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 ARTICLE DESCRIPTION

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 5-0 taken on March 24, 2009, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
As directed by Town Meeting in 2000, the first Warrant Article of the Annual (Spring) Town Meeting is a consideration of a proposal to appoint Measurers of Wood and Bark. This tradition harkens back to Brookline's colonial beginnings.

Some members of the Advisory Committee stated that this Article is an anachronism that has no place on a modern-day warrant and distracts Town Meeting's time and attention away from other, more pressing concerns.

In support of this proposal, however, the Advisory Committee did learn of an instance within recent memory where a Town resident, unhappy over the size of a delivered cord of firewood, called upon the services of a Measurer of Wood and Bark to address the dispute. No record was available as to the matter's resolution.

The positions do not draw a salary, stipend, or health-care or other benefits, and the Town would incur no other current financial cost or other future post-employment benefit (OPEB) liability in carrying-out this Article.

RECOMMENDATION:
By a vote of 18 in favor and none opposed, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town establish that the number of Measurers of Wood and Bark be two, 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 ARTICLE DESCRIPTION

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 recommends NO ACTION, by a vote of 4-0 taken on April 28, 2009, on Article 2.

ROLL CALL VOTE

No Action
Daly
DeWitt
Mermell
Benka

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

Town Meeting's approval is required to approve any pending, proposed collective bargaining agreements involving the Town.

DISCUSSION:

As of the date of the mailing of the Combined Reports of the Board of Selectmen and the Advisory Committee, there were no such pending, proposed agreements or requested appropriations brought before consideration of the Advisory Committee.

RECOMMENDATION:

By a vote of 18 in favor and none opposed, the Advisory Committee recommends NO ACTION on Warrant Article 2.

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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 FY2010 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

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 FY2010 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 5--0 taken on March 24, 2009, 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 FY2010 in accordance with General Laws Chapter 44, Section 53F.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Under a 1986 state law, a town's treasurer may not enter into a compensating balance agreement without an annual authorization from his or her respective town meeting. Under a compensating balance agreement, the Town would receive no-fee banking services in exchange for agreeing to maintain a specified level of deposits and foregoing interest.

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. Due to extraordinarily low interest rates the Town has been receiving fairly miniscule amounts of interest from its cash balances. Historically, interest income had generally been sufficient to cover the majority of the Town's banking fees; however, the current low interest rate trend has made it such that this is no longer the case – with the result that the Town has been seeing an increasing level of bank service charges. However, the increase in required compensating balances due to the same low interest rates is too large to consider as an alternative.

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:
By a vote of 19 in favor and none opposed, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

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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.

PETITIONER'S ARTICLE DESCRIPTION

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.

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. As part of the funding package for the FY10 Capital Improvement Program (CIP), Article 8 includes the re-appropriation of some existing accounts.

The Selectmen recommend NO ACTION, by a vote of 5-0 taken on March 24, 2009, on the article.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

The Town's By-Laws require that the Annual Town Meeting Warrant "*include an Article providing the opportunity to terminate and close out accounts for special appropriations of prior years that were authorized at a Town Meeting beginning 22 or more months before the start of … (that Annual) Town Meeting*." (§2.1.4 (third paragraph) of the General By-Laws of the Town Of Brookline.)

DISCUSSION:

The Town Treasurer presented to the Advisory Committee a list of notational accounts and the status of special appropriations. A copy of the spreadsheet is attached for the benefit of Town Meeting.

The Advisory Committee has not received any requests for rescissions on any bond authorization; such requests for rescission, if made, would require Town Meeting's approval.

RECOMMENDATION:
Reflecting the fact that no action by Town Meeting is required, the Advisory Committee, by a vote of 19 in favor and none opposed, recommends NO ACTION on Warrant Article 4.

XXX

Available Budget Report - Capital Funds (Bond funded) for Fiscal Year 2009 as of 4/30/09

Dept	Fund	Project	Revised Budget	YTD Expended	YTD Encumbered	Available	Status
Building	C097	HIGH SCHOOL IMPROVEMENTS	4,552	980	3,573	0	Encumbrances complete project
Building	C132	SCHOOL LIFE SAFETY SYSTEM	13,249	13,249	0	0	Complete
Building	C134	OLD LINCOLN ELEVATOR & REPAIR	3,855	3,855	0	0	Complete
Building	C141	DRISCOLL SCHOOL HVAC EQUIPMENT	326,488	159,953	77,512	89,023	On-going project
Building	C142	PUTTERHAM MEADOWS GOLF/CLUBHSE	1,491,876	43,813	0	1,448,063	Future work on hold
Building	C143	LAWRENCE SCHOOL AND LONGWOOD PARK	252,175	252,175	0	0	Complete
Building	C146	DRISCOLL SCHOOL IMPROVEMENTS	2,729	0	2,729	0	Encumbrances complete project
Building	C147	NEWTON STREET LANDFILL (TRANSFER STA)	2,375	2,251	124	0	Encumbrances complete project
Building	C149	DRISCOLL SCHOOL IMPROVEMENTS	6,092	5,749	343	0	Encumbrances complete project
Building	C154	TOWN HALL RENOVATIONS - DESIGN	97,372	92,545	4,827	0	Encumbrances complete project
Building	C156	EVELYN KIRRANE AQUATICS CTR	6,113	0	4,613	1,500	Any unexpended balance to be closed out 6/30/09
Building	C157	NEWTON STREET LANDFILL (TRANSFER STA)	329,657	257,254	51,471	20,932	On-going work at Transfer Station
Building	C161	TOWN HALL RENOVATIONS - CONSTR	3,684,088	3,684,088	0	0	Complete
Building	C162	BHS RENOVATIONS	2,600,000	2,040,141	303,141	256,718	On-going projects
		BUILDING CAPITAL	**8,820,620**	**6,556,053**	**448,333**	**1,816,236**	
DPW	C144	WASTEWATER SYSTEM IMPROVEMENTS	692,577	257,479	435,098	0	To be completed in FY09
DPW	C147	NEWTON STREET LANDFILL	386,244	73,714	0	312,530	To be used for corrective action
DPW	C148	BEACON STREET RECONSTRUCTION	204,319	57,626	146,693	0	Encumbrances complete project
DPW	C150	MUDDY RIVER RESTORATION	745,000	0	0	745,000	Design & construction documents in process
DPW	C152	STORM DRAIN IMPROVEMENTS	173,731	32,487	24,000	117,244	To be completed in FY09
DPW	C153	WATER METER REPLACEMENT	26,975	15,765	9,044	2,166	To be completed in FY09
DPW	C157	NEWTON ST LANDFILL	924,300	378,538	42,825	502,937	To be used for corrective action
DPW	C158	WASTEWATER SYSTEM IMPROVEMENTS	5,500,000	275,124	90,458	5,134,418	On-going Project
DPW	C159	SINGLETREE RD WATER TANK	228,810	228,810	0	0	Complete
DPW	C160	FISHER HILL RESERVOIR	1,350,000	0	0	1,350,000	Appraisal process underway with DCAM
		DPW CAPITAL	**10,231,955**	**1,319,543**	**748,118**	**8,164,295**	
REPORT TOTAL			**19,052,575**	**7,875,596**	**1,196,451**	**9,980,531**	

Available Budget Report - Special Warrant Articles (Revenue-Financed) for Fiscal Year 2009 as of 4/30/09

Dept	Acct	Name	Revised Budget	YTD Expended	YTD Encumbered	Available	Status
Finance	6A0005	DATA PROCESSING EQUIPMENT	122,081	40,942	67,483	13,656	On-going implementation of MUNIS (financial system)
Finance	6A0013	FURN,FIXTURES,EQUIPMENT	9,339	622	3,960	4,756	On-going furniture upgrades
Finance	6A0019	SCHOOL FURNITURE UPGRADES	25,000	25,000	0	0	Complete
Planning	6E0022	STREETSCAPE/CIVIC SPACE	169,726	31,915	136,401	1,411	Construction is under way. Completion expected this year.
Planning	6T0034	GATEWAY EAST PROJECT	57,263	11,996	45,267	0	Design work is on-going. Expected completion in Spring 2010.
Info Tech	6A0005	DATA PROCESSING EQUIPMENT	53,207	48,981	0	4,226	On-going projects
Info Tech	6A0022	TECHNOLOGY APPLICATIONS	275,000	232,503	1,668	40,829	On-going projects
Police	6E0042	BULLET PROOF VESTS	90,000	0	46,377	43,623	Encumbrance for FY09 expenditure need. Balance for FY10 + FY11.
Fire	6B0028	FIRE STATION STUDY	50,000	0	0	50,000	Committee of seven in process
Fire	6E0023	FIRE TRAINING MODULE & EQUIPMENT	46,000	0	0	46,000	Being re-appropriated as part of Proposed CIP
Fire	6E0032	REPLACE FIRE TURN-OUT GEAR	32,872	32,872	0	0	Complete
Fire	6E0044	FIRE APPARATUS REFURBISHING	288,224	288,224	0	0	Complete
Fire	6E0057	FIRE STATION FURNITURE	35,000	0	34,164	836	Furniture ordered
Building	6A0023	FIRE STATION DIESEL EXHAUST SYSTEM	2,875	0	2,875	0	Last year of project
Building	6B0004	FIRE STATION #5 WINDOWS	166,867	26,513	126,794	13,560	In progress
Building	6B0005	TOWN/SCHOOL BLDG SECURITY/LIFE SAFETY	168,557	147,811	9,732	11,014	On-going projects
Building	6B0006	PUTTERHAM LIBRARY FLOOR REPLACEMENT	25,000	0	0	25,000	To be done in summer 2009
Building	6B0007	PUTTERHAM LIBRARY HVAC UPGRADE	305,900	12,065	13,425	280,410	To be done in summer 2009
Building	6B0008	MUNICIPAL POOL REHAB	19,581	0	19,581	0	Encumbrances complete project
Building	6B0011	TAPPAN ST GYM - DESIGN	35,284	0	0	35,284	Being re-appropriated as part of Proposed CIP
Building	6B0013	WALDSTEIN BUILDING RENOVATIONS	12,000	0	0	12,000	Being re-appropriated as part of Proposed CIP
Building	6B0018	SCHOOL FACILITIES MASTER PLAN	100,000	97,548	0	2,452	Complete. Balance to be closed out by 6/30/09.
Building	6B0019	MAINT CRAFTSMEN GARAGE/PARKS FAC FEAS STUDY	40,000	0	0	40,000	Study to commence shortly
Building	6B0020	TRAIN MEMORIAL PUBLIC HEALTH BLDG	17,157	15,356	1,801	0	Encumbrances complete project
Building	6B0023	SOULE RECREATION CTR REHABILITATION	172,318	144,528	24,817	2,973	In progress
Building	6B0024	RESERVOIR GATEHOUSE	10,000	2,000	8,000	0	Consultant hired by Preservation Commission
Building	6B0061	ASBESTOS REMOVAL	81,770	80,257	1,500	13	On-going projects
Building	6B0065	MAIN LIBRARY RENOVATIONS	110,000	0	0	110,000	To commence Summer '09
Building	6B0079	TOWN HALL/MAIN LIBRARY GARAGE	75,000	29,880	33,920	11,200	Study underway
Building	6B0080	PUTTERHAM LIBRARY REPAIRS/RENOVATION	395,000	704	0	394,296	To commence Summer '09
Building	6B0086	PIERCE SCHOOL WINDOWS/VENTILATION	83,127	44,211	2215	36,701	On-going projects
Building	6B0088	PUTTERHAM LIBRARY FIRE ALARM	42,800	0	0	42,800	To commence Summer '09
Building	6B0091	PIERCE SCHOOL IMPROVEMENTS	141,534	138,054	1,063	2,416	On-going projects
Building	6B0092	SCHOOL BUILDINGS LIFE SAFETY	62,366	58,625	0	3,741	Complete
Building	6B0097	BHS REPAIRS	125,206	44,880	900	79,426	Being re-appropriated as part of Proposed CIP
Building	6B0102	FIRE TRAINING BUILDING IMPROVEMENTS	9,676	9,676	0	0	Complete
Building	6B0105	TOWN/SCHOOL FACILITY ROOF REPAIR - STUDY	90,395	9,450	0	80,945	Being re-appropriated as part of Proposed CIP
Building	6B0106	STUDIES FOR RUNKLE/DEVOTION SCHOOL	100,000	0	0	100,000	For Devotion school project
Building	6B0107	TOWN HALL RENOVATIONS	2,290,459	996,906	418,409	875,144	$500,000 being re-appropriated as part of Proposed CIP
Building	6B0108	RUNKLE SCHOOL FEASIBILITY STUDIES	600,000	4,340	484,000	111,660	Feasibility / schematic design underway
Building	6C0010	HANDICAPPED IMPROVEMENTS-ADA	64,685	51,487	2,431	10,767	On-going projects
Building	6C0026	DRISCOLL SCHOOL	4,176	4,176	0	0	Complete
Building	6E0014	ENERGY CONSERVATION	165,017	165,017	0	0	Complete
Building	6E0052	ENERGY MANAGEMENT SYSTEM	4,263	4,263	0	0	Complete
Building	6E0068	PORTABLE CLASSROOMS	386,601	2,620	1,257	382,724	Subject to School Dept needs
Schools	6E0070	BHS LANGUAGE LAB	150,000	149,877	0	123	Any unexpended balance to be closed out by 6/30/09
DPW	6B0074	TRANSFER STATION REHAB	4,516	3,520	300	696	Complete. To be closed out by 6/30/09.
DPW	6C0007	PARK IMPROVEMENTS (WINTHROP SQ/MINOT ROSE)	39,408	0	1,408	38,000	Design & construction documents in process
DPW	6C0011	TREE REMOVAL & REPLACEMENT	171,888	102,265	36,986	32,637	Spring 2009 tree planting & removal
DPW	6E0040	BACKFLOW PREVENTOR VALVES	19,827	16,441	0	3,386	Any unexpended balance to be closed out by 6/30/09
DPW	6E0069	SIDEWALK SNOW CLEARING EQUIPMENT	120,000	119,395	0	605	Complete. To be closed out by 6/30/09.

Dept	Acct	Name	Revised Budget	YTD Expended	YTD Encumbered	Available	Status
DPW	6H0003	PAVEMENT OF FIRE TRAINING AREA	30,000	0	0	30,000	Approved scope of work to be completed this summer
DPW	6H0020	STREET LIGHTING REPLACEMENT	214,190	65,683	10,905	137,602	On-going projects
DPW	6H0021	CARLETON STREET FOOTBRIDGE	90,000	0	0	90,000	TEP filed. Waiting for additional information.
DPW	6H0022	SIDEWALK IMPROVEMENTS	393,209	132,565	207,745	52,899	On-going projects
DPW	6H0025	CHESTNUT ST DRAIN/WILLOW POND	52,165	2,400	3,130	46,635	Waiting for Muddy River project to remove sediments
DPW	6H0026	STREET REHABILITATION	3,016,300	1,186,913	1,126,911	702,476	On-going projects
DPW	6H0028	COOLIDGE CORNER LIB DRIVEWAY	40,000	0	0	40,000	Design 70% complete. Finalized this spring.
DPW	6L0001	NEWTON ST LANDFILL SITE - CORRECTIVE ACTION	3,017,033	42,024	9	2,975,000	Phase 1 bids received. Phase 2 to start in Fall.
DPW	6P0003	AMORY FIELD IMPROVEMENTS	3,381	2,530	851	0	Complete
DPW	6P0005	DANE PARK	224,259	348	156,461	67,449	Contract Awarded. Construction to commence.
DPW	6P0006	LAWTON PLAYGROUND	22,723	7,499	833	14,391	Finalizing punchlist
DPW	6P0007	LONGWOOD MALL	4,471	0	2,521	1,950	Any unexpended balance to be closed out by 6/30/09
DPW	6P0015	RIVERWAY PARK IMPROVEMENT	86,369	0	0	86,369	To commence after the start of the Muddy River Project
DPW	6P0018	PLAYGROUND EQUIPMENT,FIELDS,FENCING	511,075	161,727	295,860	53,488	On-going projects
DPW	6P0021	PATHWAY RECONSTRUCTION	170,393	62,377	1,920	106,096	Kent St. lot stairs to be repaired this summer
DPW	6P0022	OLMSTED PARK IMPROVEMENTS	38,268	0	0	38,268	In progress
DPW	6P0028	TENNIS/BASKETBALL COURT REHAB	5,992	1,988	0	4,004	On-going projects
DPW	6P0031	LARZ ANDERSON PARK	184,959	179,632	5,328	0	In progress
DPW	6P0034	LOST POND CONSERVATION AREA	48,997	0	0	48,997	In progress
DPW	6P0040	WALNUT HILLS CEMETERY IMPROVEMENTS	115,000	0	0	115,000	Design work in process
DPW	6P0044	TOWN/SCHOOL GROUNDS REHAB	208,369	77,330	72,602	58,437	On-going projects
DPW	6P0045	HEMLOCK TREE ASSESS/REMOVAL	27,549	7,053	4,875	15,621	In progress
DPW	6P0047	MUDDY RIVER REMEDIATION	1,395,331	0	0	1,395,331	Design & construction documents in process
DPW	6P0048	TREE & SHRUB MANAGEMENT	11,875	5,000	0	6,875	In progress
DPW	6P0049	PARK LAND/OPEN SPACE MASTER PLAN	13,371	13,371	0	0	Complete
DPW	6P0050	AMORY PARK ENVIRONMENTAL STUDY	27,385	10,139	0	17,246	Being re-appropriated as part of Proposed CIP
DPW	6P0052	AMORY PLAYGROUND IMPROVEMENTS	349,019	298,222	50,797	0	Completing the contractor punchlist
DPW	6P0053	FIELD IMPROVEMENTS-DOWNES & LANDFILL	1,794	0	100	1,694	In progress
DPW	6P0054	PARK LIGHTING UPGRADE	98,451	2,380	0	96,071	In progress
DPW	6P0057	WINTHROP SQ/MINOT ROSE GARDEN	400,000	0	0	400,000	Design & construction documents in process
DPW	6T0014	TRAFFIC CALMING	273,905	208,444	51,911	13,551	On-going projects
DPW	6T0019	NEWTON ST/W ROXBURY PKWY TRAFFIC SIGNAL	147,900	0	0	147,900	Waiting for comments from DCR
DPW	6T0020	LONGWOOD/KENT TRAFFIC SIGNAL	69,020	0	0	69,020	Being re-appropriated as part of Proposed CIP
DPW	6T0024	PEDESTRIAN SIGNAL @ 61 PARK ST	3,945	3,660	0	285	Complete. To be closed out by 6/30/09.
DPW	6T0026	MOUNTFORT ST TRAFFIC SIGNAL	122,238	0	2,238	120,000	On hold pending Urban Ring project status
DPW	6T0030	MOD TRAFFIC SIGNAL - FIRE STATION 6	53,730	0	0	53,730	75% design complete. Anticipate summer construction.
DPW	6T0032	HORACE JAMES CIR TRAFFIC IMPROVEMENTS	149,959	0	0	149,959	Waiting for comments from DCR
DPW	6T0033	PEDESTRIAN ACCESS IMPROV.'S (RT. 9/BR. VILLAGE)	45,000	0	45,000	0	Design 90% complete
DPW	6T0035	WASH ST/SCHOOL ST/CYPRESS ST TRAFFIC SIGNAL	103,000	0	0	103,000	Drafting RFP for design services
DPW	6W0003	WATER METER REPLACEMENT	150,000	0	0	150,000	On-going project for large meter replacement
Library	6E0012	LIBRARY SELF CHECK OUT UNITS	50,000	0	0	50,000	To be spent after a vendor is selected for RFID implementation
Library	6E0033	PUTTERHAM LIB FURNISHINGS	65,000	0	0	65,000	To be spent at the conclusion of the putterham HVAC project
Library	6E0071	RFID SYSTEM	465,000	0	400,000	65,000	Vendor selected and contract awarded.
		REPORT TOTAL:	**20,167,590**	**5,666,204**	**3,966,731**	**10,534,655**	

