Tax Loopholes could generate \$800K, but the political influence of the telecommunication industry makes it unlikely that such a provision will ever survive.

All of this, however, is just postulation. Since the Legislature has not passed this act, municipalities are not in a position to benefit from it. It seems odd that a legislature borne out of a democratic tradition would be reluctant to let the voters chart their own course at the local level. The State has mandated responsibilities on municipalities, but has not always extended commensurate authority. Passage by the Legislature of the Municipal Partnership Act would not only be a tip of the hat to fundamental local democracy (allowing the people to make their own choice), but also provide the possibility of sorely needed financial relief to the towns and cities of our Commonwealth. In the mean time, we can only wait for the Legislature to act and make our plans based on what we have in hand.

### **HITTING BOTTOM (LINE)**

Those who have been paying attention to the Town's budget, even just peripherally, are aware that we face significant challenges. The difficulty of this budget year was identified some time ago. Through planning and preparation, the sting was reduced. However, this is just the beginning of a tightening trend. The bottom line is that as costs rise faster than our ability to raise revenues, we will face increasingly uncomfortable choices.

A number of areas and options have been identified as ways to attack our impending budget gaps. We recently raised fees for refuse and parking; and when compared to other towns we have room to raise or institute other fees as well. But to what level do we want to continue raising fees? We can reduce personnel and services. This year we managed to reduce personnel without layoffs. However, the coming years may not be as painless. We may benefit from contracting certain services or operations. That is something we must constantly

re-evaluate. Some form of Municipal Partnership Act may pass the Legislature and we may vote to adopt some of its provisions, but those are chickens not worth counting at this point. We can greatly reduce healthcare premium costs by adopting a more realistic co pay structure, and might benefit from joining 200K other employees in the GIC. Some sort of healthcare change clearly must occur. The Board of Selectmen has formed an Override Study Committee. Its analysis may identify and point to ways of improving efficiency or reducing expenses. That committee may recommend options for override considerations. But, it is not clear what may or may not come out of that committee or whether our community, already heavily dependent on residential property tax, will support an override.

The truth is that no one of these options alone will solve our ongoing budget struggles – it will require some combination. Major cost-center increases must be brought down and new revenue sources explored.

This is a challenge that will require the vigor and commitment of our entire community. It is probably the case that we will only gain through a process of shared sacrifice. The quality of life of Brookline is what ultimately is at stake; our schools, our parks, our safety, our infrastructure – our community. Commitment, vigor, participation and collaboration have resulted in an FY'08 budget that supports our town and its ideals – even if in a financially fragile state. And, it is these very attributes that will see us persevere through the challenges of the coming years.

====

## **SUB-COMMITTEE REPORT ON THE SCHOOL BUDGET**

### **Introduction**

The Advisory Committee and Town Meeting have 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 FY2008 school budget has three distinguishing features. First, new revenue from parking fees and fines, an increased refuse fee, and Chapter 70 state aid that exceeds expectations, as well as the use of almost \$600,000 in one-time funds, has made it possible for the Public Schools of Brookline to avoid making the deep cuts in programs that appeared necessary when the FY2008 Financial Plan initially projected a school budget deficit of more than \$2 million. The funds available to the schools are larger than expected because the schools have received more than 50% of new revenues as a result of the flexibility that is possible in the Town-School Partnership process.

Second, the school budget includes several program enhancements. Despite the fiscal challenges of the FY2008 budget, the Public Schools of Brookline have attempted to direct resources to areas that are strategic priorities. These program enhancements are most notable in the areas of elementary mathematics specialists and special education.

Finally, the Public Schools of Brookline have made a number of difficult and painful cuts to balance the FY2008 budget. These include the reduction of teaching staff by 3.65 FTEs at Brookline High School, the consolidation of classrooms at Devotion and Lawrence, and the elimination of aides from Northeastern University at elementary schools. The most controversial cut is the elimination of literacy aide positions at Lawrence and Driscoll.

Last year, the Advisory Committee's report on the FY2007 school budget observed that "the schools will be challenged to maintain the quality of current offerings. Costs will increase more rapidly than property tax revenue. Personnel costs and Special Education mandates will continue to be major factors in driving up costs ... In FY2008 and beyond the school department is likely to find it increasingly challenging to balance its budget ... Substantially greater revenue will be needed to maintain the current quality of educational offerings."

The FY2008 conforms to this overall prediction. Fortunately, the increases in various Town fees and fines have generated the additional revenue to help fund important existing programs and new initiatives. Looking forward, however, it is difficult to construct a fiscal scenario in which the Public Schools of Brookline would be able to fund major program enhancements such as an extension of the school day or an expanded elementary world language program without a general override.

### **Budget Summary**

The FY2008 school budget of \$76.4 million (+3.97% over FY2007) is divided into expenditures from the General Fund of \$65.4 million (+4.75%) and from Special Funds of \$10.9 million (+0.44%).

<u>General Fund</u>		<u>% Change</u>
Town Appropriation	\$61,380,009	4.04%
Override Funds	\$1,100,000	0.00%
Tuition/Fees/Building Revenue	\$371,251	1.64%
Circuit Breaker	\$2,000,000	5.26%
Other Revenue	\$0	(100.00%)
One-time Revenue <sup>1</sup>	\$596,557	--
<b>Total:</b>	<b>\$65,447,817</b>	<b>4.75%</b>

(Note that total FY2008 General Fund spending will be approximately 3.63% more than projected FY2007 General Fund spending, because the schools expect actual FY2007 expenses to exceed the budget by \$671,767.)

### Special Funds

Grant Funds	\$5,839,751	(0.58%)
Revolving Funds	\$5,102,800	(0.78%)

<sup>1</sup> This one-time revenue is drawn from the balance in the Circuit Breaker Revolving Fund and consists of Circuit-Breaker reimbursements from prior years. These funds are received from the state after the expenses have been incurred. Drawing on these funds obviously means that they cannot be used in future years. Note that special education expenses exceed the amount of these reimbursements.

7-38

Total:	\$10,942,551	(0.44% )
TOTAL ALL FUNDS:	\$76,390,368	3.97%
<u>Expenses by Type</u>		<u>% of Total</u>
Personnel	\$54,583,220	83.4%
Services	\$8,298,461	12.68%
Supplies	\$1,292,425	1.97%
Other	\$803,745	1.23%
Equipment	\$469,966	0.72%
Surplus	\$0	0.00%
TOTAL EXPENSES:	\$65,447,817	100.00%

Note that personnel costs remain a very high proportion of the school budget, but their share of the budget has remained constant or declined slightly in recent years.

### **Maintenance of Effort**

The FY2007-2008 cost increase necessary to maintain the current effort of the Public Schools of Brookline is estimated to be \$3,279,615. This includes: growth of \$698,750 in Special Education costs; an increase of \$250,000 to cover step increases/net retirement; \$1,685,865 for collective bargaining; an inflation adjustment of \$25,000; a grant contingency of \$45,000; an enrollment increase of \$190,000; and \$385,000 for building maintenance and continuation of the Steps to Success program, which was formerly grant-funded.

Total revenue growth was initially projected to be \$1,333,329: \$1,233,329 from the allocations of the Town/School Partnership (including local revenue and state aid) plus \$100,000 from Circuit Breaker increases. Taking into account a projected FY07 \$340,164, the FY08 deficit initially was estimated at \$2,130,431. A major feature of the FY2008 school budget is how this projected deficit has been reduced so that planned cuts have been restored.

### **Additional Revenue for FY2008**

The Public Schools of Brookline have received two infusions of new revenue for FY2008.

On March 27, 2007, the Board of Selectmen voted to increase various fees and fines for FY2008. The annual refuse fee will increase from \$165 to \$200 per household. This increase will generate \$445,000 in annual revenue, an amount that still does not cover the cost of trash collection. Parking meter rates will increase from 25 cents/hour to 75 cents/hour. This increase may be delayed until October in Coolidge Corner because of the disruption caused by the reconstruction of Beacon Street. For FY2008, the additional parking meter revenue is estimated at \$620,000. Various parking fees and fines will be increase to generate an additional \$166,000. Thus the total anticipated new FY2008 revenue from these changes will be \$1,231,000. Of this total, the Town/School Partnership allocation gives \$706,000 to the schools and \$525,000 to the town. This departure from the customary 50/50 town/school split of new revenue reflects the need to address the large school budget deficit with a flexible allocation of revenue instead of the rigid application of a formula. Of

the \$525,000 allocated to the town, \$100,000 will be spent on repair and maintenance of school facilities, a category that was on the superintendent's restoration list. (The schools provided \$200,000 to the town in FY2007 for building repair and maintenance.)

Brookline's schools received a second round of additional revenue when the state House and Senate agreed to add \$563,998 in net local aid for Brookline to the amount recommended in the Governor's proposed budget. The Town/School Partnership allocated \$363,998 to the schools and \$200,000 to the town, of which \$100,000 is likely to be used to repair and maintain school buildings.

In addition, the schools received \$75,231 more than expected in federal Title I funds. The school budget also has been supplemented with \$596,557 in one-time funding from the Circuit Breaker revolving fund.

These new revenues and one-time funds have made it possible to restore many cuts that had been planned for the FY2008 budget, including two guidance counselor positions, a social worker, psychologist, and librarian at the high school, literacy and mathematics specialists in the elementary schools, library assistants in the elementary schools, and after-school programming in the elementary schools. In addition, the budget now includes funding for increasing the capacity for data management and warehousing, purchasing computer equipment, \$40,000 in additional funding for Steps to Success, and \$150,000 in contingency funding for special education, bringing the total to \$280,000.

### **Program Reductions for FY2008**

Although new revenue has made it possible to restore many planned cuts, the FY2008 school budget still includes \$1,047,846 in program reductions that are spread across the central administration, elementary schools and Brookline High School.

Cuts to the central administration (\$268,800) include reductions in advertising, the elimination of clerical and technology support positions, cutting one vehicle and one bus monitor, and reducing spending on Teaching and Learning workshops and professional development.

Elementary (K-8) reductions (\$362,217) include classroom consolidations, primarily at Lawrence and Devotion, the elimination of literacy paraprofessionals (aides) at Lawrence and Driscoll, the elimination of Northeastern aides, and small cuts in supplies, computer support, town-wide literacy support, performing arts transportation, and after-school programs.

At Brookline High School, cuts (\$315,875) include a reduction in teaching positions by 3.65 FTEs, cuts in the number of SPED aides, and various other cuts.

System-wide, \$100,954 will be saved by ending the current practice of rehiring retired teachers for more than one additional year of teaching.

Of these cuts, one of the most controversial is the reduction in literacy aides (paraprofessionals) at Driscoll and Lawrence. The school department regards this reduction not only as issue of competing budget priorities but also the final step in a multi-year effort to conform to federal law governing the expenditure of Title I funds. Literacy aides must be

assigned to the elementary schools on an equitable basis in a manner that establishes that Title I funds are not being diverted to other purposes. Establishing this equitable distribution requires the development of a formula on the basis by which aides are allocated. While an equitable formula does not have to depend solely on enrollment, it is unlikely to deviate sharply from an allocation on a per student basis. Thus restoring the Driscoll and Lawrence aides would require that four to five FTE aides be added at the other six elementary schools.

There also have been some questions raised about a cut that is *not* being made: Driscoll's Mandarin program. This program is being retained at a cost of \$70,040 in FY2008, even though the Freeman Foundation grant that supported it has expired. This decision reflects the possibility that Brookline will restore a K-6 world language program in all the elementary schools in 2008-2009. It would be short-sighted to eliminate the only program that currently exists, only to restore it a year later. Moreover, any outside source of grant funds for a system-wide elementary world language program would doubt Brookline's commitment to such a program if the town were to cut the Driscoll program. Retaining the only current K-6 elementary world language program thus increases the chances of obtaining a grant for a system-wide program.

It is unlikely that the Public Schools of Brookline will restore other cuts if additional funds become available. The superintendent has indicated that it would be fiscally prudent to use any further revenues to reduce the reliance on one-time funding and/or to increase contingency reserves.

### **Program Enhancements for FY2008**

The FY2008 school budget includes several program enhancements. The most significant is an increase in the staffing of mathematics specialists at the elementary schools. This increase is important in its own right and also because the elementary schools are preparing to introduce a new math curriculum. Staffing also has been increased in the Social, Emotional, and Behavioral Program, for physical therapists, occupational therapists, and nursing care for IEP needs, at Winthrop House, and for a new Board Certified Behavior Analyst (BCBA) position. Additional, albeit relatively minor in fiscal terms, enhancements include establishing greater equity in visual arts and health education staffing, purchasing materials for new classrooms, and adding to the budget for visual arts materials. The cost of these program enhancements is slightly more than \$500,000 for regular programs and almost \$300,000 for special education.

### **Special Education**

Brookline's Special Education (SPED) program continues to deliver federal and state-mandated services to students with disabilities aged 3 to 22 years within the least restrictive settings.

The FY2008 SPED Budget total is \$15,803,870, an increase of \$1,086,300 million over the FY2007 budget. This includes 1.0 FTE for Board Certified Behavioral Analysts, \$35,000 in summer programming, a 0.4 FTE physical therapist, a 0.4 FTE occupational therapist, and a restructured team chairperson model for administering special education that will increase the number of elementary supervisors and involve them in seminal IEP meetings.

FY2008 SPED expenses are projected to be approximately 3% more than actual spending in FY2007. This is a modest projected increase compared to average annual growth of 8.21% since FY1998, but the budget includes a \$280,000 Special Education contingency reserve.

Personnel account for \$9,766,395 and services \$5,732,613 of the total SPED budget. The vast array of SPED personnel includes elementary and high school special education teachers, instructional and classroom aides, coordinators, speech and language teachers, vision/hearing specialists, occupational and physical therapists, consulting and legal service people as well as support staff. The total number of SPED FTEs is 245.32. There are several district-wide programs for SPED students such as the Autism Spectrum Program at Runkle and the Social, Emotional, and Behavioral Program at Devotion. Other school department budget categories—medical services, guidance services, psychological Services, and legal services—also provide support to the Special Education program.

The Public Schools of Brookline are still actively pursuing reimbursement from third-party payers for SPED medical costs but thus far they have been unsuccessful, except for Medicaid reimbursements.

In FY2008, \$972,032 is budgeted for transportation of SPED students. (The total school transportation budget is \$1,309,263.) It was hoped that the state legislature would incorporate SPED Transportation costs into the Circuit Breaker but that is not expected to occur in FY2008.

School department officials attribute the continuing rise in SPED costs to outplacement costs, an increase in the number of paraprofessionals, growing numbers of SPED students and significantly higher needs in our Early Childhood children. The largest single area of growth in FTEs is in the category of instructional aides, who primarily help to integrate and mainstream students.

There are currently 135 students in substantially separate SPED programs at the K-8 level (and some at Brookline High School) with school officials predicting no change for 2008. Based on general enrollment trends, they forecast a drop to 130 in later years.

In FY2008, \$2,000,000 in state Circuit Breaker funds are expected (up by \$100,000 over FY2007). Under the Circuit Breaker system, school districts are allowed to claim reimbursement for outside private placement tuition as well as for any high cost SPED service delivery within the district beyond a set threshold (currently \$35,000 per student). 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 has occurred in Brookline in recent years.

### **Budget Outlook: Enrollment Trends, Projected Deficits, Planned Program Expansions for FY2009 and Beyond**

The Public Schools of Brookline will be faced with growing budget challenges in FY2009 and beyond. Future needs for expanded financing will depend on a variety of factors including enrollment trends, efforts to strengthen educational programs, collective bargaining agreements, and external support.

**Enrollment Trends.** In FY2007, Brookline's public schools experienced a net growth of

117 students. This was largest increase since 1994. As in 2006, the growth in enrollment is accounted for in part by a surge in enrollment at the kindergarten level. This year kindergarten enrollment has increased by 66 (14%) over 2006. In 2004, there were only 396 kindergarten students. In 2007, there were 539—a 36% increase in three years.

There is no clear explanation for the increase in kindergarten enrollment. Formulas that linked the number of live births to the number of subsequent kindergarten enrollees reliably forecast enrollment until the past few years, but these formulas no longer offer accurate predictions.

The increase in the number of students entering the system has put pressure on the budget and space. Average class size increased slightly in 2007, from 19.2 to 19.35, reversing a long-term decline. The Capital Improvement Program includes funds for modular classroom units that could be used, if necessary, in the fall of 2008.

The Public Schools of Brookline estimate that 490 students will enroll in kindergarten in the fall of 2007. Although this number is lower than the total for the fall of 2006, it remains higher than the total in *every* year from 1990-2006. The large kindergarten classes of recent years will, of course, remain in the school system for many years.

The elementary school enrollment in substantially separate Special Education programs also has grown substantially over the past three years, from 87 in 2004 to 135 in 2007, 54% increase. In the past year, however, elementary Special Education enrollment increased by only one student.

Over the next five years, the School department projects a continuing decline in high school enrollment. This expected decline in enrollment at Brookline High School may yield further opportunities for increased efficiency in use of resources at that level.

**Budget Projections.** The Public Schools of Brookline expect annual shortfalls in FY2009 and beyond. The FY2009 deficit is expected to exceed \$4 million, whereas deficits for FY2010 and subsequent years are more likely to be in the \$1.8-1.9 million range. As always, budget projections are subject to revision as estimates of costs and revenues change. The projections for the next few years are particularly uncertain, because it is not clear whether Brookline will be able to generate significant new revenue by levying a local meals tax, increasing the hotel tax, and taxing telecommunications equipment/property, all of which would be possible under the proposed Municipal Partnership Act. Whether the state legislature will vote for these proposals remains in doubt, but if Brookline were to collect the additional proposed taxes the Public Schools of Brookline might receive approximately \$1 million more than currently estimated. Revenue from state and federal aid also may vary from projections, which are necessarily conservative. On the cost side, the rate of future increases in health insurance remains uncertain.

One of the major factors driving the large projected FY2009 deficit is much more certain. Under the provisions of the contract negotiated in 2006, the Public Schools of Brookline can extend the school day by 20 minutes in FY2009 in return for giving teachers a pay increase of 7.5% (as opposed to 3% in FY2008). The projected increase in collective bargaining costs for FY2009 is thus approximately \$3.9 million, over \$2 million more than the increase in this category in FY2008. This increase explains why the FY2009 deficit is expected to be larger than the deficits projected for other years. It is difficult to see how the extension of the school day could be funded without a general override. Restoration of a K-6

elementary world language program also has been mentioned as program enhancement that could be funded through an override. When fully implemented, such a program might cost up to \$1 million annually.

Brookline schools benefit substantially from external funds. In recent years, increases in Circuit Breaker funds from the State of Massachusetts to cover increasing special education costs have enabled the schools to maintain stable services. Another substantial increase in circuit breaker funds is unlikely. In FY2008, growth of only \$100,000 is expected.

Brookline will be challenged to maintain its current level of support from grant funds. In FY2006, grants represented 8.3% of school spending. The federal government's efforts to contain its deficits are expected to reduce substantially federal grant funds available for schools. For FY2007, grants are expected to represent 8.0% of the budget. In FY2008, grants are likely to fall to about 7.6% of the school budget. Brookline school personnel can be expected to continue to take full advantage of opportunities for grant support, but obtaining and retaining grants is an uphill battle. For FY2008, the fact that Title I funds were not cut as expected was a pleasant surprise. Projected deficits may become larger than they appear if the schools consider it necessary to retain grant-funded programs after the grants are terminated.

### **Overall Outlook**

For FY2008, increased revenue from the trash fee, parking meters, and parking fines, higher-than-expected Chapter 70 state aid, Town/School Partnership allocations that gave the schools more than 50% of these categories of new revenue, and the use of almost \$600,000 in one-time funds have enabled the Public Schools of Brookline to avoid cutting many programs that originally were in jeopardy and to undertake some strategic program enhancements. These fiscal options will not all be available in future years. If Brookline's schools hope to undertake major new initiatives, difficult choices and/or significant increases in revenue will be necessary.

### **Recommendation**

By a vote of 18-0-1, the Advisory Committee recommends **Favorable Action** on the budget appropriation of \$62,480,009 for the Public Schools of Brookline.

====

## **Sub-Committee Report on the FY2008 Capital Improvement Program (CIP)**

### **Recommendations and Project Descriptions**

#### Funding Codes:

(B) = General Fund Bond

(CD) = Community Development Block Grant

(EB) = Enterprise Bond

(G) = State / Federal Grant

(O) = Outside Funding

(T) = Tax-Financed

### **36. TECHNOLOGY APPLICATIONS**

**\$225,000. (T)**

This annual appropriation of \$225,000 is for funding the projects detailed in the Information Technology Department's Long-Term Strategic Plan, which was finalized in 2002, serves as

the framework for the selection and management of technology expenditures, and is updated by the Chief Information Officer (CIO). Moreover, additional projects that meet the short-term objectives set by the CIO and appropriate committees provide the guidance for the Town's approach to technology management. Primary focus areas for IT investments include Infrastructure lifecycle replacement, Enterprise Applications/Better Government initiatives, School Technology, and Public Safety enhancements.

**BROOKLINE VILLAGE MBTA STATION/PEARL STREET IMPROV** **\$250,000. (G)**

The MBTA will be making improvements to the Brookline Village MBTA station that will provide improved access for those with disabilities. There are a number of other improvements that remain to be made to that station and Pearl Street in order to improve the connection between Route 9 and Brookline Village, including new paving materials, street furniture, and fence relocation. \$35,000 in CDBG funds have been allocated in FY2006 to work with the MBTA's plans and design a set of improvements that would be complementary to the MBTA's ADA improvements. This project would fund these additional improvements, as well as the construction of better crossings, sidewalks, and parking along Pearl Street. These improvements were all outlined in conceptual form in the Gateway East Public Realm Plan.

**37. TURN-OUT GEAR REPLACEMENT** **\$135,000. (T)**

Two new sets of turn-out gear were purchased for all firefighters in 1997-1998 with a \$240,000 appropriation in FY96. When new firefighters begin, they are outfitted with new turnout gear. Therefore, there has been some replacement of gear. However, there are approximately 90 firefighters who have their original gear. The plan is to replace these 180 sets (2 per firefighter) over a two-year period, with 90 sets in FY07 and 90 sets in FY08. At \$1,500 per set, \$135,000 is required in each of those years.

**38. ENGINE #4 REPLACEMENT** **\$ 39,595. (T)**  
**\$160,405. (R)**

Originally, Engine #4 (the Quint) was due for refurbishment in 2010 with an estimated cost of approximately \$400,000. It would then be replaced in 2015 with an estimated replacement value of \$1,000,000. With the addition of Tower 1, Brookline's newest aerial/pumper (the "Bronto") that was funded in FY07, we have the unique opportunity to replace Engine #4 at a considerable savings to the Town. A new engine would cost approximately \$450,000. The plan is to trade in Engine #4, which is estimated to be worth \$250,000, leaving a need of \$200,000. That \$200,000 will be funded with revenue-financed CIP (\$39,595) and the re-allocation of existing CIP projects (\$160,405). The difference between buying a new engine, less trade-in (\$200,000), and refurbishing Engine #4 (\$400,000) is \$200,000, resulting in a better bottom-line deal for the Town. In addition to the savings, the Town gets a brand new vehicle instead of a refurbished one.

**39. FIRE APPARATUS REHAB** **\$90,000. (T)**

All front line engines are to be replaced every 15 years and all front line ladder trucks are to be replaced every 18 years. While this replacement schedule serves the Town very well, funding needs to be appropriated every 10 years to rehab engines and every 12 years to rehab ladder trucks. This years allocation is additional funding to augment monies approved in FY07.

**40. STREET REHABILITATION – TOWN** **\$1,050,000. (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 \$1,050,000 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.

**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. For FY08 - FY13, the same level of state funding is assumed.

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

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.

**42. 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 will be used for this work.

**JUNIPER STREET PLAYGROUND** **\$400,000. (CD)**

The neighborhood playground located on Juniper Street is in need of reconstruction that would remove and replace outdated play equipment, a water spray feature, pavement and site furniture that do not meet current safety and accessibility codes and standards. CDBG has allocated \$30,000 for Landscape Design Services to renovate Juniper Street Playground. The Design Services includes a full design review process to include input from the neighborhood. The \$400,000 in FY08 is planned to come from CDBG funds.

**43. WINTHROP SQUARE/MINOT ROSE GARDEN** **\$40,000. (T)**

Winthrop Square, which includes Minot Rose Garden, is a multi-use active/passive recreational park that is heavily used and an important element of north Brookline's open space. The active recreation section of the park includes a small playing field, play equipment, pathways, and a spray pool. The passive section includes walkways, benches, landscaping, and a rose garden. The funding allocated for this capital project is intended to redesign the walkways, circulation, bench locations, park furniture, and landscaping. The project will also look at a major restoration of the existing wrought iron fence, replacement of water fountains, and facility upgrades including the toddler play equipment. The \$40,000 in FY08 is for design while the \$400,000 in FY09 is for the work previously listed.

**44. PARKS AND 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 restoration, bench replacements, playstructures, safety surfacing, and drainage

improvements. This program prevents more expensive rehabilitation that would be necessary if these items were left to deteriorate.

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

Town and School grounds require the on-going extensive landscaping, structural improvements, and repair. These funds will be applied to create attractive and functional landscapes and hardscape improvements including plant installation, regrading, reseeding, tree work, 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 left to deteriorate.

**46. TREE REMOVAL AND REPLACEMENT \$100,000. (T)**

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.

**47. WALNUT HILLS CEMETERY UPGRADE \$115,000. (T)  
\$115,000. (O)**

The Trustees, in conjunction with the Parks and Open Spaces Division, completed a Walnut Hills Cemetery Master Plan to develop cemetery-wide recommendations with an implementation plan for the entire property that can be used as a guide for both long- and short-term planning for protection and reinforcement of the sense of place, user needs, cemetery development, and horticultural and maintenance improvements. A primary catalyst for this master plan is recognition of the need for future availability of internment space and understanding that these decisions can impact the overall landscape character of this historic cemetery. The balance between the natural landscape and built elements must be maintained to ensure that the overall landscape character, including the layout and treatment of gravesites, is reinforced and maintained.

The primary focus of recommendations for improvement is expansion of internment opportunities, as well as the protection, stabilization, and preservation of historic artifacts and walls. These efforts will prevent significant deterioration of these valuable resources and reduce risk to visitors. Additional improvements need to be made related to landscape issues and making improvements for visitors. The Cemetery Trustees have voted to expend \$115,000 from the Sale of Lots special revenue fund to match the \$115,000 in revenue-financed CIP funding. Town Meeting approval is required to spend those funds per the provisions of MGL Chapter 114, Section 15.

**48. LARZ ANDERSON SKATING RINK \$130,000. (T)**

In FY06, \$400,000 was approved to purchase and install a complete refrigeration package that meets the capacity of the Larz Anderson Outdoor Skating Rink. The \$400,000 consisted of a \$260,000 bond and \$140,000 in tax-financed CIP funds. The antiquated system had to be replaced in order to keep the outdoor rink operational. Maintenance repairs had 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.

As was discussed during review of this item leading up to the 2005 Annual Town Meeting, the \$260,000 bond authorization was required so that the entire project could be done at once (the alternative was a phased approach that cost the Town more), but long-term borrowing was never planned for. Instead, the Town would short-term borrow and appropriate \$130,000 in both FY07 and FY08 to pay off the short-term note. This proposal reflects the final \$130,000 as originally planned.

**49. SOULE REC CENTER - HVAC/FIRE ESCAPE/GARDENER'S SHED \$348,000. (T)**

The forced hot water system needs to be finished in all areas of the building and the existing fire escape needs to be replaced. \$348,000 is requested in FY08 for the HVAC system and the fire escape. The old gardener's shed is currently used as a storing area for sporting equipment. In order to use it year-round, lights and heating need to be added.

**50. SCHOOL FURNITURE UPGRADE \$25,000. (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.

**51. ASBESTOS REMOVAL - TOWN/SCHOOL \$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.

**52. ADA RENOVATIONS - TOWN/SCHOOL \$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.

**53. SCHOOL FACILITIES MASTER PLAN \$ 91,250. (T)  
\$ 8,750 (R)**

The Town of Brookline and the Public Schools of Brookline utilize eight K-8 buildings and a three building High School Campus to serve approximately 6,000 students Pre-School through 12 Grade. The proposed master plan will include a comprehensive assessment of all existing facilities, consideration of district-wide educational programs (both general and special education), a demographic analysis, a transportation impact, and a redistricting consideration/recommendations. Any proposals within this plan should include facility recommendations with concept designs for improvements at selected facilities (i.e., Runkle, Devotion, Lynch, Baldwin, Pierce, etc). The plan should include both short- and long-term options and should be consistent with local design traditions while meeting 21st century programmatic and educational needs. The plan should include a projected schedule for implementation, consistent with capital budget projections/options.

Another reason why this master plan is being requested is that the newly revamped School Building Authority (SBA), through its newly promulgated regulations, looks for district-wide master plans when evaluating project requests. Having a master plan will only help the Town's argument to the Authority that our renovation projects are worthy of state assistance.

**54. BALDWIN SCHOOL – BOILER \$50,000. (T)**

The existing boiler and burner at the Baldwin School is now 53 years old. While the Town is unable to get parts for the burner, we have been able to maintain what is there by undertaking various repairs using non-standard parts, boiler water treatment programs, and modifying the piping. There is a concern about boiler failure due to metal fatigue and erosion. The plan would be to replace the steam boiler and install two smaller, more fuel efficient boilers with dual fuel burners. The system would be maintained as steam. The \$50,000 requested in FY08 is for replacement of the boiler.

**55. PORTABLE CLASSROOMS \$400,000. (T)**

Based upon the significant increase in Kindergarten enrollment for school year 2006/2007, the School Department has requested funding to allow for the installation of up to eight modular classrooms in time for the opening of school in September, 2008. While the School Department does not know whether the modular classrooms will ultimately be required, the current elementary enrollment, coupled with the available birth data concerning three- and four-year old residents, would argue for an increased demand on space.

The School Department intends to identify capacity within the eight elementary schools for any additional classrooms that may be required for September, 2007, despite the difficulty that goal will pose if the number of Kindergarten classrooms needed is in the 24-28 range. For September, 2008, the School Department will not have available elementary classroom space if the September, 2007 Kindergarten enrollment requires 24-28 classrooms and the September, 2008 enrollment is at the same level.

This funding request would support the leasing of four modular units, each approximately 36' by 60', that each have two classrooms and two handicapped accessible bathrooms. The \$400,000 estimate for FY08 includes delivery, set-up, foundation, skirts, decks, and ramps. The second and third year costs are lower (\$80,000 / yr) since they do not include the start-up expenses.

**56. SINGLETREE TANK INTERIOR REHAB \$250,000. (EB)**

The water distribution system provides storage and operating reserves through the Singletree Hill water storage tank. Scheduled maintenance requires that the interior of the steel tank be painted every 10 to 15 years and that the exterior be painted every 10 years as needed to prevent surface deterioration. The interior was last completed in 1990 and the exterior was completed in 2003. An inspection of the interior in 2003 had indicated that the interior coating is still in excellent condition and should provide service for an additional four years. These funds will provide for the complete rehabilitation of the interior of the tank including cleaning, surface preparation, priming, and application of a chlorinated rubber coating.

**57. FISHER HILL ACQUISITION, DESIGN & CONSTRUCTION \$1,350,000. (B)**

The former MWRA Fisher Hill Reservoir is a 10-acre site that was declared surplus property by the State. The site consists of an above ground reservoir, a historic gatehouse, native and invasive vegetation, dramatic topography, and a perimeter fence. The property is presumed to be protected under Article 97 as parkland, recreational space, and open space. A Master Planning Committee established by the Board of Selectmen made the recommendation that the Town purchase this property and develop it for park and recreation purposes, with the intent of incorporating an athletic field, parking, tree lined walking paths, naturalistic buffers, native woodlands, and restoration of the gatehouse. A Design Review Committee was established to work on the conceptual design and budget for the park development project.

The first phase of development will enable the Town to purchase the site and to make it safe and accessible to the public. The Town will bond \$1.35 million for the first phase. The second phase will encompass the construction of a new athletic field and park. It is estimated to cost \$3.25 million and will be funded by proceeds from the development of the Town's reservoir property just across the street.

## **58. TOWN HALL RENOVATIONS**

**\$13,800,000. (B)**

**\$ 2,150,000. (T)**

Town Hall was built in 1965 and, since that time, there have been no major changes or improvements to the building or to its systems. The Town Hall Renovation Project has been on the CIP since 1995, but it has been delayed for several years because of other capital priorities including the Lawrence School, Main Library, and Public Safety Building. The 2003 Town Hall Feasibility Study documented many serious deficiencies in the building's systems. The Study identified multiple deficiencies involving life safety and code requirements in critical need of being addressed.

In 2005, Town Meeting appropriated \$1.26 million for plans and specifications. The Building Commission retained HMFH Architects of Cambridge and a team of experienced mechanical, electrical and plumbing consultants. Schematic plans developed by the design team were accepted by the Building Commission in September, 2005. The Building Commission anticipates receiving bids in early May, enabling the Town to go to Town Meeting with bids in hand.

The primary goal of this project is to replace all internal systems in order to create a high performance building. Repeated pipe bursts, various electrical malfunctions, and elevator failures have increasingly occurred in recent years. Particularly important is energy efficiency. The architect's schematic plans call for transforming Town Hall into a Green Building potentially eligible for a LEED Silver Rating, the same rating of the recently renovated Health Department. In addition, the interior spaces are being redefined to improve customer convenience, upgrade workflow and make all areas of the building accessible at contemporary standards, and create additional public meeting spaces.

A major component of the renovation project is relocating the employees who work in Town Hall. At the November, 2006 Special Town Meeting, \$950,000 was approved to prepare satellite locations and relocate employees. While most Town Hall departments will move to the Old Lincoln School, DPW will temporarily relocate to the Municipal Service Center on Hammond Street, some school staff could go to the Sperber Center, and the Town's Clerk's Office will be housed in the Denny Room of the Health Building. Relocation to the Old Lincoln and satellite locations will require improvements to each of the facilities, including voice/data wiring, electrical, carpentry, and flooring. Further, some aspects of the relocations will require specialty services because vital records, polling machines, and other exceptional factors are involved. In addition, parking and transportation plans will also be implemented. Staff parking is expected to continue at Town Hall, but with some form of transportation between the two locations.

Funding for this \$16.9 million project is broken out below:

- \$1.8 million from the Overlay Reserve Surplus, \$950,000 of which was approved in November, 2006. The balance of the \$1.8 million (\$850,000) will be recommended at the Annual Town Meeting in May, 2007;
- A \$13.8 million bond authorization is being recommended at this Annual Town Meeting in May, 2007; and
- \$1.3 million in pay-as-you-go, which was preserved by delaying permanent financing by one year, will also be recommended at this Annual Town Meeting in May, 2007.

====

### **RECOMMENDATION**

The Advisory Committee recommends FAVORABLE ACTION on the FY'08 Budget as presented under Article 7.

VOTED: To approve the budget for fiscal year 2008 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

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

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

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

**2.) PROCUREMENT CONTRACTS AND LEASES:** The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2008 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 #22) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Board of Selectmen shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #21), 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 \$90,328 effective July 1, 2007, 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 \$1,253,168 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	\$415,984
Purchase of Services	\$183,435
Supplies	\$151,815
Other	\$3,350
Capital	\$85,580
Reserve	<u>\$40,000</u>
Total Appropriations	\$880,164
Indirect Costs	<u>\$373,004</u>
Total Costs	\$1,253,168

Total costs of \$1,253,168 to be funded from golf receipts with \$373,004 to be reimbursed to the General Fund for indirect costs.

**7.) WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling \$22,879,533, 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	1,933,539	266,577	2,200,116
Purchase of Services	159,334	147,226	306,560
Supplies	152,989	16,000	168,989
Other	3,600	0	3,600
Capital	189,800	135,000	324,800
Intergovernmental	4,866,189	10,268,654	15,134,843
Reserve	<u>103,148</u>	<u>123,818</u>	<u>226,966</u>
Total Appropriations	7,408,598	10,957,275	18,365,873
Indirect Costs	<u>2,987,341</u>	<u>1,526,319</u>	<u>4,513,660</u>
Total Costs	10,395,939	12,483,594	22,879,533

Total costs of \$22,879,533 to be funded from water and sewer receipts with \$4,513,660 to be reimbursed to the General Fund for indirect costs.

**8.) REVOLVING FUNDS:**

- a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All

receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$1,750,000.

- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$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 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed \$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 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed \$30,000.

**9.) SCHOOLHOUSE MAINTENANCE AND REPAIR:** The sum of \$4,326,528, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

**10.) SNOW AND ICE BUDGET:** The sum of \$339,187, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article.

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

Parking Meter Special Revenue Fund (to the Department of Public Works - \$1,310,000) (to the Police Department - \$1,310,000)	\$2,620,000
State Library Aid Special Revenue Fund (to the Library)	\$ 41,555
Cemetery Sales Special Revenue Fund (to the Department of Public Works)	\$ 100,000

Recreation Revolving Fund  
(to the General Fund for benefits reimbursement)

\$ 186,355

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

**13.) SPECIAL APPROPRIATIONS:** The appropriations set forth as items 36 through 58, inclusive, in Table 1 shall be specially appropriated for the following purposes:

- 36.) Raise and appropriate \$225,000, 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.
- 37.) Raise and appropriate \$135,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the replacement of firefighter turnout gear.
- 38.) Appropriate \$200,000, 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; to meet the appropriation raise \$39,595; transfer \$11,925 from the balance remaining in the appropriation voted under Article 7, Section 12, Item 44 of the 2005 Annual Town Meeting; transfer \$30,000 from the balance remaining in the appropriation voted under Article 11, Section 12, Item 51 of the 2003 Annual Town Meeting; transfer \$74,928 from the balance remaining in the appropriation voted under Article 7, Section 12, Item 54 of the 2001 Annual Town Meeting; transfer \$30,920 from the balance remaining in the appropriation voted under Article 2, Section B of the 2000 November Special Town Meeting; and transfer \$12,632 from the balance remaining in the appropriation voted under Article 6, Section 11, Item 49 of the 1999 Annual Town Meeting.
- 39.) Raise and appropriate \$90,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the rehabilitation of Fire Department apparatus.
- 40.) Raise and appropriate \$1,050,000, 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.
- 41.) 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.

- 42.) 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.
- 43.) Raise and appropriate \$40,000, 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 Winthrop Square / Minot Rose Garden.
- 44.) 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.
- 45.) 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 and School grounds.
- 46.) 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.
- 47.) Appropriate \$230,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Trustees of the Walnut Hills Cemetery, for upgrades to the Walnut Hills Cemetery; to meet the appropriation raise \$115,000; and authorize the expenditure of \$115,000 from the Sale of Lots special revenue fund (SW01).
- 48.) Raise and appropriate \$130,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repairs to the Larz Anderson Skating Rink.
- 49.) Raise and appropriate \$348,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the upgrade of the HVAC system and fire escape at the Soule Recreation Center.
- 50.) Raise and appropriate \$25,000, 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.
- 51.) 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.
- 52.) 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.
- 53.) 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 a School Facilities Master Plan; to meet the appropriation raise \$91,250; and transfer \$8,750 from the balance remaining in the appropriation voted under Article 6, Section 11, Item 80 of the 1999 Annual Town Meeting.
- 54.) 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 boiler replacement at the Baldwin School.
- 55.) Raise and appropriate \$400,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for portable classrooms.
- 56.) Appropriate \$250,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, to pay costs of rehabilitating the interior of the Singletree Road water tank, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Town Treasurer be and hereby is authorized, with the approval of the Selectmen, to borrow said amount under and pursuant to Chapter 44, Section 8(7C) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.
- 57.) Appropriate \$1,350,000, 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, to pay costs of purchasing the State-owned reservoir at Fisher Hill, costs of making said property safe and accessible to the public, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Town Treasurer be and hereby is authorized, with the approval of the Selectmen, to borrow said amount under and pursuant to Chapter 44, Sections 7(3) and / or 7(25) of the General Laws, or pursuant to any other enabling authority and to issue bonds or notes of the Town therefore; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.
- 58.) Appropriate \$15,950,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, to pay costs of remodeling, renovating, reconstructing or making extraordinary repairs to the Town Hall and all other costs incidental and related thereto, and that to meet this appropriation, the sum of \$1,300,000 shall be raised by taxation, \$850,000 shall be transferred from the overlay surplus account and the Town Treasurer, with the approval of the Selectmen is hereby authorized to borrow \$13,800,000 under and pursuant to Chapter 44, Section 7(3A) of the General Laws, or pursuant to any other enabling authority and to issue bonds or notes of the Town therefore; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

14.) **FREE CASH:** Raise and appropriate and transfer \$3,814,792 from free cash for the following purposes:

- a.) Reduce the tax rate (Capital Improvements) – \$ 2,891,385;
- b.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$418,778;
- c.) Workmen’s Compensation Trust Fund (MGL Chapter 40, Section 13A) – \$250,000;
- d.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – \$254,629.

XXX

**CROSS REFERENCE TABLE FOR SPECIAL APPROPRIATIONS FOUND UNDER ARTICLE 7 (FY08 BUDGET)**

<b>PROJECT</b>	<b>ITEM # IN WARRANT</b>	<b>PAGE WARRANT LANGUAGE IS FOUND ON IN COMBINED REPORTS</b>	<b>ITEM # IN BUDGET VOTE</b>	<b>PAGE VOTE IS FOUND ON IN COMBINED REPORTS</b>	<b>PAGE ADV CMTE'S PROJECT DESCR. IS FOUND ON IN COMBINED REPORTS</b>
Technology Applications	1	7-1	36	7-54	7-43
Firefighter Turnout Gear	2	7-1	37	7-54	7-44
Fire Engine #4 Replacement	3	7-1	38	7-54	7-44
Fire Apparatus Rehab	4	7-1	39	7-54	7-44
Street Rehabilitation	5	7-1	40	7-54	7-44
Traffic Calming Studies and Improvements	6	7-1			
Sidewalk Repair/Reconstruction	7	7-1	41	7-54	7-45
Streetlight Replacement/Repairs	8	7-2	42	7-55	7-45
Winthrop Square / Minot Rose Garden	9	7-2	43	7-55	7-45
Playground Equipment, Fields, Fencing	10	7-2	44	7-55	7-45
Town/School Grounds Rehab	11	7-2	45	7-55	7-46
Tree Removal and Replacement	12	7-2	46	7-55	7-46
Walnut Hills Cemetery Upgrades	13	7-2	47	7-55	7-46
Larz Anderson Skating Rink	14	7-2	48	7-55	7-46
Soule Rec Center - HVAC / Fire Escape	15	7-2	49	7-55	7-47
School Furniture Upgrades	16	7-2	50	7-55	7-47
Town/School Asbestos Removal	17	7-2	51	7-55	7-47
Town/School ADA Renovations	18	7-2	52	7-55	7-47
School Facilities Master Plan	19	7-2	53	7-55	7-47
Baldwin School Boiler	20	7-3	54	7-56	7-47
Portable Classrooms	21	7-3	55	7-56	7-48
Singletree Tank Interior Rehabilitation	22	7-3	56	7-56	7-48
Fisher Hill - Phase 1 (Acquisition & Make Safe / Accessible)	23	7-3	57	7-56	7-48
Town Hall Renovations	24	7-3	58	7-56	7-49

**FY08 BUDGET - TABLE 1**

		<b>FY04 ACTUAL</b>	<b>FY05 ACTUAL</b>	<b>FY06 ACTUAL</b>	<b>FY07 BUDGET</b>	<b>FY08 BUDGET</b>	<b>\$\$ CHANGE FROM FY07</b>	<b>% CHANGE FROM FY07</b>
	<b>REVENUES</b>							
	Property Taxes	114,247,135	119,549,759	121,812,454	130,076,534	134,994,153	4,917,619	3.8%
	Local Receipts	19,033,233	21,229,625	22,986,109	20,477,229	21,798,100	1,320,871	6.5%
	State Aid	17,298,584	17,420,087	17,951,657	18,021,104	18,890,852	869,748	4.8%
	Free Cash	5,602,961	6,966,241	4,606,534	5,387,435	3,814,792	(1,572,643)	-29.2%
	Other Available Funds	7,884,611	11,116,554	7,691,658	8,948,052	8,853,729	(94,323)	-1.1%
	<b>TOTAL REVENUE</b>	<b>164,066,523</b>	<b>176,282,266</b>	<b>175,048,413</b>	<b>182,910,354</b>	<b>188,351,626</b>	<b>5,441,272</b>	<b>3.0%</b>
	<b>EXPENDITURES</b>							
	<b>DEPARTMENTAL EXPENDITURES</b>							
	1 . Selectmen	557,303	568,262	568,510	584,508	591,303	6,795	1.2%
	2 . Human Resources	372,256	383,978	409,488	463,435	474,134	10,699	2.3%
	3 . Information Technology	1,484,414	1,544,656	1,358,698	1,390,498	1,370,141	(20,357)	-1.5%
(1)	4 . Finance Department	2,544,685	2,586,279	2,916,030	2,884,403	2,913,822	29,419	1.0%
	<i>a. Comptroller</i>	346,011	336,176	450,171	466,021	486,810	20,789	4.5%
	<i>b. Purchasing</i>	1,004,669	1,033,882	1,030,042	1,008,713	997,141	(11,572)	-1.1%
	<i>c. Assessing</i>	637,562	653,414	642,063	617,405	629,903	12,498	2.0%
	<i>d. Treasurer</i>	556,443	562,807	793,753	792,264	799,968	7,704	1.0%
	5 . Legal Services	625,823	649,988	753,767	611,929	635,877	23,948	3.9%
	6 . Advisory Committee	15,187	20,317	21,790	22,691	23,311	620	2.7%
	7 . Town Clerk	453,174	526,265	445,207	547,500	506,959	(40,540)	-7.4%
	8 . Planning and Community Development	383,595	387,998	414,522	450,267	465,303	15,035	3.3%
	9 . Economic Development	163,449	126,958	180,797	190,702	180,716	(9,986)	-5.2%
	10 . Police	12,518,772	13,032,915	13,492,219	13,757,597	13,715,379	(42,218)	-0.3%
	11 . Fire	10,800,522	10,850,818	11,675,645	11,599,448	11,644,504	45,056	0.4%
	12 . Building	4,857,475	5,027,617	5,619,611	6,154,527	6,431,092	276,566	4.5%
(1)	13 . Public Works	11,429,023	12,328,195	12,031,682	12,365,067	12,411,085	46,017	0.4%
	<i>a. Administration</i>	783,590	785,873	805,447	831,513	846,133	14,620	1.8%
	<i>b. Engineering/Transportation</i>	705,177	778,931	810,959	874,681	860,775	(13,905)	-1.6%
	<i>c. Highway</i>	4,689,124	5,604,553	5,034,546	5,066,190	5,108,732	42,542	0.8%
	<i>d. Sanitation</i>	2,736,325	2,661,019	2,742,398	2,882,917	2,969,009	86,093	3.0%
	<i>e. Parks and Open Space</i>	2,514,808	2,497,819	2,638,332	2,709,767	2,626,435	(83,332)	-3.1%
	14 . Library	2,947,165	2,983,438	3,145,823	3,326,370	3,327,445	1,075	0.0%
	15 . Health	967,711	867,815	1,011,289	1,023,221	1,003,592	(19,629)	-1.9%
	16 . Veterans' Services	165,077	164,220	195,490	203,688	204,240	552	0.3%
	17 . Council on Aging	631,313	658,381	698,791	732,860	752,912	20,051	2.7%
	18 . Human Relations	127,555	131,769	134,352	140,334	140,971	638	0.5%
	19 . Recreation	1,291,953	1,244,786	1,274,620	1,021,246	914,657	(106,589)	-10.4%
(2)	20 . Energy Reserve	0	0	445,303	370,000	0	(370,000)	-100.0%
(2)	21 . Personnel Services Reserve	1,100,283	1,180,357	1,072,632	1,415,017	750,000	(665,017)	-47.0%
(2)	22 . Collective Bargaining - Town	1,187,950	1,500,000	2,150,000	1,100,000	1,600,000	500,000	45.5%
	<i>Subtotal Town</i>	52,336,452	54,084,655	56,348,332	59,255,307	60,057,443	802,135	1.4%
	23 . Schools	53,774,922	56,220,591	58,236,785	60,096,385	62,480,009	2,383,624	4.0%
	<b>TOTAL DEPARTMENTAL EXPENDITURES</b>	<b>106,111,374</b>	<b>110,305,246</b>	<b>114,585,117</b>	<b>119,351,693</b>	<b>122,537,452</b>	<b>3,185,759</b>	<b>2.7%</b>
	<b>NON-DEPARTMENTAL EXPENDITURES</b>							
(1)	24 . Employee Benefits	26,386,986	27,288,661	28,973,851	32,158,118	36,315,325	4,157,207	12.9%
(3)	<i>a.) Pensions</i>	9,239,869	9,514,422	10,065,393	10,165,009	11,277,159	1,112,150	10.9%
	<i>b.) Group Health</i>	14,372,500	15,136,196	16,562,370	18,936,109	21,585,166	2,649,057	14.0%
(3)	<i>c.) Retiree Group Health Trust Fund</i>	626,133	0	0	0	0	0	na
	<i>d.) Employee Assistance Program (EAP)</i>	25,000	24,568	24,568	25,000	25,000	0	0.0%
	<i>e.) Group Life</i>	114,946	130,023	147,675	157,000	161,000	4,000	2.5%
	<i>f.) Disability Insurance</i>					16,000	16,000	na
(3)	<i>g.) Worker's Compensation</i>	895,000	1,248,704	945,000	1,450,000	1,600,000	150,000	10.3%
(3)	<i>h.) Public Safety IOD Medical Expenses</i>	0	0	0	155,000	250,000	95,000	61.3%
(3)	<i>i.) Unemployment Compensation</i>	228,203	237,770	167,212	125,000	166,000	41,000	32.8%
	<i>j.) Medical Disabilities</i>	14,061	29,936	14,290	30,000	30,000	0	0.0%
	<i>k.) Medicare Coverage</i>	871,274	967,042	1,047,343	1,115,000	1,205,000	90,000	8.1%
(2)	25 . Reserve Fund	1,070,000	1,432,168	843,474	1,593,755	1,675,113	81,358	5.1%

		FY04 ACTUAL	FY05 ACTUAL	FY06 ACTUAL	FY07 BUDGET	FY08 BUDGET	\$\$ CHANGE FROM FY07	% CHANGE FROM FY07
	26 Stabilization Fund	0	246,892	39,004	22,248	0	(22,248)	-100.0%
	27 . Liability/Catastrophe Fund	100,000	172,896	406,616	225,039	254,629	29,590	13.1%
	28 Housing Trust Fund	316,455	348,312	0	0	0	0	na
	29 . General Insurance	230,000	284,960	250,820	276,175	276,175	0	0.0%
	30 . Audit/Professional Services	137,036	122,194	136,582	138,987	138,987	0	0.0%
	31 . Contingency Fund	12,102	15,663	16,233	15,000	15,000	0	0.0%
	32 . Out-of-State Travel	851	0	1,192	3,000	3,000	0	0.0%
	33 . Printing of Warrants & Reports	16,378	16,690	16,008	20,000	20,000	0	0.0%
	34 . MMA Dues	10,533	10,769	10,744	11,433	11,251	(182)	-1.6%
	<i>Subtotal General</i>	<i>823,355</i>	<i>1,218,376</i>	<i>877,199</i>	<i>2,305,636</i>	<i>2,394,155</i>	<i>88,519</i>	<i>3.8%</i>
(1)	35 . Borrowing	13,251,400	13,247,416	13,831,466	14,396,621	14,052,910	(343,711)	-2.4%
	<i>a. Funded Debt - Principal</i>	<i>8,307,613</i>	<i>8,616,659</i>	<i>9,218,951</i>	<i>9,613,087</i>	<i>9,430,187</i>	<i>(182,900)</i>	<i>-1.9%</i>
	<i>b. Funded Debt - Interest</i>	<i>4,562,078</i>	<i>4,264,255</i>	<i>4,299,950</i>	<i>4,613,134</i>	<i>4,462,723</i>	<i>(150,411)</i>	<i>-3.3%</i>
	<i>c. Bond Anticipation Notes</i>	<i>362,167</i>	<i>330,000</i>	<i>197,024</i>	<i>110,400</i>	<i>100,000</i>	<i>(10,400)</i>	<i>-9.4%</i>
	<i>d. Abatement Interest and Refunds</i>	<i>19,542</i>	<i>36,502</i>	<i>115,541</i>	<i>60,000</i>	<i>60,000</i>	<i>0</i>	<i>0.0%</i>
	<b>TOTAL NON-DEPARTMENTAL EXPENDITURES</b>	<b>40,461,741</b>	<b>41,754,453</b>	<b>43,682,516</b>	<b>48,860,375</b>	<b>52,762,390</b>	<b>3,902,015</b>	<b>8.0%</b>
	<b>TOTAL GENERAL APPROPRIATIONS</b>	<b>146,573,115</b>	<b>152,059,699</b>	<b>158,267,633</b>	<b>168,212,068</b>	<b>175,299,842</b>	<b>7,087,774</b>	<b>4.2%</b>
	<b>SPECIAL APPROPRIATIONS</b>							
	36 . Technology Applications (revenue financed)					225,000		
	37 . Firefighter Turnout Gear (revenue financed)					135,000		
	38 . Fire Engine #4 Replacement (revenue financed = \$39,595, capital project surplus = \$160,405)					200,000		
	39 . Fire Apparatus Rehab (revenue financed)					90,000		
	40 . Street Rehabilitation (revenue financed)					1,050,000		
	41 . Sidewalk Repair/Reconstruction (revenue financed)					200,000		
	42 . Streetlight Replacement/Repairs (revenue financed)					100,000		
	43 . Winthrop Square / Minot Rose Garden (revenue financed)					40,000		
	44 . Playground Equipment, Fields, Fencing (revenue financed)					250,000		
	45 . Town/School Grounds Rehab (revenue financed)					120,000		
	46 . Tree Removal and Replacement (revenue financed)					100,000		
	47 . Walnut Hills Cemetery Upgrades (revenue financed = \$115,000, special revenue fund = \$115,000)					230,000		
	48 . Larz Anderson Skating Rink (revenue financed)					130,000		
	49 . Soule Rec Center - HVAC / Fire Escape (revenue financed)					348,000		
	50 . School Furniture Upgrades (revenue financed)					25,000		
	51 . Town/School Asbestos Removal (revenue financed)					50,000		
	52 . Town/School ADA Renovations (revenue financed)					50,000		
	53 . School Facilities Master Plan (revenue financed = \$91,250, capital proj surpl = \$8,750)					100,000		
	54 . Baldwin School Boiler (revenue financed)					50,000		
	55 . Portable Classrooms (revenue financed)					400,000		
	56 . Singletree Tank Interior Rehabilitation (enterprise bond)					250,000		
	57 . Fisher Hill - Phase 1 (Acquisition & Make Safe / Accessible) (bond)					1,350,000		
	58 . Town Hall Renovations (overlay reserve surplus = \$850,000, revenue financed = \$1,300,000, bond = \$13,800,000)					15,950,000		
(4)	<b>TOTAL SPECIAL APPROPRIATIONS</b>	<b>7,066,117</b>	<b>11,438,708</b>	<b>6,060,803</b>	<b>7,874,562</b>	<b>5,928,000</b>	<b>(1,946,562)</b>	<b>-24.7%</b>
	<b>TOTAL APPROPRIATED EXPENDITURES</b>	<b>153,639,232</b>	<b>163,498,407</b>	<b>164,328,436</b>	<b>176,086,630</b>	<b>181,227,842</b>	<b>5,141,212</b>	<b>2.9%</b>
	<b>NON-APPROPRIATED EXPENDITURES</b>							
	Cherry Sheet Offsets	1,013,561	1,157,237	1,280,287	117,738	116,835	(903)	-0.8%
	State & County Charges	5,460,231	5,352,984	5,084,477	5,229,723	5,481,951	252,228	4.8%
	Overlay	1,500,000	1,800,995	1,490,442	1,451,262	1,500,000	48,738	3.4%
	Deficits-Judgments-Tax Titles	6,387	0	0	25,000	25,000	0	0.0%
	<b>TOTAL NON-APPROPRIATED EXPEND.</b>	<b>7,980,179</b>	<b>8,311,216</b>	<b>7,855,206</b>	<b>6,823,723</b>	<b>7,123,786</b>	<b>300,063</b>	<b>4.4%</b>
	<b>TOTAL EXPENDITURES</b>	<b>161,619,411</b>	<b>171,809,623</b>	<b>172,183,642</b>	<b>182,910,354</b>	<b>188,351,626</b>	<b>5,441,272</b>	<b>3.0%</b>
	<b>SURPLUS/(DEFICIT)</b>	<b>2,447,113</b>	<b>4,472,643</b>	<b>2,864,770</b>	<b>0</b>	<b>0</b>		

(1) Breakdown provided for informational purposes.

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

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

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

**FY08 BUDGET - TABLE 2**

<b>Department/Board/Commission</b>	<b>Personnel Services</b>	<b>Purchase of Services</b>	<b>Supplies</b>	<b>Other Charges/ Expenses</b>	<b>Capital Outlay</b>	<b>Inter-Gov't'al</b>	<b>Debt Service</b>	<b>Personnel Benefits</b>	<b>Agency Total</b>
Board of Selectmen (Town Administrator)	565,140	9,553	5,750	5,640	5,220				591,303
Human Resources Department (Human Resources Director)	231,984	230,307	8,500	500	2,843				474,134
Information Technology Department (Chief Information Officer)	804,743	488,433	34,127	2,450	40,388				1,370,141
Finance Department (Director of Finance)	1,796,794	1,038,895	42,018	14,349	21,766				2,913,822
Legal Services (Town Counsel)	466,194	89,191	1,950	74,400	4,142				635,877
Advisory Committee (Chair, Advisory Committee)	20,943	266	1,275	340	487				23,311
Town Clerk (Town Clerk)	426,425	61,854	11,401	1,800	5,480				506,959
Planning and Community Department (Plan. & Com. Dev. Dir.)	435,069	12,143	5,922	3,700	8,469				465,303
Economic Department (Econ. Devel. Officer)	153,148	18,308	7,785	250	1,225				180,716
Police Department (Police Chief)	12,427,254	567,256	296,099	5,500	419,270				13,715,379
Fire Department (Fire Chief)	11,136,160	300,807	130,580	4,850	72,105				11,644,503
Public Buildings Department (Building Commissioner)	1,795,742	4,430,234	146,530	1,900	56,687				6,431,093
Public Works Department (Commissioner of Public Works)	7,204,931	3,424,426	1,052,088	9,639	700,000	20,000			12,411,085
Public Library Department (Library Board of Trustees)	2,352,125	424,366	492,851	1,502	56,601				3,327,445
Health Department (Health Director)	698,052	278,681	16,825	3,620	6,414				1,003,592
Veterans' Services (Veterans' Services Director)	112,543	2,007	650	88,200	840				204,240
Council on Aging (Council on Aging Director)	568,328	151,553	18,850	2,900	11,281				752,912
Human Relations/Youth Resources (Human Relations Dir.)	131,010	4,307	4,100	600	954				140,971
Recreation Department (Recreation Director)	656,044	199,961	49,872	2,400	6,380				914,657
School Department (School Committee)									62,480,009
<b>Total Departmental Budgets</b>	<b>41,982,630</b>	<b>11,732,548</b>	<b>2,327,173</b>	<b>224,540</b>	<b>1,420,552</b>	<b>20,000</b>			<b>120,187,452</b>
<b>DEBT SERVICE</b>									
Debt Service (Director of Finance)							14,052,910		14,052,910
<b>Total Debt Service:</b>							<b>14,052,910</b>		<b>14,052,910</b>
<b>EMPLOYEE BENEFITS</b>									
Contributory Pensions Contribution (Director of Finance)								11,002,159	11,002,159
Non-Contributory Pensions Contribution (Director of Finance)								275,000	275,000
Group Health Insurance (Human Resources Director)								21,585,166	21,585,166
Employee Assistance Program (Human Resources Director)								25,000	25,000
Group Life Insurance (Human Resources Director)								161,000	161,000
Disability Insurance								16,000	16,000
Workers' Compensation (Human Resources Director)								1,600,000	1,600,000
Public Safety IOD Medical Expenses (Human Resources Director)								250,000	250,000
Unemployment Insurance (Human Resources Director)								166,000	166,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)								30,000	30,000
Medicare Payroll Tax (Director of Finance)								1,205,000	1,205,000
<b>Total Employee Benefits:</b>								<b>36,315,325</b>	<b>36,315,325</b>
<b>GENERAL / UNCLASSIFIED</b>									
Reserve Fund (*) (Chair, Advisory Committee)									1,675,113
Liability/Catastrophe Fund (Director of Finance)									254,629
Stabilization Fund (Director of Finance)									
General Insurance (Town Administrator)		276,175							276,175
Audit/Professional Services (Director of Finance)		138,987							138,987
Contingency (Town Administrator)									15,000
Out of State Travel (*) (Town Administrator)		3,000							3,000
Printing of Warrants (Town Administrator)		10,000	10,000						20,000
MMA Dues (Town Administrator)				11,251					11,251
Town Salary Reserve (*) (Director of Finance)	1,600,000								1,600,000
Personnel Services Reserve (*) (Director of Finance)	750,000								750,000
<b>Total General / Unclassified:</b>	<b>2,350,000</b>	<b>428,162</b>	<b>10,000</b>	<b>11,251</b>					<b>4,744,155</b>
<b>TOTAL APPROPRIATIONS</b>	<b>44,332,630</b>	<b>12,160,709</b>	<b>2,337,173</b>	<b>235,791</b>	<b>1,420,552</b>	<b>20,000</b>	<b>14,052,910</b>	<b>36,315,325</b>	<b>175,299,842</b>

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

ARTICLE 7

**Amendment to the Bonding Vote Proposed in Special Appropriation No. 58 of  
Article 7, the Fiscal Year 2008 Budget  
by Stanley L. Spiegel, TMM Prec. 2**

The final period of the vote under Special Appropriation 58. shall be replaced with:

, provided that no funds shall be borrowed or expended under this Article for the Town Hall renovation project, unless and until the \$13,800,000 for the project is voted as a debt exclusion, under Proposition 2 ½ so-called, as provided by statute.

EXPLANATION

In the Town's present financial situation, with a substantial budget deficit forecast for the 2009 fiscal year, and with other much needed school renovations soon to be at hand, it seems fiscally prudent to have the proposed \$13.8 million in bonding, resulting in about \$1.5 million in annual debt and interest payments, that would accompany the Town Hall renovation on the scale presently planned, be funded by a dedicated debt-exclusion revenue stream so as not to further increase the looming budget deficit and hence produce increased town and school service cuts.

ARTICLE 7

**Amendment Offered under Article 7 by Marty Rosenthal, TMM-9 & Brookline  
PAX Co-Chair**

Motion to AMEND the Vote Proposed in Special Appropriations as follows:

- A. Add new #39A (Combined Reports, p. 7-54)  
*“Raise and appropriate \$100,000, to be expended under the direction of the Board of Selectmen, with input from the Transportation Board and Commissioner of Public Works, for Traffic Calming studies and improvements.”*
- B. Reduce # 40 (same page) by the same amount, \$100,000, to now read:  
*“Raise and appropriate \$950,000, 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.”*

**EXPLANATION**

As the 2006 Annual Town Meeting heard from PAX and others, recent years have been a sorely frustrating experience for certain neighborhoods clamoring for Traffic Calming (hereinafter “T/C”) measures widely perceived to be crucial for their safety, especially for children and seniors. For that reason, last year we proposed language similar to our current motion above, and with the same amount, \$100,000. In the end we agreed to a consensus amendment described by the Town Clerk as follows:

*In place of the amendment proposed by TMM Marty Rosenthal, the Board of Selectmen approved alternative language that was approved by the Advisory Committee and Town Meeting. The approved language comes at the end of Special Appropriation #48: 'provided that the Department of Public Works and Transportation Board provide status reports to the Board of Selectmen on a quarterly basis.'"*

Since then it's been one step forward, now a third step back. The selectmen held a hearing in the late summer. And shortly beforehand, in the Coolidge-Kaplan Park area 5 years after a citizen petition, 3 years after the letter from four Park & Rec Commissioners (see below), 11 months after the Transportation Board voted some action, and 2 months after the above amendment was voted – construction finally began.

However, thereafter both the selectmen and our Transportation officials were busy with many other matters, and no further hearing occurred. Adding further insult to five years of injury, a few months later the hugely successful and universally appreciated speed-

humps were suddenly removed. Here today, gone tonight. Now, in the spring, the Coolidge-Kaplan flowers are blooming, the Park is booming, and the speed-humps are a fond memory. Safety, we hardly knew ye.

In this year’s warrant, the selectmen originally proposed an appropriation of \$50,000 (C/Rpt, p. 7-1) – less than prior years. (See p. 7-15 as to why: essentially “preparation of the CIP ... [to comply] with the Town’s CIP Financing Policies.”)

Then, with no explanation, the proposed AC vote at p. 7-54 takes two more steps backwards, eliminating the line item altogether, allegedly in part due to some sense of futility that the appropriations always get ignored anyway, and that this year is even more hopeless. Instead, we hear, the selectmen’s \$50,000 was then added to “Sidewalk Repair/Reconstruction.” (See C/R, p. 7-1, #6 and #7; p. 7-54, #41; and p. 7-45, #41)

In May of 2006, a DPW official wrote:

*“The following is an account of traffic calming funds for the last six years:*

<u>Fiscal Year</u>	<u>Appropriated</u>	<u>Spent</u>
FY01	250,000	250,000
FY02	205,000	205,000
FY03	217,094	217,094
FY04	200,000	63,402
FY05	200,000	0
FY06	150,000	0

*“There is approximately \$400,000 worth of traffic calming projects scheduled for this upcoming year.”*

What happened in FY04-FY06? Apparently the will of Town Meeting is meaningless if unseen forces don’t agree. And now, what’s been spent of the \$100,000 Town Meeting appropriated for FY-07? - We know that last year’s TMM amendment, and a push from the selectmen, got some results. But how much? (And, please don’t count the removal of the Kenwood speed-humps.)

The solution to foot-dragging, unresponsive government, and especially serious safety concerns, especially for children and seniors, is to refuse to put the stamp of approval on such foot-dragging. The solution may be a cliché, but it’s spelled either “*L-E-A-D-E-R-S-H-I-P*” or “*D-E-M-O-C-R-A-C-Y*” -- or both. Town Meeting should start by voting this message -- now.

Gandhi said "First they ignore you, then they laugh at you, then they fight you, then you win." This is neither rocket science nor putting a woman on the moon. The issue is the will, not the way.

**2006 A/T/Meeting, EXPLANATION for PAX AMENDMENT**

*This proposal puts more responsibility on the selectmen to give more direction to DPW, and presumably the Transportation Board” (“T-Bd.”), to more explicitly implement the enabling statute, Ch. 317 of the Acts Of 1974, “The [Transportation] board shall have exclusive authority generally consistent with the transportation policies of the board of selectmen ... to take any and all of the following actions ... .“*

*Traffic calming is happening all over the country, but here it’s been only baby-steps. It’s painfully obvious that some of our officials are, to say the least, not enthusiastic about it. Maybe there was some over-reaction to the perfectly human learning curve errors of Winchester St., in both concept and implementation, all now avoidable (e.g. better signage), especially in different areas (especially smaller streets). However, “official” ambivalence should defer to neighbors’ strongly-held requests for heightened safety -- unless there’s a prohibitive, overriding, and clear-cut countervailing consideration of either public safety or cost. In most cases, there’s none.*

*Yet, several recent neighborhood petitions have languished for years. COOLIDGE PARK neighbors submitted a July 2001 petition; “studies” were not done until the summer of 2004. In the February, 2003 four members of the Park & Rec. Commission, after studying Coolidge Park for renovations, wrote the T-Bd. “strongly endor[s]” the neighbors’ petition because of “a very significant hazard especially for children.” The 2004 “study” results, albeit questioned as to its methodology and validity by neighbors, confirmed that KENWOOD St. averages 13 cars a day over 41 mph, a few even over 50 mph; 32 more over 36 mph; 150 a day over 31 mph; and that 195 daily speeding cars being about 33% of the overall traffic, right alongside a playground! Nonetheless at a June, 2005 meeting widely perceived as “heated,” Town officials argued about the speeding problem, calling it “a perception”; a T-Bd. member wisecracked, “What do you want us to do, machine-gun the drivers?”; and a resident who said his car was almost hit as he backed out of his driveway was told to “back out more carefully.” In September 2005, after another well-attended meeting, the T-Bd. finally voted to address about 33% of the problems the neighbors have been pressing, including “temporary’ speed bumps on Kenwood. As of now, they are still “in progress,” supposedly “soon.”*

*Published reports indicate that the DRISCOLL School Traffic Calming Project Steering Committee has been asking for safety initiatives since the late 1990’s. Some were done in 2000 and 2001; but the neighbors and school officials have expressed frustration, in the words of the Driscoll Principal, that “the ball dropped. The rest of the project needs to get attended to.” At least one other neighborhood has voiced a similar concern about long delays. In 2003, due to citizen frustration, the Town Meeting, with the selectmen’s support, passed a Resolution urging that an update on all traffic calming projects be published in the Annual Report and on the Town website. This has been done, but it has not “sped up” the calming program. Maybe, hopefully, the selectmen can now take charge -- and do so.*

---

ARTICLE 8

---

EIGHTH ARTICLE

To see if the Town will fund Five Engine Companies, Two Ladder Companies for the entire fiscal year without restriction.

or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

We, the Petitioner and signatories to this article, believe the Town is at minimum levels of staffing and equipment for the Fire Service and any further reduction would result in risks to the public safety of firefighters, residents and property.

---

SELECTMEN'S RECOMMENDATION

The petitioner of the article has chosen not to move Article 8 since the two firefighter positions that were originally recommended to be cut out of the FY08 budget were restored. Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on April 24, 2007, on the article.

-----

---

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 8 is a citizen-petitioned article. It is not a resolution, by-law nor appropriation. It is essentially a statement of support and encouragement to fund Firefighter positions.

DISCUSSION

This article was filed in response to an early identification of two vacant Firefighter positions for possible elimination. Those eliminations would have likely led to a fire truck being pulled out of operation for some portion of the summer months. The proper way to address this issue is as an appropriation in the budget, which is where it is addressed. Since the filing of this article, revenues have been raised and the positions of concern are accounted for in our budget. The petitioner, seeing no need to pursue this

article, has stated a desire to have it withdrawn. Articles cannot technically be withdrawn after the signing of the Warrant, but a No Action vote will have the same effect.

RECOMMENDATION

Given that this issue is already addressed in the budget, and acceding to the wishes of the petitioner, the Advisory Committee, by a vote of 14-0-0, unanimously recommends NO ACTION.

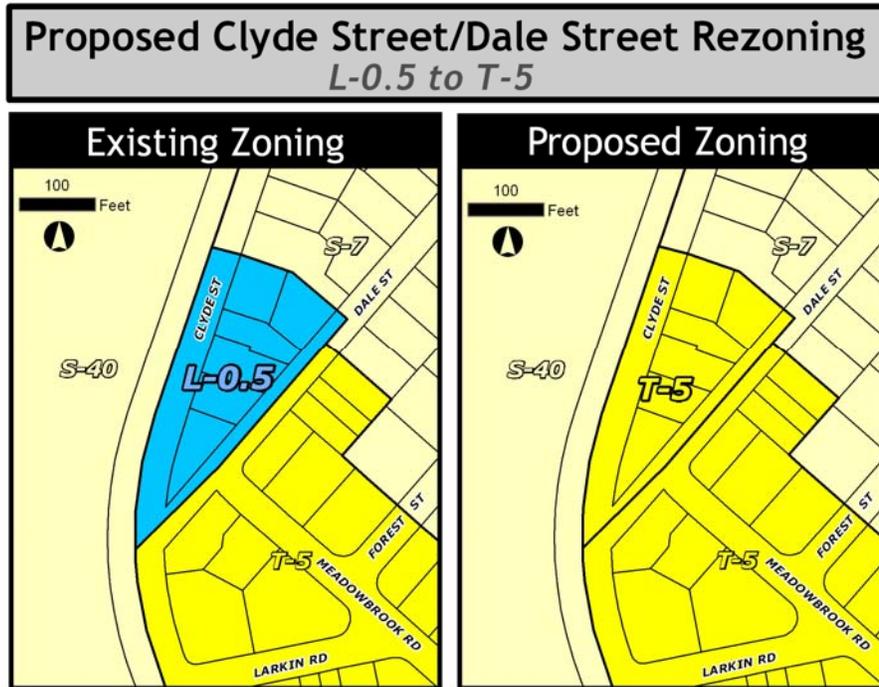
*XXX*

ARTICLE 9

NINTH ARTICLE

To see if the Town will amend the Zoning By-Law by adopting the following zoning map change:

Rezone a triangular area bordered by Clyde and Dale Streets (Block 340, Lots 8, 9-01, 10, 10-01, 11-09 and 12) from L-0.5 to T-5, including the following addresses: 286, 290, 294, 298, 302 Clyde Street and 32 Dale Street. (See Exhibit 1, as follows.)



*Exhibit 1: Map of Proposed Zoning Map Change, L-0.5 to T-5*

*Table 1: Parcels Contained within Subject L-0.5 Zone*

PARCEL ID	PARCEL ADDRESS	PARCEL AREA (SF)	CURRENT ZONING	CURRENT LAND USE
340-12-00	286 Clyde Street	4,464	L-0.5	Single Family Residential
340-11-09	290 Clyde Street	4,235	L-0.5	Two-Family Residential
340-09-01	294 Clyde Street	4,685	L-0.5	Single Family Residential
340-10-00	298 Clyde Street	3,727	L-0.5	Single Family Residential
340-10-01	302 Clyde Street	5,998	L-0.5	Single Family Residential
340-08-00	32 Dale Street	4,784	L-0.5	Single Family Residential

or act on anything relative thereto.

---

### PETITIONER'S EXPLANATION

This article is being submitted by the Planning and Community Development Department in response to a request by the Building Commissioner. Last fall, plans were submitted, and subsequently withdrawn, for replacing a single family house with a dental office building on Clyde Street, with open air parking under the building to be accessed via Dale Street, a quiet residential street. In an L-0.5 or Local Business zoning district, a medical office, or other office use, and a retail use not over 5,000 s.f., are allowed. The Building Department felt that this modern style building with parking accessed through a quiet residential street would have a major detrimental impact on the surrounding residential neighborhood and be completely out of character.

The Zoning By-Law Committee asked the Planning and Community Development Department to evaluate the other L, or Local Business Districts, in Town to ensure that a precedent would not be set for eliminating valuable commercial cores of the Town. The analysis demonstrated that this area was unique in that it was 100% residential, even though it was zoned for local business. All the other L districts contained retail and commercial uses.

---

### PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Planning and Community Development Department in response to a request by the Building Commissioner to change the zoning of six parcels in the Clyde and Dale Street area to help preserve the residential character of this neighborhood.

The area is currently zoned L-0.5 and is located at the intersection of Clyde and Dale Streets in South Brookline, across the street and to the east of The Country Club, in a neighborhood known as Buttonwood Village. This L-0.5 zone represents a small pocket of local business zoning, and is surrounded by residential zoning – to the north, S-7; to the west S-40; and to the south and east, T-5. There are currently no commercial uses in the subject L-0.5 zone. However, up until the 1960's, the building at 286 Clyde Street, known as Larkin's, was formerly a grocery store with two gas pumps in front. The surrounding neighborhood is characterized by a mix of predominately single-family and two-family residential houses.

Rationale for rezoning the subject L-0.5 zone stems from the fact that no commercial uses have been on any parcels within the zone for the past 40 years. Furthermore, considering the relatively small size of the parcels and that all currently contain residential structures, future commercial development is not appropriate. Additionally, due to the topography of these parcels, which slope down from Clyde Street to Dale Street, access to parking is more likely to be from Dale Street, thus impacting a quiet residential neighborhood.

An analysis of the other L districts in Town demonstrates that this area is unique in that all the other local business zones have retail, commercial or transportation uses. Thus,

eliminating this business zone will not set a precedent or diminish the Town's commercial base.

The Zoning By-Law Committee also considered this warrant article at a meeting to which property owners were invited and voted to recommend it favorably to the Planning Board.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 9.

-----

#### SELECTMEN'S RECOMMENDATION

Article 9, submitted by the Department of Planning & Community Development, would rezone a set of six parcels on Clyde Street from L-0.5 (Local Business) to T-5 (Two-family.) This rezoning was designed to address an inconsistency between the existing use pattern at this site – residential – and the uses permitted under the L district, including offices and retail uses. In particular, there is a concern that any commercial use on this site would almost certainly have to use Dale Street for parking access due to the topography of the site.

The L zoning appears to be a leftover from the days when a country store with gas pumps existed at this site, serving employees at the Country Club. That store has been closed for decades. No commercial uses appear to have existed at this site since that time. Town staff and the Selectmen are generally concerned about the loss of the Town's commercial tax base. For this reason there is generally some reluctance to rezone commercial areas for residential use. However, this is the only business zone in the Town that currently has no businesses operating within its boundaries. In addition, all of the property owners in the zone have been notified and some have expressed their support for such a rezoning. The Planning Board and the Zoning By-Law Committee have both expressed their support for this Article.

The Selectmen therefore recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2007, on the vote offered by the Advisory Committee.

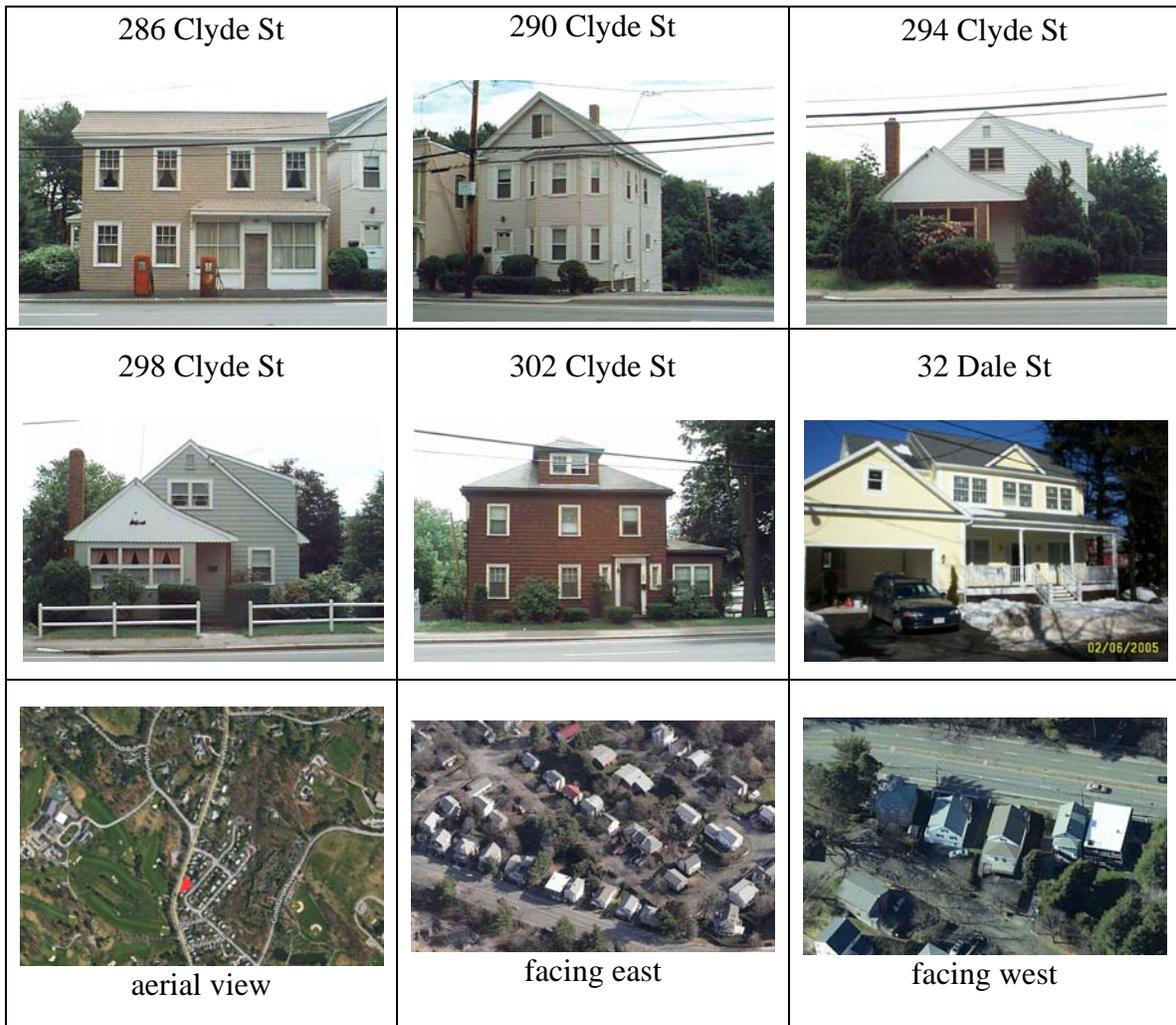
-----

#### ADVISORY COMMITTEE'S RECOMMENDATION

##### **BACKGROUND**

This Article proposes the rezoning of six lots in the Buttonwood Village neighborhood from L-0.5 (Local Business) to T-5 (Two-Family). These lots comprise a triangular area wedged between Clyde and Dale Streets. It is bordered on the North by an S-7 zone, and across Dale Street from a T-5 zone. Across Clyde Street is The Country Club (zoned S-

40). While this Local Business-zoned area once contained commercial entities, it has been completely residential in use for decades.



**HISTORY**

The Buttonwood Village neighborhood has a rich history, going back to the Revolutionary War. The famous golfer, Francis Ouimet, lived at 246 Clyde Street. A more detailed account may be found at: <http://www.townofbrooklinemass.com/neighborhoods/buttonwoodvillage.html>.

While some of Clyde Street was developed earlier, the interior streets including Dale, Forest, and Meadowbrook Streets were not developed until the early sixties. The gas pumps at 286 Clyde Street, until recently a familiar landmark to travelers on Lee and Clyde Streets, gave testimony to an earlier commercial presence. This site included a convenience store, Larkin's, frequented by the caddies from The Country Club, according to stories. However, these commercial uses are long gone, and the neighborhood has been completely residential for over 40 years.

According to the Director of Planning and Community Development, this Article was motivated by an application by the owner of 302 Clyde Street to replace the residence with a dentist's office. In consideration of the residential nature of the neighborhood, the Director designated this as a Major Impact Project, which would have triggered Design

Review. The owner withdrew his plans, despite the probability that he could have pursued them By Right. This episode led to an examination of the appropriateness of the Local Business L-0.5 zoning designation for this area.

### DISCUSSION

Examination of this issue revealed the following.

- There has not been an active commercial use in this area since the 1960s.
- The area is now completely residential, as are the abutting areas on that side of Clyde Street.
- This is the only commercial zone in Town that does not have any commercial uses.
- A new commercial use in the area, like the one that had been proposed for 302 Clyde Street, would require vehicular access via Dale Street, part of a quiet residential neighborhood.
- The neighbors support the zoning change.

Support for this Article has been broad, and nearly unanimous. The single concern has been the loss of a commercial district in Town, however justified. This sentiment is reflected in the one vote against this Article.

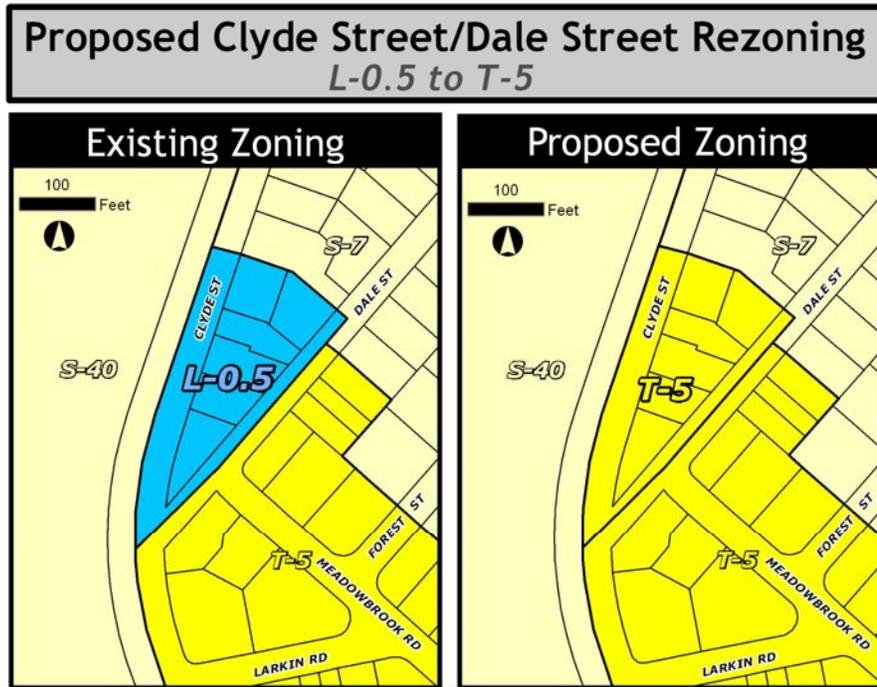
The majority, while acknowledging the importance of supporting small business in Brookline, was persuaded that this area has, over time, lost any commercial character it once had, and has become completely residential. Further, any attempt to re-establish commercial uses would be a burden to the neighborhood, and would go against the wishes of the local residents. Therefore, the zoning should reflect this change in use, and should serve to protect the current residential character of the area.

### RECOMMENDATION

By a vote of 16-1-0, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town amend the Zoning By-Law by adopting the following zoning map change:

Rezone a triangular area bordered by Clyde and Dale Streets (Block 340, Lots 8, 9-01, 10, 10-01, 11-09 and 12) from L-0.5 to T-5, including the following addresses: 286, 290, 294, 298, 302 Clyde Street and 32 Dale Street. (See Exhibit 1, as follows.)