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 ARTICLE DESCRIPTION

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 no unpaid bills from a previous fiscal year. Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on April 14, 2009, on Article 5.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Town cannot pay any unpaid bills for goods purchased by it or services rendered to it until and unless Town Meeting has approved the specific appropriation. It is thus customary to place on the Warrant for every Town Meeting if there are any unpaid bills so that Town Meeting can consider and approve such obligations to permit the Town to pay for them.

DISCUSSION:
As of the date of the mailing of the Combined Reports of the Board of Selectmen and the Advisory Committee, there were no such unpaid bills.

RECOMMENDATION:
By a vote of 19 in favor and none apposed, the Advisory Committee recommends NO ACTION on Warrant Article 5.

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ARTICLE 6

SIXTH ARTICLE

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2010 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 ARTICLE DESCRIPTION

This article provides for an increase of up to 100% 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 FY1989. The estimated cost for FY2010 is approximately $66,500 and is funded from the tax abatement overlay reserve account.

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 $66,500 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:

Description	Ch. 59, Sec.5 Clause	Current Amount of Taxes Exempted	Proposed Amount of Taxes Exempted
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 5-0 taken on March 24, 2009, on the following vote:

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2010 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.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This Article would allow the Town to continue its current practice of increasing the state mandated property tax exemptions for several classes of taxpayers.

State law (Massachusetts General Laws chapter 59, §5) sets out a list of special categories of residents who may be eligible for property tax exemptions of varying amounts. It is State law, not Brookline's option, as to who may be and who is not eligible for these exemptions. Likewise, State law sets out the base amount of the exemption (and, in some cases, the amounts of the exemptions for which the Commonwealth will reimburse the Town).

The matter before Town Meeting under Warrant Article 6 is whether or not to double the State-mandated exemptions, as follows:

Summary of Eligible Tax Exemption Recipients	**Authority (clause of Mass. G.L. ch 59, §5) for exemption**	**Default exemption**	**Proposed exemption (if Warrant Art. 6 is approved)**
Surviving Spouse	17D	$175	$350
Veteran (with 10% disability)	22	$400	$800
Veteran (loss of one hand, foot, or eye)	22A	$750	$1,500
Veteran (loss of both hands, feet, or eyes)	22B	$1,250	$2,500
Veteran (who by reason of such disability have received assistance for "specially adapted housing")	22C	$1,500	$3,000
Surviving spouses of killed or missing soldiers, sailors and members of the National Guard.	22D	$250	$500
100%-disabled veterans	22E	$1,000	$2,000
Blind	37A	$500	$1,000
Elderly (70+ years)	41C	$500	$1,000

Some of these exemptions are subject to means tests and also require meeting occupancy (and other) requirements. The Town's Assessors Department can provide details regarding eligibility for these exemptions.

The Town has the option to increase these exemptions (listed above in the column captioned "*Default exemption*") by any amount up to 100%; the Town cannot, on its own, create new exemption categories or increase the existing exemptions such that they exceed the amounts

proposed by this Warrant Article. Additionally, the doubling must be uniform across all the exemptions, and the increased exemption may not decrease an individual taxpayer's liability below his or her previous fiscal year's amount.

DISCUSSION:
The proposed doubling of the exemptions require annual authorization. Since 1988, Town Meeting has voted to double the statutory exemptions.

Notwithstanding the Town's fiscal shortfalls and future projected deficits and unfunded OPEB obligations, there seems a consensus for doubling the statutory exemptions to assist many needy residents. The Town Assessor estimates that the proposed doubling of the exemptions will cost the Town approximately $66,500 for FY 2010, and there is already a budgeted-for reserve in the abatement overlay account.

The Advisory Committee also noted with appreciation the efforts the Town Assessor's office has made to publicize the exemptions and other programs available to Town residents (such as, the tax deferral program discussed at the recent Town Meetings).

RECOMMENDATION:
By a vote of 19 in favor and none opposed, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.

XXX

ARTICLE 7

SEVENTH ARTICLE
To see if the Town will raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2009 budget or transfer funds between said accounts, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The purpose of this article is to make any year-end adjustments to the current year (FY09) budget.

SELECTMEN'S RECOMMENDATION

There are no proposed amendments to the FY09 budget. Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on March 24, 2009, on Article 7.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Warrant Article 7 would allow the transfer of funds from and between various accounts in the FY'09 budget.

RECOMMENDATION:
As there are no transfers required, the Advisory Committee, by a vote of 18 in favor and none apposed, recommends NO ACTION on Warrant Article 7.

XXX

ARTICLE 8

EIGHTH ARTICLE

To see if the Town will:

A.) Fiscal Year 2010 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 2010 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 2010 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $75,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for the costs associated with the removal of the pumphouse and transformer buildings near the intersection of Route 9 and Warren Street at the Brookline Reservoir.

2. Appropriate $239,000, 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.

3. Appropriate $350,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the refurbishment of Fire Engine #4.

4. Appropriate $1,000,000, 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.

5. Appropriate $1,720,000, 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 $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 traffic calming studies and improvements; provided that the Department of Public Works and

Transportation Board provide status reports to the Board of Selectmen on a semi-annual basis.

7. Appropriate $256,000, 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 $60,000, 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 purchase of multi-space parking meters.

9. 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-owned parking lots.

10. Appropriate $260,000, 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 $150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

13. 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.

14. 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.

15. 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.

16. Appropriate $100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to life safety systems and building security in Town and School facilities.

17. Appropriate $105,572, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School buildings.

18. Appropriate $100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrades to energy management systems.

19. Appropriate $625,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for roof repairs and replacements in Town and School facilities.

20. Appropriate $75,000, 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 engineering or architectural services for plans and specifications for remodeling, reconstructing, or making extraordinary repairs to the auditorium at the Pierce 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 School Committee, for the expansion of classroom capacity in various schools.

22. Appropriate $3,280,000, 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 costs and settlement of claims associated with the Newton Street Landfill.

23. Appropriate $5,125,000, 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 assessment and corrective action associated with the Newton Street Landfill.

24. Appropriate $1,200,000, 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 the garages located on the grounds of the Town Hall complex, including but not limited to the driveway areas between the Main Library and 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 8, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This is the annual appropriations article for FY2010. 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 publication of the Town Administrator's Financial Plan on February 17th. 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 Selectmen would like to thank the Town Administrator and his staff, the Advisory Committee, all Town Department Heads, the School Superintendent and his staff, and the School Committee for all of their efforts and collaboration in dealing with this FY10 budget. To say it has been a challenging budget is an understatement. Unfortunately, this is probably the first of perhaps three extremely difficult budgets that will require the Town to prioritize its allocation of resources.

SELECTMEN'S BUDGET VOTE vs ADVISORY COMMITTEE'S BUDGET VOTE

The Board of Selectmen is in agreement with the Advisory Committee on all items in the FY10 Budget.

ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN

The recession has placed enormous stress on governmental budgets at all levels across the country. The Commonwealth of Massachusetts and its 351 cities and towns have not been immune to the immense pressures caused by the steep reduction in revenues of all types, including income and sales taxes, capital gains taxes, excise taxes, and interest income. The current intergovernmental relationship between the State and her municipalities is one where the State provides localities with minimal revenue raising capacity, with the state collecting all growth taxes (e.g., income, sales, corporate). Because of this, cities and towns are very dependent on the State equitably sharing its revenues. With the massive loss of revenue at the state level resulting from the economic recession, the State's ability to maintain its current level of distribution of its revenues to municipalities is seriously compromised.

The Governor's Budget (House 1) cut local aid to municipalities by $375 million (exclusive of his proposal to raise $155 million for local aid through an increase in the meals and lodging taxes). For Brookline, the cut totaled $2.5 million, or 15% (exclusive of School Building Assistance reimbursements). The Financial Plan presented by the Town Administrator used House 1 for its State Aid estimate. Since then, much has happened:

- The House Ways and Means (HWM) Committee submitted its budget on April 15th and cut local aid by $425 million, or $50 million more than House 1. This brought Brookline's total local aid cut to $3.4 million, or an additional loss of $850,000 above what the Governor proposed. As a result, our initial Financial Plan as presented and debated was out of balance by that amount. [This proposal included eliminating the

state's reimbursement to communities for the Quinn bill, the educational incentive for police officers.]

- On April 28, the House of Representatives increased the statewide sales tax by 25%, from 5% to 6.25%, raising $900 million for the state budget. Of that amount, they voted to use $205 million to restore some of the local aid reduction. This added back $900,000 to the Town budget, bringing Brookline's total local cut to $2.2 million.
- A couple of days later, the House of Representatives voted to restore $25 million of the Quinn bill cut. This added back $325K for Brookline.

While the final House budget could provide much needed mitigation, it is not guaranteed. Reports indicate that even though the Senate is likely to support a sales tax increase, it might not be the 6.25% approved by the House. In addition, the State House News Service reported on April 20th that the House budget relies on a revenue estimate about $2 billion higher than the Senate intends to use in building its budget, which is scheduled for presentation in mid-May. Because of this uncertainty, both this Board and the Advisory Committee have decided the most sensible course of action is to use the Financial Plan as presented by the Town Administrator as the basis for the FY10 budget. There is a remote possibility that the vote offered under this article by Advisory Committee in these Combined Reports could be amended by the time Town Meeting commences on May 26th. If this occurs, a Supplemental Report from both the Board of Selectmen and the Advisory Committee will be provide to Town Meeting.

SUMMARY

The budget proposed by the Advisory Committee totals $204.4 million, increase of $5.1 million (2.6%). Table 1 on the following page details the entire FY10 budget, including enterprise / revolving funds. This budget recommendation includes a General Fund Operating Budget of $187.8 million, which represents an increase of $4.2 million (2.3%); revenue-financed capital of $9.3 million; enterprise / revolving funds of $27.1 million (gross); and non-appropriated expenses of $7.3 million. Table 2, found on page 8-7, details the FY10 General Fund revenues and expenditures.

TABLE 1

FY2010 BUDGET SUMMARY

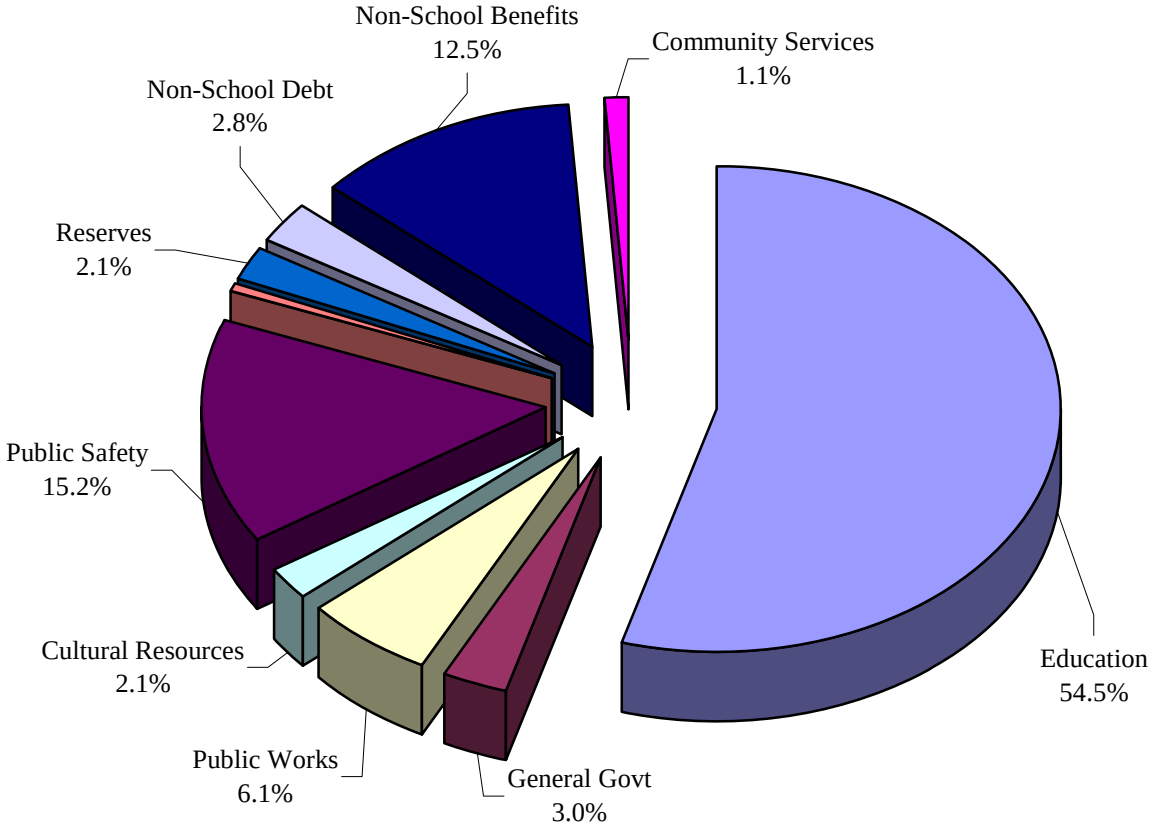
	FY2009	FY2010	INCREASE/DECREASE $	INCREASE/DECREASE %
REVENUE				
General Fund Revenue	199,313,719	204,423,534	**5,959,815**	**2.99%**
Water and Sewer Enterprise Fund	23,419,452	24,108,856	**630,491**	**2.69%**
(less Water & Sewer Overhead included in General Fund Revenue)	(1,877,687)	(2,069,326)	**(191,639)**	**10.21%**
Golf Enterprise Fund	1,246,200	1,266,201	**20,000**	**1.60%**
(less Golf Overhead included in General Fund Revenue)	(179,064)	(186,349)	**(7,286)**	**4.07%**
Recreation Revolving Fund	1,657,363	1,706,933	**49,571**	**3.0%**
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(198,027)	(210,870)	**(12,843)**	**6.5%**
TOTAL REVENUE	**223,381,957**	**229,038,978**	**6,448,108**	**2.9%**
APPROPRIATIONS				
General Fund Operating Budget	183,630,562	187,832,428	**4,201,865**	**2.3%**
Non-Appropriated Budget *	7,107,410	7,330,535	**223,125**	**3.1%**
Revenue-Financed CIP Budget / Other Special Appropriations	8,575,748	9,260,572	**1,534,824**	**17.9%**
General Fund Total	199,313,720	204,423,535	**5,959,814**	**3.0%**
Water and Sewer Enterprise Fund	23,419,452	24,108,856	**630,491**	**2.69%**
(less Water & Sewer Overhead included in General Fund Revenue)	(1,877,687)	(2,069,326)	**(191,639)**	**10.21%**
Golf Enterprise Fund	1,246,200	1,266,201	**20,000**	**1.60%**
(less Golf Overhead included in General Fund Revenue)	(179,064)	(186,349)	**(7,286)**	**4.07%**
Recreation Revolving Fund	1,657,363	1,706,933	**49,571**	**3.0%**
(less Rec. Revolving Fund Overhead included in General Fund Revenue)	(198,027)	(210,870)	**(12,843)**	**6.5%**
TOTAL APPROPRIATIONS	**223,381,957**	**229,038,978**	**6,448,109**	**2.9%**
BALANCE	**0**	**0**	**0**	

TABLE 2

	FY2009 BGT.	FY2010 BGT.	INCREASE/DECREASE $	%
REVENUE				
Property Tax	147,273,069	152,552,834	**5,279,765**	**3.6%**
Local Receipts	20,475,664	20,217,125	**(258,539)**	**-1.3%**
State Aid	19,623,691	17,157,180	**(2,466,511)**	**-12.6%**
Free Cash	5,954,963	7,053,295	**1,098,332**	**18.4%**
Other Available Funds	5,986,332	7,443,101	**1,456,768**	**24.3%**
TOTAL REVENUE	**199,313,719**	**204,423,534**	**5,109,815**	**2.6%**
(LESS) NON-APPROPRIATED EXPENSES				
State & County Charges	5,424,518	5,543,424	**118,906**	**2.2%**
Tax Abatement Overlay	1,535,026	1,650,000	**114,974**	**7.5%**
Deficits & Judgments	25,000	25,000	**0**	**0.0%**
Cherry Sheet Offsets	122,866	112,111	**(10,755)**	**-8.8%**
TOTAL NON-APPROPRIATED EXPENSES	**7,107,410**	**7,330,535**	**223,125**	**3.1%**
AMOUNT AVAILABLE FOR APPROPRIATION	**192,206,310**	**197,092,999**	**4,886,689**	**2.5%**
APPROPRIATIONS				
Town Departments	62,415,647	62,262,425	**(153,222)**	**-0.2%**
School Department	68,021,240	68,974,271	**953,031**	**1.4%**
Non-Departmental Total	53,193,676	56,595,732	**3,402,057**	**6.4%**
General Fund Non-Departmental	50,938,898	54,129,187	**3,190,289**	**6.3%**
Water and Sewer Enterprise Fund Overhead *	1,877,687	2,069,326	**191,639**	**10.2%**
Golf Enterprise Fund Overhead *	179,064	186,349	**7,286**	**4.1%**
Recreation Revolving Fund Overhead *	198,027	210,870	**12,843**	**6.5%**
OPERATING BUDGET SUBTOTAL	183,630,563	187,832,428	**4,201,864**	**2.3%**
Revenue-Financed Special Appropriations	8,575,748	9,260,572	**684,824**	**8.0%**
TOTAL APPROPRIATIONS	**192,206,310**	**197,093,000**	**4,886,689**	**2.5%**
BALANCE	**0**	**0**	**0**	

The fully-allocated $187.8 million General Fund Operating budget is broken out in the pie chart on the following page.

FULLY ALLOCATED FY2010 GENERAL FUND OPERATING BUDGET



Unprecedented developments set the stage for the preparation of this FY2010 budget. Obviously, the most far-reaching is what has been described as the worst economic decline since the Great Depression, which in turn has propelled a massive Federal Recovery effort. Closer to home, other events have occurred that are also having a tangible impact on the Town's budgeting position. Last May Brookline voters decisively approved a $6.2 million property tax general override, only the second and also the largest since Proposition 2 ½ was adopted in 1980. An indispensable dimension of the override experience was the widely regarded work of the Override Study Committee (OSC). The Committee's Report not only defined Brookline's underlying fiscal imbalance, endemic to Massachusetts local government, but also set in motion the Efficiency Initiative Committee (EIC); prompted the creation of an OPEBs Task Force; and reinforced the efforts for Town participation in the State Group Insurance Commission (GIC).

Fortunately, Brookline's longstanding observance of formal Fiscal Policies and long-term approach to budgeting has helped mitigate the adverse impacts of the recession to date. These practices enabled the Town to take preventative measures to offset the $770,000 Local Aid cut directed by the Governor on January 28th for the current fiscal year under his emergency "9C" powers. Unfortunately, the 28% roll back in FY10 Lottery Aid and Additional Assistance and net reduction of other aid totaling $2.58 million, along with a projected decline in the Town's local revenue growth, combine with the underlying

imbalance identified by the Override Study Committee to create a $4 million deficit in the Town's General Fund budget for the fiscal year beginning July 1, 2009.

BACKGROUND

The Override Study Committee concluded:

> "[T]hat even with an override, the Town will face an on-going structural deficit in the coming years as health care and SPED costs continue to grow at rates that exceed revenue growth and under-funded retiree benefits add additional financial burden."

The OSC Report went on to delineate the "dramatic steps" the Town must take to address the ongoing structural deficit as well as future financial developments:

- Do not ignore long-term fiscal challenges
- Hold growth in total personnel costs to a sustainable level
- Join the Group Insurance Commission (GIC) as soon as possible
- Address long-term Retiree Health Cost Issues (Other Post Employment Benefits, or OPEBs)
- Sustain scheduled contributions for pensions
- Pursue savings opportunities in municipal operations

The FY2010 budget has no choice but to squarely address each of these steps. In stark contrast to revenue increases averaging 4% over the past five years, FY10 operating revenue is projected to increase by just 1.5%. For the foreseeable future, not only will Local Aid be reduced, but the Town's own municipal revenue growth will be in a state of flux.

Local Aid - The Governor and his Administration deserve much credit for presenting a state budget that attempted to buffer local government from the effects of the downturn. As has been widely reported, however, the Governor's budget generally, and his proposals for local government specifically, involve a number of contingencies that are far from guaranteed. Further, even if the House 1 assumptions for new taxes, federal funding, greater contributions by state employees for group health premiums, etc. are realized, the one-time nature of rainy day and stimulus funds coupled with an unrelenting recession make for a very uncertain FY11. As discussed above, the FY2010 assumptions about Local Aid are based upon the initial reductions proposed by the Governor.

Local Receipts – These are also sensitive to economic fluctuations, including excise taxes, fees, fines, interest earnings, etc. They are expected to experience a year-to-year drop of 1.3%. The three revenue sources most significantly impacted by the recession are the motor vehicle excise tax (MVE), building permits, and interest income. Taken together, these three sources of revenue are estimated to bring in $8.04 million in FY10, an amount that is $790,000 (8.9%) less than budgeted in FY09. When compared to actual collections in FY08, the decline is far more telling of the impact of the recession on local receipts: $2.41 million, or 23.1%.

	(in millions of $'s)				FY10 vs FY08	
	FY08 Act.	FY09 (bud.)	FY09 (est.)	FY10	$$	%
MVE	5.29	5.02	5.09	4.85	-0.44	-8.3%
Building Permits	2.79	2.2	2.5	2.0	-0.79	-28.3%
Interest Income	2.37	1.61	1.6	1.19	-1.18	-49.8%
TOTAL	10.45	8.83	9.19	8.04	-2.41	-23.1%

As shown below, the calculation of operating revenue for Town and School departments excludes one-time revenue and revenues legally earmarked for specific purposes. The 1.5% growth in revenue available for departments is the lowest since FY04, when it rose by just 2.15%.

	FY09	FY10	$ Change	% Change
Total Gen Fund Rev	199,313,718	205,273,534	5,959,816	3.0%
Less:				
SBA Reimbursements	3,267,372	3,267,372	0	0.0%
Net Debt Exclusions	1,692,697	1,667,074	(25,623)	-1.5%
Revenue for CIP	7,094,963	10,238,295	3,143,332	44.3%
Free Cash	5,954,963	7,053,295	1,098,332	18.4%
Tax Abatement Reserve Surplus	0	1,505,000	1,505,000	-
Sale of Town-owned Land Fund	550,000	0	(550,000)	-100.0%
Capital Project Surplus	590,000	1,680,000	1,090,000	184.7%
OPERATING REVENUE	**187,258,687**	**190,100,794**	**2,842,107**	**1.5%**

Budget Deficit - Personnel costs and fixed obligations as described in the OSC Report continue to put pressure on budget capacity. While some of these pressures have lessened with the recession, in key instances their growth remains widely at variance with revenue growth. For example, group health rates are increasing 7.8%, a seeming relief in comparison to the average double-digit increases over the past several years. However, this rate increase is about five times greater than the projected operating revenue increase of 1.5%.

The deficit would have been more extensive had not the cost for fuel and other accounts decreased with the recession. The 10 member municipal purchasing group for gasoline and fuel oil led by the Town's Procurement Officer solicited bids in January – much earlier than usual – to catch the recent trough in fuel prices. Unleaded regular gasoline and #2 heating oil are locked in for the next year at $1.97 and $2.24 per gallon, respectively, large decreases from the previous contract prices of $3.76 and $4.28 per gallon.

Additional Operating Revenue	$2.7 million
(Prior to proposed fee increases)	
Town/School Collective Bargaining, Steps	-$2.4 million
Group Health Insurance	-$1.2 million
Other Benefits, including OPEB's	-$1.0 million
Other School (e.g., SPED, class size growth, program)	-$1.8 million
Other	-$0.3 million
Projected Deficit	**-$4.0 million**

BUDGET FRAMEWORK

Leaving it solely to Town and School operating budgets to absorb the impact of a $4 million deficit would have resulted in an across-the-board rollback of services. To avoid this outcome, the FY2010 budget proposes reductions in capital spending, redirection of Free Cash, and modest increases in a limited number of local fees. Combined, these steps reduced by more than $1 million the exposure of the operating budgets to the deficit. This budget includes (i) a downward adjustment to 5% in the policy of dedicating appropriations equaling 5.5% of prior year revenue for the pay-as-you-go capital; (ii) a redirection to the CIP of the Free Cash appropriation that would have been scheduled for the Affordable Housing Trust Fund; and (iii) additional revenues derived from increasing several local fees to levels that more accurately correspond to the cost of service provided.

CIP Reduction: $564,000

Reducing the CIP commitment from 5.5% to 5.0% frees up $917,000 in operating revenue for appropriation to town and school budgets. Parking lot reconstruction, installation of "smart" multi-space meters, and window/roof work at the Putterham Library will be placed on hold, thereby deferring $564,000. The other $353,000 is covered by using Free Cash that otherwise would go to the Affordable Housing Trust Fund (see below). The CIP outlines a three-year restoration schedule to bring the levels back to 5.5% policy commitment.

Affordable Housing Trust Fund: $353,000

To avoid CIP cuts in priority areas like public safety equipment, parks and open space maintenance, and the street/sidewalk reconstruction just voted as part of the override, the $353,000 that would have been recommended for the Affordable Housing Trust Fund (AHTF) is proposed to be redirected to the CIP. The AHTF has a balance of $5.8 million, which is more than adequate to meet all current obligations.

Fee Increases: $150,000

The Town Clerk and Fire Chief recommended some increases to their fee schedules. These included certified copies, marriage certificates, ZBA fees (Town Clerk); master

box fees, multiple dwelling unit inspections, and certificate of occupancy inspections (Fire Prevention). This Board approved these increases in March.

	(in millions)
Projected Deficit	($4.0)
CIP Reduction (from 5.5% to 5%)	$0.56
Affordable Housing Trust Fund	$0.35
Fee Increases	$0.15
Town / School Deficit	($2.9)

The $1.1 million in budget mitigation outlined above is urged as a deliberate alternative to the non-recommendation of reducing reserves to balance the budget at this time. As noted previously, both the massive state budget gap and the recession do not bode well for FY11. Cutting the Reserve Fund or reaching into the Stabilization Fund are steps that should be considered only as unavoidable measures of last resort. In two recent consecutive fiscal years (FY04 and FY05) the Town had to use virtually the entirety of the Reserve Fund to cover extraordinary and unforeseen circumstances. Already for the current fiscal year, snow and ice expenditures combined with projected deficits in gasoline and diesel accounts exceed appropriations by more than $1 million. Moreover, Moody's Rating Service has expressed caution about the Town's declining Fund Balance and last year dropped one Massachusetts community's Aaa rating for this very reason, among others. And finally, perhaps the worst of all scenarios would be to simultaneously reduce reserves in addition to cutting capital as is already proposed. Taking these actions at the same time in the upcoming fiscal year would put even more pressure on both operating and capital budgets the following year because of the effects of the use of unsustainable one-time funds on the former and the severe diminution of Free Cash availability for the latter.

Town/School Partnership – The Town/School Partnership has been central to the successful implementation of Town fiscal policies. At the core of the Partnership is an Agreement signed in 1995 by the School Superintendent and Town Administrator that apportions revenue on a 50%-50% basis subject to the allocation of fixed costs to school and town budgets. This process has brought invaluable stability and predictability to the annual budget process for well over a decade. It is important to note that the budget allocations under the Partnership Agreement classify Special Education as a fixed cost. This has the effect of increasing the Schools share of allocated revenue by an amount equal to about one-third (36%) of the total SPED increase, or approximately $218,000.

For FY2010, after all fixed costs (debt service, benefits, utilities, SPED, etc.) are allocated respectively for town and school purposes, there is $953,000 in revenue growth available for appropriation to the Schools and ($153,222) for Town Departments. However, because FY10 school expenditures are projected to increase at a greater rate than those of town

departments, the Brookline Schools must eliminate a larger deficit than the Town. Growth in personnel costs are the single greatest contributing factor to this outcome. While some of the greater school growth is attributable to anticipated enrollment and SPED increases, much is the result of compensation differences including contractually obligated step increases, higher COLA adjustments, and a growing level of group health enrollments due to staffing increases. For example, the net cost of step increases for school personnel in the coming year is estimated at $600,000 while that for town personnel is approximately $100,000. When all of these factors are taken into account, the Brookline Schools must reduce their FY2010 projected budget by $1.95 million and Town Departments by $1 million.

FY10 TOWN BUDGET REDUCTIONS

As outlined above, Town operating budgets were reduced by approximately $1 million. Several key considerations shaped the approach to addressing these cutbacks:

- No lay-offs; personnel reductions through attrition or other means.
- Curtailment of functions without elimination of essential services.
- Hold harmless capital and repair/maintenance increases included in the override.
- Adoption of Efficiency Initiative Committee and OPEBs Task Force recommendations where feasible.

The Town's Hiring Freeze implemented last October and corresponding Retirement Incentive Plan created flexibility that otherwise might not have existed. At the time of the publication of the Financial Plan, there were 40 vacant positions subject to the Freeze. Twelve of these vacancies resulted from the Retirement Incentive Program. Of the existing vacancies, 15.5 account for almost the entirety of the personnel cuts proposed for FY10, thereby avoiding layoffs.

It is important to note the elimination of 18 FTE positions listed below brings to 30 the total net number of positions removed from Town department budgets back through 2007. Inclusive of the positions identified for 2010, these reductions will have occurred across the board in Public Works (11.2) Public Safety (9) Town Hall (5.3) Leisure Services (2.5) Human Services (2.5). This represents a 4% overall staffing reduction during this period.

The table on the following page lists all of the cuts in the Town budget.

DEPT	ITEM	FTE	SAVINGS
Building	PT Data Entry Clerk (C-4)	(0.40)	(14,727)
	Sub-Total Building	**(0.40)**	**(14,727)**
DPW	Traffic System Technician (LN-7)	(1.00)	(51,637)
DPW	MEO II (LN-3)	(1.00)	(43,901)
DPW	Town Arborist (GN-13)	(1.00)	(66,149)
	Sub-Total DPW	**(3.00)**	**(161,687)**
Finance	Senior Clerk Typist (C-5) - Assessor's	(1.00)	(40,490)
	Sub-Total Finance	**(1.00)**	**(40,490)**
Fire	Firefighter	(4.00)	(220,316)
Fire	Firefighter	(2.00)	(128,452)
Fire	Clerk	1.00	50,000
	Sub-Total Fire	**(5.00)**	**(298,768)**
COA	Group Leader (GN-2)	(0.21)	(6,552)
COA	Outreach Worker (GN-2)	(0.53)	(18,853)
Health	Senior Clerk Typist (C-4)	(1.00)	(38,386)
	Sub-Total Human Services	**(1.74)**	**(63,791)**
Legal	Senior Clerk Typist (C-4)	(0.11)	(4,035)
	Sub-Total Legal	**(0.11)**	**(4,035)**
Library	Materials		(20,199)
	Sub-Total Library	**0.00**	**(20,199)**
Planning	Zoning Administrator	(1.00)	(78,046)
Planning	Commercial Areas Coordinator	(0.23)	(15,823)
Planning	Misc accounts		(16,513)
	Sub-Total Planning	**(1.23)**	**(110,382)**
Police	Police Officer	(2.00)	(146,206)
Police	Police Officer	(2.00)	(146,206)
Police	Civilian Meter Collector	2.00	90,000
Police	Vehicles		(68,054)
	Sub-Total Police	**(2.00)**	**(270,466)**
Selectmen	Head Clerk (C-9)	(0.47)	(21,272)
	Sub-Total Selectmen	**(0.47)**	**(21,272)**
Various	Take Home Vehicles		(6,500)
	Sub-Total Various	**0.00**	**(6,500)**
TOTAL		**(14.95)**	**(1,012,317)**

Police Department ($202,412) - In FY96 four officer positions were added to the patrol staff (initially through temporary federal COPS funding) and in FY02 another six were redeployed from dispatch functions when the joint Police/Fire operation was established with civilian personnel. The proposed elimination of four vacant positions will not reduce patrol strength. The two positions assigned to parking meter collections will be replaced by civilians as recommended by the EIC and two other positions will be eliminated from non-patrol units -- Traffic and Community Services. (An additional $68,054 will be reduced from capital outlay

for vehicles. See on next page.) Assignments could change during the year based on the Chief's discretion.