*Exhibit 1: Map of Proposed Zoning Map Change, L-0.5 to T-5*

*Table 1: Parcels Contained within Subject L-0.5 Zone*

PARCEL ID	PARCEL ADDRESS	PARCEL AREA (SF)	CURRENT ZONING	CURRENT LAND USE
340-12-00	286 Clyde Street	4,464	L-0.5	Single Family Residential
340-11-09	290 Clyde Street	4,235	L-0.5	Two-Family Residential
340-09-01	294 Clyde Street	4,685	L-0.5	Single Family Residential
340-10-00	298 Clyde Street	3,727	L-0.5	Single Family Residential
340-10-01	302 Clyde Street	5,998	L-0.5	Single Family Residential
340-08-00	32 Dale Street	4,784	L-0.5	Single Family Residential

---

ARTICLE 10

---

TENTH ARTICLE

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

Amend Article VIII, NONCONFORMANCE, §8.03, REBUILDING AFTER CATASTROPHE to read:

1. If a non-conforming building or use shall have been damaged or destroyed by fire, explosion or other catastrophe, it may be repaired or rebuilt, except in accordance with paragraph 2 below, provided that:
  - a. the non-conforming nature of the repaired or rebuilt building is not increased in any respect;
  - b. the repaired or rebuilt building shall be used in the same manner as the building being replaced or otherwise used in compliance with the use limitations of the applicable zoning district; and
  - c. a building permit for the repair or rebuilding shall be applied for within two years from the date of the damage or destruction; time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two year limit; the Zoning Board of Appeals may extend the two year period for good cause.
2. Except for buildings exempt per Section 5.6.7(f) of the Town By-Laws, a nonconforming building listed in the National and/or State Registers of Historic Places as an individual or contributing property or located in a Local Historic District damaged or destroyed by fire, explosion, or other catastrophe to such an extent that the cost of rebuilding would equal or exceed fifty percent of the replacement value of the building at the time of the catastrophe, as estimated by the Building Commissioner, may be rebuilt if approved by the Board of Appeals by special permit. In such cases, the Board of Appeals shall consider the recommendations of the Preservation Commission and the Planning Board.
3. Notwithstanding the provisions above, all other relevant sections of the Zoning By-Law, including but not limited to Sections 5.09 and 7.06, shall apply.

or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

This zoning amendment was originally part of Article 4 in the Warrant for Fall 2006 Town Meeting and was referred back to the Zoning By-Law Committee for further study and report. During discussions of the creation of a new F or Three Family zone in Coolidge Corner, the issue

was raised as to whether or not a non-conforming use or building could be rebuilt if badly damaged by catastrophe or fire. The current Section 8.03, Rebuilding After a Catastrophe, does not allow rebuilding if the cost of restoration is greater than 50% of the replacement value, and thus a building could not be restored without obtaining relief from the Board of Appeals.

The Coolidge Corner District Planning Council members felt that properties made non-conforming by a zoning change would have difficulty obtaining insurance coverage if the building or use could not be replaced as was. Since this section of the By-Law applies to all buildings in the Town, a broader discussion took place in the Zoning By-Law Committee as to the unfairness of not allowing an owner to restore his or her property after a catastrophic event. The Zoning By-Law Committee evaluated other Town's by-laws related to rebuilding after a catastrophe and recommended that the prohibition against rebuilding be lifted if certain conditions were met and the non-conformities were not made any greater.

---

### **PLANNING BOARD REPORT AND RECOMMENDATION**

This article, submitted by the Planning and Community Development Department, significantly revises an existing section in the Zoning By-law, Section 8.03, Rebuilding After Catastrophe. The current Section 8.03, Rebuilding After Catastrophe, prohibits rebuilding a non-conforming structure or use if the cost of restoring the building is greater than 50% of its replacement value. Therefore, an owner must go to the Board of Appeals for permission to rebuild. The amendment changes this and allows rebuilding by-right if certain criteria are met and non-conformities are not increased. However, as in the existing Zoning By-law, if an historic building is involved, one listed on the National or State Registers of Historic Places or located in a Local Historic District, rebuilding the building is permitted by-right only if the restoration cost of the building is less than 50% of the replacement value or if the building is rebuilt substantially the same as it was previously; otherwise, a special permit is required.

The permissibility of rebuilding a non-conforming structure or use after a catastrophe was originally raised during Coolidge Corner District Planning Council discussions about changing the zoning in parts of Coolidge Corner from Multifamily to Three Family. The issue was raised whether a use or structure made non-conforming by the zoning change could be rebuilt if badly damaged by catastrophe or fire, and whether or not this would make obtaining insurance coverage difficult if a building or use could not be replaced as it was previously.

The Zoning By-Law Committee also considered this article and after evaluating other towns' by-laws related to rebuilding after a catastrophe suggested some of the language for it. The Committee sent its favorable recommendation to the Planning Board.

The Planning Board supports allowing an owner whose building is destroyed by catastrophe to rebuild without going through a long Board of Appeals process if conditions for rebuilding are met. The Planning Board recommends though a revision to the language of Paragraph 2 of the amendment because the phrasing is long and confusing. The revised language breaks the paragraph up into bullets. The Board also recommends that the reference to Article 5.6 of the Town By-Laws be added to paragraph 3.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 10 with the following revisions.

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

Amend Article VIII, NONCONFORMANCE, §8.03, REBUILDING AFTER CATASTROPHE to read:

1. If a non-conforming building or use shall have been damaged or destroyed by fire, explosion or other catastrophe, it may be repaired or rebuilt, except in accordance with paragraph 2 below, provided that:
  - a. the non-conforming nature of the repaired or rebuilt building is not increased in any respect;
  - b. the repaired or rebuilt building shall be used in the same manner as the building being replaced or otherwise used in compliance with the use limitations of the applicable zoning district; and
  - c. a building permit for the repair or rebuilding shall be applied for within two years from the date of the damage or destruction; time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two year limit; the Zoning Board of Appeals may extend the two year period for good cause.
  
2. If a non-conforming building located in a Local Historic District or listed in the National and/or State Registers of Historic Places shall have been damaged or destroyed by fire, explosion, or other catastrophe to such an extent that the cost of rebuilding would equal or exceed fifty percent of the replacement value of the building at the time of the catastrophe (as estimated by the Building Commissioner), it may be rebuilt:
  - a. By-right if built substantially to the same exterior design and massing, as determined by the Building Commissioner and Director of Planning and Community Development, or
  - b. By special permit from the Board of Appeals if rebuilt substantially to a different exterior design and massing. In this case, the Board of Appeals shall consider the recommendations of the Preservation Commission and the Planning Board in its decision.
  
3. Notwithstanding the provisions above, all other relevant sections of the Zoning By-Law, including but not limited to Sections 5.09 and 7.06 and Article 5.6 of the Town By-Laws, shall apply.

or act on anything relative thereto.

-----

---

SELECTMEN'S RECOMMENDATION

Article 10 involves a change in policy for the Town to generally permit reconstruction of buildings destroyed by catastrophe by right, except in some cases where historic properties are involved. The Planning Board and the Advisory Committee had each drafted similar revisions to the original language that would have permitted an option of reconstruction by right for buildings on the National or State Registers -- if a building were rebuilt substantially as it previously existed. The original draft has such an option for buildings in Local Historic Districts but required a Special Permit for National or State Register properties.

These changes, however, raised concerns with the Moderator – in particular, the provision of a “by right” reconstruction option for Local and National Register properties damaged by more than 50% of their reconstruction value. Since the Selectmen believes it is important to pass some form of this Article, and since the original warrant article language accomplishes most of the intended planning goals, the Board recommends approval of Article 10 substantially as originally submitted. This version would permit properties in Local Historic Districts to rebuild by right if rebuilt substantially as existing prior to a catastrophe, but would require properties on the Local or National Registers to receive a Special Permit to rebuild.

Some minor changes to the second paragraph have been added at the recommendation of a Preservation Commission member to clarify the intent of the by-law, but the effect does not change. The Selectmen therefore recommend FAVORABLE ACTION, by a vote of 4-0-1 taken on May 8, 2007, on the following vote:

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

Article VIII, NONCONFORMANCE, §8.03, REBUILDING AFTER CATASTROPHE to read:

1. If a non-conforming building or use shall have been damaged or destroyed by fire, explosion or other catastrophe, it may be repaired or rebuilt, except in accordance with paragraph 2 below, provided that:

- a. the non-conforming nature of the repaired or rebuilt building is not increased in any respect;
- b. the repaired or rebuilt building shall be used in the same manner as the building being replaced or otherwise used in compliance with the use limitations of the applicable zoning district; and
- c. a building permit for the repair or rebuilding shall be applied for within two years from the date of the damage or destruction; time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two year limit; the Zoning Board of Appeals may extend the two year period for good cause.

2. Except for buildings in Local Historic Districts whose repair or rebuilding is exempt from Preservation Commission review per Section 5.6.7(f) of the Town By-Laws, a nonconforming

building listed in the National and/or State Registers of Historic Places as an individual or contributing property or located in a Local Historic District, which building has been damaged or destroyed by fire, explosion, or other catastrophe to such an extent that the cost of rebuilding would equal or exceed fifty percent of the replacement value of the building at the time of the catastrophe, as estimated by the Building Commissioner, may be rebuilt if approved by the Board of Appeals by special permit. In such cases, the Board of Appeals shall consider the recommendations of the Preservation Commission and the Planning Board.

3. Notwithstanding the provisions above, all other relevant sections of the Zoning By-Law, including but not limited to Sections 5.09 and 7.06, shall apply.

**ROLL CALL VOTE:**

Favorable Action

Hoy  
Allen  
Daly  
Mermell

Abstention

DeWitt

-----

ADVISORY COMMITTEE'S RECOMMENDATION

After review of final language by the Moderator, it became clear that some technical changes to the wording of this article were necessary. As such, a full report of Article 10 by the Advisory Committee will be provided in a later mailing.

ARTICLE 10

**ADVISORY COMMITTEE'S SUPPLEMENTAL REPORT**

**BACKGROUND:**

Article Ten, submitted by the Planning and Community Development Department, revises an existing section in the Zoning By-Law, Section 8.03, Rebuilding After Catastrophe. During discussions of the creation of a new F or Three Family zone in Coolidge Corner last Fall, the issue was raised as to whether or not a non-conforming use or building could be rebuilt if badly damaged by catastrophe or fire. In the current Zoning By-Law, it does not allow rebuilding to the original non-conforming state if the cost of restoration is greater than 50% of the assessed value, and thus a building could not be restored without obtaining relief from the Zoning Board of Appeals (ZBA).

Since this section of the By-Law applies to all buildings in the Town, a broader discussion took place, regarding the potential unfairness of not allowing an owner to restore his or her property after a catastrophic event. We note that the Director of Planning and Community Development reported that in the rare occasions that relief of this sort was required, it was granted by the ZBA. A view was also expressed that properties made non-conforming by a zoning change could have difficulty obtaining insurance coverage if the building or use could not be replaced as was. The Article was referred back to the Zoning By-law Committee for further study.

The Zoning By-Law Committee evaluated the issues related to rebuilding after a catastrophe and recommended that the prohibition against rebuilding be lifted if certain conditions were met and the non-conformities were not made any greater. This article was submitted based on that recommendation.

**DISCUSSION:**

Many Brookline properties are not in conformance with the current Zoning standards. Many properties were built before zoning was enacted. Other properties comply with zoning in place at the time they were built. It would be very unfair, if as a result of a catastrophic fire or other disaster, the affected property owner would not be allowed to rebuild. But, that is what the current section 8.03 of the zoning By-law says.

The new article (in sections 1. a, 1.b, and 1.c) helps an owner of a non-conforming property to begin to rebuild or repair. As long as (a) the non-conforming nature of the building is not increased (b) it will be used in the same manner and (c) a building permit is applied for within two years of the date of damage; the rebuilding can occur by right. The amount of time can be extended for good cause and does not begin until after the insurance claim or court action is resolved.

Section 2 applies to rebuilding non-conforming buildings in Local Historic Districts (LHD) and buildings listed on the National or State Register of Historic Places. For such buildings, the language provides two possibilities:

First, if such a non-conforming building is in an LHD and is rebuilt substantially as it existed prior to the catastrophe, it can be rebuilt by right within 1 year with the sanction of the Building Commissioner and the Planning and Community Development Director per Town Bylaw section 5.6.7(f).

However, if the affected building is a National or State Register of Historic Places building or in an LHD and not being rebuilt pursuant to Town Bylaw section 5.6.7(f) (described in the preceding paragraph) the rebuilding will require a Special Permit in all circumstances. Before issuing this Special Permit, the Board of Appeals will consider recommendations of the Preservation Commission and the Planning Board.

The Preservation Commission requested additional language be added that has the Building Commissioner and Director of the Department of Planning and Community Development consult with it, when dealing with such a historic building. The Advisory Committee agreed with this request that is reflected in the language being offered to Town Meeting. This language also has some minor clarification improvements.

**RECOMMENDATION:**

The Advisory Committee Unanimously (24-0) recommends FAVORABLE ACTION on the following vote:

**VOTED: That the Town amend Article VIII, NONCONFORMANCE, §8.03, REBUILDING AFTER CATASTROPHE to read:**

1. If a non-conforming building or use shall have been damaged or destroyed by fire, explosion or other catastrophe, it may be repaired or rebuilt, except in accordance with paragraph 2 below, provided that:
  - a. the non-conforming nature of the repaired or rebuilt building is not increased in any respect;
  - b. the repaired or rebuilt building shall be used in the same manner as the building being replaced or otherwise used in compliance with the use limitations of the applicable zoning district; and
  - c. a building permit for the repair or rebuilding shall be applied for within two years from the date of the damage or destruction; time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two year limit; the Zoning Board of Appeals may extend the two year period for good cause.

2. Except for buildings **in Local Historic Districts whose repair or rebuilding is exempt from Preservation Commission review** per Section 5.6.7(f) of the Town By-Laws, a nonconforming building listed in the National and/or State Registers of Historic Places as an individual or contributing property or located in a Local Historic District, **which building has been** damaged or destroyed by fire, explosion, or other catastrophe to such an extent that the cost of rebuilding would equal or exceed fifty percent of the replacement value of the building at the time of the catastrophe, as estimated by the Building Commissioner, may be rebuilt if approved by the Board of Appeals by special permit. In such cases, the Board of Appeals shall consider the recommendations of the Preservation Commission and the Planning Board.

3. Notwithstanding the provisions above, all other relevant sections of the Zoning By-Law, including but not limited to Sections 5.09 and 7.06, and Article 5.6 of the Town By-laws, shall apply.

**XXX**

ARTICLE 11

ELEVENTH ARTICLE

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

1. By adding a new zoning district F-1.0 (“Three Family Zones”), replacing the existing zoning in the areas shown on the attached map.
2. By adding a new section 3.01.1.d. as follows:

“d. Three Family (F)

1) F-1.0”

and renumbering the existing 3.01.1.d as 3.01.1.e.

3. By adding a new “F” heading under Section 4.07 (“Table of Use Regulations”) with the same use designations as the existing “T” column, with the exception of the uses listed in Principal Use 4A below, that Principal Use 7 (“Lodging House, Licensed and Unlicensed”) should read “SP”, and that Accessory Use 59 should read “Yes\*”.
4. By amending Section 4.07 (“Table of Use Regulations”) by adding a new Principal Use 4A immediately after Principal Use 4:

Principal Uses	S	SC	T	F	M	L	G	O	I
4A. Dwelling on a separate lot for three families or attached dwelling on a separate lot for two families	No	No	No	Yes	Yes	Yes	Yes	No	Yes

5. **By amending Principal Use 6 to read as follows:**

6. Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.

\* Compliance with **§4.08** required if containing 6 or more dwelling units

Permitted by special permit in S-0.5P and S-0.75P Districts subject to **§5.06**.

In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use

6. By amending Section 5.01 (“Table of Dimensional Requirements”) by adding a new district F-1.0 immediately following T-5 as follows:

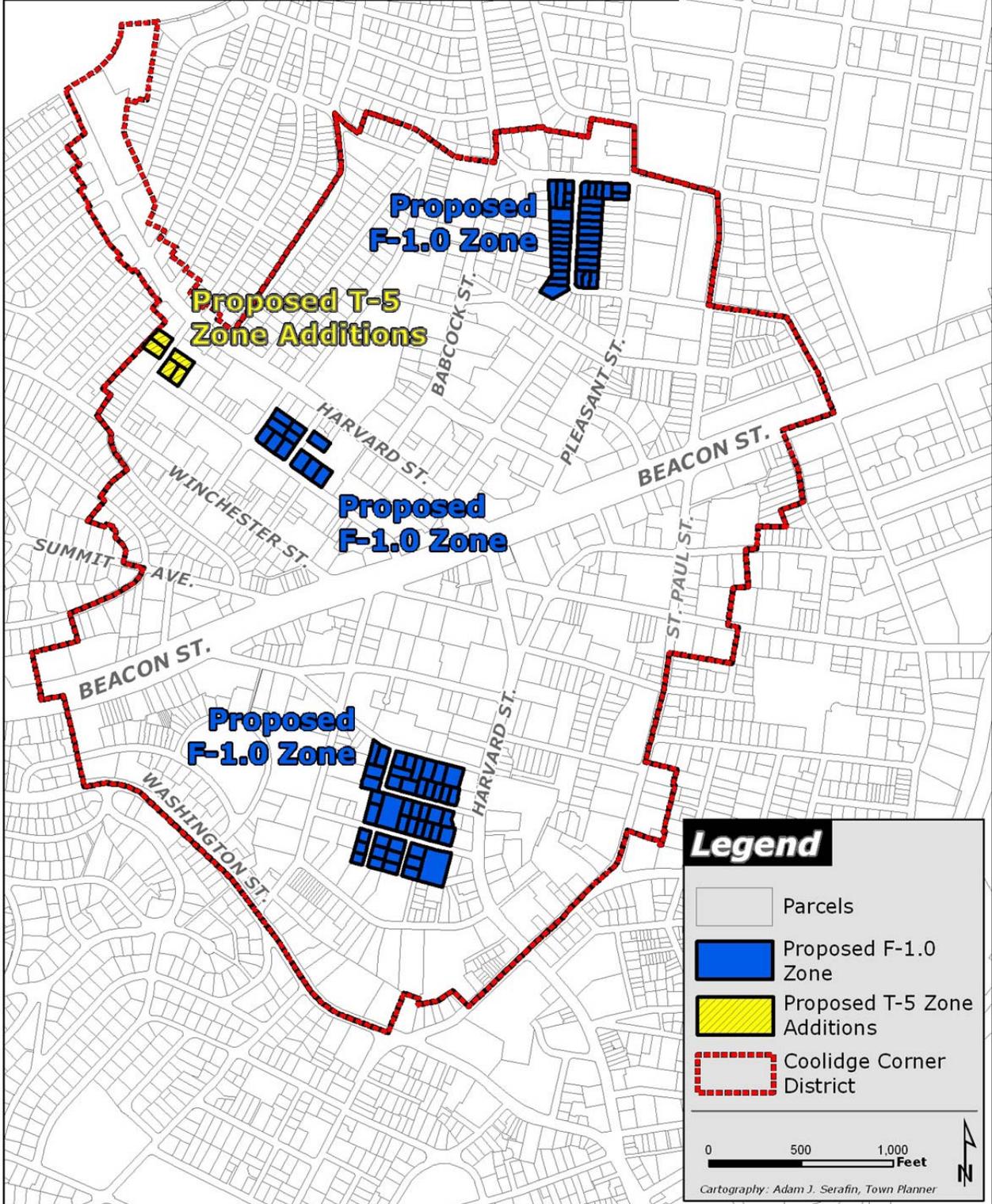
DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT MAXIMUM (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Open Space Landsc.	Open Space Usable
<u>F-1.0</u>	<u>1-family dwelling</u>	<u>4,000</u>	<u>1.0</u>	<u>40</u>	<u>35</u>	<u>15</u>	<u>7.5</u>	<u>30</u>	<u>10%</u>	<u>30%</u>
	<u>2-family dwelling</u>	<u>5,000</u>	<u>1.0</u>	<u>45</u>	<u>35</u>	<u>15</u>	<u>10</u>	<u>30</u>	<u>10%</u>	<u>30%</u>
	<u>3-family dwelling</u>	<u>5,000</u>	<u>1.0</u>	<u>45</u>	<u>40</u>	<u>15</u>	<u>10</u>	<u>30</u>	<u>10%</u>	<u>30%</u>
	<u>Any other structure or principal use</u>	<u>5,000</u>	<u>1.0</u>	<u>60</u>	<u>40</u>	<u>15</u>	<u>10+ L'/10</u>	<u>30</u>	<u>10%</u>	<u>30%</u>

7. By amending footnote 2 in Section 5.01 (“Table of Dimensional Requirements”) to read as follows:

“2. At the end of each row or block of one-family attached dwellings, a yard shall be provided along the street line or side lot line of at least ten feet plus one foot for each dwelling unit in excess of two. In T districts, see also §5.48. In **M and F** districts, a building subject to the side yard formula:  $10+L/10$  may be built to the side lot line: (a) as a matter of right if, on the adjoining lot, a principal building with no setback from that lot line already exists or is proposed to be built concurrently; (b) by special permit if the Board of Appeals finds that reasonable development of the lot necessitates building to the side lot line, such action does not unreasonably infringe upon the light and air of any existing adjoining building, and the party wall is solid and has neither doors nor windows. A building with no side yard shall not have a building wall on the side lot line extending more than 70 feet to the rear of the front yard required by this By-law; except that a building wall may be located along any part of a side lot line on which a principal building on the adjoining lot abuts between the rear yard required by this By-law and the required front yard line. Where building walls more than 70 feet to the rear of the required front yard are not permitted to be built along the side lot line, said walls shall have a side yard setback not less than:  $10+L/10$  the “L” dimension being that portion of the wall required to be set back from the side lot line.”

8. By changing the zoning of five properties shown on the attached map as follows from the M-1.0 and M-1.5 districts to the T-5 zoning district.

# Proposed F-1.0 Zone and T-5 Zone Additions



**PROPOSED F-1.0 ZONE**  
**Coolidge Corner District**

<b>Address</b>	<b>Existing Zoning</b>
<u>222 FREEMAN ST</u>	<u>M-1.0</u>
<u>218/220 FREEMAN ST</u>	<u>M-1.0</u>
<u>214/216 FREEMAN ST</u>	<u>M-1.0</u>
<u>126 BROWNE ST</u>	<u>M-1.0</u>
<u>124 BROWNE ST</u>	<u>M-1.0</u>
<u>120 BROWNE ST</u>	<u>M-1.0</u>
<u>116 BROWNE ST</u>	<u>M-1.0</u>
<u>112 BROWNE ST</u>	<u>M-1.0</u>
<u>110 BROWNE ST</u>	<u>M-1.0</u>
<u>106 BROWNE ST</u>	<u>M-1.0</u>
<u>102 BROWNE ST</u>	<u>M-1.0</u>
<u>100 BROWNE ST</u>	<u>M-1.0</u>
<u>96 BROWNE ST</u>	<u>M-1.0</u>
<u>94 BROWNE ST</u>	<u>M-1.0</u>
<u>92 BROWNE ST</u>	<u>M-1.0</u>
<u>90 BROWNE ST</u>	<u>M-1.0</u>
<u>208 FREEMAN ST</u>	<u>M-1.0</u>
<u>206 FREEMAN ST</u>	<u>M-1.0</u>
<u>202 FREEMAN ST</u>	<u>M-1.0</u>
<u>200 FREEMAN ST</u>	<u>M-1.0</u>
<u>142/144 PLEASANT ST</u>	<u>M-1.0</u>
<u>140 PLEASANT ST</u>	<u>M-1.0</u>
<u>83 BROWNE ST</u>	<u>M-1.0</u>
<u>85 BROWNE ST</u>	<u>M-1.0</u>
<u>87 BROWNE ST</u>	<u>M-1.0</u>
<u>101 BROWNE ST</u>	<u>M-1.0</u>
<u>103 BROWNE ST</u>	<u>M-1.0</u>
<u>105 BROWNE ST</u>	<u>M-1.0</u>
<u>107 BROWNE ST</u>	<u>M-1.0</u>
<u>111 BROWNE ST</u>	<u>M-1.0</u>
<u>115 BROWNE ST</u>	<u>M-1.0</u>
<u>119 BROWNE ST</u>	<u>M-1.0</u>
<u>121 BROWNE ST</u>	<u>M-1.0</u>
<u>125 BROWNE ST</u>	<u>M-1.0</u>
<u>127 BROWNE ST</u>	<u>M-1.0</u>
<u>9 SHAILER ST</u>	<u>M-1.0</u>
<u>15 SHAILER ST</u>	<u>M-1.0</u>
<u>69 CENTRE ST/19 SHAILER ST</u>	<u>M-1.0</u>
<u>75 CENTRE ST</u>	<u>M-1.0</u>
<u>24 WILLIAMS ST</u>	<u>M-1.0</u>
<u>16 WILLIAMS ST</u>	<u>M-1.0</u>
<u>12 WILLIAMS ST</u>	<u>M-1.0</u>

<u>51 CENTRE ST</u>	<u>M-1.0</u>
<u>53 CENTRE ST</u>	<u>M-1.0</u>
<u>61 CENTRE ST</u>	<u>M-1.0</u>
<u>10/12 SHAILER ST</u>	<u>M-1.0</u>
<u>11 HARRIS ST</u>	<u>M-1.0</u>
<u>17 HARRIS ST</u>	<u>M-1.0</u>
<u>19 HARRIS ST</u>	<u>M-1.0</u>
<u>21 HARRIS ST</u>	<u>M-1.0</u>
<u>23 HARRIS ST</u>	<u>M-1.0</u>
<u>31 HARRIS ST</u>	<u>M-1.0</u>
<u>37/49 HARRIS ST</u>	<u>M-1.0</u>
<u>57 HARRIS ST</u>	<u>M-1.0</u>
<u>36 VERNON ST/59 HARRIS ST</u>	<u>M-1.0</u>
<u>32 VERNON ST</u>	<u>M-1.0</u>
<u>26/28 VERNON ST</u>	<u>M-1.0</u>
<u>22 VERNON ST</u>	<u>M-1.0</u>
<u>18 VERNON ST</u>	<u>M-1.0</u>
<u>12 VERNON ST</u>	<u>M-1.0</u>
<u>44/46 VERNON ST</u>	<u>M-1.0</u>
<u>42 VERNON ST/54 HARRIS ST</u>	<u>M-1.0</u>
<u>48/50 HARRIS ST</u>	<u>M-1.0</u>
<u>44/46 HARRIS ST</u>	<u>M-1.0</u>
<u>42 HARRIS ST</u>	<u>M-1.0</u>
<u>37 AUBURN ST/39 AUBURN ST/41 AUBURN ST/34 HARRIS ST/38 HARRIS ST</u>	<u>M-1.0</u>
<u>28/30 HARRIS ST</u>	<u>M-1.0</u>
<u>24/26 HARRIS ST</u>	<u>M-1.0</u>
<u>22 HARRIS ST</u>	<u>M-1.0</u>
<u>16 HARRIS ST</u>	<u>M-1.0</u>
<u>12 HARRIS ST</u>	<u>M-1.0</u>
<u>15 AUBURN ST</u>	<u>M-1.0</u>
<u>17 AUBURN ST</u>	<u>M-1.0</u>
<u>21 AUBURN ST</u>	<u>M-1.0</u>
<u>23 AUBURN ST</u>	<u>M-1.0</u>
<u>27/29 AUBURN ST</u>	<u>M-1.0</u>
<u>31/33 AUBURN ST</u>	<u>M-1.0</u>
<u>45 AUBURN ST</u>	<u>M-1.0</u>
<u>48 AUBURN ST</u>	<u>M-1.0</u>
<u>9 AUBURN PL</u>	<u>M-1.0</u>
<u>15 AUBURN PL</u>	<u>M-1.0</u>
<u>14 AUBURN PL</u>	<u>M-1.0</u>
<u>10 AUBURN PL</u>	<u>M-1.0</u>
<u>40 AUBURN ST</u>	<u>M-1.0</u>
<u>32 AUBURN ST</u>	<u>M-1.0</u>
<u>2 WASHBURN PL</u>	<u>M-1.0</u>
<u>4 WASHBURN PL</u>	<u>M-1.0</u>

<u>3 WASHBURN PL</u>	<u>M-1.0</u>
<u>1 WASHBURN PL</u>	<u>M-1.0</u>
<u>24 AUBURN ST</u>	<u>M-1.0</u>
<u>1-10 AUBURN CT</u>	<u>M-1.0</u>

**PROPOSED T-5 ZONE ADDITIONS**

**Coolidge Corner District**

<u>Address</u>	<u>Existing Zoning</u>
<u>44 FULLER ST</u>	<u>M-1.5</u>
<u>38 FULLER ST</u>	<u>M-1.5</u>
<u>39 FULLER ST</u>	<u>M-1.0</u>
<u>129 CENTRE ST</u>	<u>M-1.0</u>
<u>123 CENTRE ST</u>	<u>M-1.0</u>

or act on anything relative thereto.

---

**PETITIONER'S EXPLANATION**

A version of this zoning amendment was submitted as Article 4 of the Fall 2006 Town Meeting Warrant and was referred back to the Zoning By-Law Committee for further study and report. This by-law amendment creates a new zoning district that generally permits residential development of three or fewer units on one parcel of land. In many ways, this new zoning district, the F district, is the same as the existing T districts, with the exception of permitting three dwelling units on one parcel of land, rather than only two. This proposed F district is similar to zoning districts in other municipalities, such as the "3F" zone in Allston-Brighton, the "RB" zone in Somerville and the "R3" zone in Arlington. This article also expands a T-5 district in the northwestern part of the Coolidge Corner district slightly, which is currently zoned M-1.0. This was based on an analysis of existing and appropriate uses on those parcels.

This proposed change to the zoning map in Coolidge Corner arose out of the Coolidge Corner planning process conducted to evaluate existing conditions and opportunities and threats facing Coolidge Corner. Threats identified included danger of development inconsistent with the surrounding buildings; excess density; development providing too little green space or encroaching upon the commercial core.

The language has been revised since Fall Town Meeting by the Department of Planning and Community Development, consulting with the Zoning Bylaw Committee. The earlier version proposed a maximum Floor Area Ratio of 0.75. This has been changed to F-1.0 (three family with an allowed FAR of 1.0) to better reflect the existing Floor Area Ratio (FAR) of many existing buildings in these areas, and also to match that of the current M-1.0 zoning. The proposed height maximum for the F zone was changed from 40 feet to 35 feet for single and two family dwellings, so that the height limit would be the same as the currently allowed

height in single and two family districts. Similarly, the minimum lot width and side yard setback requirements were changed to reflect the same standards in the T and M districts.

The current proposal is for three areas in Coolidge Corner, currently zoned M-1.0. Other parcels near Coolidge Corner have been proposed for inclusion in this new zoning district as well, but have not been presented to the Zoning Bylaw Committee to date. While some of these additional parcels certainly warrant additional discussion for possible inclusion, such a discussion was not possible prior to the closing of this warrant.

The Zoning By-Law Committee has also discussed the revised zoning amendment and is supportive of its being submitted for the Spring 2007 Town Meeting Warrant.

---

### **PLANNING BOARD REPORT AND RECOMMENDATION**

Article 9, submitted by the Department of Planning and Community Development, creates a new residential zoning district, F-1.0 (three family zone, with allowed FAR of 1.0) and changes some properties in the Coolidge Corner area from an M (multi-family) zone to F-1.0 and five additional properties to T-5 (two family). A similar zoning warrant article was submitted as Article 4 of the Fall 2006 Town Meeting Warrant and was referred back to the Zoning By-Law Committee for further study and report. The Planning Board had supported the previous article with revisions.

Since Fall Town Meeting, the Department of Planning and Community Development has made further revisions to the proposed F or Three-Family District in consultation with the Zoning By-Law Committee. The earlier version had proposed a maximum Floor Area Ratio (FAR) of 0.75. This amendment proposes a maximum FAR of 1.0 to better reflect the FAR of many existing buildings in these areas and also to match that of the current M-1.0 zoning. The proposed height maximum for the F zone has been reduced from 40 to 35 feet for single and two family dwellings in order to be the same as the currently allowed height in single and two family districts. Similarly, the minimum lot width and side yard setback requirements were changed to reflect the same standards in the T and M districts.

The Planning Board is supportive of the revised zoning amendment and believes it is appropriate in order to reduce the economic incentive for demolishing some of the large Victorian and/or historic homes in these areas and replacing them with new multi-family buildings. It will encourage preservation and reuse of the existing buildings as three family dwellings. During discussions of the fall zoning amendment, it was noted that some buildings will be made non-conforming, either to use or size, and that there could be significant insurance and financial implications, in light of Zoning By-Law, Section 8.03, Rebuilding After Catastrophe. Therefore, in conjunction with this article, the Planning Board supports Warrant Article 10, which addresses this issue by allowing rebuilding of non-conforming structures if certain criteria are met and non-conformities are not increased. The Zoning By-Law Committee also recommended favorably to the Planning Board on this amendment.

At the Planning Board hearing, the property owner at 15 Auburn Street requested that his lot not be changed from M-1.0 to F-1.0, because it was bought with the intention of developing it for additional units for his family. Three units would be allowed under the proposed zoning and five units under the existing zoning. The Planning Board continued its deliberation on this request to April 18<sup>th</sup> in order to make a site visit and further evaluate this site and the property on Auburn Court, which includes 30 condominiums and is on the edge of the proposed zoning district. At its continued meeting, the Planning Board voted not to eliminate 15 Auburn Street from the F zoning district because it did not believe increased density on the lot was appropriate; however, the Planning Board voted to eliminate the Auburn Court property because the existing use would be made non-conforming and the likelihood of redevelopment of the site was minimal given 30 separate ownerships.

Steve Heikin recused himself because his home is located in the proposed new zoning district and Chairman Goldstein recused himself from the final discussion and vote at the April 18<sup>th</sup> meeting.

Therefore, the Planning Board voted unanimously (Goldstein and Heikin recused) to recommend FAVORABLE ACTION on Article 11 with the revision that the property at 1- 10 Auburn Court be eliminated from the F zoning district.

-----

#### SELECTMEN'S RECOMMENDATION

Article 11 involves the creation of a new zoning district, currently proposed to apply to approximately 90 properties in three areas near Coolidge Corner. Creation of this new zoning district was recommended by the Coolidge Corner District Planning Council, as part of the District Plan, as a way of protecting areas of one-, two- and three-family detached and attached dwellings that are too dense for the T zoning district but are at risk in an M zoning district. While there remains some disagreement about whether there should be more properties included in the F zone, with one exception (see below) there appears to be agreement on the creation of this zoning district for these parcels, the overwhelming majority of which are one-, two- and three-family buildings with conforming Floor Area Ratios. All of the properties currently proposed for rezoning are currently in the M-1.0 zoning district.

Both the Planning Board and Advisory Committee have recommended adoption of the text of this amendment. The Advisory Committee recommended adoption of the proposed map change as originally submitted. The Planning Board considered two properties for possible exclusion from this map change – 15 Auburn Street and 1-10 Auburn Court. After deliberation and a site visit, the Planning Board recommended excluding 1-10 Auburn Court – a 30 unit condominium building that does resemble a set of attached three-family dwellings – from the F-1.0 zoning district.

The Selectmen agreed with the Planning Board that the property at 1-10 Auburn Court should not be included in the proposed F-1.0 zone at this time. The property has an approximate FAR of 1.24, so it will be a nonconforming structure regardless. It is almost certainly nonconforming with respect to other dimensional and parking issues as well. The change from an M-1.0 to an F-1.0 zoning classification will make the property nonconforming with respect to use as well, which would make it virtually impossible to add any additional units in the future. However, given the significant dimensional issues facing the building already, it seems very unlikely that such additional units would be proposed, and, if proposed, would require zoning relief in any case. The building in question is on the edge of the proposed zone, and would continue to be connected to an M-1.0 zone if excluded from this proposal. (The difference between the Selectmen’s vote and the Advisory Committee’s vote is that they Advisory Committee kept 1-10 Auburn Court in.)

The Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 8, 2007, on the following vote:

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

1. By adding a new zoning district F-1.0 (“Three Family Zones”), replacing the existing zoning in the areas shown on the attached map.
2. By adding a new section 3.01.1.d. as follows:

“d. Three Family (F)

1) F-1.0”

and renumbering the existing 3.01.1.d as 3.01.1.e.

3. By adding a new “F” heading under Section 4.07 (“Table of Use Regulations”) with the same use designations as the existing “T” column, with the exception of the uses listed in Principal Use 4A below, that Principal Use 7 (“Lodging House, Licensed and Unlicensed”) should read “SP”, and that Accessory Use 59 should read “Yes\*”.
4. By amending Section 4.07 (“Table of Use Regulations”) by adding a new Principal Use 4A immediately after Principal Use 4:

Principal Uses	S	SC	T	F	M	L	G	O	I
4A. Dwelling on a separate lot for three families or attached dwelling on a separate lot for two families	No	No	No	Yes	Yes	Yes	Yes	No	Yes

5. **By amending Principal Use 6 to read as follows:**

6. Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.

\* Compliance with **§4.08** required if containing 6 or more dwelling units

Permitted by special permit in S-0.5P and S-0.75P Districts subject to **§5.06**.

In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use

**6.** By amending Section 5.01 (“Table of Dimensional Requirements”) by adding a new district F-1.0 immediately following T-5 as follows:

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT MAXIMUM (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Open Space	Open Space
									Landsc.	Usable
F-1.0	1-family dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2-family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	3-family dwelling	5,000	1.0	45	40	15	10	30	10%	30%
	Any other structure or principal use	5,000	1.0	60	40	15	10+ L/10	30	10%	30%

**7.** By amending footnote 2 in Section 5.01 (“Table of Dimensional Requirements”) to read as follows:

“2. At the end of each row or block of one-family attached dwellings, a yard shall be provided along the street line or side lot line of at least ten feet plus one foot for each dwelling unit in excess of two. In T districts, see also §5.48. In **M and F** districts, a building subject to the side yard formula:  $10+L/10$  may be built to the side lot line: (a) as a matter of right if, on the adjoining lot, a principal building with no setback from that lot line already exists or is proposed to be built concurrently; (b) by special permit if the Board of Appeals finds that reasonable development of the lot necessitates building to the side lot line, such action does not unreasonably infringe upon the light and air of any existing adjoining building, and the party wall is solid and has neither doors nor windows. A building with no side yard shall not have a building wall on the side lot line extending more than 70 feet to the rear of the front yard required by this By-law; except that a building wall may be located along any part of a side lot line on which a principal building on the adjoining lot abuts between the rear yard required by this By-law and the required front yard line. Where building walls more than 70 feet to the rear of the required front yard are not permitted to be built along the side lot line, said walls shall have a side yard setback not less than:  $10+L/10$  the “L” dimension being that portion of the wall required to be set back from the side lot line.”

8. By changing the zoning of five properties shown on attached map from the M-1.0 and M-1.5 districts to the T-5 zoning district.

**PROPOSED F-1.0 ZONE**

**Coolidge Corner District**

<u>Address</u>	<u>Existing Zoning</u>
<u>222 FREEMAN ST</u>	<u>M-1.0</u>
<u>218 FREEMAN ST</u>	<u>M-1.0</u>
<u>214/216 FREEMAN ST</u>	<u>M-1.0</u>
<u>126 BROWNE ST</u>	<u>M-1.0</u>
<u>124 BROWNE ST</u>	<u>M-1.0</u>
<u>120 BROWNE ST</u>	<u>M-1.0</u>
<u>116 BROWNE ST</u>	<u>M-1.0</u>
<u>112 BROWNE ST</u>	<u>M-1.0</u>
<u>110 BROWNE ST</u>	<u>M-1.0</u>
<u>106 BROWNE ST</u>	<u>M-1.0</u>
<u>102 BROWNE ST</u>	<u>M-1.0</u>
<u>100 BROWNE ST</u>	<u>M-1.0</u>
<u>96 BROWNE ST</u>	<u>M-1.0</u>
<u>94 BROWNE ST</u>	<u>M-1.0</u>
<u>92 BROWNE ST</u>	<u>M-1.0</u>
<u>90 BROWNE ST</u>	<u>M-1.0</u>
<u>208 FREEMAN ST</u>	<u>M-1.0</u>
<u>206 FREEMAN ST</u>	<u>M-1.0</u>
<u>202 FREEMAN ST</u>	<u>M-1.0</u>
<u>200 FREEMAN ST</u>	<u>M-1.0</u>
<u>142/144 PLEASANT ST</u>	<u>M-1.0</u>
<u>140 PLEASANT ST</u>	<u>M-1.0</u>
<u>83 BROWNE ST</u>	<u>M-1.0</u>
<u>85 BROWNE ST</u>	<u>M-1.0</u>
<u>87 BROWNE ST</u>	<u>M-1.0</u>
<u>101 BROWNE ST</u>	<u>M-1.0</u>
<u>103 BROWNE ST</u>	<u>M-1.0</u>
<u>105 BROWNE ST</u>	<u>M-1.0</u>
<u>107 BROWNE ST</u>	<u>M-1.0</u>
<u>111 BROWNE ST</u>	<u>M-1.0</u>
<u>115 BROWNE ST</u>	<u>M-1.0</u>
<u>119 BROWNE ST</u>	<u>M-1.0</u>
<u>121 BROWNE ST</u>	<u>M-1.0</u>
<u>125 BROWNE ST</u>	<u>M-1.0</u>
<u>127 BROWNE ST</u>	<u>M-1.0</u>
<u>9 SHAILER ST</u>	<u>M-1.0</u>
<u>15 SHAILER ST</u>	<u>M-1.0</u>
<u>69 CENTRE ST/19 SHAILER ST</u>	<u>M-1.0</u>
<u>75 CENTRE ST</u>	<u>M-1.0</u>
<u>24 WILLIAMS ST</u>	<u>M-1.0</u>
<u>16 WILLIAMS ST</u>	<u>M-1.0</u>
<u>12 WILLIAMS ST</u>	<u>M-1.0</u>

<u>51 CENTRE ST</u>	<u>M-1.0</u>
<u>53 CENTRE ST</u>	<u>M-1.0</u>
<u>61 CENTRE ST</u>	<u>M-1.0</u>
<u>10/12 SHAILER ST</u>	<u>M-1.0</u>
<u>11 HARRIS ST</u>	<u>M-1.0</u>
<u>17 HARRIS ST</u>	<u>M-1.0</u>
<u>19 HARRIS ST</u>	<u>M-1.0</u>
<u>21 HARRIS ST</u>	<u>M-1.0</u>
<u>23 HARRIS ST</u>	<u>M-1.0</u>
<u>31 HARRIS ST</u>	<u>M-1.0</u>
<u>49 HARRIS ST</u>	<u>M-1.0</u>
<u>57 HARRIS ST</u>	<u>M-1.0</u>
<u>36 VERNON ST</u>	<u>M-1.0</u>
<u>32 VERNON ST</u>	<u>M-1.0</u>
<u>26/28 VERNON ST</u>	<u>M-1.0</u>
<u>22 VERNON ST</u>	<u>M-1.0</u>
<u>18 VERNON ST</u>	<u>M-1.0</u>
<u>12 VERNON ST</u>	<u>M-1.0</u>
<u>44/46 VERNON ST</u>	<u>M-1.0</u>
<u>42 VERNON ST</u>	<u>M-1.0</u>
<u>50 HARRIS ST</u>	<u>M-1.0</u>
<u>44/46 HARRIS ST</u>	<u>M-1.0</u>
<u>42 HARRIS ST</u>	<u>M-1.0</u>
<u>37 AUBURN ST</u>	<u>M-1.0</u>
<u>28/30 HARRIS ST</u>	<u>M-1.0</u>
<u>24/26 HARRIS ST</u>	<u>M-1.0</u>
<u>22 HARRIS ST</u>	<u>M-1.0</u>
<u>16 HARRIS ST</u>	<u>M-1.0</u>
<u>12 HARRIS ST</u>	<u>M-1.0</u>
<u>15 AUBURN ST</u>	<u>M-1.0</u>
<u>17 AUBURN ST</u>	<u>M-1.0</u>
<u>21 AUBURN ST</u>	<u>M-1.0</u>
<u>23 AUBURN ST</u>	<u>M-1.0</u>
<u>27/29 AUBURN ST</u>	<u>M-1.0</u>
<u>31/33 AUBURN ST</u>	<u>M-1.0</u>
<u>45 AUBURN ST</u>	<u>M-1.0</u>
<u>48 AUBURN ST</u>	<u>M-1.0</u>
<u>9 AUBURN PL</u>	<u>M-1.0</u>
<u>15 AUBURN PL</u>	<u>M-1.0</u>
<u>14 AUBURN PL</u>	<u>M-1.0</u>
<u>10 AUBURN PL</u>	<u>M-1.0</u>
<u>40 AUBURN ST</u>	<u>M-1.0</u>
<u>32 AUBURN ST</u>	<u>M-1.0</u>
<u>2 WASHBURN PL</u>	<u>M-1.0</u>
<u>4 WASHBURN PL</u>	<u>M-1.0</u>
<u>3 WASHBURN PL</u>	<u>M-1.0</u>
<u>1 WASHBURN PL</u>	<u>M-1.0</u>
<u>24 AUBURN ST</u>	<u>M-1.0</u>

**PROPOSED T-5 ZONE  
ADDITIONS  
Coolidge Corner District**

<u>Address</u>	<u>Existing Zoning</u>
<b><u>44 FULLER ST</u></b>	<b><u>M-1.5</u></b>
<b><u>38 FULLER ST</u></b>	<b><u>M-1.5</u></b>
<b><u>39 FULLER ST</u></b>	<b><u>M-1.0</u></b>
<b><u>129 CENTRE ST</u></b>	<b><u>M-1.0</u></b>
<b><u>123 CENTRE ST</u></b>	<b><u>M-1.0</u></b>

-----

**ADVISORY COMMITTEE’S RECOMMENDATION**

**BACKGROUND**

Article 11 is very similar to Article 4 at the Fall 2006 Town Meeting which was referred back to the Zoning Bylaw Review Committee. The language in the warrant here is the same as in the final Advisory Committee motion for the Fall Town Meeting with some notable differences as follows: the earlier version had proposed a maximum Floor Area Ratio (FAR) of 0.75. This amendment proposes a maximum FAR of 1.0 to better reflect the FAR of many existing buildings in these areas and also to match that of the current M-1.0 zoning. The proposed height maximum for the F zone has been reduced from 40 to 35 feet for single and two family dwellings in order to be the same as the currently allowed height in single and two family districts. Similarly, the minimum lot width and side yard setback requirements were changed to reflect the same standards in the T and M districts. The list of affected properties is the same as in the final Advisory Committee motion in the Fall.

Article 11 establishes a new residential zoning district specifically geared to preserve Brookline’s three family districts. The zoning bylaw currently has specific districts for single family and two family homes. (S and T districts respectively.) Zoning which permits three family homes would fall into the many “M” districts in town. M stands for “Multi family” and also covers building with more than three units. The effect of this rezoning is to reduce the economic incentive of developing more than 3 units in areas where that is appropriate. This zoning article was drafted by the Planning and Community Development Department in response to concerns raised during the proceedings of the Coolidge Corner District Planning Council. The Zoning ByLaw Review Committee has also voted affirmatively on this Article. The article also changes five additional properties to a T-5 (two family) zone.

Notices of this zoning change were sent to all affected property owners.

**DISCUSSION**

Article 11 grew out of a concern about the increasing density of proposed development over the past few years which has the potential of changing the character of the

neighborhood surrounding Coolidge Corner. This is the same concern that led to the establishment of the Coolidge Corner District Planning Council (CCDPC) and the Coolidge Corner IPPOD. This zoning Bylaw change attempts to codify, as much as possible existing conditions on the affected streets.

All the areas proposed for rezoning are currently zoned as M at various Floor to Area Ratio (FAR) limits. Even though zoned M and that some of the areas in the Coolidge Corner District contain apartment buildings, other parts of the area are comprised of singles, twos and threes. The Zoning Bylaw contains S and T districts for singles and twos respectively, but there is no similar district geared for areas of three family homes. Areas that are predominately threes are generally zoned as M which encourages development denser than 3 family homes. The goal of this article is to preserve those areas that are predominately three family and below

In the fall, a large number of properties were included in the warrant for the proposed rezoning. This large list was whittled down in the vetting process to 91 properties. Those same 91 properties are in this proposal. 90-95% of the properties are compliant as to use.

#### Arguments for and against

At the Planning and Regulation subcommittee public hearing, a number of citizens either spoke or sent emails in favor of this article. Among the reasons cited were:

1. Preserve the existing streetscapes
2. Remove incentives for teardowns
3. Help prevent overcrowding
4. Prevent basement conversions of 3 families into 4 family building such as the one at 103 Browne St.
5. Without this new zoning district a hole exists in the Brookline Zoning Bylaw. Brookline currently has zoning for singles, two's and then multi family. There is no specific zoning for triples; a very common and successful housing type.
6. 3 Family housing fits in with the "new urbanism" planning philosophy.
7. 3 Family housing in the areas affected of the proposal is "smart growth" which was developed before anyone coined the name.

The subcommittee received emails advocating expansion of the F zone to additional properties in the Centre St area and on Pleasant St. (We note that additional properties cannot be added after the warrant is signed.)

The subcommittee received an email against the article expressing a concern that the three family zoning change is treating these different parts of Coolidge Corner as if they were the same and has made no provision for redevelopment on the edges of the commercial district. The email recommended deferral of the rezoning until a plan for the commercial core is brought forth and we can see that plan in relationship to the three family district.

The owner of 15 Auburn St., an affected parcel with a 2 family home, appeared at the subcommittee hearing. He said that he purchased the property knowing it was zoned M-1. He stated he was of two minds with respect to the zoning proposal. He understands why the zoning change is being proposed but is mindful on the impact the change might have on the value of his property. 15 Auburn St. has development potential which will be reduced by this rezoning from 5 to 6 units under the current M-1 zoning to a maximum of three units.

#### Effects of non conformance

In the Fall, the effects of creating a non conforming property through zoning changes was one of the issues giving Town Meeting Members pause. Currently, Brookline's zoning by-law is very strict with regard to nonconforming uses that are destroyed by a disaster. Specifically, Section 8.03.2. says that:

"If a nonconforming building or use shall have been damaged or destroyed by fire, explosion, or other catastrophe to such an extent that the cost of restoration would equal or exceed 50 percent of the replacement value of the building at the time of the catastrophe, such building or use shall not be restored and may be replaced only by a conforming building or use."

Article 10 addresses this situation and if passed, non conforming buildings destroyed through a disaster will, with some narrow exceptions, be able to be rebuilt by right. The others will require a special permit.

#### RECOMMENDATION

This zoning proposal has undergone substantial public process through two Town Meetings. The change was proposed by the Planning and Community Development Department and approved by the Coolidge Corner District Planning Council and the Zoning Bylaw Review Committee. Many significant changes have occurred as a result of the extended vetting process since the first proposal for the last Town Meeting. These changes include:

1. Elimination of many unsuitable properties
2. Increasing the allowed FAR to 1
3. Changing the height maximum, lot width minimum, side yard setback to be more conforming with T zone requirements
4. Change of language to accommodate row homes.
5. Change of permitted uses to be more conforming with M zone requirements

With down zoning comes a trade off.. The trade off is between economic development and preserving the existing fabric of the neighborhood. By adopting this zoning proposal Brookline is making a statement that in the affected areas, we are satisfied that the current level of development is appropriate, the streetscape is appropriate and if anything is to change in the future it must be done within the existing scale.

The Planning Board voted to remove the properties listed as 1-10 Auburn Ct. The Advisory Committee noted that the Zoning By law Review Committee after discussion,

specifically voted to include these properties in the new zone. The properties at 1-10 Auburn Court are at the edge of area 3 of the proposed F zone (see map below.) They are attached 3 story brick structures which contain about 30 condominiums. Reasons stated for keeping them in the district were:

1. To preserve the shape of the district
2. To have a buffer between the commercial zone of Harvard St and the 3 family homes of Auburn St.
3. None of the affected owners were objecting.

On the other hand, the buildings do have more of the character of apartment buildings and with 30 separate owners the likelihood of more dense development is extremely small.

In conclusion, the Advisory Committee feels that the density of Coolidge Corner is its strength and the level of density in the areas proposed for rezoning, which are predominantly 3 family home is appropriate and worthy of being preserved as much as possible. The Advisory Committee by a 13-5-0 vote recommends FAVORABLE ACTION on the following vote:

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

1. By adding a new zoning district F-1.0 (“Three Family Zones”), replacing the existing zoning in the areas shown on the attached map.
2. By adding a new section 3.01.1.d. as follows:

“d. Three Family (F)

1) F-1.0”

and renumbering the existing 3.01.1.d as 3.01.1.e.

3. By adding a new “F” heading under Section 4.07 (“Table of Use Regulations”) with the same use designations as the existing “T” column, with the exception of the uses listed in Principal Use 4A below, that Principal Use 7 (“Lodging House, Licensed and Unlicensed”) should read “SP”, and that Accessory Use 59 should read “Yes\*”.
4. By amending Section 4.07 (“Table of Use Regulations”) by adding a new Principal Use 4A immediately after Principal Use 4:

Principal Uses	S	SC	T	F	M	L	G	O	I
4A. Dwelling on a separate lot for three families or attached dwelling on a separate lot for two families	No	No	No	Yes	Yes	Yes	Yes	No	Yes

5. By amending Principal Use 6 to read as follows:

6. Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.

\* Compliance with **§4.08** required if containing 6 or more dwelling units

Permitted by special permit in S-0.5P and S-0.75P Districts subject to **§5.06**.

In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use

6. By amending Section 5.01 (“Table of Dimensional Requirements”) by adding a new district F-1.0 immediately following T-5 as follows:

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT MAXIMUM (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Open Space	Open Space
									Landsc.	Usable
F-1.0	<u>1-family dwelling</u>	<u>4,000</u>	<u>1.0</u>	<u>40</u>	<u>35</u>	<u>15</u>	<u>7.5</u>	<u>30</u>	<u>10%</u>	<u>30%</u>
	<u>2-family dwelling</u>	<u>5,000</u>	<u>1.0</u>	<u>45</u>	<u>35</u>	<u>15</u>	<u>10</u>	<u>30</u>	<u>10%</u>	<u>30%</u>
	<u>3-family dwelling</u>	<u>5,000</u>	<u>1.0</u>	<u>45</u>	<u>40</u>	<u>15</u>	<u>10</u>	<u>30</u>	<u>10%</u>	<u>30%</u>
	<u>Any other structure or principal use</u>	<u>5,000</u>	<u>1.0</u>	<u>60</u>	<u>40</u>	<u>15</u>	<u>10+ L/10</u>	<u>30</u>	<u>10%</u>	<u>30%</u>

7. By amending footnote 2 in Section 5.01 (“Table of Dimensional Requirements”) to read as follows:

“2. At the end of each row or block of one-family attached dwellings, a yard shall be provided along the street line or side lot line of at least ten feet plus one foot for each dwelling unit in excess of two. In T districts, see also §5.48. In **M and F** districts, a building subject to the side yard formula:  $10+L/10$  may be built to the side lot line: (a) as a matter of right if, on the adjoining lot, a principal building with no setback from that lot line already exists or is proposed to be built concurrently; (b) by special permit if the Board of Appeals finds that reasonable development of the lot necessitates building to the side lot line, such action does not unreasonably infringe upon the light and air of any existing adjoining building, and the party wall is solid and has neither doors nor windows. A building with no side yard shall not have a building wall on the side lot line extending more than 70 feet to the rear of the front yard required by this By-law; except that a building wall may be located along any part of a side lot line on which a principal building on the adjoining lot abuts between the rear yard required by this By-law and the required front yard line. Where building walls more than 70 feet to the rear of the required front yard are not permitted to be built along the side lot line, said walls shall have a side yard setback not less than:  $10+L/10$  the “L” dimension

being that portion of the wall required to be set back from the side lot line.”

8. By changing the zoning of five properties shown on attached map from the M-1.0 and M-1.5 districts to the T-5 zoning district.

**PROPOSED F-1.0 ZONE**  
**Coolidge Corner District**

<u>Address</u>	<u>Existing Zoning</u>
<u>222 FREEMAN ST</u>	<u>M-1.0</u>
<u>218 FREEMAN ST</u>	<u>M-1.0</u>
<u>214/216 FREEMAN ST</u>	<u>M-1.0</u>
<u>126 BROWNE ST</u>	<u>M-1.0</u>
<u>124 BROWNE ST</u>	<u>M-1.0</u>
<u>120 BROWNE ST</u>	<u>M-1.0</u>
<u>116 BROWNE ST</u>	<u>M-1.0</u>
<u>112 BROWNE ST</u>	<u>M-1.0</u>
<u>110 BROWNE ST</u>	<u>M-1.0</u>
<u>106 BROWNE ST</u>	<u>M-1.0</u>
<u>102 BROWNE ST</u>	<u>M-1.0</u>
<u>100 BROWNE ST</u>	<u>M-1.0</u>
<u>96 BROWNE ST</u>	<u>M-1.0</u>
<u>94 BROWNE ST</u>	<u>M-1.0</u>
<u>92 BROWNE ST</u>	<u>M-1.0</u>
<u>90 BROWNE ST</u>	<u>M-1.0</u>
<u>208 FREEMAN ST</u>	<u>M-1.0</u>
<u>206 FREEMAN ST</u>	<u>M-1.0</u>
<u>202 FREEMAN ST</u>	<u>M-1.0</u>
<u>200 FREEMAN ST</u>	<u>M-1.0</u>
<u>142/144 PLEASANT ST</u>	<u>M-1.0</u>
<u>140 PLEASANT ST</u>	<u>M-1.0</u>
<u>83 BROWNE ST</u>	<u>M-1.0</u>
<u>85 BROWNE ST</u>	<u>M-1.0</u>
<u>87 BROWNE ST</u>	<u>M-1.0</u>
<u>101 BROWNE ST</u>	<u>M-1.0</u>
<u>103 BROWNE ST</u>	<u>M-1.0</u>
<u>105 BROWNE ST</u>	<u>M-1.0</u>
<u>107 BROWNE ST</u>	<u>M-1.0</u>
<u>111 BROWNE ST</u>	<u>M-1.0</u>
<u>115 BROWNE ST</u>	<u>M-1.0</u>
<u>119 BROWNE ST</u>	<u>M-1.0</u>
<u>121 BROWNE ST</u>	<u>M-1.0</u>
<u>125 BROWNE ST</u>	<u>M-1.0</u>
<u>127 BROWNE ST</u>	<u>M-1.0</u>
<u>9 SHAILER ST</u>	<u>M-1.0</u>
<u>15 SHAILER ST</u>	<u>M-1.0</u>
<u>69 CENTRE ST/19 SHAILER ST</u>	<u>M-1.0</u>
<u>75 CENTRE ST</u>	<u>M-1.0</u>

<u>24 WILLIAMS ST</u>	<u>M-1.0</u>
<u>16 WILLIAMS ST</u>	<u>M-1.0</u>
<u>12 WILLIAMS ST</u>	<u>M-1.0</u>
<u>51 CENTRE ST</u>	<u>M-1.0</u>
<u>53 CENTRE ST</u>	<u>M-1.0</u>
<u>61 CENTRE ST</u>	<u>M-1.0</u>
<u>10/12 SHAILER ST</u>	<u>M-1.0</u>
<u>11 HARRIS ST</u>	<u>M-1.0</u>
<u>17 HARRIS ST</u>	<u>M-1.0</u>
<u>19 HARRIS ST</u>	<u>M-1.0</u>
<u>21 HARRIS ST</u>	<u>M-1.0</u>
<u>23 HARRIS ST</u>	<u>M-1.0</u>
<u>31 HARRIS ST</u>	<u>M-1.0</u>
<u>49 HARRIS ST</u>	<u>M-1.0</u>
<u>57 HARRIS ST</u>	<u>M-1.0</u>
<u>36 VERNON ST</u>	<u>M-1.0</u>
<u>32 VERNON ST</u>	<u>M-1.0</u>
<u>26/28 VERNON ST</u>	<u>M-1.0</u>
<u>22 VERNON ST</u>	<u>M-1.0</u>
<u>18 VERNON ST</u>	<u>M-1.0</u>
<u>12 VERNON ST</u>	<u>M-1.0</u>
<u>44/46 VERNON ST</u>	<u>M-1.0</u>
<u>42 VERNON ST</u>	<u>M-1.0</u>
<u>50 HARRIS ST</u>	<u>M-1.0</u>
<u>44/46 HARRIS ST</u>	<u>M-1.0</u>
<u>42 HARRIS ST</u>	<u>M-1.0</u>
<u>37 AUBURN ST</u>	<u>M-1.0</u>
<u>28/30 HARRIS ST</u>	<u>M-1.0</u>
<u>24/26 HARRIS ST</u>	<u>M-1.0</u>
<u>22 HARRIS ST</u>	<u>M-1.0</u>
<u>16 HARRIS ST</u>	<u>M-1.0</u>
<u>12 HARRIS ST</u>	<u>M-1.0</u>
<u>15 AUBURN ST</u>	<u>M-1.0</u>
<u>17 AUBURN ST</u>	<u>M-1.0</u>
<u>21 AUBURN ST</u>	<u>M-1.0</u>
<u>23 AUBURN ST</u>	<u>M-1.0</u>
<u>27/29 AUBURN ST</u>	<u>M-1.0</u>
<u>31/33 AUBURN ST</u>	<u>M-1.0</u>
<u>45 AUBURN ST</u>	<u>M-1.0</u>
<u>48 AUBURN ST</u>	<u>M-1.0</u>
<u>9 AUBURN PL</u>	<u>M-1.0</u>
<u>15 AUBURN PL</u>	<u>M-1.0</u>
<u>14 AUBURN PL</u>	<u>M-1.0</u>
<u>10 AUBURN PL</u>	<u>M-1.0</u>
<u>40 AUBURN ST</u>	<u>M-1.0</u>
<u>32 AUBURN ST</u>	<u>M-1.0</u>
<u>2 WASHBURN PL</u>	<u>M-1.0</u>
<u>4 WASHBURN PL</u>	<u>M-1.0</u>
<u>3 WASHBURN PL</u>	<u>M-1.0</u>
<u>1 WASHBURN PL</u>	<u>M-1.0</u>

11-20

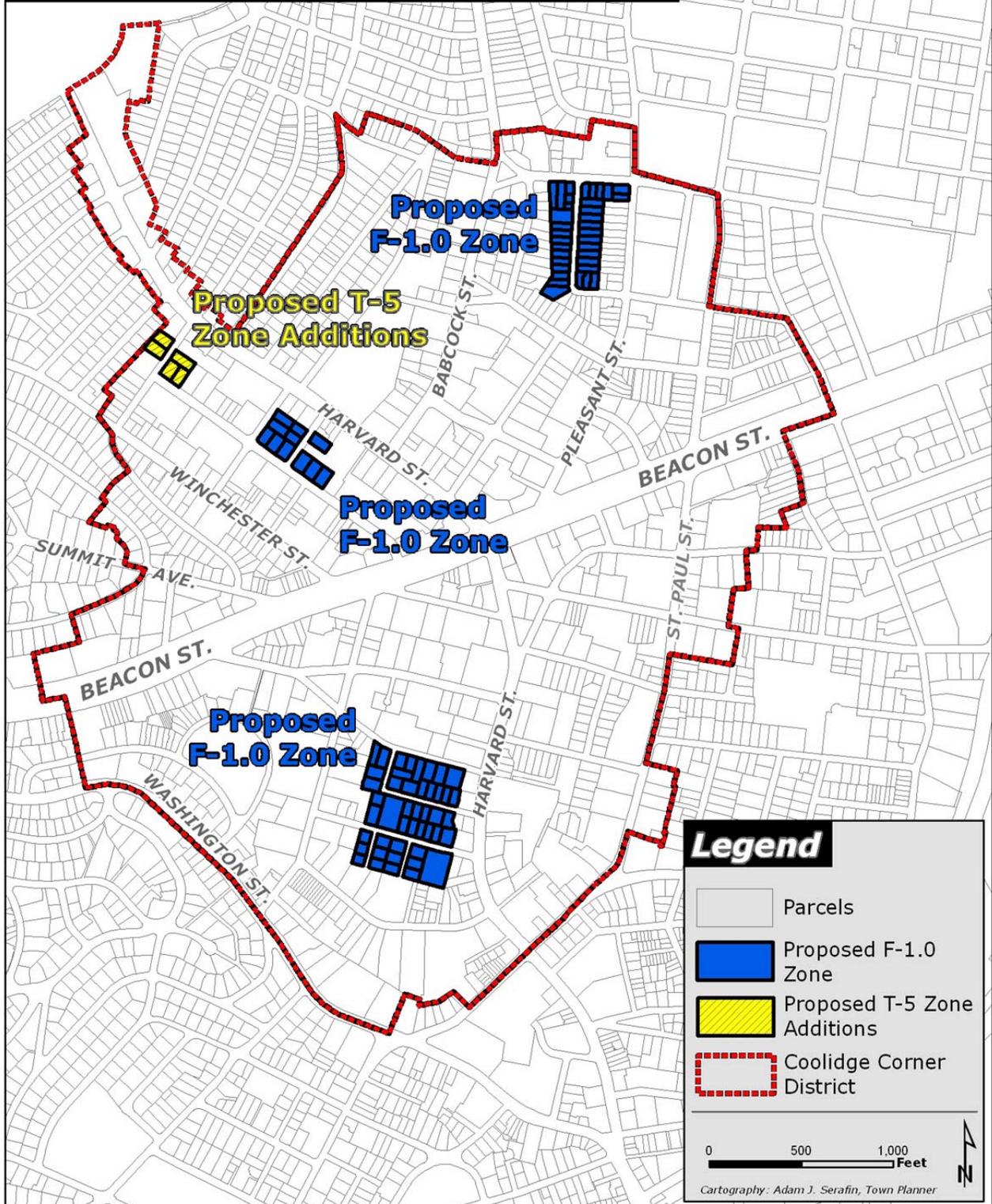
<u>24 AUBURN ST</u>	<u>M-1.0</u>
<u>1-10 AUBURN CT</u>	<u>M-1.0</u>

**PROPOSED T-5 ZONE  
ADDITIONS**

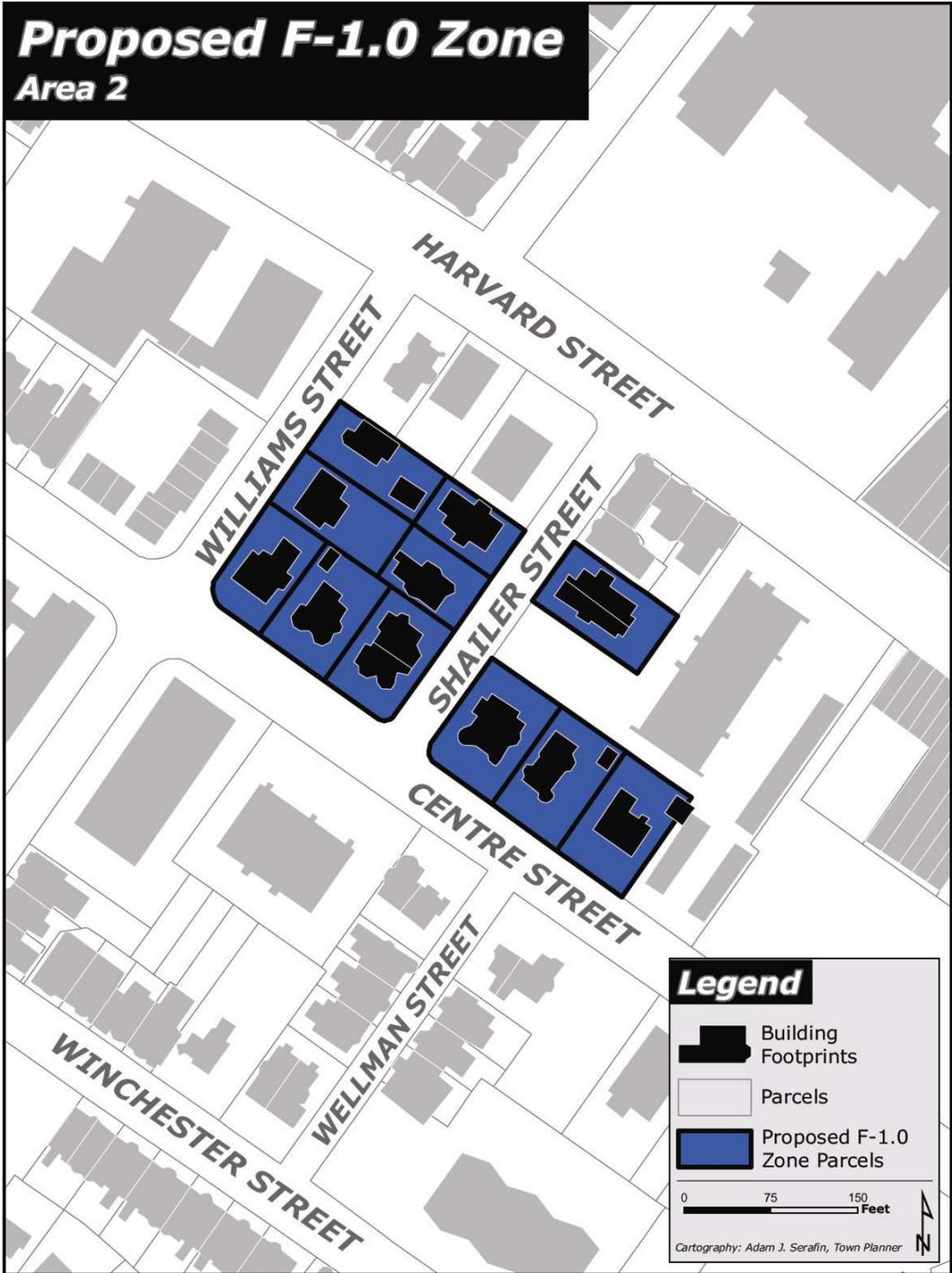
**Coolidge Corner District**

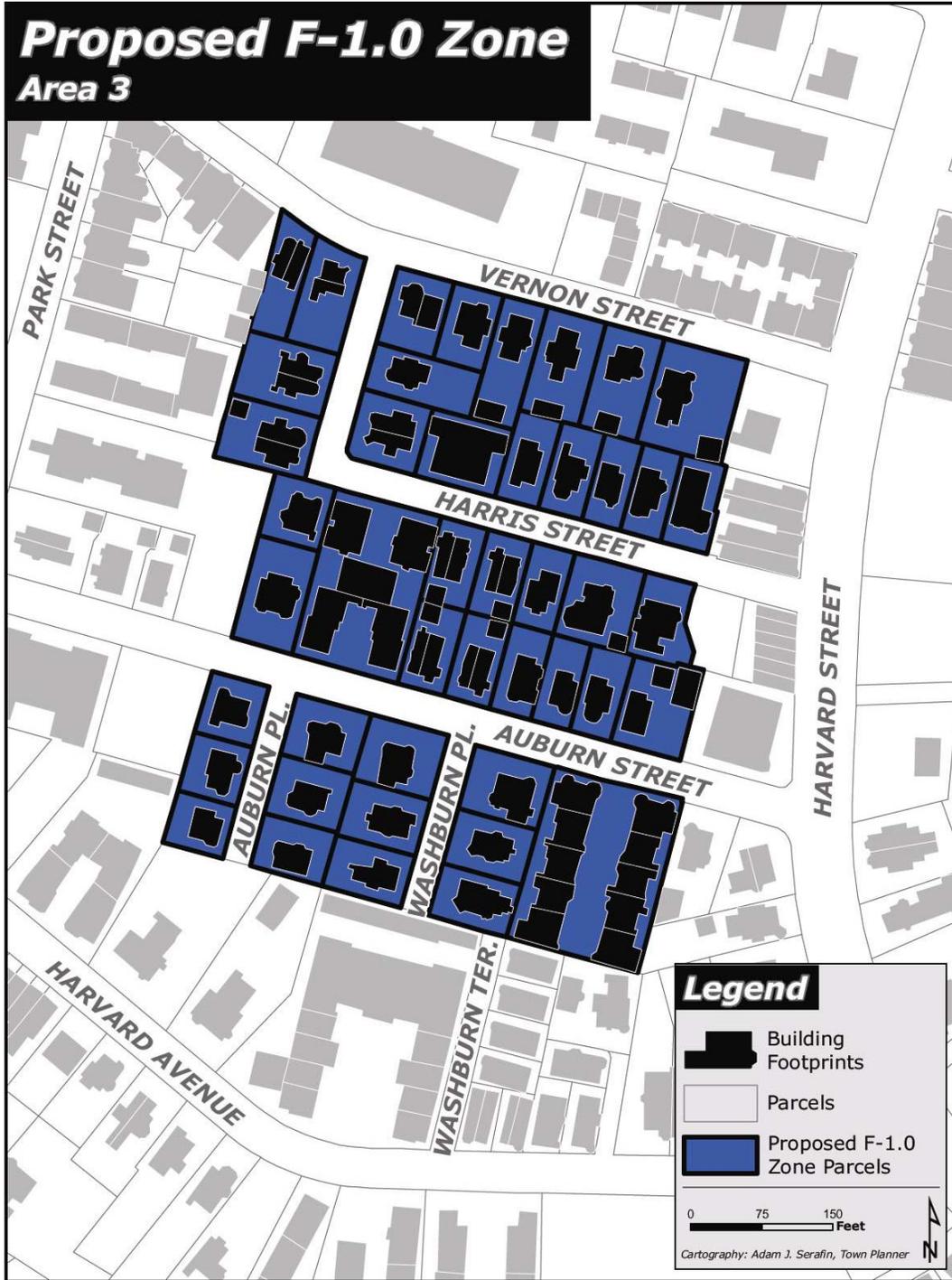
<u>Address</u>	<u>Existing Zoning</u>
<u>44 FULLER ST</u>	<u>M-1.5</u>
<u>38 FULLER ST</u>	<u>M-1.5</u>
<u>39 FULLER ST</u>	<u>M-1.0</u>
<u>129 CENTRE ST</u>	<u>M-1.0</u>
<u>123 CENTRE ST</u>	<u>M-1.0</u>

# Proposed F-1.0 Zone and T-5 Zone Additions









**PROPOSED F-1.0 ZONE**  
**Coolidge Corner District**

Address	Existing Zoning
222 FREEMAN ST	M-1.0
218/220 FREEMAN ST	M-1.0
214/216 FREEMAN ST	M-1.0
126 BROWNE ST	M-1.0
124 BROWNE ST	M-1.0
120 BROWNE ST	M-1.0
116 BROWNE ST	M-1.0
112 BROWNE ST	M-1.0
110 BROWNE ST	M-1.0
106 BROWNE ST	M-1.0
102 BROWNE ST	M-1.0
100 BROWNE ST	M-1.0
96 BROWNE ST	M-1.0
94 BROWNE ST	M-1.0
92 BROWNE ST	M-1.0
90 BROWNE ST	M-1.0
208 FREEMAN ST	M-1.0
206 FREEMAN ST	M-1.0
202 FREEMAN ST	M-1.0
200 FREEMAN ST	M-1.0
142/144 PLEASANT ST	M-1.0
140 PLEASANT ST	M-1.0
83 BROWNE ST	M-1.0
85 BROWNE ST	M-1.0
87 BROWNE ST	M-1.0
101 BROWNE ST	M-1.0
103 BROWNE ST	M-1.0
105 BROWNE ST	M-1.0
107 BROWNE ST	M-1.0
111 BROWNE ST	M-1.0
115 BROWNE ST	M-1.0
119 BROWNE ST	M-1.0
121 BROWNE ST	M-1.0
125 BROWNE ST	M-1.0
127 BROWNE ST	M-1.0
9 SHAILER ST	M-1.0
15 SHAILER ST	M-1.0
69 CENTRE ST/19 SHAILER ST	M-1.0
75 CENTRE ST	M-1.0
24 WILLIAMS ST	M-1.0

16 WILLIAMS ST	M-1.0
12 WILLIAMS ST	M-1.0
51 CENTRE ST	M-1.0
53 CENTRE ST	M-1.0
61 CENTRE ST	M-1.0
10/12 SHAILER ST	M-1.0
11 HARRIS ST	M-1.0
17 HARRIS ST	M-1.0
19 HARRIS ST	M-1.0
21 HARRIS ST	M-1.0
23 HARRIS ST	M-1.0
31 HARRIS ST	M-1.0
37/49 HARRIS ST	M-1.0
57 HARRIS ST	M-1.0
36 VERNON ST/59 HARRIS ST	M-1.0
32 VERNON ST	M-1.0
26/28 VERNON ST	M-1.0
22 VERNON ST	M-1.0
18 VERNON ST	M-1.0
12 VERNON ST	M-1.0
44/46 VERNON ST	M-1.0
42 VERNON ST/54 HARRIS ST	M-1.0
48/50 HARRIS ST	M-1.0
44/46 HARRIS ST	M-1.0
42 HARRIS ST	M-1.0
37 AUBURN ST/39 AUBURN ST/41 AUBURN ST/34 HARRIS ST/38 HARRIS ST	M-1.0
28/30 HARRIS ST	M-1.0
24/26 HARRIS ST	M-1.0
22 HARRIS ST	M-1.0
16 HARRIS ST	M-1.0
12 HARRIS ST	M-1.0
15 AUBURN ST	M-1.0
17 AUBURN ST	M-1.0
21 AUBURN ST	M-1.0
23 AUBURN ST	M-1.0
27/29 AUBURN ST	M-1.0
31/33 AUBURN ST	M-1.0
45 AUBURN ST	M-1.0
48 AUBURN ST	M-1.0
9 AUBURN PL	M-1.0
15 AUBURN PL	M-1.0
14 AUBURN PL	M-1.0
10 AUBURN PL	M-1.0

40 AUBURN ST	M-1.0
32 AUBURN ST	M-1.0
2 WASHBURN PL	M-1.0
4 WASHBURN PL	M-1.0
3 WASHBURN PL	M-1.0
1 WASHBURN PL	M-1.0
24 AUBURN ST	M-1.0
1-10 AUBURN CT	M-1.0

**PROPOSED T-5 ZONE ADDITIONS**  
**Coolidge Corner District**

<b>Address</b>	<b>Existing Zoning</b>
44 FULLER ST	M-1.5
38 FULLER ST	M-1.5
39 FULLER ST	M-1.0
129 CENTRE ST	M-1.0
123 CENTRE ST	M-1.0

---

ARTICLE 12

---

TWELFTH ARTICLE

To see if the Town will vote to accept a grant of easement from Harriet Brendze of 150 Princeton Road over a portion of land adjacent to 150 Princeton Road known as Lot 7 and shown as Lot 2 on a plan entitled "Roadway Upgrading Plan", dated January 9, 2007 and revised on February 23, 2007, prepared by Verne T. Porter, Jr., PLS, Newton Massachusetts in order to provide municipal services such as refuse removal, snow removal and emergency services. Said easement is situated in Norfolk County and contains approximately 1,285 square feet as shown on a plan entitled "Easement Plan", dated March 15, 2007, prepared by Verne T. Porter, Jr., PLS, Newton Massachusetts to be recorded at the Norfolk Registry of Deeds upon acceptance by the Town being bounded and described as follows:

Beginning at a concrete bound on the North side of Princeton Road.

Thence: running by Princeton Road thirty feet (30.00) on a curve to the right having a radius of seventeen hundred forty five feet (1745.00) to a point.

Thence: turning and running N 71-48-28 E forty and eight hundredths feet (40.08) to a point.

Thence: turning and running N 18-11-32 W thirty four and forty four hundredths feet (34.44) to a point.

Thence turning and running S 65-27-05 W forty and seven hundredths feet (40.07) to the point of beginning.

Said easement containing twelve hundred eighty five square feet (1285 s.f.).

or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

Harriet Brendze owns the undeveloped lot adjacent to 150 Princeton Road which was created by virtue of a 1955 subdivision approval. In order to create access to the undeveloped lot, known as Lot 7 and shown as Lot 2 on Mr. Porter's February 23, 2007 "Roadway Upgrading Plan", the Planning Board approved the extension of the paved portion of Princeton Road including a turnaround on Lot 7 itself. After consultation with Town Counsel and the Town Engineer, it was decided that an easement was necessary to allow municipal vehicles to utilize the turnaround on Lot 7. The Planning Board made its approval of the upgrade subject to the condition that prior to the issuance of a building permit for construction of a dwelling on Lot 7, acceptance by Town Meeting and evidence of recording of an easement to the Town over the turnaround on Lot 7 for municipal vehicles was necessary.

---

SELECTMEN'S RECOMMENDATION

Article 12 asks the Town to accept a grant of easement over a portion of land adjacent to 150 Princeton Road, which is located on a private way. The owner of the lot is in the process of developing the lot. The section of Princeton Road that the lot fronts is unpaved and is a dead end. The Department of Planning and Community Development requested that the Department of Public Works (DPW) review options for making this section of the roadway accessible for DPW and emergency vehicles.

The topography of the land is such that it does not allow for the construction of a standard cul-de-sac without major land disturbances or impact on wetland resource areas. As a result, the option of allowing Town vehicles the use of a portion of this lot to turn around was evaluated. After using vehicle turning radius templates, it was determined that it would be feasible and that an easement is required. The easement will allow vehicles to drive to the end of Princeton Road, turn around, and drive out.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2007, on the following vote:

VOTED: To accept a grant of easement from Harriet Brendze of 150 Princeton Road over a portion of land adjacent to 150 Princeton Road known as Lot 7 and shown as Lot 2 on a plan entitled "Roadway Upgrading Plan", dated January 9, 2007 and revised on February 23, 2007, prepared by Verne T. Porter, Jr., PLS, Newton Massachusetts in order to provide municipal services such as refuse removal, snow removal and emergency services. Said easement is situated in Norfolk County and contains approximately 1,285 square feet as shown on a plan entitled "Easement Plan", dated March 15, 2007, prepared by Verne T. Porter, Jr., PLS, Newton Massachusetts to be recorded at the Norfolk Registry of Deeds being bounded and described as follows:

Beginning at a concrete bound on the North side of Princeton Road.

Thence: running by Princeton Road thirty feet (30.00) on a curve to the right having a radius of seventeen hundred forty five feet (1745.00) to a point.

Thence: turning and running N 71-48-28 E forty and eight hundredths feet (40.08) to a point.

Thence: turning and running N 18-11-32 W thirty four and forty four hundredths feet (34.44) to a point.

Thence turning and running S 65-27-05 W forty and seven hundredths feet (40.07) to the point of beginning.

Said easement containing twelve hundred eighty five square feet (1285 s.f.).

-----

---

ADVISORY COMMITTEE'S RECOMMENDATIONBACKGROUND:

The Commissioner of Public Works is seeking Town Meeting approval to accept a grant of easement from Harriet Brendze, the owner of a 25.4 - acre lot at 150 Princeton Road. The purpose of the grant of easement would be to allow DPW trash collection vehicles the ability to make a "K" turn (pull in and turn as backing out) in a driveway to be created subject to this grant of easement. The acceptance of this grant of easement would stop the current practice of having the trash truck back into this section of Princeton Road to make its collections. The area of the grant of easement contains 1285 square feet of land. Additional drainage would be placed at this driveway location by the owner of the property at no expense to the Town.

DISCUSSION:

Consideration was given to the possibility of the owner of this property building on this lot of land. Any construction would require the approval of the Conservation Commission because of wetlands on the property, as well as normal Town requirements.

RECOMMENDATION:

The Advisory Committee by a vote of 20-0-0 recommends FAVORABLE ACTION on the vote offered by the Selectmen.

**XXX**

---

ARTICLE 13

---

THIRTEENTH ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to lease the property known and numbered as 9 Newton Street for not more than ten years, in accordance with a proposal to be submitted in response to Requests for Proposal and procedures required under General Laws, Chapter 30B, and such additional terms and conditions determined by the Board of Selectmen to be in the best interest of the town,

or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

The Town owns a number of properties that it leases. Per the provisions of Chapter 30B of the Massachusetts General Laws, the term of the lease can not exceed 10 years. The current lease for 9 Newton Street expires on May 31, 2007. In order to enter into a new lease, Town Meeting must authorize the Selectmen to do so. A Request for Proposal (RFP) has been issued and the Town and the chosen lessee will execute a lease if Town Meeting approves this article.

---

SELECTMEN'S RECOMMENDATION

This article calls for authorizing the Board of Selectmen to lease a certain town-owned property for not more than 10 years. The Town has issued a Request for Proposals (RFP) in accordance with procedures required under General Laws, Chapter 30B, for the property at 9 Newton Street, as the current lease expires on May 31, 2007.

The Selectmen unanimously recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2007, on the following vote:

VOTED: That the Town authorize the Selectmen to lease, for not more than ten years, the land and building located at 9 Newton Street in accordance with the request of the Building Commissioner, and upon such other terms and conditions the Selectmen determine to be in the best interest of the Town.

-----

---

---

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

In accordance with the provisions of Chapter 30B of Massachusetts General Laws, the term of any lease granted for Town owned property cannot exceed 10 years (with four notable exceptions; 15 Newton Street – Transportation Museum & 29 Avon Street - Lars Anderson; both up to 25 years, 86 Monmouth Street – Brookline Arts Center; up to 30 year lease, and 25 Kennard Road – Large Victorian Home; up to 20 year lease). The lease for the property in question, 9 Newton Street expires on May 31, 2007. 9 Newton Street has had two consecutive 5-year lease terms with VinFen Corp. In order to enter into a new lease agreement for 9 Newton Street, Town Meeting must authorize the Board of Selectmen to do so.

DISCUSSION

9 Newton Street is a four-bedroom home. By a vote of Town Meeting some 10 years ago, the Selectmen entered into a 5-year lease agreement with VinFen Corp, with a second five-year option to renew. VinFen Corp. has utilized the home for 4 severely disabled individuals, who require constant supervision. VinFen Corp. has spent in excess of \$60,000+ to make necessary repairs to the home. These funds were, in accordance with the terms of the lease, in lieu of rent for the first five-year term. The second five-year term rent was \$1,400 per month. The repairs completed included the addition of a first floor handicapped bathroom, the installation of an alarm system and fire panel with a direct connection to the Town's Fire Department, the addition of a fire escape from the second floor, the reconstruction of both front and rear porches, the rebuilding, re-plastering and painting of interior walls and the creation of a small parking area.