Fire Department ($298,768) - A total of six vacant firefighter positions are proposed for elimination. Two come from the Prevention Division, one of which is replaced with a civilian clerk position. The other four positions are from Suppression. Staffing five engines and two ladders with a minimum of four firefighters 24 hours/day 365 days/yr with a 24-hour schedule (1 day on, 3 days off) requires a certain staffing ratio, reflecting the need for coverage for vacation leave, sick leave, etc. That ratio results in the need for 147 firefighters in Suppression. The Town currently budgets 151, so there are four additional budgeted positions. By reducing the number from 151 to 147, the Department will need to improve overall leave utilization and, quite possibly, pull one piece of apparatus from service when fewer than 28 firefighters report to work for their shift. The frequency of such an action will depend on leave utilization: improvements in leave use will result in fewer absences, which in turn will lead to fewer occurrences of needing to call back firefighters on an overtime basis.

Public Works ($161,687) - Per the EIC Report, it is recommended that Fire call box maintenance be transferred from the Fire Department to DPW. As a result of the transfer of the Superintendent of Fire Alarm and Signal Maintainer positions to DPW, a vacant DPW Traffic System Technical position can be eliminated. One vacant Motor Equipment Operation position is to be eliminated from street sweeping duties. The functions of the vacant Town Arborist position, who participated in the ERI, are to be taken over by the Conservation Administrator, thereby allowing for the elimination of the full-time Arborist position.

Human/Leisure Services ($83,990) - As recommended by the EIC, the clerical staffing assigned to the various human services departments in the Train Building will be reduced by one FTE by relocating the Clerk/Stenographer position from Human Relations/Youth Resources into the Health Department and in turn transferring the most junior clerical position from Health to the vacant clerk/typist position in the Building Department (also a product of the ERI). In the Council on Aging, the vacant half-time Outreach Worker will be eliminated and the hours of the part-time Group Leader position will be reduced from 30 to 22 per week. The materials budget of the Library Department will be cut by 2% from FY09 levels.

Planning and Community Development ($110,382) - The vacant Zoning Administrator position will be eliminated. The hours of the Commercial Areas Coordinator in the Economic Development Office will be reduced to 28.875 per week as opposed to the outright elimination proposed by the EIC.

Administration ($80,524) - Administrative support positions equivalent to 1.97 FTE's in Assessing, Town Counsel, Building Department, and the Selectmen's Office will be either eliminated or cut back. No lay-offs, but hours reduced for two positions. Expanded utilization of technology and reassignment of duties will compensate in part for reduced staffing capacity. Also, the Plans Review Inspector in the Building Department will be returned to the General Pay Plan (G Schedule).

Vehicles ($74,554) - The purchase of two police cruisers will be deferred at a savings of $68,054. Vehicles assigned year round for commuting will be reduced by 25%. In addition, seasonal assignment of vehicles will be discontinued with only temporary assignment allowed in the event of specific need (e.g., storms) with prior approval. A formal policy will also be developed per the recommendation of the EIC.

Retirement Obligations ($98,000) - In addition to the budget savings (salaries and other direct payments) that result from the elimination of benefit eligible positions, the Town's exposure to future retirement obligations is also reduced by these staff reductions. Appendix 1B of the EIC Report estimates the per employee OPEB liability to be incurred in FY10 to be $5,400. This is calculated by dividing the actuarially determined "normal cost"[1] of $7.8 million by 1,444 eligible Town and School employees. In addition, the per position normal cost for pension obligation is estimated at $2,140, which is also avoided with each FTE that is eliminated. Given the net elimination of 13 benefit eligible positions, the retirement cost avoided by not filling these positions is approximately $98,000 (13 positions x ($5,400 + $2,140)). These savings are not included in the calculation for FY10 budget reductions because OPEB obligations are not funded and pension obligations are not recalculated until FY12.

OVERRIDE STUDY COMMITTEE PRESCRIPTIONS

In March 2008, both the Board of Selectmen and the School Committee unanimously adopted Resolutions endorsing the financial sustainability goals outlined by the Override Study Committee. This budget not only advances sustainability objectives, but it also incorporates approaches that have been adopted to carry out the strategic steps prescribed by the OSC as itemized at the outset of this Message.

Do Not Ignore Long-Term Fiscal Challenges - The long-term financial trends are undeniable. The Override Study Committee found that between 2000-2006 core revenues increased 3.8% on average and spending increased 4.2% on average. In FY08, planning for the economic decline started and the Town increased fees and fines by more than $1.2 million to balance that year's budget. For FY09, $2.1 million of the $6.2 million override was used to shore up this year's shortfall. With the recession, the Town now faces a $4 million deficit for the upcoming fiscal year.

The future as laid out in detail on pages I-19 through I-23 in the Financial Plan offers no prospect of relief, even if the economy does not continue to worsen. The following illustrates the projected trend lines for revenues and expenses through 2014. We see a worsening shortfall each year potentially reaching $14.7 million in FY14.

	2010	2011	2012	2013	2014
TOTAL REVENUE	$204.4	$204.1	$209.9	$216.4	$222.2
TOTAL EXPENDITURES	$204.4	$207.6	$218.6	$227.8	$236.8
CUMULATIVE SURPLUS/(DEFICIT)	**$0.0**	**($3.5)**	**($8.7)**	**($11.4)**	**($14.7)**

[1] The normal cost is defined as the portion of the plan's unfunded OPEB liability that is attributable to the current year's service.

The overall approach of FY10 budget takes a very sober accounting of the long-term fiscal picture. It reflects the concerns about the underlying budget shortfall and the revenue decline triggered by the recession, along with limitations and contingencies of House 1. The FY10 Financial Plan does not rely on the possibility of additional revenue from new taxes nor does it not draw down reserves. It does temporarily curtail commitment to capital funding, but proposes a deliberate plan for restoration over a three-year period. Finally, as detailed below, this is the Town's first budget that recommends setting aside operating revenue to start up a funding schedule for unfunded OPEB's.

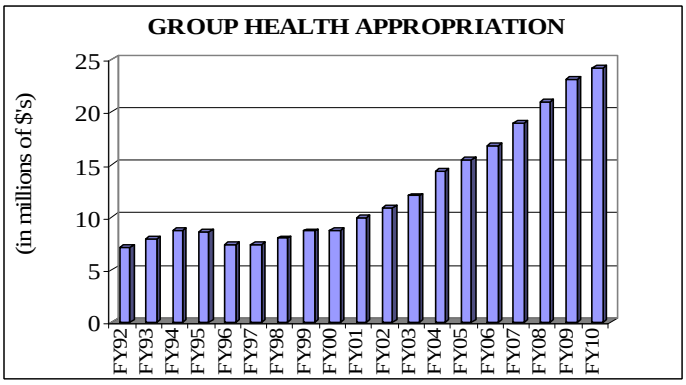
Hold Growth in Total Personnel Costs to a Sustainable Level - The OSC made very clear that the totality of personnel costs – staffing levels, wage adjustments, and fringe benefits – must be considered as a whole in relation to town revenue availability. Town and School labor agreements expire at the end of the current fiscal year. This provides an opportunity for consultation and collaboration in developing collective bargaining strategies through the Labor Advisory Committee, established by Town Meeting Resolution back in 1992.

In its approach to collective bargaining, the Town has little choice given the economic climate and the OSC findings but to tie wage adjustments to sustainability. Therefore, without the assurance of a manageable rate of growth in group health costs, the Town will be constrained in its ability to enter into multi-year labor agreements that include wage adjustments embedded into the salary base for the long-term.

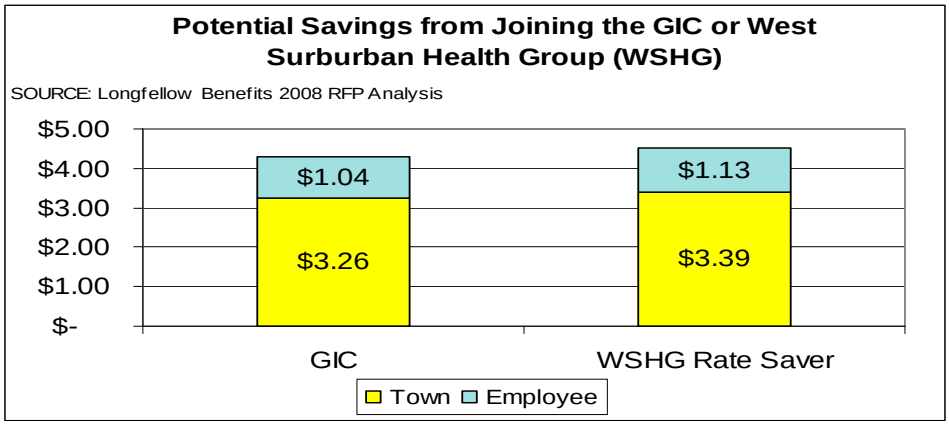
Group health costs are set for FY10. It is too late in the budget cycle to anticipate any meaningful change in the Town's group health plan for the coming year. Communities opting into the state Group Insurance Commission (GIC) on July 1, 2009 were required by statute to notify the GIC last December 1st of their decision to join. Short of statutory change, the likely next opportunity for meaningful change in the Town's group health program will be FY2011.

In order to avoid the possibility of being caught underfunded if multi-year labor agreements were eventually to be executed, the FY10 budget does fund reserve accounts for both the Town and School budgets. However, as a result of adopting a bargaining strategy premised on sustainability, the Town will be most mindful of this bargaining strategy in negotiations, cautious in its consideration of multi-year labor agreements and will be seeking settlements within the parameters of total personnel costs including staffing levels, COLA's, health benefits, and retirement obligations. If viable multi-year agreements can not be negotiated, these reserved funds could be used alternatively to reduce the magnitude of the Town's extensive unfunded obligations.

Join the GIC As Soon As Possible - Statewide, the overall experience of communities joining the Group Insurance Commission has fallen far short of the expectations associated with its heralded enactment by the Municipal Partnership Act. Since Chapter 67 was adopted in July 2007, three enrollment rounds for joining the GIC have passed, but only 17 communities and a handful of small regional school districts or planning entities have joined. Of the local subscribers who have been enrolled to date, nearly one-third are from the City of Springfield, which was required to join as part of the State's oversight of that City's troubled finances.



The Town has taken several key steps over the past 18 months to advance the GIC option or equivalent group health change. In 2007 the Selectmen accepted Section 19 of G.L.c 32B, that established coalition bargaining for group health which is currently the only statutorily allowed procedure for joining the GIC. In conjunction with the union Public Employee Committee (PEC), established under Section 19, the Town chose a new group health insurance advisor – Longfellow Benefits – and issued an RFP for the most current rate information from the insurance industry, the GIC and other government purchasing consortia. The Town's RFP process in 2008 revealed the potential for premium savings from joining the GIC at more than $4 million, 75% of which could be for the town budget and 25% for reduced employee contributions. Employee premium savings could in the aggregate offset exposure to increased employee out-of-pocket costs.



In an admittedly tight timeframe, the Town and PEC could not come to agreement by the initial GIC deadline of October 1, 2008. However, the Legislature subsequently extended the deadline to December 1st. After further negotiations over both the GIC and other options, agreement could still not be reached with the PEC. In fact, only two municipalities in the state joined during this extended period. On a cautionary note, it is important to recognize that many of the communities that have joined the GIC have done so only after agreeing to recycle rate savings back into increased contributions to premium, thereby dissipating some of the potential positive effects on both current costs and future obligations. In fact, one community agreed to use GIC premium savings to ramp up its share of premium to 90% in addition to increasing wage levels.

In light of the overall lack of progress statewide, there have been many calls to change the legislation governing the process for opting in to the GIC. Most notably, the former Speaker of the House raised the possibility of "taking the unions out of the picture" (for bargaining over the decision whether or not to join). While no meaningful legislation has yet been filed to accomplish what the former Speaker expressed, both the Governor and the Mass Municipal Association have filed bills that could materially change the ground rules. The Governor's bill reduces to 50% the vote required by the PEC to join the GIC, but also imposes financial penalties on communities that do not join. In a very different tact, the MMA bill indirectly influences the GIC process by allowing municipalities to make plan design equivalent to those of the GIC without having to negotiate the changes in design. Local officials and many other opinion leaders consider the approach put forth by the Governor as a step backward. The alternative approach proposed by the MMA much more squarely addresses the statewide inertia. More recently, the Legislative Municipal Relief Commission has proposed changes that blend a number of the previous approaches. Regrettably, this effort also appears to fall far short of what is needed.

Cities and towns, however, should not bank in the near-term on statewide legislative change to resolve this situation. This further reinforces the need for the Town to proceed in accordance with the overall bargaining guidelines outlined in the preceding section. If the group health "budget buster" can not be controlled directly, then other areas of the total personnel costs must be constrained accordingly.

Address Longer Term Retiree Costs and Sustain Pension Contribution Schedules - The FY10 budget not only fully funds the growth in pension requirements for the coming year, but it also recommends that the Town begin for the first time to set aside current operating revenue for OPEBs. In addition, this is the first budget that attempts to illustrate the value of OPEBs in budgetary decisions as described earlier in connection with proposed budget reductions.

In keeping with Override Study Committee recommendations, the Board of Selectmen appointed a Task Force to address the issues of cost containment and funding. The Task Force Funding Sub-Committee has completed its work and has recommended to the full Task Force a series of actions that could bring the Town to full funding within 30 years.

One of the key recommendations of the Sub-Committee is that new funding should be committed to this obligation as soon as possible. In an attempt to meet that goal, while seeking to minimize undue budget stress in this cutback environment, the Sub-Committee recommended that an annual appropriation in the amount of $250,000, beginning in FY2010, be included in the Financial Plan. This appropriation would increase by $250,000 each year over the 30 year funding period.

In 1998 Special Legislation was enacted for the Town to create a Retiree Health Trust Fund. In FY2000 the Town began to set aside funding on an intermittent basis, and to date has accumulated more than $5 million for this purpose. The language of the Trust identified the Town's Finance Director as the custodian of funds. The legislation that created this trust fund pre-dated the Government Accounting Standards Board (GASB) #43 regulation. This regulation identified the "best practice" to have OPEB funds controlled by an independent autonomous board. In June 2008, the Town took steps to convert the existing Trust Fund to

conform to GASB #43, authorizing Special Legislation to create an autonomous board to control the funds.

Although the OPEB Task Force has not yet completed its work, it is anticipated that a series of cost containment and funding recommendations will be included in the final report. On a biennial basis, the unfunded obligation is re-calculated, and a funding schedule is adjusted. The current actuary analysis has identified a liability in the range of $230 million to $343 million, depending upon the rate of return estimates on existing funding. Adding $250,000 annually to the Financial Plan would generate funding of more than $116 million over a 30 year period. The effect of compounded interest on our rate of return would further aid in fully funding the obligation. Obviously this funding approach is not a complete solution, but in conjunction with other potential Task Force recommendations, if formally proposed and adopted, it could serve as a critical component to meeting both OPEB obligations and GASB regulations.

Pursue Savings Opportunities in Municipal Operations - The Efficiency Initiative Committee issued its report to the Board of Selectmen on February 3, 2009. It contains well over 50 separate recommendations for possible cost savings in the areas of private contracting, public safety, and organization wide reductions. A number of these recommendations are already reflected in this budget.

Beyond FY10, the EIC Report offers a potential framework for addressing the expectation that there will be ongoing consideration of savings in municipal operations. As noted in the Report, "On the Town side the EIC's recommendations will be considered by the Town Administration. The ultimate decision to adopt any of these recommendations, to implement other savings or eliminate programs will be the product of the political process involving the Board of Selectmen, the Advisory Committee and Town Meeting." And as also noted, "In addition many of the recommendations will involve the need for collective bargaining."

It is obvious that several key areas will require attention over the longer term. Fire and police staffing levels involve complex and important quality of life issues. Multiple recommendations involving technology range from consolidating Town/School help-desks to transforming the fire alarm system to a wireless platform. And, of course, the often thorny question of outsourcing involves many operational and labor relations issues.

CAPITAL IMPROVEMENT PROGRAM (CIP)

Capital planning and budgeting is a critical undertaking for any government and is central to the delivery of essential services and the quality of life for residents. In fact, without a sound plan for long-term investment in infrastructure and equipment, the ability of local government to accomplish its goals is greatly hampered. Since FY95, the Town has invested $288 million in the CIP. These efforts, which have been supported by the Board of Selectmen, the Advisory Committee, Town Meeting, and, ultimately, the taxpayers of Brookline, have gone far in addressing the backlog of capital needs created by the under-investing in infrastructure in the late 70's and 80's and have substantially improved the Town's physical assets and landscape. Although there is more to do in the areas of street and sidewalk repairs, parks/open space improvements, and school and town facilities upgrades, the commitment to capital improvements is clearly showing positive results.

The recommended FY10 - FY15 CIP calls for an investment of $147.8 million, for an average of approximately $24.6 million per year. As previously noted in this Recommendation, the plan to balance the FY2010 budget includes a reduction in the 5.5% funding level to 5%, freeing-up $917,000 for the Operating Budget. Those funds are used to reduce the level of cuts in the Operating Budget. The impact to the CIP is somewhat blunted, however, by the recommendation to forego the deposit into the Affordable Housing Trust Fund ($353,000). The net reduction to the CIP, therefore, is $564,000 ($917,000 - $353,000). An essential element of this approach is the phasing back up to the full 5.5% level, hitting 5.25% in FY11 and 5.5% in FY12. It is critical to return to the 5.5% level, as the amount of projected debt service in the out-years requires that level of funding. Without it, the Devotion School project will not be affordable.