The Town spends approximately \$2,000 per year on structural maintenance and costs. The occupants pay for heat and all other utilities. No taxes are paid on this property. The Parks Department, mows the lawn and the DPW plows the parking area.

The lease process required written bids. Bidding documents were available as of May 5, 2007.

RECOMMENDATION

The Advisory Committee by a unanimous vote of 20-0 recommends FAVORABLE ACTION on the vote offered by the Selectmen.

**XXX**

---

ARTICLE 14

---

FOURTEENTH ARTICLE

To see if the Town will, pursuant to the provisions of General Laws, Chapter 152, section 69, as amended, extend the terms “laborers, workmen and mechanics”, as used in sections 68 to 75, inclusive, of said Chapter 152 (Worker’s Compensation Law) to include all employees in the Department Heads and Mid-Management Technical and Professional Classification Plans, as those Plans may be amended from time to time, with the exception of the Chief of Police and Fire Chief as they are already entitled to comparable coverage under the provisions of G.L.c.41,§111F.

or act on anything relative thereto.

---

PETITIONER’S EXPLANATION

On January 1, 1912 Chapter 751 of the Acts of 1911 established the Massachusetts Workers’ Compensation law. The Act was extended to public employee laborers, workmen and mechanics by Chapter 807 of the Acts of 1913, and included a local option provision. The Town of Brookline accepted Chapter 807 at the subsequent November 4, 1913 Annual Town meeting.

The provisions of Act, which have been incorporated into statute as M.G.L. c. 152, sec. 69, initially mandated coverage to laborers, workmen and mechanics. In addition sec. 69 allows municipalities to provide coverage on a limited basis as well as to bring in other positions by the express action of the municipality. (Police and Fire employees are protected by statutory provisions applicable to them under, M.G.L. c. 41, sec. 111F.)

Between 1965 and 1974 additional classifications of positions were added by the Town until eventually the only positions excluded from Workers Compensation coverage were Executives and Department Heads, Professional Teaching Staff of the School Dept. and Police and Fire, who are exempt by statute. This warrant seeks to extend coverage to Executives and Department Heads, who were formerly excluded.

---

SELECTMEN’S RECOMMENDATION

Article 14 would extend worker’s compensation coverage to Executives and Department Heads, who are currently excluded from such coverage. Workers’ compensation provides monetary payments for wages, medical expenses and vocational rehabilitation expenses for covered employees and who have sustained an injury arising out of and in

the course of their employment, and for their dependents in the event of the employee's death.

On January 1, 1912 Chapter 751 of the Acts of 1911 established the Massachusetts Workers' Compensation law. The act was extended to public employee laborers, workmen and mechanics by Chapter 807 of the Acts of 1913, and included a local option provision. The Town of Brookline accepted Chapter 807 at the subsequent November 4, 1913 Annual Town meeting.

The provisions of the act, which have been incorporated into statute as M.G.L. Ch. 152, Sec. 69, initially mandated coverage to laborers, workmen and mechanics only, with a local option provision. The workers compensation law evolved, expanding coverage to other classifications of employees. Eventually, Sec. 69 allowed municipalities to provide coverage to other positions by the express action of the municipality. The act continues to be limited to those who are employed directly by the municipality. (Police and Fire employees are protected by statutory provisions applicable to them under M.G.L. Ch. 41, Sec. 111F.)

Between 1965 and 1974, additional classifications of positions were added by the Town in accordance with the workers compensation law until eventually the only positions excluded from workers compensation coverage were Executives and Department Heads, Professional Teaching Staff of the School Dept. and Police and Fire, who are exempt by statute. This article would extend coverage to Executives and Department Heads.

During the Fall of 2006, the Town analyzed its Department Heads and Senior managers pay plans to ensure Brookline continues to be competitive among comparable communities with similar demographics. With regard to wages, the report found that a general revision of the pay plan was not required. Recommendations for adjustment were made for three positions that were lower than the median of surveyed communities. The analysis further recommended that certain benefits should be added to make these higher level positions more competitive in recruiting. The fact that Brookline does not provide workers compensation to this discrete group may actually act as a disincentive to candidates.

During the review of this article, some questions were raised that convinced the Board that further study of the issue was warranted, including the threshold question of whether worker's comp is the appropriate vehicle for these employees or if disability insurance was more appropriate. The Human Resources Board has the expertise to study these issues. Therefore, by a vote of 5-0 taken on April 24, 2007, the Selectmen recommend the following:

VOTED: To refer Article 14 to the Human Resources Board.

-----

---

---

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 14 seeks to allow the Town to expand Workers Compensation to include Department Heads and Mid-Management Technical and Professional Classification employees (with the exception of the Police Chief and the Fire Chief who are already covered under existing programs).

Sandra Debow, HR Director for the Town of Brookline explained that the article was introduced as a result of a review of the Town's compensation policies which identified a lack of income protection coverage for Department Heads and Mid-Management Technical and Professional employees.

The Town has recently completed a survey of its compensation policies designed to ensure that we remain competitive when hiring new employees. After review of the policies of similar sized towns in the region (MA, NY, and CT) it was determined that our salaries were competitive, but our benefit package has some deficiencies, particularly with regard to income protection when workers are injured or become ill. The HR Director is working to address these difficulties by exploring the possibility of offering disability insurance to Department Heads and covering all Department Heads and Mid-Management workers with Workers Compensation.

Extending Workers Compensation to these additional workers will cost the town \$28,000 to \$30,000 annually

DISCUSSION

There was an extensive discussion about the issue of income protection for sick and injured workers. It is clear that extending Workers Compensation coverage is not the best system for providing such coverage to this group of employees, and that disability coverage would be a better solution. While the Town is working to provide disability coverage to the compensation package for Department Heads it is not presently planning to extend the disability insurance to mid-level managers.

After discussion Ms. Debow suggested that the Human Resources Board consider other options (such as extending disability insurance to the entire group of workers covered by this article). There was substantial consensus on the Advisory Board that the Workers Compensation insurance system was not the best means to achieve the stated goals of the Article. Given the nature of the Article, it was not technically possible to move for referral to further study of the disability insurance options.

RECOMMENDATION

The Advisory Committee voted NO ACTION on Article 14 by a vote of 15-2-0 with a strong informal recommendation that the Human Resources Board consider other options for addressing the issues involved.

ARTICLE 14

**BOARD OF SELECTMEN’S SUPPLEMENTAL REPORT**

Sandra DeBow, Human Resources Director, appeared before the Board of Selectmen on Tuesday, May 22, 2007, to ask the Board to vote “No Action” on Article 14. Previously, the Board had voted unanimously to refer the matter to the Human Resources Board for further study to determine whether workers compensation or disability insurance is the appropriate vehicle for Executives and Department Heads. The Advisory Committee voted “No Action” by a vote of 15-2-0 with a strong informal recommendation that the Human Resources Board consider other options for addressing the issues involved. Since there was no utility in bringing the matter to Town Meeting, the Board of Selectmen voted No Action, by a vote of 5-0, on Article 15 with a recommendation to refer the matter to the Human Resources Board.

ARTICLE 15

FIFTEENTH 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:

Be it enacted, etc., as follows:

A. Chapter 317 of the Acts of 1974, An Act Establishing a Department of Transportation in the Town of Brookline, is hereby amended by adding the following language (appearing below in bold face and underlined type) to the second sentence of the second paragraph of Section 4 and by adding a new Section 4(a) relative to the authority of the Board of Selectmen or its designee to adopt a Valet Parking Permit Program:

Section 4. (Second Sentence in Second Paragraph)

The board shall also have all authority previously granted to the selectmen by virtue of the provisions of section twenty-two of chapter forty of the general laws, **except with respect to any Valet Parking Permit program as provided in Section 4(a) below.**

Section 4(a). The Board of Selectmen or its designee, for the purpose of promoting and protecting the public safety, welfare and environment may adopt a valet parking permit program (hereinafter referred to as the “Valet Permit Program”) for any person or entity providing valet parking services (hereinafter referred to as the “Valet Service”) which uses any public way(s) in the Town of Brookline. The Valet Permit Program is intended to provide a process to review the operations of the Valet Service and its effect(s), if any, on the public safety, welfare and environment.

The Board of Selectmen or its designee may issue permits to Valet Service providers operating in the Town of Brookline and using any public way(s) within the Town. Valet Service providers shall file with the Board of Selectmen or its designee an application for a Valet Permit on an approved form and shall file an application to renew such Permit annually.

Applications for a permit to operate a Valet Service shall be filed with the Board of Selectmen or its designee at least sixty (60) days prior to the date the Valet Service is proposed to begin.

The application shall, at a minimum include:

1. Name, address telephone and fax numbers of the Valet Service provider.
2. Copies of insurance policies maintained by the Valet Service provider.
3. Name address telephone and fax numbers of the establishment for which the Valet Service is proposed.

4. A copy of the proposed agreement between the Valet Service provider and the establishment being served.
5. A letter of agreement to access and use any proposed off-street parking area(s) which states the maximum number of vehicles allowed and total vehicle capacity of the facility.
6. A copy of an Open-Air Parking Permit for any off-street parking area or application therefor, if required by G.L.c.148, §56.
7. A detailed plan of the proposed valet operation; including hours and days of operation; routes to and from the parking area(s); number of valets; and location and design of the proposed valet parking sign(s).

Upon the receipt of an application, the Board of Selectmen or its designee shall notify, in writing, abutters to the establishment for which the Valet Service is proposed and abutters to any off-street parking areas which the Valet Service proposes to utilize with regard to the pending application and the date, time and location of the hearing. In addition, the Board of Selectmen or its designee shall send the same notice to all Town Meeting Members in the district in which the Valet Service intends to operate.

The Board of Selectmen or its designee, after notice and hearing may: 1) grant the application; or 2) grant the permit and impose reasonable conditions or restrictions, including, but not limited to restricting the days and/or hours of operation; 3) reject any application if it determines that the proposed Valet Service would adversely affect the public safety, welfare or environment or would violate any applicable statutes, codes, rules, regulations and/or provisions of the Town's by-laws; 4) request additional information from the Valet Service provider; and/or 5) take any other action it deems reasonable under the circumstances.

The Board of Selectmen or its designee shall send a copy of the completed application to the Director of Transportation, Director of Planning and Community Development, Chief of Police, Fire Chief and Building Commissioner for their review and written recommendations with respect to whether or not the Valet Service as proposed meets all the requirements of any applicable statutes, codes, rules, regulations and/or provisions of the Town's by-laws.

The Board of Selectmen or its designee may promulgate reasonable rules and regulations to carry out the purposes of any Valet Permit Program, including, but not limited to definition of terms, applicability, fees for permit applications; permit renewal requirements; enforcement and penalties for non-compliance. Any such rules and regulations shall be published at least once in a local newspaper and made available on the Town's website.

or act on anything relative thereto.

---

---

PETITIONER'S EXPLANATION

The Board of Selectmen has submitted this warrant article to cover some situations in which valet parking is being used but which are not presently covered under the rules and regulations of the Transportation Board. The unregulated situation involves valets taking cars from one private parking lot to another but using surrounding streets to do so. Valet parking can be helpful when an establishment has limited parking spaces but it must be handled with consideration for the safety and welfare of those who live and drive in the area. This special legislation will amend the prior special legislation which lodges authority in transportation matters with the Transportation Board and will grant the Selectmen authority to deal with what appears to be a "loophole" in regulating a particular category of valet parking.

---

---

SELECTMEN'S RECOMMENDATION

In 1974, the Town, through a Home Rule Petition, moved the authority for regulating transportation matters from the Board of Selectmen to the Transportation Board. The Transportation Board, pursuant to that authority, regulates valet parking when the valets park the cars on public or metered spaces. However, the Transportation Board has not regulated valet parking in situations where the cars are parked in a private lot, even if the cars were driven by the valets over public streets to get to that private lot.

Presently, there are several restaurants that fall into the latter category. For the past several years, the Board of Selectmen have been getting complaints from the neighbors near one of those restaurants that the valets were driving on public streets without sufficient regard for the safety and welfare of nearby residents, pedestrians, and other vehicles. Although the Board of Selectmen held several public hearings on this matter at which both the neighbors and the owners of the restaurant were present and spoke to the issue, the neighbors concerns were not alleviated.

Since valet parking in private parking lots was not covered under the rules and regulations of the Transportation Board, members of that Board believed they were unable to regulate the situation. Therefore, the Selectmen filed this warrant article, a Home Rule Petition that, if passed, would have the effect of taking some of the Transportation Board's authority back and redepositing it with the Board of Selectmen. The Selectmen would then have the authority to regulate the type of valet parking at issue and to close this "loophole."

In the course of legally analyzing this issue in connection with the article, it became apparent to the Transportation Division and to Town Counsel's office that the Transportation Board could simply amend its rules and regulations and begin regulating this type of valet parking almost immediately.

The Transportation Board recently voted to amend those rules and regulations and the members of that Board are eager to tackle any problems that exist with the type of valet

parking described above. The Transportation Board has clearly indicated that as soon as the appropriate notice period for its change in rules expires, they will notify establishments operating valet services that move cars to private lots over public roads that they must have Transportation Board authorization and must follow the rules set forth by the Transportation Board.

In light of this significant change, the Board of Selectmen recommends NO ACTION, by a vote of 5-0 taken on May 8, 2007, on Article 15. Should the situation not be resolved by the Transportation Board, the Board of Selectmen will refile this warrant article at the next Town Meeting.

-----

### ADVISORY COMMITTEE'S RECOMMENDATION

#### BACKGROUND

In 1974, the State Legislature approved an act (the "1974 Act") establishing a Department of Transportation, which included a Transportation Board. This Act provided the authority for the Transportation Board to oversee all statutes and by-laws applicable generally to transportation, vehicular licensing and traffic rules, regulations and orders. *At the time this Article was proposed, the Board of Transportation in Brookline had the authority to issue Valet Parking Licenses to only those establishments that intended on using public metered parking spaces as part of their valet service.*

The Board of Selectmen (BOS) sponsored Article proposes to seek a Home Rule Petition from the State granting it the authority to take authority back from the Transportation Board and to manage Valet Parking in the town of Brookline. This Article was proposed by the BOS as part of an effort to provide relief for one Brookline neighborhood's concerns regarding the Valet Parking practices of an individual neighborhood food establishment. This petition could take up to 1 year to be voted on by the State Legislature, with no guarantee of success.

#### DISCUSSION

The neighborhood has been complaining for well over 2 years to the Police and other town authorities about the manner in which the valets move the vehicles at high speed through small narrow streets to park them and how the valets have trespassed on private property running through private yards, often disturbing residents, to get to and from the parked cars.

The former head of the Transportation Division had maintained, and so advised the Board of Transportation (BOT), that the existing rules regarding Valet Parking did not authorize the BOT to act on the community concerns that have been raised because the matters at hand were outside of its jurisdiction. The existing rules only covered establishments utilizing public parking spaces for access to and from vehicles and parking of those vehicles in *public spaces*. This particular food establishment did not utilize any public parking spaces at all. They did not use public land for people to get in and out of their cars and the cars were parked on private property.

The BOS had granted this food establishment a license to operate and also authorized the use of valet parking as part of their restaurant license. This had been done in an attempt to provide some form of authority over valet parking at this establishment. A Police detail had been hired to help manage the valet parking activity at peak business hours during the weekends. Local neighbors still observed poor valet behavior and continued to complain.

The BOS had acted to tie the valet parking to this establishment's operating license but later had to undo this as this action may have been beyond their authority. The BOT's inaction was based on its understanding of the lack of jurisdiction. There appeared to have been no method to enforce better Valet Parking practices at this particular institution based on strict legal application of the Town's valet parking rules. There also appears to have been a less than aggressive enforcement of traffic, trespass and other rules laws, rules and regulations not specific to valet parking that could have ameliorated this situation. This latter enforcement remains viable regardless of the outcome of this Article.

The efforts of the Board of Selectmen, particularly Nancy Daly, lead to a review of these practices. Jennifer Dopazo, Town Counsel, suggested that a change in the traffic code might be adequate to provide the BOT with the needed authority to manage this situation. Just prior to his resignation on April 20, 2007, the former division head acknowledged that changing a part of the existing regulations could offer some immediate relief to the neighborhood. This would offer almost immediate authority to the Board of Transportation to oversee the Valet Parking licensing for this particular establishment.

The BOT, under the leadership of Michael Sandman as Chair of the Board of Transportation, voted on Tuesday night, April 24, 2007, to modify the regulations regarding Valet Parking to include authority over any institution or individual using the public way for valet parking purposes. This will give the BOT the ability to suspend valet parking licenses where operating violations are observed.

This new regulation will encompass any institution using public ways to move cars, giving the BOT the authority to more effectively manage valet parking in Town.

There is little value in continuing the Home Rule Petition with this new BOT regulation enacted. The BOT can review the petition of all Valet Parking permits in June when they come up for renewal. They can grant provisional licenses for a 90-day period where needed to modify a Valet Parking program.

In the past, the neighborhood nearby this establishment has not had a good relationship with the Board of Transportation. Neighborhood activism has lead to improved communications between the BOS, the Police, and the neighborhood residents. The neighborhood is willing to give the BOT an opportunity to use its new authority in acting on this situation as needed. If this approach is not successful, there is the opportunity to bring this matter and Article to Town Meeting again in the Fall.

RECOMMENDATION

There was a concern by a minority that the affected neighborhood might be better served by having this Article acted on immediately. But a lack of need, the expense for additional legislative action at the State level and the change in our existing local code that now lets us better manage valet parking operations were cited. The Advisory Committee recommends NO ACTION, by a substantial majority of 20-3-0.

**XXX**

---

ARTICLE 16

---

SIXTEENTH ARTICLE

To see if the town will authorize and approve the filing of a petition with the General Court in substantially the following form:

*An act permitting the Town of Brookline to assess SUVs, light trucks and other passenger vehicles not considered passenger cars at higher rates than more fuel-efficient passenger cars.*

**Section 1.** Notwithstanding the general requirements or any provision of M.G.L., c. 59 §21C or any other general or special law, the Town of Brookline is hereby authorized to assess SUVs, light trucks, pick-up trucks and other vehicles not considered “passenger cars” for purposes of Federal Corporate Average Fuel Economy (CAFÉ) standards at the rate of fifty dollars per thousand of valuation.

**Section 2.** This act shall take effect upon passage.

or act on anything relative thereto.

---

PETITIONER’S EXPLANATION

The Federal Government imposed Corporate Average Fuel Economy (CAFÉ) standards upon automobile manufacturers years ago to set minimum standards for fuel efficiency in passenger vehicles. Manufacturers have managed to avoid meeting these standards by making more SUVs and light trucks, which have lower fuel efficiency requirements, and selling them as passenger vehicles instead of cars. For example, the 2005 CAFÉ requirement for cars was 27.5 MPG average, while the CAFÉ requirement for SUVs and light trucks was only 20.7 PMG average.

In addition to being less fuel-efficient and thereby causing more air pollution, SUVs and light trucks are heavier than cars and therefore take a heavier toll on town roads, wearing down town roads more quickly than cars. This creates an added burden on Brookline’s roads, with SUVs and light trucks causing greater and more rapid deterioration of Brookline’s roads than normal cars.

This article would double the assessment for SUVs and light trucks. This would more fairly apportion the costs of maintenance of town roads, removing present hidden subsidies for vehicles that cause greater pollution and greater wear upon town roads. In restructuring the motor vehicle excise tax in a more equitable way, this article would also generate additional revenue for the Town at a time when additional sources of revenue are being sought.

---

---

SELECTMEN'S RECOMMENDATION

Article 16 is a petitioned article that asks Town Meeting to file a Home Rule Petition with the State Legislature to allow Brookline to assess vehicles not covered by so-called "CAFE Standards" for fuel efficiency at higher rates for motor vehicle excise purposes. As proposed, those vehicles would be assessed at \$50 per thousand of valuation versus the current \$25 per thousand.

According to the petitioner, car manufacturers have managed to avoid the Federal Government's Corporate Average Fuel Economy (CAFE) standards for fuel efficiency in passenger vehicles by making more Sports Utility Vehicles (SUV's) and light trucks, which have lower fuel efficiency requirements, and selling them as passenger vehicles. By doing so, the car manufacturers have helped increase the number of less efficient, air pollution creating vehicles on the road. This has had an impact on the country's environment and is a contributing factor to global warming. The article could result in the owners of those vehicles paying more motor vehicle excise (MVE) taxes to help offset the costs associated with the damages they cause.

Such an action can only be done via special legislation, as the assessment formula for MVE is incorporated into state law (M.G.L., Ch. 59, Sec. 21C). Therein lies one of the primary issues with this article: will the Legislature allow Brookline to assess its MVE differently than 350 other communities, especially when the MVE rates were established by Proposition 2 ½? Another issue is the Registry of Motor Vehicles (RMV) ability and/or willingness to provide data for MVE bills for Brookline differently than any other community. Since the data for the bills actually comes from the RMV's database and not a local database, the RMV must be able to run a separate program for Brookline.

While these are legitimate concerns, a majority of the Selectmen believe that this article is very timely because of the following:

- Discussion regarding global warming has been a dominant news item in recent months.
- The motivation and message of the article is right.
- While it may be unlikely to pass the State Legislature, it may generate discussion for a statewide initiative.
- If this were to happen, Town action would once again drive statewide evaluation.
- Even though the State may choose to have a consistent tax policy over an attempt to change social behavior, this is an issue where Brookline should push for a change from the status quo.

A minority of the Board felt differently on this issue. Concerns expressed included:

- Should families who need SUV's be punished?
- Should families who choose the safety of an SUV be forced to pay more for that safety?
- How would purchasers know if the vehicle they are contemplating buying would be subject to the higher tax?

- Why does Brookline want to lead the way for new taxes, when taxes, fees, and utility costs are already burdening residents?
- Why not have general legislation filed so Brookline is not alone?

On April 24, a majority of the Board took the position that the potential positive impact of this article outweighs the concerns of the minority and voted to recommend Favorable Action, by a vote of 3-2 taken (with Hoy, Daly, and DeWitt in favor and Allen and Merrill opposed), on the article. However, on May 8, the Board voted unanimously to reconsider the Favorable vote. The motion for reconsideration was voted unanimously. In the subsequent deliberations, members of the Board discussed:

- (1) the proposed 100% rate increase -- sentiment was expressed by supporters of the article that the rate of increase should be lower;
- (2) alternative fuel economy standards still under consideration by the Advisory Committee at that time; and
- (3) whether hybrids should be exempt from the proposed language altogether.

The Board did not come to agreement on these matters and, as a result, the item was held. Because no action was taken on the Article itself after reconsideration was voted, the Board will not have a recommendation until a vote is taken again on the Article.

-----

### ADVISORY COMMITTEE'S RECOMMENDATION

#### BACKGROUND

Petitioner brought this Article forward to highlight the deleterious impact of SUVs and similar vehicles on the environment, the infrastructure, and health and safety.

New language was presented to the Advisory Committee on May 8 by the Petitioner. It differs from the original language in three important respects:

- Only SUVs would be subject to the increased excise tax, not minivans or light trucks.
- SUVs which meet passenger car CAFE (Corporate Average Fuel Economy) standards would be exempt.
- The increased excise tax would only apply to SUVs purchased after the enactment of the Home Rule Petition by the Legislature.

Petitioner's goal is to decrease the number of SUVs on our roads, and hence their negative environmental impacts, through two mechanisms:

- Create an economic disincentive. This is the literal intent of the Article.
- More importantly, change consumer attitudes through publicity and public debate.

While proponents have only a small hope of accomplishing the former, they are confident they are already accomplishing the latter.

An expressed primary concern with most SUVs has to do with their significant negative contribution to global warming. The premise goes like this: overwhelming scientific consensus tells us that global climate change is real, it is here, and it is caused by human activity, primarily the burning of fossil fuels. The burning of fossil fuels falls into three (very roughly) equal categories: energy (electricity) production, building maintenance such as home and factory heating, and vehicle fuel consumption.<sup>i</sup>

Improving vehicle fuel efficiency has long been understood to be an effective way to reduce the vehicular contribution to greenhouse gas emissions. Corporate Average Fuel Economy (CAFE) standards, enacted in 1975, dramatically increased the fuel efficiency of American passenger cars, from 13.8 mpg to 27.5 mpg by the late 1980's.<sup>ii</sup> Unfortunately, efficiency has stagnated since then, in large part due to the development of SUVs.<sup>iii</sup>

Sport Utility Vehicles were designed to take advantage of a loophole in the CAFE standards legislation, which held light trucks to a much lower efficiency standard. SUVs were, and most still are, passenger vehicles built on a truck platform. Instead of having to meet the current passenger car standard of 27.5 mpg, SUVs only have to meet the light truck standard of 20.7 mpg.<sup>iv</sup> In 1975, light trucks comprised only about 20% of the vehicle fleet. Today, primarily because of the proliferation of SUVs, that percentage is almost 50%. Consequently, in 2001 the fuel efficiency of new vehicles sold was at its lowest point since 1980.<sup>v</sup>

### **SUBCOMMITTEE TESTIMONY**

Two public hearings were held by the Ad Hoc Subcommittee of the Advisory Committee, on April 17 and May 3, 2007. The following issues were discussed.

**Tax Issues.** In 1980, Proposition 2 ½, an initiative petition, was put before the voters of the Commonwealth and passed. It set the maximum tax rate at 2.5 percent of the value of taxable property, or \$25.00 per thousand of full market value; at the time 171 out of 350 municipalities exceeded that tax rate. That initiative law also reduced the motor vehicle excise tax from \$66 per thousand to \$25 per thousand value, or 2.5 percent.

According to Town Treasurer Stephen Cirillo, property taxes account for approximately 75% of the Town's operating budget, while motor vehicle excise taxes account for only about 7.5%. Therefore, this proposal can provide little financial benefit to the town. Most of the rest is covered by State aid.

Mr. Cirillo noted that it is against State tax policy and practice to allow a municipality to tax its residents differently from other communities, and that, in his judgment, the State legislature would not approve special legislation for Brookline to increase motor vehicle excise taxes for certain classes of motor vehicles. An example given was that Boston could not charge a restaurant tax that is different from the rest of the State. The legislature has publicly stated that it will not allow different taxation in different municipalities.

While this home rule petition may go against State tax policy, it is not inherently illegal, and the legislature has the authority to pass it. Also, there appears to be growing national

interest in this issue. For example, in December 2004 the District of Columbia passed legislation requiring District owners of SUVs weighing 5,000 pounds or more to pay a higher excise tax (an increase from 7% to 8%) and registration fee (an increase from \$115 to \$155), after deciding that those vehicles contribute to infrastructure damage and air pollution. The legislation went even further. Residents who purchased or placed into service hybrid vehicles on or after January 1, 2006, no longer have to pay an excise tax and their vehicle registration fees were reduced by 50%, from \$72 to \$36.

**Impact on infrastructure.** Petitioner presented an opinion that heavier vehicles such as SUVs, minivans, and light trucks put more stress on our roads, bridges, and other infrastructure than do passenger cars, and therefore impose proportionally greater cost to the community.

The subcommittee heard no testimony that validated this contention. One person testified that there was no such greater impact. In a search of the literature online, the subcommittee was convinced that this is at best an unresolved issue. The reports we read indicated that the life of roads is determined primarily by the amount of heavy truck usage, and that the additional contribution from light trucks is negligible.<sup>vi</sup>

**Safety Issues.** SUVs are exempt, not only from passenger car CAFE standards, but also the stricter safety codes that apply to passenger cars. For instance, SUVs are not required to have crumple zones. Most SUVs, because of their designs, are inherently more unstable and less responsive than passenger cars. They tend to roll over more easily, at three to four times the rate of passenger cars (though new technology is improving the situation), are more likely to get into accidents, and because of their greater weight, do more damage when they do get into accidents. The damage they do is exacerbated by their design, which mismatches the bumper heights of passenger cars; and there is a higher rate of injury and death to pedestrians who are struck by SUVs. Poor visibility characterizes many SUVs, accounting for a connection to pedestrian and vehicular safety.

Because SUVs present the illusion of greater safety, they lull drivers into bad habits, such as driving too fast in inclement weather. Data indicates that children are statistically no safer in SUVs than in passenger cars or minivans. A comparison of deaths per million vehicles demonstrates no statistical safety advantage to SUVs. Safety is often more about nimbleness and skillful driving than it is about the size of the vehicle

**Strategy.** At the public hearings there was a general consensus that the goals of the petitioner are laudable given today's environmental concerns and the need to take even small steps at the local level to spur changes in policy at the state and national level. There was also some acknowledgment that the legislation would likely die in committee at the State House, and there was some question about what would send the best political message. Town Counsel Jennifer Dopazo stated that in her view it is not good policy to send a message to the State by filing for special legislation. There was also a concern that the submission of weakly crafted legislation was detrimental to the credibility and effectiveness of the Town when dealing with the Legislature.

## DISCUSSION

The full Advisory Committee was nearly evenly split on this Article. While almost everyone acknowledged the need to take action on climate change, members differed

widely as to how well this Article serves that purpose. Discussion fell along the following lines. (Critical questions and comments are presented first, followed by proponents' responses.)

**Focus.** The Article should focus on the fuel efficiency of all vehicles, including passenger cars with poor fuel efficiency, and not apply strictly to SUVs. It was noted that most of the poor-mileage vehicles in Town are likely to be cars. Safety and other considerations are a distraction to the core substance of the article (fuel consumption). Also, it was pointed out that there is a distinction between poor driving habits and inherently dangerous design. Some newer SUVs incorporate elaborate safety devices and exhibit better handling than many cars.

Proponents don't necessarily disagree with the fuel efficiency critique. Because of the original wording of the Article, inclusion of passenger cars was judged, by the Moderator, to be outside the scope of the Warrant. On the other hand, proponents feel justified in singling out SUVs as a place to start. SUVs were created to avoid stricter CAFE standards, and still play that rôle. Because millions of people buy them believing they are safer, the safety issue has to be addressed if attitudes are going to change.

**Fairness.** Along similar lines, doesn't the Article target some vehicles it shouldn't, and exclude some that should be covered? What about the economic impact on someone who sells an SUV after the Home Rule legislation is passed? What about someone who has an SUV who hardly ever drives it, and therefore contributes negligible greenhouse gas emissions? Many families buy SUVs because they need a larger vehicle to efficiently transport everyone. They have few options. Minivans are explicitly exempt under this article, but are similar to SUVs in fuel efficiency.

Proponents: the Article targets SUVs whose fuel efficiency ratings are below the CAFE standard for passenger cars. That may not be a perfect standard, but it is pretty clear and focused. Current owners will be minimally impacted upon resale, since the amounts involved are small, and owners can sell outside of Brookline for no impact at all. While minivans and SUVs are similar in weight and fuel efficiency, minivans are built with unibody construction and include safety features often lacking in SUVs. The low mileage issue is a good one, and clearly not addressed in this legislation.

**Necessity.** Is this Article really necessary? Won't market forces, such as the increasing price of gasoline, do much more than this Article to discourage the purchase of gas guzzlers?

Proponents: Perhaps. But gas prices could dip again. Market forces alone probably will not challenge public attitudes.

**Alternatives.** A number of alternatives for reducing greenhouse gas were suggested, as well as the identification of other culprits

- More right-on-red turns allowed in Brookline
- Focus on home insulation and weatherization
- Electricity production (coal)
- Provide credits for hybrids and other fuel-efficient vehicles
- Increase the gasoline tax

Proponents: All of the above, and more, are good ideas. This is not an OR, but an AND situation. To combat climate change, people and institutions will have to make changes on many fronts. We should be doing all of the above as well as enacting this Article. And note that greenhouse gas emissions from electricity production and the transportation sector are roughly equal.

**Strategy.** Assuming this is flawed legislation, which many members believe it is, would it not be better to either not move it, or refer it to a Moderator's Committee to fashion something better for consideration in the Fall? Will this Article create a backlash amongst those we are trying to win over? Does this Article needlessly expose the Town to ridicule? Does it make sense to pass a Home Rule Petition that will be dead on arrival at the State House? Won't its lacking elements make it an easy target to simply dismiss out of hand?

Proponents consider this good, if not perfect, legislation. The larger issue has always been to spur public discussion, and eventually spur action at the State and Federal levels. Yes, this may evoke some backlash, but that is part of the process when deeply entrenched public attitudes are challenged. However the Legislature receives this, the important thing is for Brookline Town Meeting to go on the record.

#### RECOMMENDATION

The Legislature has never altered the property tax or excise tax provisions of Prop' 2 1/2 to allow one town or city the ability to tax differently from the rest of the state. Proponents recognize there is little chance that the Legislature will approve this home-rule petition. However, they believe it is still worthwhile for Town Meeting to pass this article in order to send a message to Beacon Hill, publicizing the importance of global warming with the hope that other communities will join with us in prompting the Legislature to enact this state wide. The effectiveness of this strategy has been debated by the Committee.

Many on the Committee believe that this article is poorly conceived in that it attempts to address the problem of poor fuel consumption by proxy (targeting only SUVs). They believe this renders the proposal ineffective at best and misleading at worst. A poorly constructed document will lack credibility when it reaches Beacon Hill. Furthermore, some members worry that by sending successive and weak home-rule petitions to the Legislature, we risk diminishing both the town's stature and effectiveness. These members believe that the proponent's cause, and the town's credibility, would be better served by adopting a proposal in the Fall that is well targeted, makes logical sense, and could attract widespread support instead of criticism and even ridicule.

Other members, representing the one vote majority, believe the measure of success of this proposed legislation is more than mere passage at the Statehouse. This has already attracted attention, stirred debate and perhaps even raised consciousness. It makes an urgent and meaningful statement. There is momentum now that could be lost, and failure to pass this may be viewed as a lack of support for the core concept of reducing fuel consumption (though everyone agrees on the environmental and geopolitical importance of reducing our fuel consumption). They maintain that 'better' should not be the enemy

of ‘good’, that later articles can still be brought forward to address the current perceived deficiencies, and that targeting SUV’s that fail to conform to the CAFE standards by virtue of a loophole is both reasonable and laudable.

By a vote of 12-11-0, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town authorize and approve the filing of a petition with the General Court in substantially the following form:

*An act permitting the Town of Brookline to assess SUVs, light trucks and other passenger vehicles not considered passenger cars at higher rates than more fuel-efficient passenger cars.*

Section 1. Notwithstanding the general requirements or any provision of M.G.L., c. 59 §21C or any other general or special law, the Town of Brookline is hereby authorized to assess all SUVs, as defined by the Federal Environmental Protection Agency (EPA) purchased after the passage of this act whose EPA fuel economy rating is less than the Corporate Average Fuel Economy (CAFE) standard for passenger cars, at the rate of fifty dollars per thousand of valuation. For purposes of this article, the fuel economy rating shall be the average fuel economy rating for city driving, as determined by the EPA.

Section 2. This act shall take effect upon passage.

**XXX**

---

<sup>i</sup> U.S. Environmental Protection Agency, “Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2005,” April 2007; Executive Summary; especially p. 7: chart shows CO2 emissions from fossil fuel combustion in the transportation sector in 2005 to be 33% of total; <http://www.epa.gov/climatechange/emissions/usinventoryreport.html>.

<sup>ii</sup> National Environmental Trust, “A Primer on Fuel Economy Standards,” <http://www.net.org/proactive/newsroom/release.vtml?id=27514>

<sup>iii</sup> Alliance to Save Energy, et al., “Increasing America’s Fuel Economy,” February 2002, p.3

<sup>iv</sup> *ibid*

<sup>v</sup> *ibid*

<sup>vi</sup> Legislative Analyst Report, Sept. 21, 2005, re: Sport Utility Vehicles, prepared for the City of San Francisco, p. 5ff.

**RED-LINED VERSION OF THE ADVISORY COMMITTEE'S MOTION UNDER  
ARTICLE 16**

ESTABLISHING TAX DISINCENTIVES RELATIVE TO THE FUTURE PURCHASE  
OF SUVs

**WHEREAS** global climate change is the most significant environmental challenge of our time, calling for immediate action on many fronts and many levels; and

**WHEREAS** the burning of fossil fuels produces the primary greenhouse gas, Carbon Dioxide (CO<sub>2</sub>), which is responsible for the large majority of the human contribution to climate change; and

**WHEREAS** the United States comprises about 5% of the world's population, but has about 30% of the world's automobiles<sup>1</sup>, and contributes 45% of the world's CO<sub>2</sub> automobile emissions<sup>2</sup>; and

**WHEREAS** improving the fuel efficiency of the American automobile fleet is an essential way to reduce our country's contribution to CO<sub>2</sub> pollution; and

**WHEREAS** in 1975 Congress instituted Corporate Average Fuel Economy (CAFE) standards on passenger automobiles and light trucks to improve the fuel efficiency of American automobiles, and thereby reduce America's dependency on foreign oil; and

**WHEREAS** the fuel efficiency of American automobiles did in fact improve from 13.8 miles per gallon (MPG) in 1975 to 27.5 MPG by the late 1980's, but has stagnated since then, and has actually gotten worse in recent years<sup>3</sup>; and

**WHEREAS** there is great urgency to promote public education and political action regarding the dangers of global climate change, and reason to hope that local action will encourage action at the state and federal levels, including the eventual increase of CAFE standards for all vehicles;

Therefore be it

<sup>1</sup> International Organization of Motor Vehicle Manufacturers (OICA), at [www.oica.net/htdocs/Main.htm](http://www.oica.net/htdocs/Main.htm)

<sup>2</sup> "Global Warming on the Road, the Climate Impact of America's Automobiles," Environmental Defense, 2006; pp. 2,3. At <http://www.environmentaldefense.org/article.cfm?contentID=5300>  
Also, "Mobility 2030 — The Sustainability Project," World Business Council for Sustainable Development, at [www.wbcds.org](http://www.wbcds.org).

<sup>3</sup> "Increasing America's Fuel Economy," Alliance to Save Energy, et al, Feb. 2002.

**Deleted: WHEREAS** the primary reason for the worsening of the fuel efficiency of American automobiles has been the development and growing market share of SUVs, which are built on truck frames and therefore categorized as light trucks rather than passenger cars, and thus subject to the laxer CAFE standards for light trucks rather than the higher standards for passenger cars; and¶

¶ **WHEREAS** SUVs overtook small cars in terms of market share in 2002, and soon will become the dominant source of global warming pollution on American roads, and their impact will be magnified because of their lower than average fuel economy<sup>4</sup>; and¶

¶ **WHEREAS** millions of American consumers have purchased, and continue to purchase, SUVs in the mistaken belief that they provide superior safety, at least to their occupants, when in fact SUVs are no safer than other vehicles to their drivers and occupants, and because of their designs are more likely to get into accidents, roll over at three to four times the rate of passenger cars, inflict greater damage because of their weight and design, and inflict disproportionately greater damage to pedestrians; and¶

¶ **WHEREAS**, according to a study by Environmental Defense, for all new 2004 American automobiles, the CO<sub>2</sub> pollution share for SUVs was 34%, compared to 18% for small cars, 17% for midsize cars, 16% for pickup trucks, 7% for large cars, and 5% for vans<sup>5</sup>; and¶

**Deleted: RESOLVED:** that, primarily because of their contributions to global warming, but also because of their poor record on public safety, and their additional burdens due to size and weight, further increases in the use of SUVs as personal transportation should be discouraged; and further¶

**RESOLVED:** that the Board of Selectmen are requested to form a committee to consider the subject matter of Article 16, the purpose of which is to draft Statewide legislation, in consultation with the Brookline State delegation, addressing the important issues involving fuel efficiency raised therein, such legislation to be submitted to the State legislature within three months of the passage of this Resolution; and further,

**RESOLVED:** that the Board of Selectmen are also requested to notice this Resolution to Brookline's State legislative delegation, Congressional delegation, and the local media.

**Deleted:** that the Board of Selectmen are requested to form a committee, the purpose of which is to draft Statewide legislation, in consultation with the Brookline State delegation, to create fair and effective tax disincentives for the future purchase of SUVs, such legislation to be submitted to the State legislature within three months of the passage of this Resolution; and further

ARTICLE 16

**Motion under Article 16 by Stanley L. Spiegel, TMM Prec. 2**

MOVED: To refer the subject matter of Article 16 to a Moderator's Committee with instructions to report its findings to the Fall 2007 Town Meeting.

EXPLANATION

The issues addressed by Article 16 are genuine and compelling, but concerns about the Article have been expressed such as the wisdom of restricting its focus primarily to SUVs and also whether a home rule petition or a resolution urging general legislation would be preferable. Some additional thought and study could result in an improved Article for the Fall Town Meeting that might better achieve the intent of the present Article.

ARTICLE 16

**Motion under Article 16 by Donald C. Weitzman, TMM Prec. 12**

Moved: That the Town adopt the following Resolution:

**ESTABLISHING TAX DISINCENTIVES RELATIVE TO THE FUTURE  
PURCHASE OF SUVs**

**WHEREAS** global climate change is the most significant environmental challenge of our time, calling for immediate action on many fronts and many levels; and

**WHEREAS** the burning of fossil fuels produces the primary greenhouse gas, Carbon Dioxide (CO<sub>2</sub>), which is responsible for the large majority of the human contribution to climate change; and

**WHEREAS** the United States comprises about 5% of the world's population, but has about 30% of the world's automobiles<sup>1</sup>, and contributes 45% of the world's CO<sub>2</sub> automobile emissions<sup>2</sup>; and

**WHEREAS** improving the fuel efficiency of the American automobile fleet is an essential way to reduce our country's contribution to CO<sub>2</sub> pollution; and

**WHEREAS** in 1975 Congress instituted Corporate Average Fuel Economy (CAFE) standards on passenger automobiles and light trucks to improve the fuel efficiency of American automobiles, and thereby reduce America's dependency on foreign oil; and

**WHEREAS** the fuel efficiency of American automobiles did in fact improve from 13.8 miles per gallon (MPG) in 1975 to 27.5 MPG by the late 1980's, but has stagnated since then, and has actually gotten worse in recent years<sup>3</sup>; and

**WHEREAS** the primary reason for the worsening of the fuel efficiency of American automobiles has been the development and growing market share of SUVs, which are built on truck frames and therefore categorized as light trucks rather than passenger cars,

---

<sup>1</sup> International Organization of Motor Vehicle Manufacturers (OICA), at [www.oica.net/htdocs/Main.htm](http://www.oica.net/htdocs/Main.htm)

<sup>2</sup> "Global Warming on the Road, the Climate Impact of America's Automobiles," Environmental Defense, 2006; pp. 2,3. At <http://www.environmentaldefense.org/article.cfm?contentID=5300>  
Also, "Mobility 2030 — The Sustainability Project," World Business Council for Sustainable Development, at [www.wbcd.org](http://www.wbcd.org).

<sup>3</sup> "Increasing America's Fuel Economy," Alliance to Save Energy, et al, Feb. 2002.

and thus subject to the laxer CAFE standards for light trucks rather than the higher standards for passenger cars; and

**WHEREAS** SUVs overtook small cars in terms of market share in 2002, and soon will become the dominant source of global warming pollution on American roads, and their impact will be magnified because of their lower than average fuel economy<sup>4</sup>; and

**WHEREAS** millions of American consumers have purchased, and continue to purchase, SUVs in the mistaken belief that they provide superior safety, at least to their occupants, when in fact SUVs are no safer than other vehicles to their drivers and occupants, and because of their designs are more likely to get into accidents, roll over at three to four times the rate of passenger cars, inflict greater damage because of their weight and design, and inflict disproportionately greater damage to pedestrians; and

**WHEREAS**, according to a study by Environmental Defense, for all new 2004 American automobiles, the CO2 pollution share for SUVs was 34%, compared to 18% for small cars, 17% for midsize cars, 16% for pickup trucks, 7% for large cars, and 5% for vans<sup>5</sup>; and

**WHEREAS** there is great urgency to promote public education and political action regarding the dangers of global climate change, and reason to hope that local action will encourage action at the state and federal levels, including the eventual increase of CAFE standards for all vehicles;

Therefore be it

**RESOLVED:** that, primarily because of their contributions to global warming, but also because of their poor record on public safety, and their additional burdens due to size and weight, further increases in the use of SUVs as personal transportation should be discouraged; and further

**RESOLVED:** that the Board of Selectmen are requested to form a committee, the purpose of which is to draft Statewide legislation, in consultation with the Brookline State delegation, to create fair and effective tax disincentives for the future purchase of SUVs, such legislation to be submitted to the State legislature within three months of the passage of this Resolution; and further

**RESOLVED:** that the Board of Selectmen are also requested to notice this Resolution to Brookline's State legislative delegation, Congressional delegation, and the local media.

---

<sup>4</sup>“Global Warming on the Road, the Climate Impact of America’s Automobiles,” loc. cit.; p. 6.

<sup>5</sup> “Global Warming on the Road, the Climate Impact of America’s Automobiles,” loc. cit.; pp. 8,9; note especially the graph on p. 9.

**EXPLANATION**

This Resolution is being moved at the urging of Petitioner.

Proponents agree that the one significant way to improve Article 16 is to translate it into Statewide legislation. This accomplishes the following:

- The outcome would affect the entire Commonwealth, not just the Town of Brookline.
- Consequently, the scope of public discussion on this issue would broaden considerably.
- Several knowledgeable people have observed that the Legislature would be unlikely to look favorably on a home rule petition that calls for a different tax rate for a single community. Statewide legislation avoids this difficulty.

While a Moderator's Committee might eventually result in an equivalent outcome, we favor referral to the Selectmen.

- The Selectmen will be able to move more quickly than a Moderator's Committee.
- Since the focus is on State legislation, the Board of Selectmen, as the Town's executive branch, is the appropriate political body to be working in cooperation with our State delegation.

Finally, by considering this Resolution, Town Meeting will have an opportunity to make a positive statement regarding the role of SUVs in global climate change. This opportunity is not afforded by a simple referral to a Moderator's Committee.

-----

**BOARD OF SELECTMEN'S SUPPLEMENTARY REPORT**

On April 24, 2007 the Board of Selectmen by a vote of 3-2 recommended Favorable Action on Article 16 as originally proposed. On May 8, 2007, the Board unanimously voted to reconsider their initial vote to recommend Favorable Action. The Board took no further action on Article 16 itself at that meeting.

On May 15, 2007 the Board voted Favorable Action (unanimously) on a motion to refer the subject matter of Article 16 to a Moderator's Committee. Subsequently, the Board received two separate resolutions recommending that the Board itself establish a Committee to consider the drafting of statewide general legislation rather than having a Moderator's Committee study the matter relative to home rule special legislation.

At its May 22nd meeting the Board voted (4-1) to:

“Establish a committee to consider drafting general legislation for the purpose of addressing the subject matter of Article 16, SUV’s and other fuel inefficient vehicles”.

This Committee will be appointed in the coming weeks and will be expected to complete its work in a matter of months.

However, the Board has not yet taken up reconsideration of its earlier May 15th vote to refer Article 16 to the Moderator’s Committee nor did the Board act on either of the proposed resolutions. The Board is expected to do so at its meeting on May 29, 2007 just prior to the start of Town Meeting.

-----

---

**ADVISORY COMMITTEE SUPPLEMENTARY REPORT**

At a meeting on May 22, the Advisory Committee reconsidered its earlier vote, described in the Combined Reports that endorsed the filing of a home rule petition to allow the Town to double the excise tax levied on fuel-inefficient SUVs. The Petitioner had concluded that a resolution passed by Town Meeting requesting the Selectmen establish a committee that would, within three months, file general legislation to enact tax disincentives for future purchases of SUVs would be a preferable approach, given the near certainty that a home rule petition granting Brookline a unique taxation policy would not prevail on Beacon Hill.

The Advisory Committee concurred that a resolution to request the establishment of a Selectmen's Committee was a better approach. They also considered the Petitioner's proposed language that explicitly encouraged general legislation to impose tax disincentives for SUVs.

The principal rationale for singling out SUVs is that, as a class, they have relatively poor gas mileage and hence contribute disproportionately to vehicle carbon emissions, an important factor in global warming. SUV purchases have increased, furthering their negative impact. Poor fuel efficiency and other reasons (e.g., safety) for focusing exclusively on SUVs are described in detail in the Combined Reports. Among Committee members, there are a number of points of disagreement on those details. For example, a table of data was presented showing that SUV’s contribute 34% of the total vehicle carbon emissions, although this figure is only slightly above their 31% market share. No data was given regarding the relative percentage of miles driven by SUV’s which could account for the small disproportionality cited, and a similar relation was seen for large passenger cars.

There was widespread recognition that it would be reasonable to discourage the purchase of fuel-inefficient SUVs, but disagreement as to whether it was appropriate to seek

legislation that deals solely with SUVs, and that calls explicitly for tax disincentives. Many SUV's are quite fuel inefficient and have very poor safety records. Some members felt both of these issues provided strong reasoning for specifying SUV's. However, there are several SUV models, including fuel-efficient hybrids, that get better gas mileage than many gas-guzzling passenger cars -- for example, the SUV-classified Ford Escape hybrid gets over 30 mpg, compared to a Dodge Caravan, with mileage in the low twenties but which is not SUV-classified. In short, not all vehicles within any one class are created equal. With regard to safety, not all SUVs are prone to rollovers many models have electronic stability control -- and not all are oversized behemoths -- the Subaru Forester comes to mind.

It's also not clear that tax disincentives for fuel in-efficient vehicles are the best tactic. Tax incentives for the purchasers of hybrids, for example, might be more readily supported, and other measures, not involving taxation, might be a superior approach.

While there were Committee members who found many SUV's legitimate targets for legislation, the majority (by a one vote margin) felt the resolution should not make SUVs the sole focus of a legislative effort. And that the now established Selectmen's Committee should be afforded some latitude in approaching this issue. Accordingly, the Advisory Committee considered an alternative resolution that eliminated specific references to SUVs and concentrated instead on seeking legislation to address the important issue of achieving greater vehicle fuel efficiency in general. By a narrow margin of 13 to 12, the Advisory Committee voted to recommend the following amendments to the Petitioner's Motion:

1. By deleting the 7<sup>th</sup> through the 10<sup>th</sup> "Whereas" clauses
2. By deleting the 1<sup>st</sup> "Resolved" clause
3. By amending the 2<sup>nd</sup> "Resolved" clause to read as follows:

RESOLVED: that the Board of Selectmen are requested to form a committee to consider the subject matter of Article 16, the purpose of which is to draft Statewide legislation, in consultation with the Brookline State delegation, addressing the important issues involving fuel efficiency raised therein, such legislation to be submitted to the State legislature within three months of the passage of this Resolution; and further

---

ARTICLE 17

---

SEVENTEENTH ARTICLE

To see if the Town will amend the sixth sentence of Section 2.2.1 of the Town By-laws to increase from six to eight the maximum number of non-Town Meeting Members who may be appointed to the Advisory Committee as follows (language to be deleted is underlined and new language is in bold face type):

SECTION 2.2.1

APPOINTMENT OF MEMBERS

The Moderator shall, in June of each year, appoint citizens to serve on the Advisory Committee (herein the Committee) established under G.L.c. 39, Section 16, and this Bylaw. Members of the Committee shall serve without compensation. The Committee shall consist of not fewer than twenty nor more than thirty registered voters of the Town. At least sixteen Committee members shall be elected Town Meeting Members at the time of their appointment. At least one elected Town Meeting Member shall be appointed from each precinct. No more than six **eight** members shall be appointed who are not elected Town Meeting Members at the time of their appointment. No more than four members of the Committee shall reside in the same precinct. No member of the Committee shall be an employee of the Town or a member of any standing Board or Committee having charge of the expenditure of money; but, this restriction shall not disqualify from appointment to the Committee, members of special committees, which may be created from time to time by Town Meeting, the Moderator or the Selectmen to report on specific matters,

or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

The purpose of the amendment is to give the Moderator more flexibility in appointing at-large members of the Committee, without interfering with the fundamental proposition that there should be at least one Town Meeting Member appointee from each precinct.

---

SELECTMEN'S RECOMMENDATION

Article 17 would amend the Town's By-Laws so that the Moderator could appoint up to eight non-Town Meeting Members to the Advisory Committee. Currently he can only appoint up to six at-large members. This change would allow the Moderator to take

advantage of opportunities that arise to bring on at-large members with relevant expertise. There have been instances in the past when a qualified and interested resident could not be appointed to the Advisory Committee because the maximum number of at-large members had been reached.

This Board appreciates all of the work the Advisory Committee does and is always willing to allow the Moderator the flexibility he believes is necessary to allow for the best Advisory Committee possible. There is no agenda here other than giving the Moderator the ability to appoint at-large members when the opportunity arises. Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2007, on the vote offered by the Advisory Committee.

-----

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 17 proposes to amend Section 2.2.1 of the Town By-laws to increase from six to eight the maximum number of members of the Advisory Committee who are not Town Meeting Members. Although Section 2.2.1 does not use the term, such members are customarily referred to as "at-large members."

The present Section 2.2.1 imposes the following conditions on the membership of the Advisory Committee:

- The Advisory Committee shall have not fewer than twenty and not more than thirty members.
- At least sixteen members shall be elected Town Meeting Members at the time of their appointment.
- At least one elected Town Meeting Member shall be appointed from each precinct.
- No more that six at-large members may be appointed.
- No more than four members may reside in the same precinct.
- Town employees or members of Boards and Committee "having charge of the expenditure of money" may not be appointed, with the exception of members of special committees appointed by the Moderator or the Selectmen.

The Advisory Committee now has twenty-seven members, six of whom are at-large members. Two members will come to the end of their terms as Town Meeting Members in May 2007, which means that they will cease to be on the Advisory Committee on June 30, 2007, in accordance with Section 2.2.2 of the Town By-laws.

### *Legislative History*

Town Clerk Pat Ward has prepared an exhaustive history of the Town By-law provisions relevant to the Advisory Committee. This legislative history reveals that the composition of the Advisory Committee has changed significantly since the Advisory Committee was established in 1886.

The major changes in the composition of the Advisory Committee can be summarized as follows.

- 1886: Retiring Selectmen, Selectmen-elect, and fifteen citizens appointed by the Moderator
- 1886-1922: Moderator makes annual appointments; composition varies from year to year.
- 1922-1923: Moderator (chair), Town Clerk (secretary), the Selectmen, and thirty citizens appointed by the Moderator, consisting of three Town Meeting Members from each precinct and three citizens at large.
- 1923-1947: Moderator (chair), Town Clerk (secretary), the Selectmen, and thirty citizens appointed by the Moderator, of whom at least twenty-four must be Town Meeting Members, with at least two from each precinct. [There were twelve precincts during this period.]
- 1947-1973: Thirty citizens appointed by the Moderator, of whom at least twenty-four must be Town Meeting Members, with at least two from each precinct. [After several attempts, the Selectmen, Moderator, and Town Clerk were removed from the Advisory Committee.]
- 1973-1974: Thirty citizens appointed by the Moderator, of whom at least twenty-four must be Town Meeting Members. Six at-large members need not be Town Meeting Members. [The requirement that there be at least two Town Meeting Members from each precinct was impossible to meet after sixteen precincts existed.]
- 1974-1982: Thirty citizens appointed by the Moderator, of whom at least twenty-four must be Town Meeting Members, with at least one elected Town Meeting Member from each precinct. Six at-large members need not be Town Meeting Members. No more than four members may be from the same precinct.
- 1982-2007: Twenty to Thirty citizens appointed by the Moderator, of whom at least twenty-four must be Town Meeting Members, with at least one elected Town Meeting Member from each precinct. Six at-large members need not be Town Meeting Members. No more than four members may be from the same precinct.

As the Town Clerk noted in summarizing the legislative history, the Town has adopted different approaches to the composition of the Advisory Committee over the years and there is no consistent pattern of “intent.” At various times, Town Meeting also has changed the length and expiration date of the terms of Advisory Committee members, voted to prohibit or allow Town employees to serve on the Committee, and considered whether the Committee should be abolished or elected.

*Advisory Committees in other Massachusetts Towns*

Other Massachusetts municipalities have widely divergent approaches to the composition of their Advisory or Finance Committees. Belmont, for example, includes the chair of the Board of Selectmen and the Chair of the School Committee on what it calls the Warrant Committee, but does not require members to be Town Meeting Members or to be distributed among the town’s precincts. Wellesley also does not require members of its Advisory Committee to be Town Meeting Members, although its by-law makes clear that Town Meeting Members are not prohibited from serving on the Advisory Committee. In Arlington, members of the Finance Committee need not be Town Meeting Members, but they must be registered voters and one must be appointed from each precinct. Lexington has an Appropriation Committee consisting of nine voters of “sound business experience and/or good judgment” who need not be Town Meeting Members. It appears that Brookline specifies the composition of its Advisory Committee (i.e. number of Town Meeting Members, minimum and maximum number per precinct) in much more detail than other communities.

DISCUSSION

The purpose of Article 17 is to give the Town Moderator more flexibility in appointing at-large members of the Advisory Committee, while retaining the requirement that there be at least one appointee from each precinct.

The Advisory Committee evaluated Article 17 by considering whether the proposed change would enable the Advisory Committee to perform its role more effectively. The Committee also focused on whether the by-law change was a good law for the long run, instead of asking only what appointments the current Town Moderator might make in the near future.

*The Town Moderator’s Reasons for Suggesting this Article*

Town Moderator Sandy Gadsby has explained that he suggested increasing the number of at-large Advisory Committee members from six to eight so that he can appoint new non-Town Meeting Members “with special and potentially valuable expertise” to the Advisory Committee without removing current experienced at-large members. He does not want to replace experienced members simply for the sake of adding “new blood,” but he would like to have the flexibility to bring fresh faces and special expertise to the Committee. Such expertise might be available only in potential members who are not Town Meeting Members. Every year at least one individual in this category comes to the attention of the Moderator, but he has not been able to appoint them. The Moderator, the Chair of the Advisory Committee, and other members of the Committee have indicated

that lawyers, engineers, actuaries, and architects would enable the Committee to function more effectively.

The Moderator is aware of the requirement that the Advisory Committee include at least one Town Meeting Member from each precinct. He also recognizes that the Advisory Committee probably functions best when it has about twenty-five members, and he would neither add more at-large members to make the Committee an unwieldy size nor remove members simply for the sake of reducing its size to twenty-five.

### *The Role of the Advisory Committee*

Section 2.2.5 of the Town By-laws defines the general duties of the Advisory Committee: “The Committee shall consider any and all municipal questions, including appropriation requests and proposed action under all articles in the warrant for Town Meeting, for the purpose of making reports and recommendations to the Town. The Committee shall submit a budget at the Annual Town Meeting. It may examine the books and records of any board, committee or office of the Town so far as permitted by law.”

The Advisory Committee is Brookline’s statutory Finance Committee. It is an independent committee that reviews and submits the town budget to Town Meeting after holding public hearings with the relevant department heads. The Committee also advises Town Meeting by preparing analysis and recommendations on all matters to be considered by Town Meeting. The Committee’s subcommittees hold public hearings on Warrant Articles and report to the full Advisory Committee, which votes to make recommendations to Town Meeting. Committee members then prepare reports for inclusion in the Combined Reports. These reports offer Town Meeting information that is independent of what the Town’s Executive Branch provides and thus contribute to full debate and discussion. The Advisory Committee is also empowered to approve Reserve Fund transfer requests.

By including a least one Town Meeting Member from each precinct, the Advisory Committee broadly mirrors Town Meeting. It is, however, neither a subsidiary of Town Meeting nor an intensely political body. Members of the Advisory Committee who have divergent political outlooks generally work together for the good of the community. It is not unusual for members to vote against proposals that they might otherwise support politically, but oppose in the Advisory Committee because the cost is too high or the language too imprecise.

At-large members often have served for many years on the Advisory Committee. Several have become experts on specific issues and the budget process in general. They perform a significant share of the work of the Committee.

### *Potential Objections and Responses*

The Advisory Committee is aware of two potential objections to Article 17.

First, some have questioned the Advisory Committee’s need for additional expertise: In what areas is more expertise necessary? Has the Advisory Committee been unable to

consider some issues because it lacks expertise in some areas? What future items on the agenda lie beyond the competence of the Advisory Committee? One member of the Advisory Committee questioned the need for more technical expertise and noted that the Committee could consult outside experts when necessary.

RESPONSE: As noted above, the areas in which more expertise could enhance the effectiveness of the Advisory Committee include law, engineering, accounting, and architecture. The Town Moderator, the Chair of the Advisory Committee, and other members of the Committee have identified these needs. For example, additional legal expertise might help the Planning and Regulation Subcommittee to draft or revise Zoning By-law amendments. Knowledge of engineering is essential in the Capital Subcommittee's assessment of various capital projects. Such expertise has enabled the Advisory Committee to recommend project changes that have saved the Town hundreds of thousands of dollars. These types of expertise are not always available from Town Meeting Members who are willing to serve on the Advisory Committee. In some cases, including the work of the Capital Subcommittee, there is an ongoing need for expertise that cannot be met by asking outside experts to testify.

Second, some have raised broader philosophical objections to an increase in the number of Advisory Committee members who are not Town Meeting Members. This argument holds that an increase in the number of at-large members would have the effect of reducing the role of the Town Meeting Members who serve on the Advisory Committee. It claims that the Advisory Committee should not rely heavily on "technocrats" but instead needs members who are politically aware (i.e. elected Town Meeting Members), cognizant of what is and is not "doable," able to conduct research as necessary, and capable of logical thought and analysis. This line of argument also includes the claim that elected Town Meeting Members on the Advisory Committee may serve as a more effective channel of communication between the Committee and Brookline's citizens.

RESPONSE: Members of the Advisory Committee noted that the Committee generally reflects the composition of Town Meeting, because at least one Town Meeting Member must be appointed from each precinct. Even if there were eight at-large members, at least two-thirds (and probably more) of the Committee would be Town Meeting Members. The Advisory Committee, however, is not and should not be a microcosm of Town Meeting. The Committee should bring an objective, expert, and analytical approach to the topics it considers. It is sometimes beneficial to have members who are more concerned about what is good than what is doable; such members can offer fresh and valuable perspectives. At-large members are particularly capable of providing such a perspective. The Advisory Committee benefits from having a diverse membership with different experiences and perspectives.

The Advisory Committee almost unanimously agreed that making it possible to add two at-large members to the Committee would increase its effectiveness by adding expertise and perspectives that cannot necessarily be found in Town Meeting.

#### RECOMMENDATION

By a vote of 19-1-2, the Advisory Committee recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town amend the sixth sentence of Section 2.2.1 of the Town By-Laws to increase from six to eight the maximum number of non-Town Meeting Members who may be appointed to the Advisory Committee as follows (language to be deleted is underlined and new language is in bold face type):

#### SECTION 2.2.1

#### APPOINTMENT OF MEMBERS

The Moderator shall, in June of each year, appoint citizens to serve on the Advisory Committee (herein the Committee) established under G.L.c. 39, Section 16, and this Bylaw. Members of the Committee shall serve without compensation. The Committee shall consist of not fewer than twenty nor more than thirty registered voters of the Town. At least sixteen Committee members shall be elected Town Meeting Members at the time of their appointment. At least one elected Town Meeting Member shall be appointed from each precinct. No more than six **eight** members shall be appointed who are not elected Town Meeting Members at the time of their appointment. No more than four members of the Committee shall reside in the same precinct. No member of the Committee shall be an employee of the Town or a member of any standing Board or Committee having charge of the expenditure of money; but, this restriction shall not disqualify from appointment to the Committee, members of special committees, which may be created from time to time by Town Meeting, the Moderator or the Selectmen to report on specific matters,

**XXX**

ARTICLE 17

**Report of the Committee on Town Organization and Structure**

The Committee on Town Organization and Structure has considered the subject matter of Article 17, heard from proponents and opponents, and reviewed background materials. The Committee, by a vote of 5-1, concurs with the positions of the Selectmen and Advisory Committee and recommends FAVORABLE ACTION on the vote offered by the Advisory Committee.

---

ARTICLE 18

---

EIGHTEENTH ARTICLE

To see if the Town will amend **Article 3.7 Building Commission; Procedure for the Construction and Alteration of Town Buildings and Structures** by-law as follows:

A. With respect to Section 3.7.2 Project Procedures

In paragraph (a) Step 1 add the following after “expected hour of the facility’s availability”:

“environmental and sustainability goals and objectives.”

B. With respect to Section 3.7.2 Project Procedures

In paragraph (a) Step 1 add the following after “and overall effect on the Town”:

“all as appropriate for the project’s scope and budget. Environmental and sustainability goals and objectives include design and construction practices that explicitly consider Green technologies, site selection, waste minimization, energy efficiency, water conservation, indoor environmental quality, and other environmental and health factors that may provide financial, environmental, and occupant health and productivity benefits.”

C. With respect to Section 3.7.2 Project Procedures

In paragraph (b) Step 2 add the following after “and any special studies which the Commission and the Using Agency jointly recommend.”:

“The work of the consultant shall consider the investigation, cost-benefit analysis, and recommendation of appropriate options that address the environmental and sustainability goals and objectives outlined in paragraph (a) above.”

or act on anything relative thereto.

---

PETITIONER’S EXPLANATION

The general purpose of these recommendations is to ensure that green considerations are included in the overall goals of building projects and formally studied in the feasibility process. The Green Technology Committee felt that including language that stresses environmental and sustainability goals and objectives that would be initially addressed at the programming stage and then evaluated in the feasibility stage would incorporate appropriate green considerations into the process.

---

**Report of the Green Technology Committee**

The Green Technology Committee was established by a Resolution presented by the Board of Selectmen in the context of Article 17 taken up by the Spring 2006 Annual Town Meeting. The petitioned Article 17 would have mandated a specific methodology

for evaluating the cost/benefit of “green technology”. The substitute Resolution put forward by the Board called for a more in depth study of the matter prior to implementation and was unanimously voted by Town Meeting.

The Board of Selectmen publicly solicited for applicants for the Committee immediately after the Town Meeting and appointed the following members on July, 2006:

Gil Hoy	Appointed by the Chair of the Board
Janet Fierman	Chair of the Building Commission
Henry Warren	School Committee appointee
David Pollak	Appointed by the chair of the Building Commission
Michael Berger	Member of the Advisory Committee
Lawrence Fine	Citizen Representative
Emily Winn Johnson	Citizen Representative
Ira Krepchin	Citizen Representative
Wendy McTyre	Citizen Representative
Sergio Modigliani	Citizen Representative

Committee members brought considerable skill sets to the task at hand. Selectmen Hoy, Michael Berger, and Henry Warren bring their experience with the oversight of significant operating and capital resource expenditures in their current roles on the Board of Selectmen, Advisory Committee, and School Committee. Janet Fierman is an attorney heading her firm’s business and construction practice. Wendy McTyre has over ten years in the building profession and is a LEED accredited professional. Lawrence Fine is a member of Climate Change Action Brookline. Emily Winn Johnson is an architect with LEED accreditation and experience with over 30 LEED projects. David Pollak is an architect and a LEED accredited professional. Ira Krepchin has over 15 years experience in evaluating energy efficient technologies. Sergio Modigliani is also an architect with substantial experience in energy and sustainable design projects.

The committee convened in an initial organizational meeting on August 9, 2006. Selectmen Gil Hoy was designated committee chair. The second meeting was also organizational in nature and discussion focused on the Town’s experience with the renovation of the Health Center and the upcoming renovation of Town Hall. It was agreed that the committee should first engage in a fact finding effort. Three meetings were dedicated for this purpose. The remaining meetings were focused on the development of language that could be incorporated into the existing by-laws governing the procedures of the Building Commission.

October 18, 2006 – Presentation from Chris Schaffner, PE, LEED: The committee first decided to learn more about the U.S. Green Building Council’s (USGBC) Leadership in Energy and Environmental Design (LEED) rating system. They invited Mr. Chris Schaffner, a member of the USGBC and an individual experienced in training industry professionals, to give a presentation to the group on the LEED system. The group found this presentation to be informative and helpful to highlight the importance of setting goals and priorities for projects.

November 1, 2006 -- Presentation from HMFH Architects and Building Department staff Jim Nickerson, Tony Guigli, and Charlie Simmons on the Town Hall renovation project: The architects reviewed the green items included in the scope of the Town Hall project as well as items that were considered such as wind and geothermal. The group was given copies of a green study that was done for the project which included a LEED feasibility study. The committee discussed institutionalizing a process through which the Building Commission could assess environmental and sustainability options for all appropriate projects.

December 15, 2006 -- Discussion with Mr. Tyler Leeds from Massachusetts Technology Collaborative (MTC): The group learned about the history of the MTC, the Renewable Energy Trust and what other communities were doing related to green efforts. He also talked about the Green Schools Guidelines that came out of the new School Building Authority (SBA) regulations. The Committee found this information to be useful context for its own deliberations.

Based on the information that emerged from the three month fact finding effort, the Committee decided to draft a formal instrument that would ensure as a matter of policy appropriate consideration of green technology options in future town projects in a similar manner to that which was successfully incorporated into the Town Hall project as a matter of evolving practice. It was determined that a sub-committee could best carry out this drafting effort. Michael Berger, Sergio Modigliani, Henry Warren, and David Pollak were chosen as sub-committee members. Scale of the task was discussed along with the mechanism to be used to implement a change. The committee talked about changing the Building Commission's existing policies and also about empowering department heads to explore green technology. There was further discussion about how the process works today and some of elements that were already in the existing policy (like life cycle costs). There was more discussion of the Commission's role and the role of the user agency.

The sub-committee proceeded to address green considerations by proposing language for the existing Building Commission by-law at each of the steps that a project is introduced to the public. On February 22, 2007 the full committee reviewed the sub-committee's work. The sub-committee presented the full committee with their draft of amendments to the Building Commission by-law Section 3.7.2 Project Procedures. The group stressed the importance of extending green considerations back to the programming phase of the project. There was some concern about the use of the term "Green" and the need for future flexibility considering the ongoing evolution of green technology.

March 6, 2007-- Continued revisions to draft of by-law amendment:

The committee reviewed the latest draft of the by-law amendment which incorporated the suggestions from the prior meeting. The role of the Building Commission was also discussed. The group will present their draft of the by-law amendment to the Commission at the next Building Commission meeting.

### RECOMMENDATIONS

After much discussion on the Building Commission and CIP process the Green Technology Committee unanimously recommends the adoption of the following amendment to the Building Commission by-law Section 3.7.2 Project Procedures. The

general purpose of these recommendations is to ensure that green considerations are included in the overall goals of building projects and formally studied in the feasibility process. The committee felt that including language that stresses environmental and sustainability goals and objectives that would be initially addressed at the programming stage and then evaluated in the feasibility stage would incorporate appropriate green considerations into the process. The committee chose the Building Commission section of the Town's By-Law as the most appropriate place to insert the changes because they felt that adding language to the bylaw would formalize the process and be stronger than a policy change.

In addition, the Committee members believe that its work should serve as the basis of continuing as a standing committee to review green consideration on a Town-wide basis in a variety of areas. Green considerations should be addressed in purchasing (cleaning products to dump trucks), planning (parking, transit, zoning), operations (controls, maintenance, fuel choices), disposal (waste streams, water/sewer), etc. In light of this comprehensive approach it is recommended by the Town Administrator, for example, that the Utility Committee whose focus has been energy procurement be integrated into the Green Technology Committee. This will help ensure a coordinated approach to the range of issues that the Town will undoubtedly have to address in the foreseeable future.

-----

#### SELECTMEN'S RECOMMENDATION

The Green Technology Committee was established by a Resolution presented by the Board of Selectmen in the context of Article 17 taken up by the Spring 2006 Annual Town Meeting. Article 17 would have mandated a specific methodology for evaluating the cost/benefit of "green technology". The substitute Resolution put forward by the Board called for a more in-depth study of the matter prior to implementation and was unanimously voted by Town Meeting.

The Board of Selectmen publicly solicited for applicants for the Committee immediately after Town Meeting and appointed the following members in July, 2006:

Gil Hoy	Appointed by the Chair of the Board
Janet Fierman	Chair of the Building Commission
Henry Warren	School Committee appointee
David Pollak	Appointed by the chair of the Building Commission
Michael Berger	Member of the Advisory Committee
Lawrence Fine	Citizen Representative
Emily Winn Johnson	Citizen Representative
Ira Krepchin	Citizen Representative
Wendy McTyre	Citizen Representative
Sergio Modigliani	Citizen Representative

Based on the information that emerged from a three month fact finding effort, the Committee decided to draft a formal instrument that would ensure, as a matter of policy,

appropriate consideration of green technology options in future town projects in a similar manner to that which was successfully incorporated into the Town Hall project as a matter of evolving practice. The warrant article proposes language for the existing Building Commission by-law and addresses green considerations at each of the steps that a project is introduced to the public.

The committee stressed the importance of extending green considerations back to the programming phase of the project and felt that inserting language into the existing by-law would formalize the process while providing transparency for Town Meeting. The original petitioner of Article 17 notified the Board that he was quite pleased with the results of the Committee's work. He did not wish to add another layer to the process, but wanted to ensure that environmental and sustainability issues were explored.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2007, on the following vote:

VOTED: That the Town amend Article 3.7 Building Commission; Procedure for the Construction and Alteration of Town Buildings and Structures by-law as follows:

A. With respect to Section 3.7.2 Project Procedures

In paragraph (a) Step 1 add the following after "expected hour of the facility's availability":

"environmental and sustainability goals and objectives,"

B. With respect to Section 3.7.2 Project Procedures

In paragraph (a) Step 1 add the following after "and overall effect on the Town":

"all as appropriate for the project's scope and budget. Environmental and sustainability goals and objectives include design and construction practices that explicitly consider Green technologies, site selection, waste minimization, energy efficiency, water conservation, indoor environmental quality, and other environmental and health factors that may provide financial, environmental, and occupant health and productivity benefits."

C. With respect to Section 3.7.2 Project Procedures

In paragraph (b) Step 2 add the following after "and any special studies which the Commission and the Using Agency jointly recommend.":

"The work of the consultant shall consider the investigation, cost-benefit analysis, and recommendation of appropriate options that address the environmental and sustainability goals and objectives outlined in paragraph (a) above."

---

---

## ADVISORY COMMITTEE'S RECOMMENDATION

### BACKGROUND

2006 Spring Town Meeting endorsed a Resolution establishing a Selectmen's Committee, known as the "Green Technology" Committee, to conduct an in-depth study on how the Town should most effectively evaluate cost/benefit tradeoffs of environmental elements when undertaking capital projects involving renovation or construction of Town buildings. Six meetings were held: August 9, 2006, October 18, 2006, November 1, 2006, December 15, 2006, February 2007 and March 6, 2007. Outside experts were invited to brief the committee on the LEED rating system, potential funding sources for "green" projects, and the Town's experience with green initiatives adopted for the renovation of the Health Center and the renovation of Town Hall. The "Green Technology" Committee's report included in the Warrant for the Spring 2007 Town Meeting summarizes the findings and the reasons for recommended by-law modifications. There are three modifications to Section 3.7.2 of the Town's ByLaws regulating the procedure for the construction and alteration of Town Buildings and structures.

### DISCUSSION

The Green Technology Committee agreed on the following framework: (1) Appropriate consideration of environmental factors should be formally incorporated early in the renovation process. (2) Since environmental standards are still evolving, it was thought the incorporation of specific standard in any by-law modifications was inappropriate. (3) The project's timeline cannot be lengthened by the changes in the by-law. (4) Proposed by-law changes should focus on building projects, although further work of the committee could look at broader environmental issues. (5) While the Building Commission is the focal point for the by-law change, proper consideration of environmental concerns in Town building projects must also be the responsibility of the Selectmen, the Advisory Committee, and Town Meeting.

Members of the Green Technology Committee felt that it was important to add language to the procedures in Section 3.7.2 that specifically charged the Using agency at the very beginning of the process – in Step 1 - to include "environmental and sustainability goals and objectives" in the program for a new or renovated facility. These goals and objectives cover many of the factors that are considered in a formal LEED certification: "design and construction practices, site selection, waste minimization, energy efficiency, water conservation, indoor environmental quality, and other environmental and health factors that may provide financial, environmental, and occupant health and productivity benefits." The Building Commission then may decide to hire a consultant to prepare a feasibility study. The scope of work for the consultant is specified in Step 2. Article 18 also inserts language in Step 2 that requires that the consultant consider and report on "the investigation, cost-benefit analysis, and recommendation of appropriate options that address the environmental and sustainability goals and objectives." With these few additions to the by-law the modified procedure adds a number of opportunities for environmental "review." These are outlined in the Table below.

<b>Using Agency</b>	Include environmental factors in Project Scope
<b>Building Commission</b>	Include environmental factors in Request for Qualifications for consultant
<b>Advisory Committee and Selectmen</b>	Review funding for Feasibility study by consultant (CIP)
<b>Town Meeting</b>	Approve funds for Feasibility study including environmental factors
<b>Using Agency and Building Commission</b>	Agree on cost/benefit trade offs
<b>Advisory Committee and Selectmen</b>	Review funds for Construction (CIP)
<b>Town Meeting</b>	Approve funds for Construction

The question of how much will it cost to evaluate Green factors was discussed at the public meeting and the full Advisory Committee. Realistically the extent of additional costs attributable to evaluating Green factors will depend on the nature of the specific project, with larger projects undergoing a more significant evaluation. Additional costs for the initial evaluation of Green alternatives might be more modest than anticipated if a Green evaluation is included in the RFP. Sergio Modigliani, an architect and member of the Green Technology Committee, suggested that architects compete on their range of capabilities, which today includes environmental expertise. Hugh Mattison, the petitioner who brought the subject to Town Meeting in 2006 in a warrant article, stated that it was not his intent to create a roadblock or another commission to oversee environmental matters, but to create some structure to insure that green matters are considered; in that regard, he stated that the proposed by-law changes in this Article are a good first step.

The proposed changes to the by-law while not invasive are specific and underline the commitment of the Town to include sustainability and the environment in significant projects.

#### RECOMMENDATION

The Advisory Committee voted unanimously (20-0-0) FAVORABLE ACTION on the vote offered by the Selectmen.

**XXX**

ARTICLE 19

NINETEENTH ARTICLE

To see if the Town will mend the General By-Laws by adding a Section 7.7.7 to Article 7.7 Removal of Snow and Ice from Sidewalks as follows,

Section 7.7.7 Town Responsibility for Plowing and Sanding Sidewalks in Residential Districts.

Notwithstanding the provision of 7.7.1 to 7.7.6 inclusive, the Town shall be responsible for plowing and sanding sidewalks in residential districts.

Or act on anything relative thereto.

PETITIONER’S EXPLANATION

What prompted the reinstatement of the Town being responsible for the plowing and sanding of sidewalks in residential districts is the following:

The sidewalks are public property. Shoveling public sidewalks should not be the burden of homeowners. There are cases of homeowners having heart attacks shoveling snow. Homeowners do not have the capabilities nor the equipment to remove ice or hard packed snow. To prevent a slip and fall accident on icy sidewalks, people may have to walk on the street, which is dangerous, to go shopping, deep a doctors appointment, or for any other reasons. Many homeowners cannot afford to pay for ice and snow removal on top of their high taxes. Brookline people deserve the safety and quality of life, to be able to take a walk on sidewalks, especially the elderly, handicapped and children. This should be a top priority for the protection and safety of the Town’s people. As we understand, Brookline is the second highest taxed town in the state. Under proper business leadership, this could have been done, and can be done without any increase in taxes.

SELECTMEN’S RECOMMENDATION

Article 19 is a petitioned article that would require the DPW to plow and sand all sidewalks in all residential districts throughout town. According to his explanation, the petitioner believes that the burden of shoveling public sidewalks should not fall on the homeowners; since they are public property, they should be shoveled by the Town.

The Department of Public Works (DPW) currently plows and sands approximately 43 miles of public sidewalks during the winter months. The areas DPW plows are the result of a Moderator's Snow Committee that concluded its work in 1979. This Committee was formed after the Blizzard of 1978 and its charge was to study the snow procedures and equipment needs of the Department. At that time, DPW was plowing approximately 75 miles of the 100 miles of sidewalk in the community. There were 10 sidewalk tractor routes and at the time the Department had approximately 14 tractors.

The Snow Committee reviewed all aspects of the Department's snow procedures and made a number of recommendations. The sidewalk plowing issue was reviewed extensively. The number of miles was reduced to 43. The Committee mapped sidewalk plowing routes with schools, public transportation, elderly, and places of worship taking priority. School routes took into consideration the number of crossings for children and the safest possible route to school. In some areas sidewalks on both sides of the street were recommended. The number of routes was reduced from 10 to 5 and there was a recommendation to purchase more reliable and efficient equipment.

The estimated increase in cost associated with plowing all of the sidewalks in the community is approximately \$1 million - \$1.2 million. This would include a substantial capital investment and require the hiring of 5 additional employees. While the Town understands and appreciates the petitioner's concerns, the Town cannot afford to sand and plow all 100+ miles of sidewalks in town. Therefore, the Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 24, 2007, on Article 19.

-----

---

---

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

The Petitioners are seeking Town Meeting approval to make the town responsible for the plowing and sanding of all public sidewalks in residential districts.

The Petitioners believe that as the sidewalks are "public property" that the Town and not its inhabitants or property owners' should be responsible for the plowing of all residential sidewalks. The Petitioners cited medical reasons, the issues of slip and falls, our elderly and Brookline's quality of life as reasons why the Town should shoulder the burden of plowing and sanding sidewalks.

Commissioner DeMaio explained to the Capital Subcommittee of the Advisory Committee that, in 1978 an appointed snow committee, decided the importance of the Town plowing certain sidewalks, including those in commercial areas, walking routes to schools for our school children, and those near Houses of Worship and Transportation Hubs. Currently, some 43 miles of sidewalks are plowed and sanded by the Town. The Town has approximately another 40 to 47 miles of sidewalks (one side of each street) that

could be plowed (all sidewalks 5' or greater in width). This additional Town plowing would require the purchase of 5 new sidewalk tractors and the hiring of approximately 5 new employees. Some 13+ miles of sidewalk is less than 5' in width and cannot be plowed by the Town. Snow removal, if required, would be by snow blower or by hand.

The Commissioner stated that cost estimates for 5 new sidewalk tractors were in the vicinity of \$525,000. He stated that the replacement of three of the current 5 tractors is also needed at an additional cost of approximately \$315,000. We are all well aware that to hire 5 additional employees is not an insignificant cost.

#### DISCUSSION

The Advisory Committee understands the issues presented by Warrant Article 19. We recognize this past winter's sudden snow, rain and quick-freeze event is the moving force behind this Article. Town-wide problems were encountered and nature took its due course before this accumulation of ice melted. Due to prohibitive costs of additional Town plowing, the Advisory Committee took the following vote:

#### RECOMMENDATION

The Advisory Committee by a vote of, 16-4 with one abstention, recommends NO ACTION on Warrant Article 19.

**XXX**

ARTICLE 20

TWENTIETH ARTICLE

To see if the Town will amend the General By-Laws of the Town of Brookline by deleting Section 8.5.9 of Article 8.5 and replacing it with the following:

SECTION 8.5.9        VANDALISM AND THE DEFAACEMENT  
OF PUBLIC AND PRIVATE PROPERTY

8.5.9.1            Purpose and Intent

Vandalism and the existence of graffiti within the Town are considered a public and private nuisance. The purpose of this by-law is to protect public and private property from acts of vandalism and defacement, which is specifically intended to include the application of graffiti on such property. Vandalism and graffiti affects the quality of life of residents, the rights and values of property owners, and the entire Brookline community; therefore, this by-law shall be strictly enforced. For the purposes of this by-law, graffiti is intended to mean the intentional painting, marking, scratching, etching, coloring, tagging, or other defacement of any public or private property without the prior written consent of the owner of such property.

8.5.9.3            Prohibited Conduct

Whoever intentionally, willfully and maliciously or wantonly, destroys, defaces, mars, injures or applies graffiti to the real or personal property of another including, but not limited to, any part of any public or private building, appurtenance to such building, or any monument, tablet, statue, or other object erected to mark a public place or to commemorate an historic event or figure, or any equipment, apparatus or fixture located on or comprising public property, or any fence, wall, post, traffic signaling device or pole, awning, or any other structure, shall, upon conviction, be punished by the maximum criminal fine allowed by state law, and in addition, shall forfeit to the property owner the reasonable cost of repairing, replacing, removing or obliterating such defacement, graffiti or act of vandalism.

8.5.9.4            Enforcement

Upon determining that graffiti exists on any private or other non-Town owned property and that such graffiti can be viewed from a public place within the Town, the Chief of Police or his designee shall mail or deliver a notice to the owner of the property on which the graffiti exists advising the owner that the graffiti must be removed within fourteen days. In the case of graffiti on private residential property consisting of thirty dwelling units or less, the property owner shall, within fourteen days of delivery of the notice, either remove the graffiti or submit a written request to the Commissioner of Public Works along with a release, requesting the Town to enter the property and assist in removing the graffiti. Upon receipt of the property owner's written request and release, the Commissioner of Public Works or his designee shall determine whether the graffiti can be safely removed, and, if so, whether it is appropriate to remove it. If the Town assists in the removal of such graffiti, the Town shall charge the property owner a fee in

the amount of the actual cost of removal or one hundred dollars, whichever is less, and any amount forfeited to the property owner under Section 8.5.9.3 of this by-law in excess of such amount shall be turned over to the Town and deposited in the General Fund. Failure to remove the graffiti or make such request within fourteen days shall be deemed a violation of this section and may be dealt with as a non-criminal offense in accordance with the provisions of G.L. c. 40, s. 21D and Article 10.3 of these By-laws. Any fee charged by the Town for the cost of graffiti removal under this section remaining unpaid after sixty days of notice of such charge shall be subject to the provisions of G.L. c. 40, s. 58. In the case of graffiti on commercial property or private residential property consisting of more than thirty dwelling units, the property owner shall, within fourteen days of delivery of the notice, remove the graffiti. Failure to do so shall be deemed a violation of this section and may be dealt with as a non-criminal offense in accordance with the provisions of G.L. c. 40, s. 21D and Article 10.3 of these By-laws.

or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

This by-law amendment is proposed in order to provide a more comprehensive and contemporary approach to preventing and controlling graffiti (tagging) on private and public property. The definition of graffiti is cross-referenced to state statute; enforcement procedures are set out; and removal requirements are delineated.