	FY10	FY11	FY12	FY13	FY14	FY15
@ 5.5%	$10,087,459	$10,232,070	$10,515,070	$10,833,910	$11,146,914	$11,481,947
As proposed	$9,170,365	$9,766,976	$10,515,070	$10,833,910	$11,146,914	$11,481,947
$ Variance	($917,093)	($465,094)	$0	$0	$0	$0
% Variance	-9.1%	-4.5%				

It was a challenge to develop a balanced CIP that addresses the priorities of the community while staying within the funding guidelines. This year was particularly challenging because many of the new requests that arose from the process were clearly priority needs. In addition, there were complexities involved with needing to fund these new requests that meet the criteria for CIP projects while at the same time having to fund $9.7 million of additional liabilities associated with the landfill and budget for two large school renovation projects.

The CIP accommodates $4.275 million for corrective actions associated with the landfill closing. In addition, the FY10 budget, outside the CIP, had to include $4.6 million for the costs associated with the settlement of this issue, which breaks down as follows:

- $2.03 million from Free Cash budgeted in the Special Appropriations category (budget item #55)
- $1.25 million from the Overlay Surplus also accounted for in the Special Appropriations category (budget item #55)
- $1.32 million from Free Cash budgeted for in the Liability/Catastrophe Fund (budget item #26). This amount is budgeted here in order to replenish the fund for the drawdown in FY09 for the settlement.

The core of any CIP must be the maintenance / repair of and improvement to a community's infrastructure, and many of the new requests do just that. Governmental jurisdictions across the country continue to struggle with the issue of funding infrastructure needs, especially in these economic and budgetary times. Fortunately, Brookline's CIP policies (dedicated CIP funding) and taxpayer support (debt exclusions for schools and an override that included infrastructure needs) have allowed the community to fund these needs far more adequately than would otherwise be the case.

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 CIP, 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.

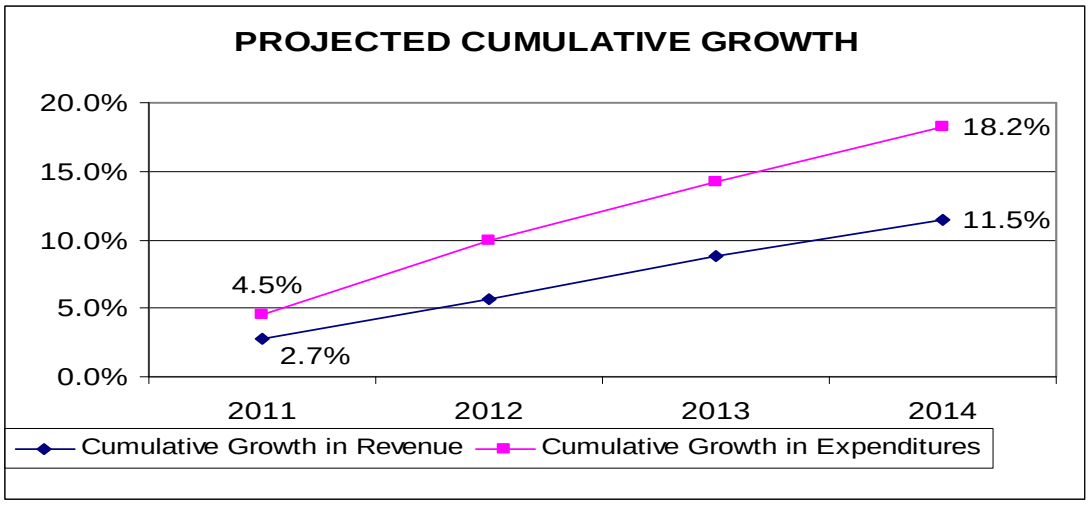
The FY10 – FY14 Long Range Financial Projection for the General Fund makes the following key assumptions:

- In FY10, $1.6 million of New Growth in the Property Tax Levy is assumed. For FY11-FY13, a base of $1.5 million is used, augmented by additional levy growth from the 2 Brookline Place re-development. For FY14, New Growth is set at $1.7 million.
- A 5% cut in General Government Aid (Lottery and Additional Assistance) in FY11 and level-funding of Chapter 70 funding.
- Limited growth in Local Receipts (approximately $250,000 / yr, or 1%).
- A 2% wage increase for FY10-FY14 for all (municipal and school) unions.
- Inflation in most Services, Supplies, and Capital Outlay accounts of 1.5% - 2.5% (approximately $200,000 per year for the schools and $270,000 for town departments).
- Annual utility increases of $100,000.
- Annual SPED growth of $650,000 - $700,000.
- Enrollment growth cost increases of approximately $200,000 per year.
- Step increases in the School Department of $500,000 per year and $150,000 per year for Town Departments.
- Annual Health insurance rate increases of 10%, plus additional enrollment in the health insurance program of 40 per year.
- A Pension appropriation based on the most recent funding schedule approved by PERAC, including an assumption for a large increase if FY12 to reflect the CY08 pension fund performance.
- Debt Service and pay-as-you-go CIP that reflect the plan to get back to fully funding the CIP at 5.5% by FY12.

These assumptions create an escalating deficit position for FY11 and beyond, starting at $3.5 million in FY11 and reaching $14.7 million by FY14, as shown in the table below.

	2010	2011	2012	2013	2014
TOTAL REVENUE	$204.4	$204.1	$209.9	$216.4	$222.2
TOTAL EXPENDITURES	$204.4	$207.6	$218.6	$227.8	$236.8
CUMULATIVE SURPLUS/(DEFICIT)	**$0.0**	**($3.5)**	**($8.7)**	**($11.4)**	**($14.7)**

The graph below shows how annual revenue growth of approximately 3% is outpaced by annual expenditure growth of approximately 4.5%.



The growth in expenditures is driven primarily by wages, health insurance (annual budget growth of 11%), pensions (growth of 3.5% per year, except for FY12), and School Department non-collective bargaining (approximately 2% per year), due primarily 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 general inflationary levels; compensation adjustments lower than past patterns; or a slowdown in the growth of SPED or school enrollment.

RECOMMENDATION

As stated at the beginning of this Recommendation, the Selectmen are in complete agreement with the Advisory Committee on this FY10 budget proposal. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 14, 2009, 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 Polices that have guided Town budgeting over the past decade. The amount of time the Advisory Committee spent on reviewing the Financial Plan is simply remarkable. 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 avoid a number of problems that other communities have had to address.

TOWN OF BROOKLINE'S FISCAL POLICIES
Adopted by the Board of Selectmen on April 27, 2004
and Amended on June 17, 2008

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.
- 2008 Override Funds - the $750,000 included in the CY2008 Override.

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, plus the funds provided for in the CY2008 Override. The original $750,000 shall be increased annually by the 2.5% allowable growth in the tax levy.

- 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.

- CY2008 OVERRIDE FUNDS
  Beginning on July 1, 2008, an additional $750,000 shall be included per the Override. This amount shall be increased annually by the 2.5% allowable growth in the tax levy starting on July 1, 2009.

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

SHIFTING SANDS

It is understood that these are unsettled economic times. The only certain thing is uncertainty. The budget presented here is still in play due to the State's funding ambiguity and revenue uncertainty. We anticipate a reduction in State Aid prior to Town Meeting, and we expect to have to revise our other revenue projections down a bit as well. The resolution of the Quinn Bill reimbursements and State taxes are not yet determined as the Governor and Legislature come to grips with Massachusetts' deteriorating economic health.

The larger view of our municipal finances, and the structural approach to contending with them, is nonetheless described through the following budget recommendations. Prior to Town Meeting, when there is a clearer picture of the total revenue changes (State Aid, Quinn Bill etc.), we will provide a recommended amendment to the proposed budget that will account for those changes.

REVENUES AND EXPENSES

- Revenues

A variety of sources support this year's General Fund Revenue of $204.4M (+2.6%). Our greatest revenue source is the local property tax, comprising 75% of total revenues. Property tax receipts increase 3.6% to $152.6M. Another significant contributor is State Aid ($17.2M). This is a decrease of nearly 13% over last year, and all indicators are that it will decrease further. (The Massachusetts House of representatives recently approved an increase to the sales tax to help offset State budget cuts, including Local Aid. However, each day there is news of continued state revenue declines and the Senate version of the State budget reduces revenue estimates. All of this indicates that a further cut to Local Aid is likely). The Overlay Surplus and Other Available Funds account for an additional $7.4M. We expect decreases in Motor Vehicle Excise, Interest Income, Building Permits and Recycling Income. Local Receipts decrease 1.3% to $20.2M and will likely need to be revised down. This is in the face of increased fees over the past couple of years. We are caught in the same secular trend as other communities – a contracting municipal economy.

- Expenditures

Departmental Expenditures (~ 64 % of total expenditures) decrease by 0.2% on the Town side and increase 1.4% for the Schools. $62.3M is allocated to Town Departments and $69M to the School Department. Non-Departmental expenditures total $56.6M (+6.4%) and include such things as Employee Benefits (~71% of this category), Reserves, Insurance, and Debt Service (~22 %). Additionally, there are Special Appropriations (CIP) of $9.3M (+ 8%) as well as Non-Appropriated expenses of $7.3M (including such things as State assessments and Cherry Sheet offsets).

$204.4M in revenue meets $204.4M in expenditures. After allowing for the $7.3M in non-appropriated expenses, we are left with a total of $197.1M for appropriation – an increase of 2.5% over last year.

In the face of a budget-to-budget increase in revenue of 2.5% though, we are contending with escalating costs and declining revenues. The increase presented here is likely to diminish over the next few weeks. An outline of Revenues and Expenditures (current) follows:

Revenues

	$	% change
Property Tax	152,552,834	3.6
Local Receipts	20,217,120	(1.3)
State Aid	17,157,180	(12.6)
Free Cash	7,053,295	18.4
Other Funds	7,443,101	24.3
Total Revenue	204,423,534	2.6

Expenditures

	$	% change
Departmental	131,236,696	0.6
Non-Departmental	56,595,732	6.4
Special Appropriations (CIP)	9,260,572	8.0
Non-Appropriated Exp.	7,330,535	3.1
Total Expenditures	204,423,534	2.6

PERSONNEL

As a service provider, our budget is primarily dedicated to personnel expenses. Of this year's $187.8M Operating budget, ~76% is dedicated to Personnel and Benefit expenses. Personnel increases 0.5% to $103M, and Benefits increase 5.1% to $40.3M.

It is axiomatic that a budget can support only a certain number of employees at a certain level of compensation (wages + benefits). Therefore, it is important to be aware of the total level of compensation. If one component excessively increases, fiscal reality dictates that another must decrease.

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) versus contracted. Eliminating jobs is something we strive to avoid. Instead, we look for ways to consolidate or streamline headcount through vacancies, attrition and retirement. Using this approach, we were able to reduce our payroll costs by well over $1M in FY'10 – without resorting to layoffs. It is understandable that change is often not comfortable and a number of changes have been met with trepidation. However, these changes better leverage skill sets and provide savings that maintain employment.

After a clerical reduction in the Health Department, efficiencies are realized through the consolidation of clerical functions in the Human Relations and Health Department programs. Civilianization within the Police Department's Traffic Division (meter collections) created

savings there. A reduction of two positions in the Fire Prevention program (inspections and permitting) is partially offset by the addition of a civilian clerical position. There are a number of vacant positions and several clerical roles that will be eliminated. These include a Town Arborist, Zoning Administrator, Police Officers and Fire Fighter positions (traditionally vacant, but used as additional overtime funding source). As noted below, there have been reductions to other positions.

Dept.	Item	FTE	Savings	Note
Building	PT Data Entry Clerk (C-4)	(0.40)	(14,727)	Eliminate.
	Sub-Total Building	**(0.40)**	**(14,727)**	
DPW	Traffic System Technician (LN-7)	(1.00)	(51,637)	1 less FTE due to merger w/ Fire Wire Div. (Call boxes) - Vacant pos.
DPW	MEO II (LN-3)	(1.00)	(43,901)	Reduce street sweeping staffing by 1.
DPW	Town Arborist (GN-13)	(1.00)	(66,149)	includes offset by increasing stipend
	Sub-Total DPW	**(3.00)**	**(161,687)**	
Finance	Senior Clerk Typist (C-5) - Assessor's	(1.00)	(40,490)	Eliminate vacant pos.
	Sub-Total Finance	**(1.00)**	**(40,490)**	
Fire	Firefighter	(4.00)	(220,316)	Elimination vacant pos'.
Fire	Firefighter	(2.00)	(128,452)	From Fire Prevention
Fire	Clerk	1.00	50,000	Civilianize administrative component of Fire Prevention.
	Sub-Total Fire	**(5.00)**	**(298,768)**	
COA	Group Leader (GN-2)	(0.21)	(6,552)	Reduce from 30 hrs / wk to 22 hrs /wk.
COA	Outreach Worker (GN-2)	(0.53)	(18,853)	Eliminate vacant position
Health	Senior Clerk Typist (C-4)	(1.00)	(38,386)	Eliminate as part of Clerical consolidation (employee to move into vacant Bldg Dept pos).
	Sub-Total Human Services	**(1.74)**	**(63,791)**	
Legal	Senior Clerk Typist (C-4)	(0.11)	(4,035)	Reduce from 24 hrs / wk to 20 hrs / wk.
	Sub-Total Legal	**(0.11)**	**(4,035)**	
Library	Materials		(20,199)	2% cut from FY09 level.
	Sub-Total Library	**0.00**	**(20,199)**	
Planning	Zoning Administrator	(1.00)	(78,046)	Eliminate vacant pos.
Planning	Commercial Areas Coordinator	(0.23)	(32,336)	Combined reductions
	Sub-Total Planning	**(1.47)**	**(110,382)**	
Police	Police Officer	(2.00)	(146,206)	Eliminate 2 vacant positions.
Police	Police Officer	(2.00)	(146,206)	Civilianize meter

				collection.
Police	Civilian Meter Collector	2.00	90,000	Civilianize meter collection.
Police	Vehicles		(68,054)	2 fewer vehicle replacements.
	Sub-Total Police	**(2.00)**	**(270,466)**	
Selectmen	Head Clerk (C-9)	(0.47)	(21,272)	Make 20 hrs / wk.
	Sub-Total Selectmen	**(0.47)**	**(21,272)**	
Various	Take Home Vehicles		(6,500)	25% reduction.
	Sub-Total Various	**0.00**	**(6,500)**	

TOTAL		**(14.94)**	**(1,012,317)**

The combined vacancies, restructuring opportunities and reduction of contingencies obviated the need for layoffs in this budget. The coming years are less certain, however. Decreased revenue (Local Receipts, State Aid, etc.) and continued onerous healthcare and pension costs may well conspire against us. The future will largely be determined by the health of the financial markets and whether we can realize the potential for millions of dollars in savings in our healthcare costs.

GROUP HEALTH & BENEFITS

Employee benefits of $40.3M will consume more than 21% of this year's Operating Budget and include such things as pension, workers' compensation, unemployment, life insurance and health insurance.

- Group Health

  Group Health benefits alone account for 13% of the Operating Budget, and are provided to both active and retired employees. In FY'08, there were 2,882 enrolled employees (1,386 Town / 1,496 School). 52% of the enrollees are active employees, and 48% retired. The Town pays for 75% of the premium costs. In the past few years, the Town aggressively negotiated with healthcare providers, consolidated under a single provider achieving marked savings, and restructured the co-pay schedule to reduce premium costs for both the Town and its employees. Even with these measures, premium costs continue to increase substantially -- greater than the rate of growth in our revenues. This year, after negotiations, the rate of premium increase is 7.8%. If the cost is not reduced, this item will continue to erode other items in our municipal budget contributing to forced reductions in services, capital and personnel.

  Every dollar we spend on healthcare is a dollar we cannot spend on other items. On July 1st, a Blue Choice family plan will cost more than $22K per employee annually, of which more than $16K is paid by the Town. For several years we have sought ways to reduce these enormous costs. In particular, we discussed moving into the State's GIC. Current estimates are that such a move could save Brookline as much as $4M annually and our employees $1.25M annually. It is a program that allows for a choice of plans and providers (though not BC/BS). There are also some higher deductible levels for plans within the GIC, and this has some employees concerned. However, the overall premium savings are greater than the increases in co-pays.

Other collaborative health insurance groups have been explored as well. Metro West is one such group. However, the savings are not what they are with the GIC (in fact the projected savings from joining West Suburban Health Group have decreased since we first began to consider it). Additionally, few municipalities participate (Brookline would be the largest). Therefore, the stability of the risk pool is less certain and premium rate increases far less predictable – especially if municipalities currently in Metro West opt to enter the GIC instead.

The bottom line is that joining the GIC provides a chance for very significant savings.

In order to join the GIC, 70% of our union membership must elect to opt in. The Governor suggested reducing the 70% provision to 50%. He also suggested that any municipality that fails to join the GIC should also expect to see reductions in its State Aid as a consequence. Whether the figure is 70% or 50%, communities cannot unilaterally decide which healthcare programs to offer as a benefit to their employees – though they may still be penalized for not joining the GIC. Such a system represents the State giving us the responsibility without the commensurate authority. Of course, our Legislature can change that if it so chooses.

Discussions will continue with our collective bargaining units through Coalition Bargaining for the next several months. We have until October to make a decision (last year it was extended until December). If we do not make a change, we will still be obligated to pay those same millions of additional dollars in healthcare costs we are now paying (plus any increases). The reality is that we will then need to compensate for those added costs elsewhere in the budget. As noted, quite likely meaning greater reductions in services and personnel and capital commitments.