---

SELECTMEN'S RECOMMENDATION

Last Fall, two warrant articles were filed that proposed major changes to the Town's Graffiti by-law. The Selectmen established a committee to further study the proposals laid out in Articles 20 and 21 of the 2006 Fall Town Meeting. The Committee members were as follows:

Selectman Merrill  
Police Chief and/or designee  
Commissioner of Public Works and/or designee  
Building Commissioner  
Commercial Areas Coordinator  
Recreation Director  
Housing Authority Executive Director  
Town Counsel or designee  
Director of Health and Human Services or designee  
3 residents

The Committee worked diligently throughout the winter and developed its proposals, which are contained in this warrant article. Article 20 will allow the Town to enhance the quality of life of its residents.

Brookline is not void of graffiti and suffers from defaced properties such as light poles, street signs, mailboxes, and even private properties. With its urban/suburban composition, Brookline faces the same challenge as other urban areas in terms of fighting graffiti. Graffiti is not welcome in Brookline, as it detracts from the town's appearance and tarnishes its image. Left unchecked, graffiti could transform the community into a far less desirable place.

Currently, the Town's graffiti removal efforts are coordinated by the Department of Public Works (DPW). In addition, the Police Department, together with the Brookline Court, coordinates a graffiti removal program within the Town. Young persons who are involved with the Brookline Court may be given community service hours as part of the disposition of their court case. When this occurs, these youths are assigned to work under the supervision of a police officer who is responsible for ensuring the youths complete their required amount of community service hours. These youths have been assigned to remove graffiti from public areas in the Town and have also removed graffiti from Post Office properties throughout the Town. The Town and/or the Post Office will provide the materials for these youths to use while the youths do the required labor.

Graffiti may mean different things to different people, but unwanted writing on another's property is a crime. A key to eliminating graffiti is to quickly remove it. Article 20 allows for this, as it provides for a town-wide effort to eliminate graffiti. The Police Department is taking the lead in this effort and will be the place to report incidences of it. The Police will investigate, document through reports and photographs, and make the homeowner/building owner aware that graffiti has been placed on their property. These owners will also be provided with a letter detailing what is required under the by-law and that the option of having DPW remove it at nominal cost exists. Most building owners in town have custodial crews working for them and making them aware of the graffiti, and the need for its removal, will go a long way to ensuring its prompt removal.

Furthermore, the Police Department has entered into an understanding with both the School Department and the Brookline Housing Authority (BHA) about expectations on reporting, enforcement and removal. The DPW will remove graffiti from public properties and a reporting system between the Police and the DPW has been put in place. Other property owners, such as the Post Office, will also need to remove graffiti within the time frame specified in the by-law. The key to this is the time frame for renewal. People will know they must get graffiti removed by a certain date. This will prompt them to remove it instead of procrastinating.

The Selectmen thank the Graffiti Committee for their efforts and recommend FAVORABLE ACTION, by a vote of 5-0 taken on May 8, 2007, on the following vote:

VOTED: That the Town amend the General By-Laws of the Town of Brookline by deleting Section 8.5.9 of Article 8.5 and replacing it with the following:

SECTION 8.5.9 VANDALISM AND THE DEFAACEMENT  
OF PUBLIC AND PRIVATE PROPERTY

8.5.9.1 Purpose and Intent

Vandalism and the existence of graffiti within the Town are considered a public and private nuisance. The purpose of this by-law is to protect public and private property from acts of vandalism and defacement, which is specifically intended to include the application of graffiti on such property. Vandalism and graffiti affects the quality of life of residents, the rights and values of property owners, and the entire Brookline community; therefore, this by-law shall be strictly enforced. For the purposes of this by-law, graffiti is intended to mean the intentional painting, marking, scratching, etching, coloring, tagging, or other defacement of any public or private property without the prior written consent of the owner of such property.

#### 8.5.9.3 Prohibited Conduct

Whoever intentionally, willfully and maliciously or wantonly, destroys, defaces, mars, injures or applies graffiti to the real or personal property of another including, but not limited to, any part of any public or private building, appurtenance to such building, or any monument, tablet, statue, or other object erected to mark a public place or to commemorate an historic event or figure, or any equipment, apparatus or fixture located on or comprising public property, or any fence, wall, post, traffic signaling device or pole, awning, or any other structure, ~~shall~~ may, upon conviction, be punished by the maximum criminal fine allowed by state law, and in addition, shall forfeit to the property owner the reasonable cost of repairing, replacing, removing or obliterating such defacement, graffiti or act of vandalism.

#### 8.5.9.4 Enforcement

Upon determining that graffiti exists on any private or other non-Town owned property and that such graffiti can be viewed from a public place within the Town, the Chief of Police or his designee may mail or deliver a notice to the owner of the property on which the graffiti exists advising the owner that the graffiti must be removed within fourteen days. In the case of graffiti on private residential property consisting of thirty dwelling units or less, the property owner shall, within fourteen days of delivery of the notice, either remove the graffiti or submit a written request to the Commissioner of Public Works along with a release, requesting the Town to enter the property and assist in removing the graffiti. Upon receipt of the property owner's written request and release, the Commissioner of Public Works or his designee shall determine whether the graffiti can be safely removed, and, if so, whether it is appropriate to remove it. Notwithstanding any other provisions contained herein, if such graffiti is within an Historic District established under Section 5.6 of the Town's By-laws, then any guidelines or Rules and Regulations adopted by the Preservation Commission pertaining to the treatment or removal of graffiti shall apply if and to the extent not inconsistent with this by-law. If the Town assists in the removal of such graffiti, the Town shall charge the property owner a fee in the amount of the actual cost of removal or one hundred dollars, whichever is less, provided that the property owner shall reimburse the Town for the Town's actual costs of removing such graffiti from any funds forfeited to the property owner under Section 8.5.9.3. Failure to remove the graffiti or make such request within fourteen days shall be deemed a violation of this section and may be dealt with as a non-criminal offense in accordance with the provisions of G.L. c. 40, s. 21D and Article 10.3 of these By-laws. Any fee charged by the Town for the cost of graffiti removal under this section remaining unpaid after sixty days of notice of such charge shall be subject to the provisions of G.L.

Deleted: shall

Deleted: and any amount forfeited to the property owner under Section 8.5.9.3 of this by-law in excess of such amount shall be turned over to the Town and deposited in the General Fund

c. 40, s. 58. In the case of graffiti on commercial property or private residential property consisting of more than thirty dwelling units, the property owner shall, within fourteen days of delivery of the notice, remove the graffiti. Failure to do so shall be deemed a violation of this section and may be dealt with as a non-criminal offense in accordance with the provisions of G.L. c. 40, s. 21D and Article 10.3 of these By-laws.

-----

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Last Town Meeting a citizen- petitioned Warrant Article was offered that would have significantly strengthened the Town's By-laws regarding graffiti, graffiti remediation and graffiti implements (setting definitional standards for "graffiti implements"). At the time, the proposed language was seen as casting a wide net. While the Committee supported the intent and general thrust of that article, it had reservations about some of its provisions. It was felt the issue required a very deliberative approach that would consider social, financial and legal ramifications. As a result, the subject matter was referred to a Selectmen's Committee. This current article (Article 20) is the result of that committee's work.

DISCUSSION

Certain neighborhoods have noticed an increase in the amount of unsightly graffiti in their neighborhood and adjacent areas. It has appeared on a considerable number of public items (signs, mailboxes, fire hydrants) along Pleasant St. and elsewhere. A proliferation of graffiti has also been documented in commercial areas such as JFK Crossing and Brookline Village. From the viewpoint of some residents, there has been a somewhat limited (ineffective) response to graffiti on public property (though there now seems to be improvement), and an indifferent (seemingly no) response to graffiti appearing on private properties in commercial areas.

The portion of our current by-law that addresses graffiti and vandalism (defacement of property) is rather succinct:

**SECTION 8.5.9                      DEFACING PROPERTY**

**No person shall deface by marks, or otherwise, in any manner, any fence, building, sidewalk, crosswalk, or ledge.**

This article is offering a new section for the Town By-Laws that will specifically address graffiti. It refers specifically to State statute and adds new elements to the By-laws – *financial restitution by the perpetrator to the victim, required remediation, and Town assistance with remediation.*

Under the new By-law, once a property owner is officially notified by the Town of visible graffiti on their property, the owner has 14 days to remediate. The time it takes to report an occurrence will likely vary according to location and severity. If the property owner (less than 30 units) is unwilling or unable to do the work, they may request that the Town come onto their property and do the remediation. Should the Town find that it can

safely and effectively do the work; the DPW will dispatch a crew to do the remediation (cleaning, painting etc.). The cost to the property owner will be the actual cost of remediation or \$100, whichever is less. Should the perpetrator be caught, they would be required to pay the full cost of clean-up (whether the work was done by the property owner, property owner's agent or Town).

The Town can prosecute under State statutes. However, the Committee and Police Department felt there was merit in specifically mentioning that in our own By-laws. The State statutes can be rather severe. Enforceable State laws governing graffiti. MGL Chapter 266 [Crimes Against Property]; section 126a states in part that malicious graffiti may be "... punished by imprisonment in a state prison for a term of not more than three years or by imprisonment in a house of correction for not more than two years or by a fine of not more than fifteen hundred dollars or not more than three times the value of the property so marked... and shall also be required to pay for the removal...". In Article 20's proposed language the State statute "shall" be applied to its fullest extent. The Committee worried that this left little latitude to a presiding judge and may be too harsh in some cases. One can imagine a student marking a park slide after being egged on by friends. Justice might be better served in that instance by having the student devote many weekends to park and playground cleanup duty in order to develop a better sense of responsibility and care for public property. By replacing "shall" with "may", the punishment can be better gauged to match the severity of the offense. An interesting element of State statute is that it allows the suspending of a driver's license for one year or *adding an additional year to the minimum age of eligibility if the offender is under sixteen*. This was seen as a potentially potent incentive for students to refrain from committing vandalism. Getting the message out will be important. The Police already go into schools for a variety of presentations, and it is hoped that this deterrent could be publicized and incorporated into those presentations. Assistant Town Counsel Murphy has suggested a "Mark It and You Park It!" campaign among young teens. Obviously, education in the community will be an important adjunct to the by-law.

The Committee did not feel that a requirement of property owners to remediate the damage of graffiti in a timely manner was unreasonable. Most residential owners are likely to attend to the issue on their own. It is in the interest of both the property owner and the surrounding community. One of the most effective ways to reduce the occurrence of graffiti is to be sure that it is quickly remediate. The longer graffiti remains intact, the more graffiti it attracts and the problem perpetuates. This reality is a prime motivator for the provision requiring timely clean-up. It is expected that enforcement of this provision will tend to be around commercial or large residential complexes where there are absentee landlords. This should serve as a tool for tenants in addressing graffiti damage, and by extension benefit the entire neighborhood.

The associated provision of this By-law that provides Town assistance in remediation drew some concerns. Specifically, costs to a property owner, potential costs to the Town, and any liability associated with the Town doing work on private property. For small occurrences a little time spent cleaning or painting over some graffiti may be all that is required. In more severe cases where a property owner asks for Town assistance, the maximum charge of \$100 may well be a bargain. The Town will not engage in unsafe or risky work, and the property owner is required to sign a release prior the Town entering upon their property. The Town does not believe there will be that many cases so as to overburden DPW, and it is not believed that related expenses will be significant. The

proposed language provides for full cost recovery by the Town from restitution payments made to the victim. The Committee voted slightly different language that more specifically identifies the limits of those collections (actual costs).

The Police Chief served on the Selectmen's Committee and believes there is merit in having this By-law. The Police Department currently catalogues graffiti tags and will use surveillance cameras in particular situations. As a result of the Selectmen's Committee discussions, the Police department and DPW have developed improved measures of communication and response to graffiti. Anecdotal citizen testimony supported this contention.

Graffiti is something that can quickly spin out of control unless addressed in serious and timely ways. It can be a corrosive and insidious element in a community. While most smaller owner-occupied residences will be tended to by their owners without the evocation of this by-law, there are absentee-owned properties that may well be affected. In the end, owners, tenants and the community benefit from quick remediation. And, for those owners who find it difficult, help is available from the Town. The Selectmen's Committee has already succeeded in incubating a better structure of response. However, education, enforcement and the prosecution of vandals will be important ingredients to success. The proposed article underscores a pressing issue for our town and offers a productive tool in addressing the problem.

#### RECOMMENDATION

The Committee recommends, by a vote of 15-2-0 FAVORABLE ACTION on the following vote:

VOTED: That the Town amend the General By-Laws of the Town of Brookline by deleting Section 8.5.9 of Article 8.5 and replacing it with the following:

#### SECTION 8.5.9 VANDALISM AND THE DEFAACEMENT OF PUBLIC AND PRIVATE PROPERTY

##### 8.5.9.1 Purpose and Intent

Vandalism and the existence of graffiti within the Town are considered a public and private nuisance. The purpose of this by-law is to protect public and private property from acts of vandalism and defacement, which is specifically intended to include the application of graffiti on such property. Vandalism and graffiti affects the quality of life of residents, the rights and values of property owners, and the entire Brookline community; therefore, this by-law shall be strictly enforced. For the purposes of this by-law, graffiti is intended to mean the intentional painting, marking, scratching, etching, coloring, tagging, or other defacement of any public or private property without the prior written consent of the owner of such property.

##### 8.5.9.3 Prohibited Conduct

Whoever intentionally, willfully and maliciously or wantonly, destroys, defaces, mars, injures or applies graffiti to the real or personal property of another including, but not limited to, any part of any public or private building, appurtenance to such building, or any monument, tablet, statue, or other object erected to mark a public place or to

commemorate an historic event or figure, or any equipment, apparatus or fixture located on or comprising public property, or any fence, wall, post, traffic signaling device or pole, awning, or any other structure, ~~shall~~ may, upon conviction, be punished by the maximum criminal fine allowed by state law, and in addition, shall forfeit to the property owner the reasonable cost of repairing, replacing, removing or obliterating such defacement, graffiti or act of vandalism.

#### 8.5.9.4 Enforcement

Upon determining that graffiti exists on any private or other non-Town owned property and that such graffiti can be viewed from a public place within the Town, the Chief of Police or his designee shall mail or deliver a notice to the owner of the property on which the graffiti exists advising the owner that the graffiti must be removed within fourteen days. In the case of graffiti on private residential property consisting of thirty dwelling units or less, the property owner shall, within fourteen days of delivery of the notice, either remove the graffiti or submit a written request to the Commissioner of Public Works along with a release, requesting the Town to enter the property and assist in removing the graffiti. Upon receipt of the property owner's written request and release, the Commissioner of Public Works or his designee shall determine whether the graffiti can be safely removed, and, if so, whether it is appropriate to remove it. Notwithstanding any other provisions contained herein, if such graffiti is within an Historic District established under Section 5.6 of the Town's By-laws, then any guidelines or Rules and Regulations adopted by the Preservation Commission pertaining to the treatment or removal of graffiti shall apply if and to the extent not inconsistent with this by-law. If the Town assists in the removal of such graffiti, the Town shall charge the property owner a fee in the amount of the actual cost of removal or one hundred dollars, whichever is less, provided that the property owner shall reimburse the Town for the Town's actual costs of removing such graffiti from any funds forfeited to the property owner under Section 8.5.9.3. Failure to remove the graffiti or make such request within fourteen days shall be deemed a violation of this section and may be dealt with as a non-criminal offense in accordance with the provisions of G.L. c. 40, s. 21D and Article 10.3 of these By-laws. Any fee charged by the Town for the cost of graffiti removal under this section remaining unpaid after sixty days of notice of such charge shall be subject to the provisions of G.L. c. 40, s. 58. In the case of graffiti on commercial property or private residential property consisting of more than thirty dwelling units, the property owner shall, within fourteen days of delivery of the notice, remove the graffiti. Failure to do so shall be deemed a violation of this section and may be dealt with as a non-criminal offense in accordance with the provisions of G.L. c. 40, s. 21D and Article 10.3 of these By-laws.

**Deleted:** and any amount forfeited to the property owner under Section 8.5.9.3 of this by-law in excess of such amount shall be turned over to the Town and deposited in the General Fund

XXX

ARTICLE 17

**Report of the Committee on Town Organization and Structure**

The Committee on Town Organization and Structure has considered the subject matter of Article 17, heard from proponents and opponents, and reviewed background materials. The Committee, by a vote of 5-1, concurs with the positions of the Selectmen and Advisory Committee and recommends FAVORABLE ACTION on the vote offered by the Advisory Committee.

ARTICLE 20

**Motion to Refer  
Marty Rosenthal, TMM-9 & Brookline PAX Co-Chair**

Moved: That Article 20 be referred back to the Selectmen's Committee on Graffiti to propose a revised article for the Fall Town Meeting, after considering inter alia most of the following issues raised by the PAX Board, issues not clearly answered in the Combined Report's analyses:

1. IT NEEDS BETTER AND CLEARER COORDINATION OF CRIMINAL PROSECUTION, NON-CRIMINAL CITATIONS, AND A BROAD PREVENTION STRATEGY:

- a) There are at least three current specific state criminal laws criminalizing graffiti, (G.L. c. 266, §§126, 126A, & 126B), as well as other more general ones (e.g. c. 266, §§127 & 127A). And, there is an existing Town by-law, i.e. a local misdemeanor, referenced in the C/R, @ p. 20-7, Advisory Committee's Recommendation,

*§ 8.5.9 DEFACING PROPERTY: "No person shall deface by marks, or otherwise, in any manner, any fence, building, sidewalk, crosswalk, or ledge."*

*First*, if current law enforcement strategies are not sufficient to address the problem, apparently little if any thought has been given either to improving our existing misdemeanor by-law or to expanding the use of Non-Criminal enforcement -- which is available only for enforcing Town by-laws, not for any state laws (G.L. c. 40, §21D).

- b) Second, in this regard Art. 20 is both confusing and unfortunate. It actually *seems to create a new misdemeanor* by-law (§8.5.9.3 "Prohibited Conduct") that's essentially identical in its definition to c. 266, §126A, a felony. Town Counsel's Office apparently disagrees. But a "*crime*" is essentially "an act ... in violation of a public law ... [which] attaches a punishment or sanction ... punishable by the offended government by a judicial proceeding in its own name ..." [32 Mass. Pract., Criminal Law §2 (3<sup>rd</sup> ed.)] Art. 20's §8.5.9.3 has all those qualities; but the penalty provision, while seemingly present, is very novel and confused.

- c) To be a clear and functional misdemeanor, it needs simple revisions:

(i) it seems dubious to have a local misdemeanor which is effectively indistinguishable from a pre-existing state felony. Maybe it should read

ONLY “*wantonly*,” instead of the proposed “willfully and maliciously or wantonly”: and

(ii) §8.5.9.3 seems to provide a range of penalties/fines, but rather than spelling them out, it merely references some *unnamed state statute(s?)*. Several Brookline criminal lawyers find the proposal (“*may, upon conviction, be punished by the maximum criminal fine allowed by state law*”) both unprecedented and indecipherable. A criminal law, which this really is (and should be, in our view), which is confusing -- even its penalty -- is unconstitutionally “void for vagueness” under the Due Process clause. All criminal court complaints state the maximum penalty for each count; what would this one say?

- d) We urge explicitly adding *NON-CRIMINAL enforcement* to the anti-graffiti strategy options. To do so would seem important to either or both of the following: (i) integrate the current Town by-law, §8.5.9 “Defacing Property” (see above) into this new section; and/or (ii) fix the current Art. 20 proposal’s “Prohibited Conduct” to be an independently prosecutable misdemeanor (see above).
  - e) In any event, has there been discussion of an *alternative approach to apparently unsuccessful criminal laws*, e.g., heightened community education, or – even better – could Brookline play a national leadership role using -- in addition to the option of criminal prosecution (scarring youths for life) -- “*restorative justice*,” e.g. supervised and conditional “diversion” from criminal prosecution? Though the Brookline Police are as fine as any department in the state (maybe the nation), is law enforcement with prosecution the main or only solution to this -- indeed any -- problem? Shouldn’t we have some ongoing Task Force to address this, including but broader than police, e.g., with Human Relations Youth Resources and the Schools?
  - f) G.L. c. 266, §§126A & 126B, each provide an “*evidentiary hearing*” to determine restitution and fines, which is probably constitutionally mandated by SJC and USSCt caselaw, and which also inevitably considers (also mandatory) an “indigency” defense or exception for monetary penalties (often resulting in “community service”). These provisions should be included in our new by-law. Even if a court knows that it’s necessary (which may not in fact always be true), the defendants should be made clearly aware of it.
2. Though we do (see #’s b-c-d) want to add *optional NON-CRIMINAL enforcement* into the anti-graffiti strategy, we have long been concerned that our By-Law governing that subject, §10.3, needs some loose, *NON-BINDING CRITERIA AND GUIDANCE* for the exercise of discretion in choosing whether to treat alleged offenses as *warnings*, *vs. non-criminal citations*, *vs. criminal complaint applications*, e.g., maybe seeking *criminal* complaints for repeat offenders, extra harm to others or the Town; failure to cooperate in mitigating such harm(s), or

other aggravating conduct or factors, etc. As far back as Nov. 17, 1998 the PAX Recommendations on Warrant Articles said for then-Art. 13:

*Revisions Of Town By-Laws: Urge Favorable Action:* Town Counsel has done a valuable service in reorganizing and making coherent the By-Laws, which had been so disorganized that they were downright chaotic. ... Similarly, PAX has a longstanding concern that neither our by-laws nor state law provide either guidance or guidelines as to case-by-case choices between criminal vs. non-criminal charges (Art. 10.3). Non-criminal charges are much more common for by-law violations. While there are undoubtedly unwritten criteria (e.g. the "seriousness" of an offense, is it repetitive conduct?), nothing rules out a choice to go criminal because of the whim of a "rogue" official (or a terrific official having a bad day). *[W]e rely on assurances by Town Counsel that he will soon propose formal guidelines for all enforcement officials to consider before choosing criminal enforcement.*

3. The Committee should consult with some EXPERTS in both CRIMINAL LAW and CRIME PREVENTION;
4. §9.4 "ENFORCEMENT" presents questions, including three the Advisory Committee on May 22 adopted (ID'd below as "AC adopted"):
  - a. The proposal's centerpiece -- mandating owners to clean up graffiti -- may impose re-victimization on innocent owners, especially if serially victimized. Why should this not be done at taxpayer expense, hopefully recouped from the offender if known? (AC adopted, at least in part) Wouldn't a proposal to offer the town's services, free of charge, to remove graffiti (presumably a public benefit) with the owner's consent be more reasonable and effective than a law, actually easily evaded (see below), that would further penalize a victim? What have other communities done, and what works best? In any event, do we need a by-law to allow the Town to remove graffiti even without recovering cost from the owner? Does the proposed by-law give the Town authority to go onto fire escapes, balconies, roofs, etc with or without notice to the tenants and owners? If the owners don't respond, does it give the Town authority to, e.g., decide on the method of removal, the paint color, etc.?
  - b. If the owner, having seen the markings after the fact, decides he/she likes the "artwork" and prefers (or claims to prefer) to leave it in place, he/she would be ordered to remove it. Does this make sense? What procedure is followed if an owner claims that the marking was done by himself/herself or at his/her direction or with his/her permission? Isn't there then a *First Amendment* issue? And, who decides if "markings" have redeeming social value, like the JFK Crossing murals; will we have new Art Police?
  - c. We support the Selectmen's change, from "the Chief of Police or his designee *shall* mail ... a notice to the owner" to read "*MAY* mail ..." (AC adopted)

d. This section refers only to "*GRAFFITI*," defined very broadly in §8.5.9.1 with none of the criminal by-law elements, thus (i) *not even* requiring either (a) that it be on the property *of another*" or (b) "*willfully and maliciously or wantonly*"; (ii) thereby making even more unclear than the criminal provision as to including, e.g., chalk or other temporary "*markings*." Why? (Maybe "*defacement*" should be defined and made the basic criterion, not just "*painting, marking, scratching, etching, coloring, tagging, or other defacement*." ) (iii) Why isn't prior *ORAL consent* good enough (especially with First Amendment implications for "expressive behavior")? (AC adopted); (iv) What if *14 days* is not enough to get a contractor?; (v) ) What if an owner were to post in writing "*Graffiti (or 'purported artwork') welcome here*"?; and (vi) We find very murky "Regulations adopted by the Preservation Commission pertaining to the treatment or removal of graffiti shall apply if and to the extent not inconsistent with this by-law." Does it mean "... *apply ONLY if and ...*"?; or what?

### **EXPLANATION**

PAX supports the intent of the Article and commends both the petitioners and the Selectmen's Committee for their work. We agree that the removal of graffiti is important, and that it's important to have *both* a by-law that can be enforced, *and* an overall and comprehensive strategy which does not rely only (or even primarily) on our wonderful Police Dept. However, the proposal still contains ambiguities, some listed above, and also some policy questions seemingly not yet answered -- at least in the Combined Reports. At a minimum the ambiguities should be addressed, since a criminal law (a point on which we respectfully disagree with Town Counsel's Office) needs scrupulous clarity, including its penalty, to pass constitutional muster.

Since there are already State laws dealing with graffiti, we are not currently powerless. But we could be in a better position with a clear, easily enforceable, and creative/multifaceted local strategy. And we remain hopeful that such a good local by-law could put our Police in a better position -- including for Non-Criminal enforcement. So we move to refer Article 20 back to the Selectmen's Committee to propose a revised Article for the Fall Town Meeting.

On May 22, a member of the Advisory Committee argued, "This is just a debate among lawyers, and we have to rely on the opinion of Town Counsel's Office." While we in PAX have very high regard for Town Counsel's Office, such a sentiment denigrates *both* the importance of the Law *and* the collective responsibility and ability of Town Meeting. We don't make sausages in Brookline Town Meeting; and bearing in mind that strong anti-graffiti laws currently exist (and are being prosecuted), haste makes- - if not sausages -- flawed laws. We can do better. We should do better.

ARTICLE 21TWENTY-FIRST ARTICLE

To see if the Town will amend the General By-Laws by adding an Article 8.28 as follows:

## ARTICLE 8.28

## RESTRICTION ON USE OF ARTIFICIAL TRANS FAT

## SECTION 8.28.1 ARTIFICIAL TRANS FAT RESTRICTED

*Artificial trans fat restricted.* No foods containing artificial trans fat, as defined in this section, shall be stored, distributed, held for service, used in preparation of any menu item or served in any food service establishment or by any mobile food unit commissary, except food that is being served directly to patrons in a manufacturer's original sealed package.

## SECTION 8.28.2 DEFINITION

*Definition.* For the purposes of this section, a food shall be deemed to contain artificial trans fat if the food is labeled as, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer lists the trans fat content of the food as less than 0.5 grams per serving, shall not be deemed to contain artificial trans fat.

## SECTION 8.28.3 LABELS REQUIRED

(1) *Original labels.* Food service establishments and mobile food unit commissaries shall maintain on site the original labels for all food products:

- (i) that are, or that contain, fats, oils or shortenings, and (ii) that are, when purchased by such food service establishments or mobile food unit commissaries, required by applicable federal and state law to have labels, and (iii) that are currently being stored, distributed, held for service, used in preparation of any menu items, or served by the food service establishment, or by the mobile food unit commissary.

(2) *Documentation instead of labels.* Documentation acceptable to the Department, from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels.

(3) *Documentation required when food products are not labeled.* If baked goods, or other food products restricted pursuant to subdivision (a) of this section, that are or that contain fats, oils or shortenings, are not required to be labeled when purchased, food service establishments and mobile food commissaries shall obtain and maintain documentation acceptable to the Department, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content.

#### SECTION 8.28.4 EFFECTIVE DATE

*Effective date.* This section shall take effect on November 30, 2008, with respect to oils, shortenings and margarines containing artificial trans fat that are used for frying or in spreads; except that the effective date of this section with regard to oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat, shall be April 30, 2009.

or act on anything relative thereto.

---

#### PETITIONER'S EXPLANATION

Restaurants, including carry-outs and other food service establishments, are an important source of food, since an estimated one third of daily caloric intake comes from food purchased in restaurants. Trans fat is a dangerous and common ingredient of food in restaurants, yet we have no practical way to avoid this harmful substance when served. The Brookline Department of Public Health is directed to reduce our exposure to an avoidable hazard by enforcing a ban on the use of trans fat added to foods or used in food preparation.

There is a clear association of trans fat with the risk of heart disease. Dietary trans fat increases heart disease by elevating LDL ("bad") cholesterol and lowering HDL ("good") cholesterol. Because of its negative effect on "good cholesterol," trans fat appears to be even worse than saturated fat. The USDA recommends that dietary intake of trans fat be "as low as possible" and the American Heart Association recommends that dietary intake of trans fat be kept below 1% of food intake. FDA mandates listing of trans fat content on the labels of packaged foods.

Approximately 80% of dietary trans fat is found in oils used for frying and baking and is present in many processed foods. A much smaller amount is naturally occurring in small amounts in dairy and in beef and lamb.

Artificial trans fat is produced when hydrogen is added to vegetable oil in a process called hydrogenation. Common sources of trans fat include foods fried in partially hydrogenated oils, margarine and vegetable shortening, french fries, fried chicken, taco shells and donuts, baked goods such as hamburger buns, pizza dough, crackers, cookies, and pies and pre-mixed ingredients such as pancake and hot chocolate mix. Hydrogenated fats are used to prepare food because they stand up to high heat well and have a longer shelf life. Packages containing oils and fats with trans fat in them are often labeled “partially hydrogenated oil” or “partially hydrogenated vegetable oil.”

Trans fat can be replaced with currently available heart healthy alternatives. Substitution of healthier alternatives is required in New York City and in Denmark, and a number of other places are considering bans of trans fat. There are many acceptable alternatives to trans fat, as reported in a New England Journal of Medicine article, “Trans Fatty Acids and Cardiovascular Disease” (2006) 354: 15 (Mozaffarian et al).

The New England Journal article reports that levels of trans fat as low as a mere 2% of calories per day are linked to a 23 % increase in heart disease. The average person consumes 3.6% a day. Trans fat is also thought to have other serious adverse health effects.

This warrant provides a one-year period and a one and a half year period before the ban is enforced. During this period, the Brookline Department of Public Health will work to educate restaurateurs and to help them find acceptable substitutes, so that zero artificial trans fat can be achieved by the time the ban goes into effect.

---

#### SELECTMEN’S RECOMMENDATION

Article 21 is a petitioned article that would ban artificial fats in foodservice establishments in Brookline as of November 30, 2008 (for frying fats and spreads) and April 30, 2009 (for fats in baked goods). Artificial Trans Fats, created when hydrogen is injected into vegetable oils, have been used for years to extend the life of frying oils in baked products. They also have been found to be an independent risk factor for heart disease. When consumed, they elevate total serum cholesterol, LDL (bad) cholesterol, while at the same time lowering HDL (good) cholesterol.

Since the Food and Drug Administration (FDA) ordered that artificial trans fat be listed on food labels, the food industry has moved quickly to develop alternatives. This move to non-artificial trans fats has accelerated since New York City and Philadelphia have passed artificial trans fat bans. The non-artificial trans fats are roughly the same cost as those containing trans fats; however, food service operators may need to clean and change their deep-fat more frequently. Additionally, some care will need to be taken to

ensure that the move to non-artificial trans fat products meet the specific flavor profiles demanded of foodservice operators.

The Advisory Committee is recommending an amended version of the warrant article that contains two important modifications:

1. The requirement that foodservice operators maintain food labels on site has been eliminated based on a recommendation by the Brookline Health Dept.
2. In the event that an operator may have a specific problem in complying, the Director of Health and Human Services may issue a six month extension. The Health Department may then work individually with that operator to achieve compliance, or extend the waiver further.

The Health Department has said that it would be able to incorporate enforcement into its regularly scheduled inspection with only a modest increase in time per inspection. The Advisory Council on Public Health is in support of the warrant article, as revised, as is the School Food Service Director.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on May 8, 2007, on the vote offered by the Advisory Committee.

-----

ADVISORY COMMITTEE'S RECOMMENDATION

Article 21 is a petitioned article, calling for the addition of an article to the General By-laws that would restrict the use of artificial trans fat in restaurants and other food service establishments in the town.

SUMMARY

The article, as originally presented, had four elements:

1. It prohibited foods containing artificial trans fat from being stored, distributed, used in preparing menu items or served in "any food service establishment" or by "any mobile food unit commissary."
2. It defined food containing artificial trans fat as food that is labeled as, lists as an ingredient, or has vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil. Food documented as having less than 0.5 grams per serving of trans fat would not be considered as containing artificial trans fat.
3. It required the maintenance on site of the original labels or other acceptable documentation, as defined by the article, for all purchased food products that contain fats, oils, or shortenings, that are required by federal law to have labels, and that are used in the preparation of any menu items. **(This section has been eliminated in the Advisory Committee's motion)**

4. It established effective dates for the provisions of the by-law. With respect to oils, shortenings and margarines containing artificial trans fat used for frying or in spreads, the effective date was November 30<sup>th</sup>, 2008. With respect to oils and shortenings used in baking and in deep-frying yeast doughs and cake batters and with respect to all other foods containing artificial trans fat, the effective date was April 30<sup>th</sup>, 2009.

If approved, the provisions of this article would extend to restaurants, delicatessens, bakeries, pizzerias, take-out counters at supermarkets, public and private schools' food services, food vendors at construction sites and town events and even the pizza truck at Brookline High School. It should be noted that the provisions of this article **would not** extend to pre-packaged food such as that available in vending machines. Enforcement would fall to the Health Department and penalties for violations would be addressed by Article 10.3 (Non-Criminal Disposition) of the Town's by-laws.

### BACKGROUND

Trans fat is chemically modified fat that is used as a substitute for saturated fat and includes vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil. (Hydrogenization of fat stabilizes consumable products for longer shelf life.) Dietary trans fats are found in manufactured and baked products including crackers, cookies, cakes, and hamburger buns and hotdog rolls; snacks; and fast foods. Americans typically eat about 5 grams of trans fat per day. A single large fast food serving of French fries prepared in trans fats contains about 8 grams; a single doughnut contains about 2 grams.

Widely studied, the consumption of trans fats has been linked to cardiovascular and coronary heart disease, leading causes of death in the world. It is thought that raising the melting point of fats through the hydrogenization process increases the ability of fat to clog arteries. Trans fat consumption is also believed to increase LDLs (bad cholesterol) and to lower HDLs (good cholesterol).

According to a 2006 scientific review in the New England Journal of Medicine, "From a nutritional standpoint, the consumption of trans fatty acids results in considerable potential harm but no apparent benefit."

### DISCUSSION

Neither the Advisory Committee nor those members of the public who attended the subcommittee's April hearing questioned the validity of these findings (although one letter submitted to the subcommittee queried whether concern with trans-fat was just another "hot button" nutritional issue). There was, however, substantial discussion regarding whether government should determine what people eat, whether the goal of making healthier food available to the "eating-out" public could be accomplished with equal success through voluntary means, and whether, given the progress in developing acceptable alternatives to artificial trans fat, there was any need for a by-law. There were also questions raised regarding the ability of restaurants and other food establishments to be in compliance by the mandated deadlines, the economic impact on local eating establishments, and the effect of the by-law on the existing workload of the Health Department.

In response to some of these questions, Alan Balsam, Director of Health and Human Services, noted that the article's requirements would add approximately five to 10 additional minutes to the inspection process. He also noted that with the amendments proposed by the Advisory Committee, he would be given the needed flexibility to work with restaurant owners in a cooperative rather than adversarial way. Dr. Balsam and his staff believe that a "Healthy Dining" campaign can raise the visibility of Brookline restaurants and be an effective marketing tool. Finally, both the Health Department staff and members of the Advisory Council on Public Health believe that in order to promote the health of the community, measures such as those proposed in Article 21 are more effective than mere voluntary efforts.

Support for the article, particularly with the elimination of the labeling requirement and the addition of the Advisory Committee's second paragraph in Section 8.28.3, was expressed by Marge Amster, Commercial Areas Coordinator of the Office of Economic Development and by Ann Johnson, Food Service Director for the Public Schools of Brookline.

By a vote of 16-6-0 the Advisory Committee recommends FAVORABLE ACTION on the following motion to be offered under Article 21:

VOTED: That the Town amend the General By-Laws by adding an Article 8.28 as follows:

ARTICLE 8.28 RESTRICTION ON USE OF ARTIFICIAL TRANS FAT

SECTION 8.28.1 ARTIFICIAL TRANS FAT RESTRICTED

No foods containing artificial trans fat, as defined in this section, shall be stored, distributed, held for service, used in preparation of any menu item or served in any food service establishment or by any mobile food unit commissary, except food that is being served directly to patrons in a manufacturer's original sealed package.

SECTION 8.28.2 DEFINITION

For the purposes of this section, a food shall be deemed to contain artificial trans fat if the food is labeled as, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer lists the trans fat content of the food as less than 0.5 grams per serving, shall not be deemed to contain artificial trans fat.

SECTION 8.28.3 — LABELS REQUIRED

~~(1) Original labels. Food service establishments and mobile food unit commissaries shall~~

maintain on site the original labels for all food products:

~~(i) that are, or that contain, fats, oils or shortenings, and (ii) that are, when purchased by such food service establishments or mobile food unit commissaries, required by applicable federal and state law to have labels, and (iii) that are currently being stored, distributed, held for service, used in preparation of any menu items, or served by the food service establishment, or by the mobile food unit commissary.~~

~~(2) Documentation instead of labels. Documentation acceptable to the Department, from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels.~~

~~(3) Documentation required when food products are not labeled. If baked goods, or other food products restricted pursuant to subdivision (a) of this section, that are or that contain fats, oils or shortenings, are not required to be labeled when purchased, food service establishments and mobile food commissaries shall obtain and maintain documentation acceptable to the Department, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content.~~

#### SECTION 8.28.4.3 EFFECTIVE DATE

This section shall take effect on November 30, 2008, with respect to oils, shortenings and margarines containing artificial trans fat that are used for frying or in spreads; except that the effective date of this section with regard to oils or shortenings used for deep frying of yeast dough or cake batter, and with regard to all other foods containing artificial trans fat, shall be April 30, 2009.

In the event that compliance with the effective dates of this by-law is not feasible for a food service establishment or mobile food unit commissary, because of either unavailability of alternatives to trans fat or economic hardship, the Director of Health and Human Services may grant a waiver of not more than six months upon application of the owner or the owner's representative. The waiver may be extended upon the showing of continued infeasibility as set forth above.

XXX

---

ARTICLE 22

---

TWENTY-SECOND ARTICLE

To see if the Town will amend the General By-laws by adding the following article:

Article 8.28

The Brookline Health Department's authorized personnel shall only administer Flu Shots, vaccines and immunizations to town employees and residents that are 100% Thimerosal free, and are free of all other toxins or substances, the introduction of which have been documented through credible scientific study to cause significant risk to human health.

or act on anything relative thereto.

---

PETITIONER'S EXPLANATION

Scientific Studies document a positive correlation between Thimerosal and increased risk for Autism and Alzheimer's Disease. Health initiatives should "Do No Harm" to human health.

Studies that compare exposures between mercury in food and mercury in vaccines reveal with repeated vaccinations, accumulation of mercury in the brain of infants will occur and indicated that the persistence of inorganic Hg in the brain was associated with a significant increase in the number of microglia in the brain, "an active neuroinflammatory process" which is consistent with what has been demonstrated in brains of autistic patients.

( <http://www.ehponline.org/members/2005/7712/7712.html> "Comparison of Blood and Brain Mercury Levels in Infant Monkeys Exposed to Methylmercury or Vaccines Containing Thimerosal" published in Environmental Health Perspectives Volume 113, Number 8, August 2005).

Another study indicates, "Microglia make up the innate immune system of the central nervous system and are key cellular mediators of neuroinflammatory processes. Their role in central nervous system diseases, including infections, .(participates) in both acute and chronic neuroinflammatory responses.( which include) their involvement in Alzheimer's disease where microglial cell activation is thought to be critically important in the neurodegenerative process."

.( <http://www.jneuroinflammation.com/content/pdf/1742-2094-1-14.pdf>

Microglia and neuroinflammation: a pathological perspective Journal of Neuroinflammation).

Vaccination is big business, the success of which depends on sales. The research and administration of vaccines employs tens of thousands of people in drug companies, private research laboratories and foundations, universities, State health departments and hospitals. Like all other businesses it is geared to profit. On a regular basis advertisements appear in the daily papers and in popular magazines urging the populace to line-up for their life-saving "jabs". Nowhere in these glossy advertisements is there a hint that they are inserted by the pharmaceutical companies producing the vaccines. The same applies to television programs which exhorting the benefits of mass immunization programs neglect to say that they are produced by the pharmaceutical giants and presented from carefully memorized scripts by T.V. personalities of the day.

Brookline health care initiatives should do no harm. Town administered Flu Shots contain 25 ug of Thimerosal (ethyl-mercury), yet the FDA, in violation of their own policy, has never demonstrated through safety studies, that Thimerosal is safe for human consumption, safety of the preservative, Thimerosal and other toxins present in Influenza vaccines to document the safety of using this preservative in the amounts used for human health. Thousands of children develop autism every year, and thousands of older adults develop Alzheimer's Disease. Thus, previous conclusions regarding the safety of thimerosal are likely to be invalid. Given that the presence of toxins in vaccines have been shown to cause harm, use of toxins must discontinued in the Town of Brookline's immunization program.

---

---

#### SELECTMEN'S RECOMMENDATION

Article 22 is a petitioned article that would require the Town to administer flu shots, vaccines, and immunizations that are 100% thimerosal free. The petitioner believes that there exists a correlation between thimerosal and an increased risk for autism and Alzheimer's disease. This is the same article the petitioner filed for the November, 2006 Special Town Meeting.

The Town's Director of Health and Human Services and the Advisory Council on Public Health have spent a great deal of time researching this issue. Numerous experts from various institutions assisted the Director and the Advisory Council, including the Boston Medical Center, the Harvard School of Public Health, Children's Hospital, Beth Israel Deaconess Medical Center, Massachusetts Department of Public Health, and Brigham and Women's Hospital. Their bottom-line conclusion is that there is no clear and credible scientific evidence linking the receipt of a flu shot containing thimerosal with the development of Alzheimer's disease. Similarly, their research shows no casual relationship between thimerosal containing vaccines and autism. On the other hand, there

is strong evidence regarding the impact of influenza on older persons in general and frail older persons, including those with Alzheimer's disease, in particular.

The Board thanks Alan Balsam and the Advisory Council on Public Health for all of their work on his issue. It was clear from their presentation that this is an issue they take very seriously. Since the research shows the risk to individuals of influenza clearly outweighs any theoretical and not scientifically validated risk of thimerosal as a cause of Alzheimer's disease and autism, the Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 24, 2007, on Article 22.

-----

### ADVISORY COMMITTEE'S RECOMMENDATION

#### BACKGROUND

Article 22 proposes to amend the General By-laws by adding the following article:

Article 8.28: The Brookline Health Department's authorized personnel shall only administer Flu Shots, vaccines and immunizations to town employees and residents that are 100% Thimerosal free, and free of all other toxins or substances, the introduction of which have been documented through credible scientific study to cause significant risk to human health, or act on anything relative thereto.

Article 22 is identical to Article 14 which was brought to the November, 2006 Town Meeting by the same petitioner. The Board of Selectmen and Advisory Committee each voted unanimously for NO ACTION on Article 14 and it was overwhelmingly defeated Town Meeting by a vote of 182 in opposition and 2 in favor.