- Pensions

  Pension benefits are provided for Town and School employees not covered as teachers (teacher pensions are funded by the State). Many newer positions in the schools tend to be aides, and therefore may be eligible for the Town Pension System. Currently, there are approximately 3,410 employees (active, inactive 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 (PERAC) 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 allowed the Town to reduce its total costs considerably. However, it also meant higher annual payments that put greater pressure on the Operating Budget. Brookline's Pension Board voted to reschedule the 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 approximate value of the pension as of December 31, 2008 was $160M. Given that the pension assets lost approximately 28% of their value this past year, we may need to extend the timeline for full-funding unless the markets recover or other factors used in our actuarial calculations change.

There is currently discussion at the State level around extending the mandated deadline to 2032 or 2035. Losses in the pension mirror what that occurred nationally. The amount of annual payments needed in FY'10 is $12.1M, based on the current value of assets in the pension, the Pension Board's assumed rate of return, wage growth and disability retirement assumptions. This is an increase of 5.5% ($642K) over last year. Given the collapse in the financial markets, we can expect the required annual contribution to the pension to go up markedly in the next few years – potentially increasing by an additional $2.5M - $5M in FY'12 – exerting even greater pressure on our Operating Budget.

- Retiree Health

  While we fund our pension on a PERAC-approved schedule, we have not taken the same approach to retiree healthcare. We do meet our current obligations, but we don't have that sort of budget capacity to stick away the additional millions of dollars a year for this as well.

  We are not unique, and may be better off than most. Nationally, the unfunded post-retirement healthcare obligation in both the public and private sector is characterized as "incalculable". So while the challenge is much larger than just Brookline, we cannot ignore it.

  Regardless of the ultimate solutions, this is as much a symptom as a problem. Some of the underlying drivers are under our control; others are not. People are living longer and healthcare costs are escalating far in excess of inflation and far in excess of Brookline's rate of increase in Town revenue. What sets the stage for our calculated future obligations is the number of people we ultimately employ and the degree to which we agree to split the cost of healthcare with them. Currently, the Town covers 75% of the healthcare premium cost for both current and retired workers. The Town adopted Chapter 32B Section 18 several years ago allowing us to move retirees into a Medicare coverage program for marked savings. Because our retirees are in less expensive Medicare Supplemental plans, they only account for only about 35% of the healthcare budget ($24.2M in FY'10). However, we anticipate that in the next few years this will increase to nearly 50% as more people retire. This year 40 new enrollees will join our healthcare program.

  The calculated unfunded liability for our retiree health obligation is between $240M and $330M, depending on a host of assumptions. In 1998 the Town established a Retiree Healthcare Trust Fund and last year we applied an additional $1M to that fund (increasing it to $5.7M). Brookline is one of only a few communities to begin funding such a post-retirement benefits trust.

  While consideration must be given to the costs and drivers of the liability, consideration must also be given to the approach we adopt in addressing that liability. The Over-Ride Study Committee (OSC) estimated that funding the Retiree Healthcare Trust Fund would require an annual commitment of at least $4M. Allocating that much money would require significant decreases in other areas of our Operating Budget. This is one of the reasons we have traditionally adopted a pay-as-you-go approach.

One problem with this approach, though, is that it can make budgeting predictability difficult. From our experience with the Pension Fund, we have seen how disruptive an unanticipated run-up in disabilities, or a greater rate of retirements, or a stiff market correction can be. Years ago, no one would have anticipated these incredible increases in healthcare costs. Increased life expectancies add even greater liability. Each year a larger portion of our Operating Budget must be committed to fulfilling our obligation.

It has been suggested that socking away extra money to meet our retiree healthcare obligation (above the pay-as-you-go amount) is much like putting money into a Christmas account; regardless of where you park and manage your funds, you pay the same amount in the end. Also, unlike corporations, towns do not go out of business so there is little risk that the obligations will never be met. However, there are distinct advantages to funding a Retiree Healthcare Trust Fund. The first is that it structurally instills a certain measure of financial discipline. By making regularly scheduled payments into a dedicated fund, you plan an Operating Budget that will be less susceptible to the unforeseen financial shock of an odd year (e.g. requiring extra funds for unanticipated retirements). That same moderating influence will be seen in the healthcare premium funding. By committing additional funds up front, it is possible to "buy down" the increased costs later - in effect flattening the curve of premium increases. This is essentially what we do with our Pension Fund. It may not change our ultimate cost, but it will provide for a more even and orderly budgeting process. Moreover, it will avoid pushing a crushing bill onto our children. As money is added to the fund, there is an opportunity to grow the fund further over time through investments.

Our current pay-as-go approach has been working and will continue to work for some time. However, with each successive year and healthcare premium increase the bite out of our Operating Budget grows as well. The Board of Selectmen established a task force to address the Town's unfunded liabilities for Other Post Employment Benefits (OPEB's). That committee's report has not been released as of this writing. However, it is anticipated that a plan will be offered to fund an OPEB account incrementally and substantially over the period of an employees "work life" – 30 years.
This year, for the first time, a specific line item in the budget for OPEB funding appears. For FY'10 we begin with an allocation of $250K. It is expected that we will increase the expenditure by an additional $250K per year in each successive year. This act alone can add more than $116M to the OPEB fund over the life of the funding schedule. This one element is not a complete solution to funding our retiree healthcare obligation, but it can serve as a very significant component in a full-funding strategy.

CAPITAL IMPROVEMENTS PLAN (CIP)

The Town's proposed CIP anticipates an average annual investment of just under $25M over the next six years. This year (FY'10) we expect to authorize ~$15M from the General Fund toward our CIP (inclusive of Free Cash, over-ride funds, re-appropriations and other). Funding for the CIP comes from grants (including CDBG, State/Federal grants), enterprise funds' budgets, tax revenues ($1.8M) and Free Cash ($3.1M).

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% towards pay-as-you-go financing). This budgetary discipline has allowed us to institute scheduled maintenance and infrastructure

repair as well as accommodate needed building projects and capital investments. By having a consistent approach to capital funding, we can predict and schedule projects and the associated debt service. This helps to prevent wild and detrimental swings within our Operating Budget. However, that 5.5% number is just that – a number. It is not magical or divinely inspired. But, it has worked well to satisfy our community's fundamental capital needs, provide budgetary stability and predictability, and prevented a backslide into a crumbling infrastructure. In stressed financial times we have cut back on this funding level in order to smooth the rough patches in our Operating Budget.

This year we are recommending such an approach again. The funding level for the FY'10 CIP is based on 5% of the prior year's Net Revenues. We realize it is easy to use "Capital Funds" for operating purposes, but not so easy to re-establish the balance later. Therefore, this recommendation is made cautiously. We can fund at the 5% level this year, 5.25% next year and return to the 5.5% level in FY'12. Any attempt to maintain this lower level of commitment to our capital needs would necessitate reducing and rescheduling our capital projects (and perhaps loosing some all together). In particular, it could make the Devotion School project unattainable. For FY'10 and '11 however, this approach will allow us some budgetary flexibility as we restructure for the future.
This year's CIP continues our commitment to street and sidewalk rehabilitation, energy conservation, Town and School grounds improvements and repairs, and technology among other things. Also in the CIP is funding for increased classroom capacity. What form that takes is yet to be determined. However, for the past couple of years (and again anticipated this year) kindergarten enrollment has been increasing. Depending on the distribution, new classroom space may need to be constructed within existing structures, or modular classrooms acquired.

Another significant purchase proposed within the CIP is a new Quint-style fire truck. This is a combined pumper/ladder truck. Originally, the plan was to purchase a somewhat less expensive pumper-only truck. However, after discussions with the Fire Chief it was determined that the Quint-style provided far more flexibility. Many fire companies nationally and locally have started migrating to this sort of truck. The Chief recognizes that this truck would be a better piece of equipment now, and may prove even more valuable in the future. The Chief seeks to ensure that should future Town budgets become tighter and town-wide reductions greater, that the Fire Department be in a position to keep all fire houses open even if there are reductions within the department. This piece of equipment gives that sort of flexibility. The Advisory Committee has specifically asked the Chief to write the bidding specifications in such a way as to ensure a competitive bidding process and, hopefully, a reduced cost.

A major item that appears in this year's CIP is for corrective action around the Newton Street Landfill. In the 1950's a private developer used Town incinerator ash as fill in residential projects. While perhaps misguided, this was legal at the time. Now, however, that ash must be removed and/or capped. The developer is long gone and the Town is obligated to perform the clean-up. The Town has worked closely with the residents, the State and the Department of Environmental Protection to formulate a plan to contend with this issue. Since FY'04, Town Meeting has authorized nearly $8M towards corrective action. The FY'10 appropriation will complete the funding needed for required removal and restoration. And, it

will ensure continued compliance with DEP regulations in the remediation of properties along Martha's Lane, Kensington Circle and Arlington Road.

A detailed description of the FY'10 CIP items is provided in these Combined Reports.

DEBT AND DEBT FINANCING

As has been noted, the CIP is largely financed through debt (bonding). Projected outstanding debt for FY'10 is approximately $97M; $22M of which is State reimbursed via SBA and $29M is attributable to Debt Exclusion projects (e.g. BHS, Lincoln School). Debt service (annual payments on that debt) increases $153K to a bit over $15M for all funds. These are sobering, yet manageable numbers. Of the $15M in debt service, $2.6M is financed through the Enterprise Funds and $3.3M through State SBA. State law limits a town's level of debt to 5% of its Equalized Valuation (EQV). At approximately 0.6%, 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 80% 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'10-FY'15 CIP, and the other breaks out the CIP allocation by category. 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	44.9		Facility Renovation/Repair	65.4
Free Cash	12.4		Infrastructure	21.2
State/Federal Grants	25.4		Park/Open Space / Playgrounds	11.0
Utility Bond/Budget	3.4		Misc.	1.1
Property Tax	8.9		Vehicles	0.8
Other	3.3		**Total**	**100.0**
CDBG	1.5			
Overlay Res. Surplus	0.2			
Total	**100.0**			

SCHOOLS

The Schools must also contend with decreases in local revenue and reduced State Aid. In addition, the Schools must confront a decrease in "circuit breaker" funding. This money goes toward SPED costs (Massachusetts ranks 49th in the nation in terms of State funding for SPED). Also, METCO funding is decreased (for the third time in a year).

Adding to the financial pressures is enrollment growth. For the third consecutive year, kindergarten enroll is up. The School system has also had to add four new fourth-grade sections. As enrollments increase, so do demands for space and staff.

This year's School Budget shortfall has required the School Department to pare back on staff. Among the reductions are positions in the High School administration and clerical staff,

BHS teaching staff, a METCO Social Worker, 15 Aide positions and the Elementary Library Assistants in all schools.

The School Department is looking at new ways to consolidate and streamline programs, as well as reducing out-placement costs by establishing programs in-house. Part of this effort will be guided by the recently established Strategic Committee.

The Schools are one of Brookline's core strengths. But with State Aid declining and enrollments increasing, we will need to be creative and collaborative if we are to maintain this community's educational heritage.

An in-depth analysis by the Advisory Committee appears at the end of this report.

BRIDGING A NEW LANDSCAPE

Budgets tend to be viewed in the here and now. Each year we approach the budget as a sort of transaction. Too often we may view future issues merely as bridges to cross later. This year, and for the next couple of years, it is important that we resist that temptation to consider our Town Budget only as a transaction. We must consider this and the following budgets as part of a process – a series of bridges we must consider crossing now.

Sacrifices and uncomfortable decisions are inevitable; and how we fare in the coming years will depend on how well we prepared. It will not simply be a matter of choosing to take the band-aid off slowly vs. quickly; it will be determined by the opportunities that present themselves and the opportunities our community is able to create. These may come in the form development, revenue enhancements, cost and service reductions or operational restructuring to name a few.

This year we have taken advantage of some of these things in order to preserve services and jobs as well as position ourselves for the future. But, these are often temporal opportunities – some of which can be planned for while others may merely be serendipitous.

Given the state of our economy, we have good reason to be concerned. Though we cannot see it yet, there is light at the end of the tunnel. However, we will likely be viewing a different landscape when we emerge. We should not consider the budget cycle we are beginning in a state of panic or crisis, but we should recognize the urgency. We face significant challenges, challenges that will require significant changes in the way we do business. While difficult times may make us tense, they can also make us focus. Undoubtedly our community will make the decisions and the sacrifices needed to keep Brookline strong. The challenge will be to do it in as stable and humane a fashion as possible. Brookline has demonstrated its capacity to this in the past and we will rise to it again - regardless of the changing landscape.

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Sub-Committee Report on the School Budget

BACKGROUND:

This report discusses the major fiscal issues facing the Public Schools of Brookline ("PSB") in 2010 and beyond. It reflects the information contained in The Public Schools of

Brookline, Superintendent's Preliminary Budget, FY2010, as revised by subsequent changes, and the likelihood that additional changes will be forthcoming as the state's fiscal 2010 budget evolves.

The Advisory Committee and Town Meeting have the authority to approve or disapprove only the total appropriation of the Town's general fund operating budget that is allocated to the PSB general fund. Other sources of revenue for the PSB general fund are state reimbursement of certain special education expenditures ("circuit breaker"), tuition and other fees, and unspent funds from prior years' appropriations ("reserves"). The authority for the specific spending of the revenues in the PSB general, grant and revolving funds is vested in the School Committee. Beyond monies spent by the PSB, the Town's general fund bears expenses directly supporting the PSB.

Management of the PSB budget remains a major challenge in 2010 and beyond. General fund spending for 2009, which includes approximately $4 million of 2008's override, is expected to exceed revenues by approximately $171,000, which includes overspending of $345,000 for direct special education. In 2008, there was a budget surplus of approximately $511,000.

The conditions that lead to these circumstances in 2009 and beyond include:

- revenue concerns in the general, grant and revolving funds, further exacerbated in the near term economic environment
- additional physical and human resources from growth in enrollment at the elementary level
- increases in the cost of special education
- the cost of compensation and benefits for the work force
- the program review process assessing learning expectations has the potential to require additional resources

DISCUSSION:

Exhibit 1 summarizes the 2010 "revised" budget and compares it to 2008 and 2009. The principal changes in the revised from the preliminary budget are a decrease of $560,000 in town-generated funds ($500,000 from balance sheet reserves), and an increase of $1,164,000 of funding made available by federal American Recovery and Reinvestment Act, Individuals with Disabilities Education Act stimulus grants, the spending of which is restricted to special education ($1,121,000 for K-12 and $43,000 for early childhood). A major challenge for the PSB is balancing the positive features of stimulus grants with their unsustainability.

Stimulus grants, in turn, have had an impact on program spending in the general fund. Regardless of the changes, the following reductions remain – administration and clerical ($480,000), special education aides ($372,500) and library assistants ($226,000). Among the restorations, the mathematics and literacy program has restored 3.5 FTEs and added 1.35 FTEs for an aggregate $305,000.

Exhibit 2 summarizes the 2010 "preliminary" general fund budget, by school type and program.

In 2010, the Town/PSB budget calls for a combined spending of some $117 million on behalf of the PSB, $83.5 million by the PSB, and $33.4 million by the Town (largely, personnel benefits, school building expenses, and debt service, which is considered separately by the Advisory Committee and Town Meeting). Combined spending for 2010 represents a 3.4% growth over 2009.

The $83.5 million of PSB spending comes from its general fund ($71.5 million), grant funds ($6.9 million), and revolving funds ($5.1 million), representing $1,938,000 (2.4%) growth over 2009. Close to 60% of the growth comes from stimulus grants.

General fund spending grows by a net $550,000 (0.8%), reflecting a $953,000 (1.4%) increase through the Town/School partnership, offset by a decrease of $443,000 (51.5%) in the use of reserves.

Grant funds increase by $1,145,000 (20%), largely reflecting the stimulus grants, and revolving funds grow by $243,000 (5%).

Approximately $250,000 of 2010 spending will be used to cover 2009 spending.

There is a special education reorganization being implemented in 2010. It will implement the Team Facilitator model. The model calls for $743,000 of spending on 10 FTEs, 8 of whom are team facilitators, 1 administrator and 1 out-of-district facilitator. This replaces $622,000 on spending on 7.8 FTEs, 1 of whom was a team facilitator and 4 of whom were administrators. The new model is expected to lower the future cost of services.

Special Education (Pgs. 136 – 141 of the Superintendent's Preliminary Budget)

Brookline's Special Education (SPED) program currently delivers federal and state-mandated services to 1, 216 students with disabilities aged 3-22 years within settings deemed to be "least restrictive". 72 of these are now in out-of-district placements.
SPED students comprise 19% of Brookline's total student population (up 1% over last year) In 2008, the state-wide percentage of SPED students was 16.7%. (No state-wide figures are available yet for 2009).

The total SPED Budget request for FY 2010 is $17,679,403, up $627,149 over FY'09.

While the number of students in out-of-district placements has not appreciably increased, private tuition costs have risen by $600K. (A $525K Special Education Contingency Reserve is included to address these private placement costs.)

SPED costs are broken down as follows:

Personnel:	$11,413,190	(188.4 FTEs – including SPED teachers, speech & language teachers, occupational/physical therapists, vision/hearing specialists, aides, etc., mandated through the I.E.P. process.)
Services:	5,706,351	
Supplies:	21,862	
Other:	538,000	

Program growth of $415K is primarily targeted toward private placement costs and $120K is included for SPED Administrative Restructuring (to be described below.)