Thimerosal, familiar to seniors among us as tincture of merthiolate, is a derivative of ethyl mercury that has been used since the 1930s as a bactericide and preservative in multi-dose vials of vaccine. These vials, used in large-scale immunization programs, are entered multiple times and need an antibacterial agent to prevent potentially life-threatening contamination by bacteria and fungi. Not to be confused with Methyl Mercury which is a much-studied neurotoxin ubiquitous in the environment and in foods such as fish and known to pose a major health risk especially to pregnant women and children, Ethyl Mercury is metabolized in the body differently. The body is able to eliminate both thimerosal and ethyl mercury much more rapidly than it can methyl mercury.

Because there have been few peer-reviewed research studies on the toxicity of ethyl mercury, the research data from methyl mercury is used in assessing risks associated with ethyl mercury. The Environmental Protection Agency's reference dose of 0.1 micrograms/kilogram/day for methyl mercury was determined by the National Academy of Sciences to be a justifiable level of protection. In 1999, the Food and Drug

Administration (FDA) recommended that exposure of infants and children to mercury should be minimized and thimerosal should be removed from vaccines. This recommendation was not based on known adverse events associated with thimerosal but concern that the increased number of immunizations recommended for infants and children might reach a threshold where risk would increase. Thimerosal has been removed from or reduced to trace amounts (<1ug/ml of mercury) in all vaccines routinely recommended for children 6 years of age and younger with the exception of the flu vaccine (25 ug/ml of mercury). Doses for children 35 months old and under are thimerosal-free and flu-mist is recommended for those 5 years old and up.

The Commonwealth of Massachusetts purchases available doses of flu vaccine from manufacturers and gives them to all municipalities to distribute. For the upcoming fall flu season, the Brookline Health Dept. will receive from the State free of charge 1800 doses of vaccine with thimerosal. In addition, the Town has ordered and will purchase 700 single vaccine doses which will not contain thimerosal. (The cost will be \$3.00 - \$5.00 per dose more than for purchase of extra thimerosal-containing vaccine).

### DISCUSSION

The petitioner of this article believes that credible scientific studies document a positive correlation between thimerosal in immunizations and an increased risk for autism in children and Alzheimer's disease in adults. For that reason, she has again brought this Article before Town Meeting to ensure that town-administered immunizations should "do no harm" to Brookline residents. She asks, if we are not allowed to put 25 micrograms of mercury into our water supply, why should we be allowed to give it to our grandchildren? She contends that we cannot ask the State for all flu shots without thimerosal because of the possibility of a bird flu epidemic, in which case, it is argued, thimerosal would be necessary to preserve the large quantities of avian flu vaccine required. She voiced skepticism about the prospect of such an epidemic, and thinks that the threat of getting influenza from a chicken does not justify giving flu shots with 25 micrograms of a neurotoxin. The petitioner pointed to a 1935 study claiming that thimerosal was 35.3 times more toxic for embryonic chick heart tissue than staph. aureus and argues that infants can receive an overdose of mercury at the "multiple vaccination" site.

The petitioner noted that in 2005 a study funded by the National Institutes of Health examined the brain levels of thimerosal in infant monkeys. Although the injected thimerosal did not accumulate in the blood stream, with repeated vaccinations, it did occur in the brain. Thimerosal as a preservative contains 49% ethyl mercury and, when injected into the brain of primates, caused an increase in microglia cells there directly leading to brain cell degeneration. In 2002, Congressman Dan Burton (R-IN), then Chairman, Committee on Government Reform, speaking on the autism epidemic and its possible connection to vaccines, voiced suspicion of a conflict of interest for pharmaceutical companies in the issue of child immunization. Echoing this charge, the petitioner claimed that lucrative contracts were given to manufacturers of anthrax and other vaccines and that new designer species used for manipulation and control of populations were developed. The petitioner believes that the process is breaking down

and that we need an independent agency to take a hard look at what is actually contained in vaccines.

Dr. Alan Balsam, Brookline Director of Public Health, stated that Brookline's Health Department bases its policies on a comprehensive review of the literature. It is his professional opinion that thimerosal does not cause autism nor is there any scientific evidence that it causes Alzheimer's disease. On the other hand, there is strong evidence that influenza is a major cause of morbidity and mortality and that the flu shot is both safe and effective in reducing morbidity and mortality. If Article 22 passes, the Brookline Health Department could not offer flu shots to residents at risk. He reminded us that last year, when this Article was first submitted, his Department brought together a prominent panel of experts who refuted the petitioner's claims. The panel included Dr. Jerome Klein, Professor of Pediatrics at the B.U. School of Medicine, Dr. Marie McCormick, ScD, Chair Committee on Immunization Safety Review, Institute of Medicine/National Academies of Science, Harvard School of Public Health, Dr. Michael Wessels, Children's Hospital, Dr. Suzanne Salamon, Associate Chief for Clinical Geriatrics, Beth Israel Deaconess Hospital, and Dr. Al DeMaria, Chief Medical Officer, State Epidemiologist, Director, Center for Laboratories and Disease Control. They found studies presented by the petitioner claiming a link between exposure to thimerosal and the development of autism to be methodologically unsound and not published in peer-reviewed journals. Five methodologically-acceptable epidemiological studies showed no association between thimerosal exposure and adverse effects of vaccines.

Dr. Balsam urged us not to trivialize the possibility of bird flu, as did the petitioner. His Dept. is preparing for the possible scenario of an avian flu outbreak and will distribute vaccines for similar outbreaks or bioterrorist attacks. Developed to combat the deadly avian virus strain H5N1, the available vaccines will contain thimerosal because it will be necessary to preserve large batches of vaccine in storage. If Article 22 were to pass, it would prevent Brookline residents from receiving the avian flu vaccine, which could result in a potential catastrophe for Brookline.

Dr. Balsam believes that we should not dictate what people do with their own bodies. Citizens can decline to take vaccines. The Brookline Health Dept. uses informed consent for all immunizations. The Vaccine Information Statement (VIS) given to each potential recipient states: "Some inactivated influenza vaccine contains thimerosal, a preservative that contains mercury. Some people believe thimerosal may be related to developmental problems in children. In 2004, the Institute of Medicine published a report concluding that, based on scientific studies, there is no evidence of such a relationship. If you are concerned about thimerosal, ask your doctor about thimerosal-free influenza vaccine."

The Institute of Medicine (IOM) in 2001 reported after an extensive review that the association of thimerosal-containing vaccines and neurodevelopmental disorders was not established and rests on indirect and incomplete information. In 2004, IOM's Immunization Safety Review Committee incorporated new epidemiological evidence from the U.S., Denmark, Sweden, and the United Kingdom and concluded that the evidence showed no causal relationship between thimerosal-containing vaccines and

autism, and that concern about such causality remained theoretical only. It further stated that the benefits of vaccination are proven and that widespread rejection of vaccines would lead to increases in incidences of serious infectious diseases such as measles and whooping cough. It is interesting to note that autism rates continue to climb in Sweden and Denmark where thimerosal in vaccinations was eliminated in 1992. The World Health Organization also concluded in October 2001 that there was no conclusive evidence of a causal link between thimerosal and neurodevelopmental disorders in children, and that the benefits of vaccination with thimerosal-containing vaccines far outweigh the risk(if any) of exposure to minute amounts of thimerosal.

The Brookline Council on Aging (COA) has not changed its official position in opposition to last year's identical Warrant Article. Ruthann Dobek, COA Director, wrote that elders are especially at risk for flu deaths and noted that no evidence has been found that thimerosal causes Alzheimer's disease.

The Brookline Public Health Advisory Council also recommends that Town Meeting take NO ACTION on Article 22 because "overwhelmingly, the research findings show no connection between thimerosal exposure and autism. This conclusion is based on published literature reviews, Institute of Medicine Safety Review Committee findings, CDC Advisory Committee on Immunization Practices, and expert testimony that we heard from researchers and state public health officials." They clearly differentiate between the more dangerous methyl mercury and ethyl mercury which metabolizes differently and claim that "recent studies in animal models exposed to thimerosal-containing vaccines indicate that methyl mercury may not be a suitable reference to assess the risk from exposure to thimerosal." If there were a serious epidemic, multi-use vials with thimerosal may have to be employed. If Article 22 passes, "The Town of Brookline would be prohibited from taking the most effective measures to save lives based on an unproven, hypothetical risk unsupported by any data to date rather than aggressively dealing with the real risk of severe illness and death that a pandemic or epidemic of flu may bring."

Dr. Dennis Selkoe, of the Center for Neurologic Diseases at Brigham and Women's Hospital, is a neurological practitioner and scientific researcher who has been working directly in the field of Alzheimer's disease for 30 years. In a letter to Dr. Balsam dated Sept. 27, 2006, he states that "no clear, reproducible and credible scientific evidence exists to link the receipt of a flu shot containing thimerosal with the development of Alzheimer's disease...the trace amounts of thimerosal that may be used as a preservative in some vaccines do not constitute a scientifically validated risk to older persons for developing Alzheimer's disease." He further wrote of significant evidence to show that older persons, especially frail older persons, including those with Alzheimer's disease, face a more serious risk from developing influenza.

In 2004, the FDA comprehensively reviewed and critiqued a citizens' petition from the Coalition for Mercury-Free Drugs, which requested that the Government take actions pertaining to vaccines containing thimerosal or other mercury-based preservatives. In rejecting this petition, the FDA said that the Burbacher et al report, referenced by Ms.

Allen, where infant monkeys were administered thimerosal does not provide evidence that trace amounts of thimerosal in today's childhood vaccine are linked to neurodevelopmental effects. The FDA rejected the four studies referenced in the Coalition petition. It was reported to the Advisory Committee that there is no evidence to link microglia to autism. Scientists are not sure why autism is increasing. Paternal age is now being considered as well as Israeli studies showing two forms: "heredity" vs. "sporadic."

Dr. Gloria Rudisch cited the American Academy of Pediatrics' 2006 study of 27,000 children from 55 Montreal school districts where rates of autism increased. Her review of pediatric journal literature shows no association between immunizations and autism. At a recent Conference on Autism, she reported that there was no difference shown in the end products of mercury breakdown in children with autism and those without autism. Dr. Rudisch said we should not be distracted from the study of the causes of autism. She reiterated Dr. Balsam's statement that the Health Department needs flexibility, especially in the event of an epidemic when they would have to offer state-provided doses with thimerosal.

In a perfect world, all immunizations would be single dose, free of thimerosal. Safety is relative, rather than absolute. There is a choice to be made. To be safe means that the benefits outweigh the risks; every drug carries the risk of some side effects. Influenza is a serious health threat for children and adults. During the 1990s, there were 36,000 annual deaths from influenza. The average number of hospitalizations was between 114,000 and 200,000, with the rates highest in children under age 2 and adults over 65 years of age. The Advisory Committee believes that prohibiting the Town of Brookline from administering flu vaccine that contains thimerosal would pose an unacceptable risk to the health of Brookline residents. The Committee agrees, however, that all efforts should be made to persuade vaccine manufacturers to increase production of thimerosal-free vaccines.

#### RECOMMENDATION

The Advisory Committee voted unanimously (23-0) to recommend NO ACTION on Article 22.

**XXX**

ARTICLE 23

TWENTY-THIRD ARTICLE

Reports of Town Officers and Committees



# Town of Brookline Massachusetts

## HOUSING ADVISORY BOARD

Roger F. Blood, Chair  
Steven A. Heikin  
Michael H. Jacobs  
Rita K. McNally  
David P. Rockwell  
Daniel M. Rosen  
Kathy A. Spiegelman

333 Washington Street  
Brookline, MA 02445  
(617) 730-2130  
FAX (617) 730-2442

Deleted: Annual

Deleted: to

Deleted: May, 2007¶

## Affordable Housing Update

### May 2007 Annual Town Meeting

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 creation of affordable units in existing rental buildings and
  - appropriately sited and scaled mixed-income new development;
- to apply Town-controlled resources to leverage other public and private resources; and
- to assure that housing so created is kept affordable for as long as possible.

Progress towards increasing the supply of affordable housing was mixed this year. Since the 2006 Annual Town Meeting, the Housing Advisory Board and Housing Division staff achieved the following:

Deleted: 2006

Deleted: St

1. **Completed an agreement with the Brookline Cooperative, permitting the conversion to a mixed-income condominium of this 116-unit "expiring use" affordable housing cooperative, in return for preservation of at least 25 percent of the units as permanently affordable.** When the conversion took place in December, 33 members representing 28 percent of the units signed permanent deed restrictions. More than three years in the making, this agreement was necessitated by the April, 2006 expiration of 40-year federal regulations governing applicant eligibility, occupancy and limits on equity.

Deleted: the

Deleted: n

Deleted: i

Deleted: By'

2. **Arrived at an agreement with the owner of the 125-unit property at 1600 Beacon Street, a rental building undergoing condominium conversion, to set aside four units and offer these at a ten percent discount to low-moderate homebuyers selected by the Town.** The

Deleted: property

Town is currently marketing and selecting, through lottery, buyers for these units, which will be offered for sale with deep HOME and CDBG subsidies in return for permanent deed restrictions. This is a hybrid between the Town's inclusionary zoning and homebuyer assistance programs. The size of the Town's subsidy requires permanent deed restrictions which, in turn, necessitate identifying units which are relatively modestly priced, renovated, and located in buildings which have updated systems, and having an agreement with the seller which permits the Town adequate time to widely advertise the opportunity and select buyers by lottery.

Deleted:

Deleted: ; t

Deleted: requires

3. Continued to work with the Planning Office for Urban Affairs (POUA) to advance the **St. Aidan's Project**, a 59-unit housing development that will include 36 affordable units, preserve the historic church building through adaptive re-use for nine market-rate condominiums, and conserve the historic courtyard. Last fall's resolution of a complaint filed in Norfolk Superior Court by neighbors and taxpayers, which had halted construction and marketing, has required a restarting of the project, including re-pricing of all project costs.

4. Continued to work with developers of **new market-rate projects subject to the inclusionary zoning provisions** (Section 4.08) of the Zoning By-law, including:

- selecting by lottery, determining eligibility, and working with buyers of four affordable condominium units at the 29-unit Cypress Lofts II development at 323 Boylston Street to complete the requirements for purchase;
- working with the developers on affordable housing plans for two units at 310 Hammond Pond Parkway and for payments at 74-76 Green Street;
- working with the purchaser of Longwood Towers to assure that the two existing affordable rental units transfer to affordable homeownership following condominium conversion, to set up an escrow account to cover any extraordinary assessments, and to complete the sale of a condominium unit to an existing tenant of an affordable rental unit; and
- working with the developers of 1140 Beacon Street, 640-648 Hammond Street, 164 Harvard Street and 323 Boylston Street to secure and make payments in lieu of units to the Housing Trust, totaling almost \$390,000.

Deleted:

Deleted: 41

5. 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; provided financial assistance through the HOME and CDBG programs to three eligible households to purchase condominiums, with a fourth purchase in process; initiated the marketing and buyer selection process for the four units at 1600 Beacon; and initiated the marketing and buyer selection process under the Town's right of first refusal for two units, created under inclusionary zoning with permanent deed restrictions, whose owners are planning to sell. The Division also worked with these buyers, as well as the homebuyers at 323 Boylston Street and at Longwood Tower, to access additional savings through the Commonwealth's Soft Second Program. The Town participates in this

Deleted: ,

Deleted: in

Deleted: four

Deleted: one

Deleted: Towers

program, critical to increasing the range of buyers that our programs can serve, in collaboration with Boston Private Bank and Trust Company and other participating banks.

- 6. Provided financial assistance through the CDBG program to the **Pine Street Inn, which completed a package of physical improvements** to its 28-room **lodging house**, at 1043-1045 Beacon Street, helping to assure long term preservation of this important resource.

Deleted: Paul Sullivan Trust

Deleted: 8

Deleted: property

- 7. Continued to speak with residential brokers and property owners in an effort to **identify additional rental housing that might be transferred in ways that would achieve long term affordability**. Staff visited various properties available for sale, (mostly at prices **precluding** a possible **purchase with** affordable housing write-down), and worked with nonprofit buyers to assess redevelopment potential. One seller and potential buyer are in follow-up discussions.

Deleted: far exceeding

Deleted: ny

- 8. Researched the Town's **lodging house inventory** in response to Warrant 25, a petition to **the November 2006 Town Meeting** concerned with significant recent increases in tax assessments, and provided a report with recommendations to the Board of Selectmen. The report reaffirmed the importance of this element of the Town's housing stock to the diversity of both Brookline's community and of housing opportunities in general, and suggested areas **for the Assessor and the HAB to explore further whereby the Town's taxing policies might improve lodging house owners' willingness and ability to preserve this unique type of low-cost housing in Brookline**.

Deleted: May

Deleted: of

Deleted: a

Deleted: tion for

Deleted: y

Deleted: that

Deleted: favor

Deleted: at

Deleted: ion of

Deleted: resource

Deleted: Contributed to

Deleted: Contributed to

Deleted: arch for

Deleted:

Deleted: , which

- 9. **Participated in** the planning efforts of the **Coolidge Corner District Planning Council**.

- 10. **Participated in** the **Fisher Hill Town site planning process**, which has continued to seek consensus regarding an acceptable affordable housing component as part of a redevelopment of this five-acre former Town reservoir. Following publication of the results of a **January 2006** design charrette **that** explored site planning and potential massing as a prelude to establishing development guidelines, the Board of Selectmen established a new committee charged with developing a Request for Information to the development community.

- 11. Worked with the Town's Fair Housing Officer to plan and implement **fair housing training** for representatives of Brookline agencies and boards. This was in follow-up to a study documenting substantial discrimination in the Newton housing market, a situation that, according to the Fair Housing Center of Greater Boston, the study's author, is consistent with regional trends. It was also in preparation for the Town's fulfillment of its own obligations to reduce barriers to fair housing, including outreach to the real estate community for participation in fair housing training organized by Newton, the lead community in the West Metro HOME Consortium.

- 12. Received **an award from the Massachusetts Historical Commission** for the Town-supported renovation of 1754 Beacon Street, a collaboration of the Pine Street Inn, the Brookline Improvement Coalition, **and the Town of Brookline**.

Deleted: recognition

Deleted: and

Deleted: .

## **Report of the Audit Committee June 2007**

The Report on the Examination of the Town's Basic Financial Statements for the Fiscal Year 2006, also known as the annual outside audit, was completed by our Auditors Powers & Sullivan in the Fall of 2006. Powers & Sullivan is a firm of licensed certified public accountants based in Wakefield, Mass., which does a lot of audit work for municipalities. Partner James Powers and Craig Peacock supervised the Audit. It was done to fully comply with the Government Auditing Standards and provides an important review for us, as well as providing the thorough information that must be provided by all entities which receive federal grants.

The Audit Committee is chaired by Selectman Nancy Daly. In addition, the Audit Committee is well-served by three accountants Branch Harding, Greg Grobstein, & Jim Littleton, Allen Morse from the School Committee, Katherine Tallman, the Town's Finance Director Steve Cirillo, Comptroller Judy Haupin, and Deputy Superintendent of Schools Peter Rowe. The Committee carefully reviewed the financial statements, the auditor's report, and the management letter.

The Auditor's have concluded that the basic financial statements fairly present, in all material respects the finances of the Town as of June 30, 2006, except for the retirement fund which is audited separately. They did not find any Reportable Conditions or Material Weaknesses, such that they had to qualify the audit. That means that this is a "good" audit, or one in which no serious problems were found.

The Town continues to practice fiscal prudence. It has maintained its Aaa bond rating, which allows the Town to borrow money at favorable rates. We on the Committee do have concerns about our increasing obligations to the pension fund and to the health care costs of our retirees.

The auditors again looked closely at our handling of cash, accounts receivable, debt service and fixed assets and in each case they were found to be acceptable, although they did recommend the following: that we switch to a different software package to make keeping track of the fixed assets an easier proposition; that the outstanding balance in the school departments' food services account be brought down and that Chapter 90 money (money from the state for road repair) be reported in such a manner that it reconciles with state records.

During the past year, the Committee tackled the issue of how different departments handled Miscellaneous Committed Bills, that is bills for use of Town property etc. that different departments are responsible for billing and collecting. In the past there was a lack of follow-through in collecting on these bills due to confusion as to whose responsibility it was. Steve Cirillo and Judy Haupin worked with Mr. Kelliher and the different departments over the summer and got everything organized with new software and a clear understanding as to responsibility for these bills, so that the Audit Committee felt that no further action was needed on its part.

At the request of the Committee, the Auditor's also conducted more in-depth analysis of the Town and School payroll operations, the School Department's Food Services Department, and the Adult Education program. On the Town side, the Auditor's concluded that the Town should segregate the job responsibilities of the employees in the Town's payroll office if possible and that the department reconcile total payroll wages and liabilities to the general ledger and the quarterly tax returns on a quarterly basis. On the School side, they recommended that the Town and School Payroll Office's needed to determine who had responsibility for reconciling the expenditures and related liabilities recorded in the general ledger.

In connection with the School Department's Food Services, the Auditor's recommended that they needed clearer policies relating to collecting overdrawn accounts from students' families and refunding excess balances in students' accounts. They also recommended that the existing cash registers be upgraded to provide better records for the use of the School Department and for the reports that must be sent to the Department of Education.

In connection with the Adult Education Program, the Auditor's recommended that the School Department review its policy of offering a 50% discount to senior citizens which is larger than the discount offered by any other community in the area. They also recommended that the Adult Education Program tighten its procedures with respect to handling reimbursements to teachers for cash outlays and for the reconciliation of cash receipts.

The Town and School Administrations are working on implementing these recommendations.

A full copy of the Report on Examination of Basic Financial Statements (the "Audit") can be found on the Town's website at [www.townofbrooklinemass.com/Selectmen/FinancialReports.html](http://www.townofbrooklinemass.com/Selectmen/FinancialReports.html) under the heading General Purpose Financial Statements.

The Audit Committee is pleased to be able to report that the Town has retained its Aaa Bond Rating from Moody's agency. This rating allows the Town to bond large projects at favorable rates and to keep our annual costs for debt service as low as possible.

Report of the Noise Bylaw Committee to Town Meeting  
Spring 2007

The Noise Bylaw Review Committee has been meeting since September 2006. The Committee intends to offer a completely revised and updated Noise Bylaw to Town Meeting either in the Fall of 2007 or the Spring of 2008. It has had a public hearing on the subject of noise related to leaf blowers. The Committee also met with an acoustical engineer and the Town's Building Commissioner to learn more about how noise issues can be resolved. The Committee has had extensive discussion about how a revised noise bylaw could be more effectively be enforced and as a result of that discussion, it reviewed the specifications for noise meters and has chosen a new noise meter that it intends to recommend to the Town for the use of the Building, Police, and Health Departments.

The Committee has already drafted an information sheet for people to use to address noise problems. It will hold a future public meeting on the subject of noise related to musical instruments. The Committee intends to offer greater regulation of leaf blowers in the revised bylaw, as well as to address other noise-related issues, such as noise in open spaces, construction noise, and noise from ventilation and cooling systems.

The Committee is chaired by Selectman Nancy Daly and Advisory Committee Fred Lebow.

## Final Report of the Moderator's Committee On Voting Technology for Town Meeting

The Moderator's Committee on Voting Technology for Town Meeting was established under Article Twenty in the Warrant for the November 15, 2005 Special Town Meeting. The vote, passed by a majority of Town Meeting Members, read as follows:

*Voted: That Town Meeting authorize the Moderator to appoint a committee to investigate and report to the 2006 Fall Town Meeting the available options for forms of voting that record and/or display the votes of each Town Meeting member on matters at town meeting, without the necessity of a so-called "roll call" vote.*

The committee met a number of times since its inception in the late fall of 2005. It reviewed the long history of examination of, and experimentation with, different methods of recording individual Town Meeting member votes, including the introduction of the roll call vote in 1970, the various changes in the number of Town Meeting members required to request such a vote, the 1985 Moderator's Committee on Roll Call Votes and their recommended experiment with colored cards, and the 2001-2002 Moderator's Committee on Alternative Voting Methods.

In all of these examinations, four issues were commonly seen as the Measures of Effectiveness of any proposed scheme:

1. **Time:** The time required to take a vote that provides a lasting record of how each Town Meeting Member present voted on a given warrant article or amendment
2. **Security and Assurance:** The degree to which each Town Meeting Member's recorded vote resulted from the action of that particular member on the floor – i.e., no proxy voting by another member for someone who has left
3. **Cost:** The cost of implementing the proposed scheme, both in terms of initial start up and the recurring cost at each Town Meeting
4. **Other:** Any other issue of significance, particularly procedural complications at Town Meeting related to signing in and out, taking the vote or displaying the results so that each member can be sure that his/her vote was recorded correctly.

We believe that these measures are indeed the correct ones for proper evaluation and will thus use them below to lay out the facts and evaluate, on a relative basis, the various options currently available to Town Meeting. We do not believe, however, that our committee would provide any added value in making a recommendation on whether or not Town Meeting should adopt one or another of the schemes below. That judgment is best left up to each Town Meeting Member after being informed with all of the facts. With that in mind, we endeavor below to lay out the facts surrounding three alternative voting schemes – the current method of roll call, the color cards and current generation wireless electronic voting. Note that we do not include the oft-used method of a standing vote, because the focus of our investigation was voting methods that provided a permanent record of how the Members voted.

**1. Standing Roll Call:** This is the current scheme used by the Moderator today to record the individual votes of each Town Meeting Member. Upon the request of 50 or more Town Meeting Members the Moderator reads the names of each Member, who then answers "Yes," "No" or "Present" (equivalent to an abstention). As the members respond, the Town Clerk records the votes against a printed list of the names and the votes are so recorded for posterity. The time required to take such a vote is typically in the order of 20 - 25 minutes or so. There is essentially no cost associated with this method nor is the procedure complicated in any regard. Since each member verbalizes his/her response in the vicinity of other Members, it would be difficult for anyone to proxy vote and the chances of "getting caught" would be high. The only chance for error would be a mistake in recording the vote, and since both the Moderator and the Town Clerk record votes separately, the chance for error is exceedingly small. To our knowledge there has never been any case of either proxy voting or a recording error.

**2. Colored cards:** The color coded card system was first suggested by the League of Women Voters in 1984 and was tried on one vote at a Special Town Meeting in January 1985. In that experiment, the procedure for the color coded card system was as follows:

- A quantity of red, green and white cards with individual Town Members' Names were pre-printed prior to Town Meeting.
- As each Member entered the auditorium and signed in at the teller's station, he/she was given some of each kind of card containing that Member's name.
- The vote to be recorded was taken as a "standing vote." All members who were voting in the affirmative stood in response to a request by the Moderator. The tellers would both count the vote and collect the green (yes) cards. Those members would sit down, those voting against would stand and the same procedure was followed using the red (nea) cards. Lastly, anyone wishing to be recorded as "present" would stand and hand in the white cards.
- The next day the names of the members and their votes as signified by the cards that they had handed to the tellers would be recorded into the record.

The time required to take this type of vote was between 10 and 15 minutes, not including the time to transcribe the votes the following day. No startup cost was required and the recurring cost was minimal – essentially being the cost of printing up the cards and the time required to transcribe the names the following day (no records were kept of that time, but we guess that it must have taken something in the order of two hours or so). The potential for proxy voting is somewhat higher than in the roll call vote above, but still the visual observation of a Member handing in two cards or a non-member handing in a card is possible either by fellow Members and/or the tellers and should be a reasonable deterrent to such mischievous action. One other potential disadvantage noted in the 2002 report was the possibility of a Member standing one way for observation by his/her colleagues and handing in a card to record a different vote. The 2002 Moderator's Committee recommended that this method be tried for all

votes taken at the 2003 Annual Town Meeting but that recommendation was never acted upon.

**Electronic Voting:** Electronic response polling is becoming more and more widely used in advertising, business, training seminars, conferences and some legislative bodies. The 2002 Moderator's Committee examined various electronic voting methods, including hard wired radio frequency (RF), wireless RF, infrared (IR) and passive RF Identification (RFID) tags. They also examined alternative acquisition methods for the wireless RF devices, including the purchase (\$68,600) and rental (\$6190 per day). As in all consumer electronics, these prices have reduced significantly over the last few years, and in particular, the purchase price is now less than 30% of what it was in 2002.

If the Town was going to use electronic voting, the clear way to go today would be the purchase of roughly 300 wireless RF handheld devices, a base station to collect the handheld responses and a software license for the software used in the base station to functionally make the entire system work. The handheld devices themselves would contain 3 buttons – one for responding with a “yes,” one for a “no” and one for “present.” They typically work over a minimum linear range of 100 meters or so, more than adequate to cover the high school auditorium. The responses from the entire body are collected automatically by the base unit and are identified and recorded in less than one second. The file the system produces is designed to interface with standard Microsoft Office products, enabling almost instant tallying in either a Word document or an Excel spread sheet. Either of these would allow pre-tailoring the format and display of the results of a vote to whatever appeared to be the most useful and appropriate method. Multiple methods could also be employed, such as one method for presentation of the results at Town Meeting and another format for permanent archiving. The flexibility is that which derives from Office and is independent of the wireless system itself. Our committee contacted a few of the vendors that sell such devices today and four of our members participated in a web-based interactive demonstration provided by one of the vendors. The demonstration verified the various features that had been described in the brochures that we had received, including the timelines and the interfacing with Microsoft Office products. Acquisition cost for the entire system (not including a PC to host Office and a projector to display the results, both of which are available at the High School) would be competitively bid out, but should be under \$20,000.

Given the apparent functionality of the system, the availability from various vendors and the current pricing, the committee's attention focused on the issue of security and the potential for fraudulent voting. A significant amount of attention was devoted to the various methods and procedures that could be used to employ the system at Town Meeting. After much discussion, particularly around the issue of how the hand-held devices would be provided to Town Meeting Members, a “strawman” process was identified that addressed to the extent possible the security issues surrounding the use of electronic voting while avoiding an overly cumbersome procedure. A draft method is described below:

## Moderator's Committee Report on Town Meeting Voting Technology

- When taking the oath of office, a Town Meeting Member pledges that the only votes that will be cast in that member's name will be those that are personally entered by the individual.
- After taking the oath, the member is given a hand held unit for the duration of that member's term of office. The device's ID number (there is a unique one for each device) is assigned to that member's name.
- When a recorded vote is to be taken at Town Meeting (the committee did not get into the issue of whether or not all votes would be recorded or how many Town Meeting Members it would take to request such a vote – we felt that that would be better left to the discretion of the Moderator):
  - A message would flash up on the screen in the front of the auditorium, reminding Members of the oath they pledged upon taking office
  - Those voting in favor would be asked to stand (as in a standing vote today) and would have ten seconds to press the "yes" button on their handheld. During those ten seconds, the vote could be cancelled if desired. At the end of the ten seconds the unit would freeze out.
  - The "yes" voters would sit down and the "no's" would stand and the same procedure would be used for the "no" votes.
  - Lastly, any "present" votes would be taken and recorded.
  - Upon the completion of the vote the names and responses are scrolled across the screen in groups of ten for approximately five seconds a group.
  - At the end of the scrolling, the totals are presented and the moderator asks if any member wishes to challenge the results. A challenge may result for two reasons:
    - His/her vote is in error. In this case, it would be automatically changed.
    - The challenger does not believe that a particular Member was present, even though his/her vote was recorded. In that case, the challenged person rises to affirm his/her presence or the vote is nullified.
  - After the challenge is resolved, if there are any changes, the new totals are presented on the screen.
- The entire process outlined above should take about 3 minutes, exclusive of any challenges, which would likely be rare.
- At the end of a Member's term the units would be returned to the Town. Any member who was not reelected or did not choose to run for office again and failed to return the unit within a reasonable amount of time would be charged for it. Damaged or first time lost units by a serving Member would be replaced free of charge.

The process outlined above is presented simply as an example of one that attempts to balance the complication of the process with reasonable safeguards against voting abuse. In the end, however, it would be the Moderator who would decide what process would be used. Regardless of what procedure ends up being used, should Town

## Moderator's Committee Report on Town Meeting Voting Technology

Meeting decide it wants to employ electronic voting (or the even the card system), the issue of fraudulent voting ultimately rests on two things:

1. The inherent honesty and integrity of elected Town Meeting Members.
2. The probability (and corollary risk of embarrassment) that a person who has left the hall and gives his/her proxy vote to another person will be noticed by another Member.

As mentioned above, the one time cost for such a system is expected to be slightly under \$20,000. The recurring cost would be that of an IT clerk at each Town Meeting session and the occasional purchase of replacement units. If we assume the loss or damage of 5% of the units per year, this would require a restocking of about 50 or so units in five years for an estimated cost of about \$1500 or so. Overall lifetime of the entire system could be expected to be similar to that of most consumer electronics – somewhere between 10 and 15 years.

### Summary

The three methods are summarized in the table below:

	Time	Security	Acquisition Cost	Recurring Cost
Roll Call	20 - 25 minutes	Extremely high	none	none
Card System	10 - 15 minutes	Moderately high	none	Two person hours per vote
Electronic	3 – 4 minutes	Moderately high	\$20,000	Four person hours per session

The questions that remain are ones that each Town Meeting Member must answer for him/her self:

- To what extent does Town Meeting want, and should the public expect, the votes of each member, particularly on highly contested issues, to be part of the public record?
- What are the tradeoffs between the time it takes for such a vote to be taken; the dampening of the body's willingness to take such votes as a function of the time required to take them and the slightly higher potential for "mischievous" proxy voting associated with the two non-roll call methods?
- Is the use of today's electronic technology for automated recorded voting and the reduction of time inherent with such a system worth the acquisition cost of \$20,000 and a few hundred dollars per year for replacement of devices?

We hope that our investigation and the facts that we offer above help inform whatever decision Town Meeting decides to take on this matter and with that consideration in mind, we herewith submit our report.

Respectfully,

Gilbert Hoy  
Stanley L. Spiegel  
Alexandra "Sandy" Spingarn  
Robert M Stein  
Patrick J. Ward

# **ZONING BY-LAW COMMITTEE REPORT TO TOWN MEETING ON ZONING AMENDMENTS REFERRED BACK BY FALL 2006 TOWN MEETING**

There were five zoning amendment warrant articles (Arts. 4, 5, 8, 9 & 11) referred back to the Zoning By-Law Committee by Fall 2006 Town Meeting for further evaluation and report to Spring 2007 Town Meeting.

The Zoning Bylaw Committee, which was reconstituted by the Board of Selectmen in January, 2007, includes the following members: Selectmen Bob Allen and Planning Board Chair Ken Goldstein, co-chairs, Tony Andreadis; Carla Benka; Paula Friedman; Diane Gordon; Phil Hresko; Jerry Kampler; Ponnie Katz; Sean Lynn-Jones; Merelice (alternate); Bill Powell; Paul Saner; Peg Senturia; Roberta Schnoor; Enid Starr (alternate), Myra Trachtenberg and Jonathan Wadleigh.

The Committee met four times since January to discuss the referred articles and other potential zoning amendments suggested either by Committee members, the Planning and Community Development Department, or the Coolidge Corner District Planning Council.

The following are the Zoning By-Law Committee recommendations on the Fall 2007 referred articles and other suggested potential zoning amendments.

**Art. 4 - Map Zoning Change and Section 4.07 Table of Use Regulations** (Planning and Community Development) Create a new three family residential zoning district, F-0.75, and change properties in three areas of Coolidge Corner from an M zone to F-0.75 and five additional properties to a T-5 zone.

The Department of Planning and Community Development has submitted a revised version of Article 4, which is on the Spring 2007 Warrant as Article 11. In response to many issues raised by citizens last fall, the Planning and Community Development Department, in consultation with the Zoning Bylaw Committee, made several revisions to the proposed new F, or Three-Family District. The Fall 2006 version had proposed a maximum Floor Area Ratio (FAR) of 0.75, and this has now been changed to a maximum FAR of 1.0, matching more closely the FAR of many existing buildings in the rezoned areas and the same FAR as the current M-1.0 zoning. The height maximum for single and two family dwellings in the F zone has also been changed to 35 feet from 40 feet to be the same as the current height maximum in single and two family districts. Lastly, the minimum lot width and side yard setback requirements have been changed to reflect those in the T and M districts.

The Zoning By-Law Committee believes this zoning amendment should be adopted in order to help preserve the large Victorian and/or historic homes in these areas and prevent them from being replaced with new, large multi-family buildings out-of-character with the surrounding neighborhood. A few of the buildings in these three areas will be made non-conforming as to use or dimensional requirements;

however, this issue has been addressed in Article 10, Rebuilding After a Catastrophe, which states that in the event of an accidental fire or explosion to a structure, rebuilding would be allowed, as long as the non-conformity is not increased. Any existing, non-conforming structures or uses are also protected by “grandfathering”, which allows non-conformities to remain until there is a change of use or structure.

In the future, if further research finds it appropriate that additional properties should be rezoned to the new Three Family classification, it can be proposed at a later time.

The Zoning By-Law also discussed the Planning Board’s recommendation to eliminate 1-10 Auburn Court from the proposed F or three family zoning district but decided to leave it in the new district. The Committee felt that the property would not be negatively impacted by the zoning change, since the non-conforming use is grandfathered.

Therefore, the Zoning By-Law committee recommends FAVORABLE ACTION on Article 11 as proposed.

**Art. 5 Section 5.43, Exceptions to Yard and Setback Regulations** (Planning and Community Development)

*No longer provides a special permit in an S, SC, T, M and F district if a required front yard setback is proposed to be below 15 or a side yard setback below 7.5’. The current By-Law allows a special permit for front, side and rear yard setbacks if certain criteria are met except in an M district where it was not allowed for a front yard setback less than 15’.*

The Zoning By-Law Committee was concerned that this amendment would make it difficult, if not impossible, for zoning relief to be granted for additions on many small or non-conforming lots in Brookline. They felt that a case-by-case review by the Board of Appeals would be preferable and provide the flexibility to grant special permit relief if impacts from a yard setback deficiency were minimal or a smaller front yard setback provided a consistent streetscape line with other buildings on the block. Additionally, several committee members were concerned that homeowners across the town were unaware of this amendment being proposed or the consequences to them if it were to pass, since so many of the structures are non-conforming. Many homeowners would be limited in making any changes to their dwellings without first going through the Board of Appeals process. The Coolidge Corner District Planning Council is still interested in exploring revisions to Section 5.43 and various alternative approaches.

Therefore, the Zoning By-Law Committee recommends that Article 5 from the Fall 2006 Town Meeting warrant not be brought back to Town Meeting at this time.

**Art. 8 Sec. 6.01, General Regulations Applying to Required Off-Street Parking Facilities** (Citizen Petition by Myra Trachtenberg)

*Add language to Paragraph 4 of Sec. 6.01 stating that for retail developments of 8,000 s.f. or above that are located in a zoning district with an FAR of 1.5 or above, at least 80% of parking spaces for a use be for customers or clients of the use.*

A member of the Zoning By-Law Committee was the Citizen Petitioner of Article 8, which was submitted to Fall 2006 Town Meeting. It had been submitted in reaction to a prior Board of Appeals decision for a case in which a retail/commercial addition was proposed for a site where there was already not enough customer parking for a grocery store. After much discussion, including evaluating possible revisions to this zoning amendment, a majority of the Zoning By-Law Committee was not supportive of having this article resubmitted. The Committee felt that more analysis was needed before the correct proportion of employee to customer parking could be determined and noted that providing adequate customer and employee parking were both important if surrounding residential areas were not to be negatively impacted. Additionally, they felt that for most commercial spaces the uses at a building change every few years and it would be impossible to require different proportions of parking and monitor the parking. Rather, in most cases, there would be an economic incentive for the owners of a space to provide adequate parking for the users of the site.

Therefore, the Zoning By-Law Committee recommends that Article 8 not be brought back to Town Meeting.

**Art. 9 Art. V, Table of Dimensional Requirements, Yard Setbacks** (Citizen Petition by Edward Richmond)

*Revise front, side and rear yard setback requirements for S and T zoning districts to: 25', 30' and 40' for new construction, not built on prior footprint.*

Since this article has several technical problems, including requiring less stringent setbacks for S and T zoning districts than currently exist, the Committee is not supportive of this zoning article. According to the petitioner, his intent was to prevent smaller homes from being demolished and replaced with larger ones, which are out-of-scale with the surrounding neighborhood. This article, however, does not adequately address the issue of controlling the size of new homes, and the Committee felt that this would be better accomplished either by revising allowed Floor Area Ratios (FARs); controlling bulk and massing using a method other than FAR, such as form-based zoning; or requiring Planning Board design review for new homes above a certain size.

Therefore, the Zoning By-Law Committee recommends that Article 9 not be brought back to Town Meeting.

**Art. 11 Map Zoning Change to River Road Area** (Citizen Petition by Isabella Callanan)  
***Rezone Block 135 (Washington St. Brookline Ave. River Rd.) from I-1.0 (Industrial) to G-1.0 (General Business). The allowed FAR of 1 would remain the same.***

The Petitioner has agreed not to resubmit this warrant article and has stated that she is in favor of using a different approach, which is having the Town work with the business owners in the River Road area to improve the appearance of their properties. The Zoning By-Law Committee had suggested last fall that the proposed zoning change would not accomplish the goal the petitioner wanted to achieve and further that it would be harmful and unfair to the businesses relocated to this area by the Town when urban renewal required demolition of their business, originally located across the street from where they are now. The Committee, however, strongly supports requesting that the owners, as good neighbors, work together with the Planning and Community

Development Department to improve the appearance and regular maintenance of their properties to the benefit of the Town.

Therefore, the Zoning By-Law Committee recommends that Article 11 not be brought back to Town Meeting.

### **Future Work of Zoning By-Law Committee**

The Zoning By-Law Committee has determined that there are two potential zoning issues which have top priority for further work by the Committee. They are: 1) evaluating form-based zoning, and 2) revising the public benefit incentive section of the Zoning By-Law - Sec. 5.21, Exception to Maximum Floor/Area Ratio Regulations (Public Benefit Incentives). Other zoning issues will also be evaluated as they are raised.

During the Coolidge Corner District Planning Council meetings, the idea of implementing form-based zoning in Coolidge Corner was proposed by the Planning and Community Development Department. Written information and drawings of typical building forms found in Coolidge Council were provided to the Council. This information was also shared with the Planning Board and the Zoning By-Law Committee. The Zoning By-Law Committee felt that since this type of overlay zoning is new to Brookline that before it was further refined or proposed as a warrant article, Brookline citizens should be given a chance to learn about it and offer comments, especially those property owners who would be affected by it. To this end, the Committee decided it would hold a public meeting on this topic after Spring Town Meeting is finished.

The public benefit incentive section of the Zoning By-Law - Sec. 5.21, Exception to Maximum Floor/Area Ratio Regulations (Public Benefit Incentives) is outdated and poorly written. Applying to developments that meet certain criteria and provide public benefits to the Town, it allows a developer to build more floor area in a development. Since this section was written, the Town adopted inclusionary affordable housing which requires a certain number of affordable housing units, or cash payments, to be provided where a residential development has six or more units. Yet, a bonus is given for providing these required units. Also needing reconsideration is whether a bonus should be given for large apartments as is currently allowed. The Zoning By-Law Committee will evaluate what items should be considered the most important benefits to the Town, such as affordable housing, public open space, streetscape improvements, public parking, environmental initiatives, preservation of historic structures, and support of community facilities and services.