Added to the above is the cost for Transportation of SPED students, expected to rise by $50K over 2009 due to a contract increase, for a total of $904,000 (Pg. 74). Due to the current economic climate, there is no expectation that the State legislature will include these costs in its reimbursement program anytime soon. Brookline's transportation coordinator is working with vendors, nearby school systems & transportation companies to seek out the most cost-effective options.

One-time monies to support SPED come primarily through the State's Circuit Breaker reimbursement program which is continuing to shrink. Until 2004, the MA Dept of Education paid 50% of SPED student tuitions in residential facilities. Since then, Circuit Breaker had been paying 75% of costs for any SPED student whose total education costs exceed $37K. The statutory level of reimbursement from Circuit Breaker was reduced to 70% for FY2010 (for a loss of $150K to Brookline) and is expected to suffer further cuts.
The current House Ways & Means proposal decreases total Circuit Breaker funding by $45M (19.6%) from the original FY09 appropriation to $184.9M. This is $40M, or 17.7% below what the Governor's House 1 plan includes. (Stay tuned!) As of now, it's estimated that our reimbursement will be reduced by $300K. (C.B. reimbursement is made a year after funds are spent, deposited in a revolving fund and available for use in the current year's budget.)

A major change in the Special Education Dept. referred to previously is the proposed restructuring of the existing service-delivery model which, it is hoped, will streamline the process, particularly at the Independent Education Plan (IEP) meeting level, and make the system more efficient, responsive and cost-effective. This reorganization is projected to cost $120K and will consist of the following changes/reallocation of resources:

- The current staff of 4 Unit B Special Education Administrator positions will be eliminated
- 15 Classroom Aides (12.66FTEs) will be eliminated (thereby reducing the number of aides currently involved in the development of student IEPs)
- 1 full-time paraprofessional (Aide) will be assigned to each Kindergarten
- 1.80 FTE Social Worker positions will be eliminated
- 1 Special Education teacher position will be eliminated

The current Team Facilitator (1 FTE) position will be increased to 8 FTEs, so that there will be a Team Facilitator role created at each school plus one working with out-of district students. This individual will be the sole person chairing the IEP team meetings at each school, coordinating individual IEP development with input from teachers and specialists. Responsibility and accountability for resource allocation will reside at each school under the new Team/Facilitator Chairperson who will report directly to the Special Education Director and School Principal. Decision-making will therefore be at the local building level.

One Director of Special Education position (Unit B) will be created. This individual will be responsible for coordination, training and supervision of the Team Facilitators and evaluation of SPED teachers and staff and will report directly to the Assistant Superintendent for Student Services.

Other new options for a projected savings of $105K are based on the implementation of after-school home-based services and play groups primarily servicing children with IEPs on the autism spectrum. Paraprofessionals familiar with the students during the school day help parents with home-based strategies with the goal of drawing the in-home service back to the school group format.

Other Town Department budget categories include considerable services on behalf of SPED students:

Medical Services	$997,299
Guidance Services	$2,065,146
Psychological Services	$730,844
Legal Services	$50,000 (located within SPED budget; SPED Dept. utilizes the Town's Legal Dept. for all legal services as well)

Separate grant applications will have to be made to receive American Recovery & Reinvestment Act (ARRA), IDEA (Individual with Disabilities Education Act) stimulus funding; FY11 funding is yet to be determined.
The SPED Professional Development grant was lost.

SPED students who cannot be integrated into their neighborhood schools but do not require out-of-district placements are placed into district-wide programs. These include the Autism Spectrum Program located at Runkle, the Social, Emotional and Behavioral Program at Devotion, the Cognitively-Impaired Program at Baker, the Neurobiological Program at Lawrence, the Alternative Learning Center at Lincoln and the language-based Learning Disability Center at Pierce. Programs at the High School are EXCEL (behavioral), PREP (language-based learning disability), SAILL (cognitive impairment), community-based classroom (multiple disabilities), PATHWAYS (Autism Spectrum Disorder), Winthrop House (mental health support program in Baldwin Center), C-CASA (Brookline Coalition against Substance Abuse & Violence Prevention Program), OFC (Opportunity for Change), BRYT (collaborating with Brookline Mental Health Center), and EDCO-Manville, a pioneering collaborative program for 15 high-functioning autistic students from EDCO communities (most with Aspberger Syndrome) who are initially behaviorally-disordered and disruptive but are later gradually included in general BHS classroom settings.
School personnel are working on partnerships with private schools such as Landmark with the hope of increasing the possibility of mainstreaming.

Brookline continues its focus on early childhood education attempting to identify needs and assist children at the early level of 3+ years and, hopefully, reduce the number of referrals to the SPED program.

Grant Funds
The general fund will remain under strain if programs funded by grants are continued without or with lesser grant funding.

Revolving Funds
Brookline Adult Education and the high school lunch program face significant fiscal pressure. There is some weakness in other programs. While the administration is addressing the underlying issues, fiscal shortfalls, if any, will have an impact on the general fund.

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Capital Sub-Committee Report on the FY2010 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 / Re-Appropriated Funds

The Capital Subcommittee reviewed the FY 10 proposals in the Financial Plan with relevant Town agencies in a series of public hearings. It also conducted site visits to both the Pierce School Auditorium and Runkle School. For FY 10 there has been a reduction from the usual 5.5% funding level to 5%. It is anticipated that the CIP funding will be increased to 5.25% in FY 11 and back to 5.5% in FY 12.

The Advisory Committee's recommendations differed from those found in the Financial Plan in two instances. First, the Committee recommends funding the demolition of only one of the buildings at the Brookline Reservoir in the amount of $75,000, as opposed to the proposed $100,000 for the demolition of both buildings. Second, the Committee recommends funding the design development costs and the construction costs for the Pierce School auditorium renovations in two appropriations as opposed to one as originally proposed in the Financial Plan. As a result, $75,000 for design development is recommended for FY 10, while the remaining $750,000 for construction is recommended for FY 11. These recommendations resulted in the opportunity to reallocate $775,000.

It should be noted that funds for the Runkle School renovation are included in the FY 10 CIP but will not be voted until the Fall 2009 Town Meeting.

1. RESERVOIR PUMP HOUSE
$75,000 (T)

The pump house is a one story, wood-framed structure with a flat roof, built by the Commonwealth on Town-owned land in 1944 as a wartime emergency pumping facility. Neglected by the MDC and in deteriorating condition, it was, at the Town's request, conveyed to the Town in 1985 and subsequently leased to the Town Green Association, Inc., a non-profit corporation formed by a group of neighbors who agreed to restore and maintain it according to the terms of a tenancy-at-will agreement. Although that arrangement worked well for a number of years, by 1994 the Association had become inactive and the pump house had begun to deteriorate once again. Safety concerns have prompted the Building Commissioner to order the demolition of the structure; $75,000 has been allocated for the removal of the building and restoration of the site.

2. TECHNOLOGY APPLICATIONS
$239,000 (T)

This annual appropriation funds projects detailed in the Information Technology Department's Long-Term Strategic Plan, which serves as the framework for the selection and management of technology expenditures and is updated periodically 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. Special consideration is given to projects that reduce operating expenses and / or create efficiencies.

3. FIRE APPARATUS REHAB
$350,000 (T)

The Town's policy is to replace all front line engines every 17 years and all front line ladder trucks every 20 years. While this replacement schedule serves the Town well, funding needs to be appropriated every 10 years to rehab engines and every 12 years to rehab ladder trucks. In FY 10 the "Quint" (Engine #4), purchased in 2000 for $490,000 and currently housed at Station 4 at the corner of Route 9 and Reservoir Road is scheduled for rehab/rebuilding which includes work on the vehicle's suspension, chassis and aerial and pumper features. The Quint will be out of service for 3-6 months.

4. FIRE ENGINE/QUINT
$730,000 (T)
$270,000 (T – Re-appropriated funds)

The Fire Department currently has a pumper (Reserve Engine 5, a 1984 Mack) that will be 26 years old in FY 10 and needs to be retired. Vehicle replacement plans call for the purchase of a "Quint" (combination pumper/ladder truck) that will replace Engine 5 (a 2004 front line pumper). Engine 5 will be transferred to Station 6 to replace Engine 6 (a 2002 pumper). Engine 6, a 2002 Sutphen, will become Reserve Engine 6 and will replace Reserve Engine 5, due to be retired.

This proposal has a projected savings of $100,000 in FY12 since, as a reserve engine, this apparatus will not need the extensive refurbishment of a front line truck.

5. STREET REHABILITATION – TOWN
$1,720,000 (T)

In 1992, the Department of Public Works (DPW) undertook a comprehensive study of its roads and implemented a pavement management system. The system was designed to bring Town-owned streets to a level of repair and maintenance that would preclude undertaking costly complete reconstruction. From 1992 to 1997, the Town made some progress in this regard, but funding was inconsistent. Starting in 1997, the Town began allocating $1 million per year to streets rehabilitation.

In CY 07-08, the research of the Override Study Committee (OSC), determined that the Town had underfunded road and sidewalk maintenance and construction. Its analysis showed that while funding for road construction activities remained level, construction costs increased approximately 35% between 1997 and 2007, reducing the amount of work that could be completed each year. Had the funding levels for roads been increased each year, the current level of funding would be $1.35 million.

The OSC's report also explained how the pavement management system included a strategy that each of the roads reconstructed beginning in 1992 should begin receiving maintenance expenditures by the beginning of the 7th year of the program. However, this maintenance (estimated to cost approximately $150,000 per year) was not performed. The result was that the prior road investments began to deteriorate in 1999 and were not revisited for 8 years. The OSC recommended addressing this shortfall by investing an additional $1.2 million over a multi-year period for "catch-up" work.

Based on the recommendations of the OSC, the 2008 Override, which was ultimately approved by the voters, included $750,000 for streets and sidewalks. Of the FY09 amount, $580,000 was appropriated for streets, with $300,000 addressing the underfunding caused by level funding and $280,000 for the "catch-up". In FY10, the base appropriation is recommended at $1.31 million (the original $1 million base, plus the $300,000 added in FY09 adjusted for a 2.5% increase). In addition, $410,000 is included for the "catch-up". Current plans call for the "catch-up" funding to be eliminated by FY13 and for the appropriation base is to be set at $1.47 million. Funds would continue to be increased annually by 2.5% after that date.

Streets currently scheduled for work in FY 10 include Beaconsfield Road from Tappan Street to Regent Circle; Greenough Street from Stanton Road to Lowell Road; Lancaster Terrace, Westbourne Terrace, and Henry Street. It is noted that in planning for street rehabilitation work, DPW's Engineering/Transportation division now reviews and takes into consideration the recommendations of the Bicycle Advisory Committee, as presented in the 2008 Green Routes Network Plan.

STREET REHABILITATION – STATE
$699,353 (State Grant)

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. Because the State approved a three-year $450 million Chapter 90 program as part of the 2008 Transportation Bond Bill, the Town should receive these funds through FY 11.

Streets eligible for Chapter 90 funds and included in the FY 10 work program are Clark Road from Sumner Road to Cotswold Road; Reservoir Road from Fairway Road to Crafts Road; and Pond Avenue from Highland Road to Jamaica Road.

6. TRAFFIC CALMING / SAFETY IMPROVEMENTS
$100,000 (T)

This funding will be used to implement approved traffic calming/safety improvement projects that have been evaluated and designed by the Transportation Division using the Traffic Calming Policy as a guide. The Transportation Board approves projects before they are implemented. Anticipated construction projects for FY10 are Riverway/Netherlands Road ($75,000) and the portion of Stedman Street near the Devotion School ($25,000)

Work to be undertaken at Netherlands and Riverway includes curbing installation at their intersection, a channelizing island, signage upgrades, counter flow bike lanes on both streets, new crosswalks with ADA compliant ramps, and a curb extension at the intersection of Riverway and Brookline Avenue. Work to be undertaken on Stedman Street may include new School Zone flasher signals, a redesign of the intersection of Stedman/Beals/Gibbs, and new crosswalks across Stedman to the rear of the school property.

7. SIDEWALK REPAIR
$256,000 (T)

The Department of Public Works has prepared a sidewalk management program that prioritizes repairs. Some sidewalks are reconstructed as part of the street reconstruction program; those that are not are funded under this program. In CY07-08, the Override Study Committee (OSC) determined that the Town had underfunded road and sidewalk maintenance and construction. Based on the recommendations of the OSC, the 2008 Override, which was ultimately approved by the voters, included $750,000 for streets and sidewalks. Of the FY09 Override amount, $50,000 was appropriated for sidewalks. In FY10, the base appropriation is recommended at $256,000 (the original $200,000 base, plus the $50,000 added in FY09 adjusted for a 2.5% increase). The amount would continue to be increased annually by 2.5%. The cost of sidewalk repair in FY 09 was $55/ square yard. The list of sidewalks to be repaired in FY 10 will be prepared in May.

8. PARKING METER SYSTEM REPLACEMENT
$60,000 (T – Re-appropriated funds)

The Town currently owns approximately 2,600 parking meters, many of which were purchased between 1997 and 1999. Together, they generate about $2.5 million annually. Each year, DPW performs approximately 7,400 repairs to these meters. When they are out of service - sometimes up to four days - they not only fail to generate revenue but they also reduce the turnover rate of parking spaces. Replacing the Town's parking meter system has the dual goal of reducing meter downtime and introducing new, user-friendly meters.

Neighboring Boston and Cambridge have introduced new types of meters that increase user convenience by accepting dollar bills and credit cards. These new meters have also proven to be more reliable, and by needing less frequent repairs, generate additional revenue. FY 10 funds will pay for two new multi-space, Wi-Fi enabled meters in two trial lots (Babcock and Kent Streets). Costs include purchase and installation of the meters, software, setup, plug and play components for repair purposes, and NStar fees. It is hoped that this pilot project will demonstrate that the new meters offer consumer convenience, a reduction in operating

costs, increased revenues, and improved aesthetics. Future funds for this project will allow the installation of new meters in the remaining Town-owned lots, replacement of single-head meters where multi-space meters are not feasible, and possible installation of multi-space meters along stretches of major roadways.

9. PARKING LOT REHABILITATION
$120,000 (T)

The following inventory of five Town-owned parking lots describes existing conditions and proposed improvements. Total rehab costs for all five lots is currently estimated at $430,000. For FY 10, a $120,000 appropriation is proposed.

The Babcock Street parking lot is need of repaving. This funding will be used to remove the existing pavement, regrade the sub-base, and repave the parking lot. The existing curb is in good condition for line and grade, as is the surrounding landscape. ($80,000)

The School Street parking lot has received little attention in the past. It is need of new granite curbs, drainage improvements, repaving, pavement markings, and signage. In addition, the overgrown vegetation will be removed or cut back. ($40,000)

The Webster Street parking lot pavement is in need of replacement and, in addition, the granite curbing needs to be reset to bring it to proper alignment and grade. This lot has not had substantial maintenance in over 20 years. This parking lot is a pilot for the evaluation of multi-space pay-and-display parking meter system. ($40,000)

The Fuller Street parking lot is in need of repaving. This funding will be used to remove the existing pavement, regrade the sub-base, and repave the parking lot. The other features of the lot are in good condition and do not need any work. ($80,000)

Lastly, since its construction in 1965, the Centre Street parking lot has not had any substantial maintenance work done. Repairs done to date have been more reactive and of the "band-aid" type. The rehabilitation work will consist of removing and resetting curbing, repaving, new signage, pavement line painting, replacing sidewalks, landscaping, and street light modifications. ($190,000)

10. PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE
$260,000 (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, play structures, safety surfacing, and drainage improvements. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

11. TOWN/SCHOOL GROUNDS REHAB
$120,000 (T)

Town and School grounds require on-going landscaping, structural improvements, and repair. These funds will be applied to create attractive and functional landscape 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 avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

12. TREE REMOVAL AND REPLACEMENT/FORESTRY RESTORATION
$150,000 (T)

The tree removal and replacement program represents the Town's effort to balance street tree removals with plantings. It is critical to remove trees that have matured or have been impacted by storm damage or disease before they become public safety hazards. New tree plantings are also critical, as they directly impact the tree-lined character of the community, improve stormwater quality, provide oxygen, and reduce heat impact in the summer. This line item also includes funding for on-going management work in the Town’s four conservation properties (Hall's Pond Sanctuary, Amory Woods Sanctuary, D. Blakely Hoar Sanctuary, and the Lost Pond Sanctuary). The funds will be utilized to remove trees damaged by storms, disease, and old age and to provide structural, health, and safety pruning to prolong the life and viability of significant trees located in conservation and sanctuary areas. New trees will be planted in anticipation of the ultimate loss of existing mature trees.

13. SCHOOL FURNITURE
$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.

14. TOWN/SCHOOL BUILDING - ASBESTOS REMOVAL
$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.

15. TOWN/SCHOOL BUILDING - ADA RENOVATIONS
$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.

16. TOWN/SCHOOL BUILDING – SECURITY/LIFE SAFETY
$100,000 (T)

The Security/Life Safety Program has been and continues to be developed in consultation with the Police and Fire Departments. Its overall objective is to improve both the security and life safety features in Town and School Buildings. Current practice calls for all doors around the perimeter of a building to be made more secure by replacing the doors, frames, door handles, and locks with electronic locks that may only be opened with a keypad and/or on a specific schedule and by limiting general access to the building to its main entrance. Improvements to lighting around each building have also been undertaken.

In terms of life safety concerns, funds are used to finance the on-going process of replacement and installation of new fire alarm systems, sprinkler systems, emergency lighting, and egress signs.

School buildings have been a priority for the allocation of Security/Life Safety funds, and the doors at most of the schools have already been fitted with keycard systems. Five more doors at the High School remain on the "to do" list. Other buildings scheduled for security upgrades include the Baldwin School, Lynch and Eliot Recreation Centers, the main building, gymnasium, and environmental classroom (former gardener's shed) at the Soule Recreation Center, and the skating rink at Larz Anderson Park. In FY 10, $100,000 is to be used to continue to address the identified security and life-safety needs of Town and School buildings, focusing on the above-mentioned buildings.

It should be noted that because of the ongoing efforts of the Police and School Departments to make all school buildings more secure, recommendations resulting from "Lock Down" training will continue to be reviewed by the Building Department on a case-by-case basis

17. TOWN/SCHOOL BUILDING - ENERGY CONSERVATION
$100,572 (T)

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

18. TOWN/SCHOOL BUILDING – ENERGY MANAGEMENT
$100,000 (T)

The Town's Energy Management Plan calls for the upgrade of energy management systems in Town and School buildings by replacing or upgrading existing systems with new web-based ones that can be integrated into the Town's existing computer network. Many of the larger buildings have systems that are, on average, 25 years old, have gone beyond their life expectancy and no longer have replacement parts.

Replacement of front end hardware and software is needed at the Old Lincoln School, all Fire Stations, Putterham Golf Course, and craftsmen shops and the rink at Larz Anderson Park. Software upgrades are needed at the High School as well as the Baker and New Lincoln Schools, Water Division building on Netherlands Road, and Municipal Services Center. Funds may also be used to upgrade and replace servers, currently housed in the Emergency Operations Center at the Municipal Services Center, which hold energy management graphics and data. It is assumed that as part of the Devotion and Runkle School renovations, the HVAC systems will be replaced and web-based energy management systems will be included in the renovation costs.

FY 10 monies will be used to begin to fund system replacements and/or upgrades at the above-mentioned properties. The Building Department will continue to implement this program in consultation with the Information Technology Department.

19. TOWN/SCHOOL BUILDING - ROOF REPAIR/REPLACEMENT PROGRAM
$125,000 (T)
$500,000 (T) (Re-appropriated Funds)

In FY07, $275,000 was appropriated for a town-wide roof study. Along with Building Department staff, a consultant was hired to review existing conditions, determine the continued life expectancy of the roofs, and develop a master plan for repair and replacement of all roofs. The consultant completed the master plan, and a priority list and schedule was established to repair and/or replace roofs on the 74 buildings in the Town. The plan calls for an expenditure of $29.3 million over a 20-year period.

In FY 10, $625,000 will be spent on roof repairs at the Baldwin, Heath, New Lincoln, Old Lincoln, Devotion and Pierce Schools; Fire Stations 1 and 6; Soule Recreation, and a building at the golf course as well as new roofs for Fire Station 5, the comfort station at Larz Anderson Park, and the Parks Department facility.

20. PIERCE SCHOOL – RENOVATE AUDITORIUM
$75,000 (T)

Renovations to the Pierce School auditorium were originally scheduled for FY 06 at a cost of $300,000, but due to other priorities, including an HVAC project and window replacement/modification, work on the auditorium has been postponed. This project calls for the enhancement of the auditorium within the existing walls and the creation of programmatically appropriate space for school performances. A report which included a review of existing conditions as well as recommendations and drawings of possible improvements was completed in June 2008. The report's recommendations focused on increased (and more comfortable) seating, creation of backstage and storage areas, improved staging ability, and delineation of public and stage entries. FY 10 dollars will fund the design development stage for this project, with construction anticipated in the early summer of 2011, financed with FY 12 CIP funds.

21. CLASSROOM CAPACITY
$400,000 (T)

Based upon the significant increase in Kindergarten enrollment for school years 2006 through 2007, the School Department initially requested funding to allow for the installation of modular classrooms in time for the opening of school in September 2008. Continued enrollment growth at the Kindergarten level in school years 2008 and 2009 have caused the School Department to request an increase to this appropriation.

The $400,000 approved in FY08 was intended to support the lease of four modular units, each approximately 36' by 60'. A bid to procure modulars for installation at the Runkle School in the summer of 2008 was canceled due to price and insufficient bidder interest. Instead the School Department chose to divide the Runkle School Multi-Purpose room into two classrooms to achieve the needed classroom space, at the expense of performance and group space. As enrollments continue to grow at the elementary level similar space choices will need to be made.

The Facilities Master Plan, completed in January 2009, has provided the School Department with information concerning options for facility needs for the next decade, but the short-term actions necessary to accommodate large incoming Kindergartens will need to be addressed by other more immediate actions. These may include modular classroom installation, internal renovation/reconfiguration within existing buildings and/or the identification of lease space. Funds requested for FY 10, combined with the $400,000 approved in FY 08, will provide the School Department with the ability to implement the short-term steps necessary to accommodate the additional enrollment anticipated during the next few years.

23. NEWTON ST LANDFILL - CORRECTIVE ACTION
$4,275,000 (B)

As part of the on-going effort to close and cap the Town's landfills and develop a recreational field, state-mandated assessment and corrective actions have been required on properties surrounding the landfill. These actions relate to the removal of historically deposited ash-laden soils. In FY04 and FY05, a total of $3 million was approved to undertake all actions required on certain properties along Newton St., Nelson Drive, and Hammond Pond Parkway. In FY07, $2 million was approved for, in part, similar actions on properties along the other side of the landfill. In FY09, $2.975 million was approved for expenses associated with the removal of certain soils and property restoration. All of these actions ensure on-going compliance with Department of Environmental Protection's Solid Waste Management regulations, 310 CMR 19.000, and Massachusetts Contingency Plan, 310 CMR 40.000, for properties along Martha's Lane, Kensington Circle, and Arlington Road. The funding required in FY10 is necessary to complete the funding of the required removal and restoration.

The Town has worked very closely with its legislative delegation to obtain state assistance for this one-of-a-kind issue in the Commonwealth and has secured line-item funding in the Environmental Bond Bill. While this is a very positive first step, the Governor must approve actual expenditure of the funds. If the Town's efforts to gain release of these funds are successful, then this amount can be reduced by whatever amount the State provides the Town, thereby restoring other projects that have been deferred because of this extraordinary obligation.

24. GARAGE REPAIRS/TOWN HALL AND MAIN LIBRARY DRIVEWAY IMPROVEMENTS – CONSTRUCTION
$1,200,000 (B)

Water leakage into the Town Hall employees' parking garage as well as into the garage underneath the Main Library can be attributed to a number of sources, including the deteriorating amphitheatre of the Pierce School. In some cases, these leaks have caused damage to parked vehicles. There is also visible evidence of efflorescence and other staining as well as water intrusion through the garage roof, resulting in the corrosion of embedded reinforced steel. FY 09 CIP funds were allocated to hire a consultant to determine if structural damage has or is likely to occur, to produce a conditions survey report, and to make recommendations for repair and replacement. FY 10 funds will be used to undertake the consultant's recommendations.

In addition to addressing the water infiltration, FY 10 funds will be used to improve the safety of pedestrians walking on Washington Street. Currently, pedestrians on the east side of the street may encounter cars either entering or exiting the garages underneath Town Hall and the Main Library or approaching the front entrance to the Library via the semi-circular drive off Washington Street. Funds will be used to improve the flow of vehicular and pedestrian traffic, thus reducing the chances of accidents.

RUNKLE SCHOOL RENOVATION
$15,840,000 (B) (Design Completion + Construction)
$10,560,000 (St/Fed) (Design Completion + Construction)

The CIP has included the John D. Runkle School renovation / addition project for a number of years. The Runkle project is critical in terms of the School Department's overall plan to address growing enrollments. As stated in the Statement of Interest (SOI) submitted to the MSBA, there is severe overcrowding in the school. The building is currently facing overcrowding and cannot accommodate either the size of the expected enrollments (3 sections per class) or the total number of classes, with support spaces, if it were needed to be a 3-section school from Grade K through Grade 8. Runkle currently has 3 sections at 6 of the 9 Grades. The structure was built for Grades K-8 with two sections per Grade. Further pressure on space is coming from the expansion of pre-school programs in Brookline. The School's desire is to continue a pre-school program at every K- 8 including Runkle. It is expected that this population size will increase in numbers in coming years.

Additionally, many of the specialized programs have been located in closed spaces that were originally designed as closets. These spaces have no windows and are inferior to spaces built or designed for program purposes. The need to squeeze program functions into smaller spaces has left no conference rooms or team meeting spaces. Finally, the Cafeteria is used for 5 lunch periods because all the students cannot be accommodated in 4 periods.

Birth data from the 2005-2007 period shows that births are up 7.7% for this recent period in Brookline compared to a three-year average of the 1999-2001 period. Since the school system is already seeing a dramatic upswing in enrollment, not predicted by birth data alone, it appears as though the double impact of births and move-ins will continue to push up our incoming enrollment, yielding continued growth in our incoming class, similar to that

experienced during the past four years. Actual K-8 enrollment in Brookline has risen 404 students, or, 10.3% during the past 4 years (FY06-FY09) and it is projected to grow another 465 students, or another 9.2%, during the next 5 years (FY10-FY14). The growth of incoming students during the past 4 years has resulted in a total K-3 student population of 2,160 for FY09 compared to a corresponding 1,683 student total for Grades 5-8. These numbers mean that Brookline has 477 more students (28% more) in our 4 lowest K-8 grades than in our 4 highest K-8 grades. As these large grade counts move up through the grades, accompanied by large incoming Kindergarten cohorts, the schools will continue to be squeezed for classroom space.

The School Department is taking steps in the short-term to ensure that it will be able to manage the population growth during the planning of renovation projects that will allow for additional permanent capacity. Additionally, the Superintendent is working closely with the School Committee to review current buffer zones and rules affecting the student assignment process, to allow for more flexibility in this process.

The Runkle School is also outdated. It is a three floor structure that is out of compliance with ADA requirements. Particularly egregious is that a wheelchair-bound person cannot access the third floor whatsoever. To move from the basement to the first floor, this same person would have to travel outside the building and around the block on sidewalks and access paths. Additionally, there are no handicapped accessible bathrooms at the School. The goal of maintaining inclusive classrooms, where students with identified special needs can be supported and welcomed, is compromised.

The School Department has remained flexible in the creation and assignment of students from special populations to the school. Rather than assign and/or expand students with physical handicaps to this building, the program focus has been to build a district wide program to serve students on the Autism Spectrum. Because this program has expanded exponentially, it has resulted in cramped quarters at the Runkle School. Additionally, the space utilized by most of the program was originally designed for other purposes and results in inadequate classrooms.

The Town is fortunate that this project is one of the few on the Massachusetts School Building Authority's (MSBA) "Targeted Feasibility Study" list. After having in-house staff approved as the Owner's Project Manager (OPM) for the project, an action that will save the Town hundreds of thousands of dollars, the Town and MSBA are now at a point where funding for the schematic design portion of the project is required. $600,000 was approved at the 2008 Fall Town Meeting, of which 40% will be reimbursed by the MSBA.

Per MSBA processes, once the feasibility study / schematic design phase is completed, the Town will seek funding for all remaining costs (completion of design, construction costs, and soft costs). This current plan calls for these funds being sought at a Special Town Meeting in late-CY09 / early-CY10, after a Budget and Scope Agreement is approved by both the Town and the MSBA.

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RECOMMENDATION
The Advisory Committee recommends Favorable Action on the following vote:

VOTED: To approve the budget for fiscal year 2010 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 1 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 FY2010 budget, and to solicit and award contracts for terms of more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #21) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Board of Selectmen shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #20), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

4.) SALARIES OF ELECTED OFFICIALS: The salaries of members of the Board of Selectmen shall be at the rate of $3,500 per year for the Chairman and at the rate of $2,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of $94,917 effective July 1, 2009, 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 $1,266,200 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	$435,107
Purchase of Services	$177,242
Supplies	$129,975
Other	$4,100
Utilities	$48,364
Capital	$85,580
Debt Service	$184,484
Reserve	$15,000
Total Appropriations	$1,079,851
Indirect Costs	$186,349
Total Costs	$1,266,200

Total costs of $1,266,200 to be funded from golf receipts with $186,349 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling $24,108,856, 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:

	Water	Sewer	Total
Salaries	1,975,724	280,233	2,255,956
Purchase of Services	102,968	186,326	289,294
Supplies	97,815	21,000	118,815
Other	6,400	0	6,400
Utilities	136,297	0	136,297
Capital	141,400	138,300	279,700
Intergovernmental	5,242,610	11,000,000	16,242,610
Debt Service	1,432,218	1,040,135	2,472,352
Reserve	107,689	130,417	238,106
Total Appropriations	9,243,120	12,796,410	22,039,530
Indirect Costs	1,629,928	439,398	2,069,326
Total Costs	10,873,048	13,235,808	24,108,856

Total costs of $24,108,856 to be funded from water and sewer receipts with $2,069,326 to be reimbursed to the General Fund for indirect costs.

8.) REVOLVING FUNDS:

a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed $2,000,000.

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 $200,000.

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 $4,600,382, 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 $368,127, 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 - $1,275,000] [to the Police Department - $1,275,000]	$2,550,000
State Library Aid Special Revenue Fund [to the Library]	$ 41,555
Cemetery Sales Special Revenue Fund [to the Department of Public Works]	$ 50,000

Recreation Revolving Fund [to the General Fund for benefits reimbursement]	$ 210,870

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

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 34 through 57, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #56 and #57, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

34.) Raise and appropriate $75,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for the costs associated with the removal of the pumphouse and transformer buildings near the intersection of Route 9 and Warren Street at the Brookline Reservoir.

35.) Raise and appropriate $239,000, 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.

36.) Raise and appropriate $350,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the refurbishment of Fire Engine #4.

37.) Appropriate $1,000,000, 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 $475,000; transfer $255,000 from the overlay surplus account to undesignated fund balance; transfer $17,246 from the balance remaining in the appropriation voted under Article 9, Section 13, Item 65 of the 2002 Annual Town Meeting; transfer $46,000 from the balance remaining in the appropriation voted under Article 11, Section 12, Item 50 of the 2003 Annual Town Meeting; transfer $35,284 from the balance remaining in the appropriation voted under Article 7, Section 12, Item 64 of the 2005 Annual Town Meeting; transfer $12,000 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 59 of the 2006 Annual Town Meeting; transfer $80,945 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 66 of the 2006 Annual Town Meeting; and transfer $79,000 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 67 of the 2006 Annual Town Meeting.

38.) Raise and appropriate $1,720,000, 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.

39.) 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 traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Board of Selectmen on a semi-annual basis.

40.) Raise and appropriate $256,000, 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.

41.) Appropriate $60,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the purchase of multi-space parking meters; to meet the appropriation transfer $60,000 from the balance remaining in the appropriation voted under Article 7, Section 12, Item 58 of the 2001 Annual Town Meeting.

42.) 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-owned parking lots.

43.) Raise and appropriate $260,000, 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.

44.) 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.

45.) Raise and appropriate $150,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

46.) 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.

47.) 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.

48.) 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.

49.) Raise and appropriate $100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to life safety systems and building security in Town and School facilities.

50.) Raise and appropriate $105,572, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School buildings.

51.) Raise and appropriate $100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrades to energy management systems.

52.) Appropriate $625,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for roof repairs and replacements in Town and School facilities; to meet the appropriation raise $125,000 and transfer $500,000 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 58 of the 2007 Annual Town Meeting.

53.) Raise and appropriate $75,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for engineering or architectural services for plans and specifications for remodeling, reconstructing, or making extraordinary repairs to the auditorium at the Pierce School.

54.) Raise and appropriate $400,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and School Committee, for the expansion of classroom capacity in various schools; also, amend the language for portable classrooms, approved under Article 7, Section 13, Item 55 of the 2007 Annual Town Meeting, by adding after the words “for portable classrooms” the following: “and for the expansion of classroom capacity in various schools.”

55.) Appropriate $3,280,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for costs and settlement of claims associated with the Newton Street Landfill; to meet the appropriation raise $2,030,000 and transfer $1,250,000 from the overlay surplus account to undesignated fund balance.

56.) Appropriate $4,275,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for assessment and corrective action associated with the Newton Street Landfill, and to meet the appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $4,275,000 under General Laws, Chapter 44, Section 8, Clauses 21 and 24 as amended, or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

57.) Appropriate $1,200,000, 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 the garages located on the grounds of the Town Hall complex, including but not limited to the driveway

areas between the Main Library and Town Hall, and to meet the appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $1,200,000 under General Laws, Chapter 44, Section 7, Clause 3A as amended, or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

14.) **FREE CASH**: Appropriate and transfer $7,053,295 from free cash for the following purposes:

a.) Reduce the tax rate (Special Appropriations) – $5,151,351;
b.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $458,547;
c.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – $1,443,397.

XXX

CROSS REFERENCE TABLE FOR SPECIAL APPROPRIATIONS FOUND UNDER ARTICLE 8 (FY10 BUDGET)

PROJECT	ITEM # IN WARRANT	PAGE WARRANT LANGUAGE IS FOUND ON IN COMBINED REPORTS	ITEM # IN BUDGET VOTE	PAGE VOTE IS FOUND ON IN COMBINED REPORTS	PAGE ADV CMTE'S PROJECT DESCR. IS FOUND ON IN COMBINED REPORTS
Reservoir Buildings	1	8-1	34	8-59	8-44
Technology Applications	2	8-1	35	8-59	8-45
Fire Apparatus Rehab	3	8-1	36	8-59	8-45
Fire Engine	4	8-1	37	8-59	8-45
Street Rehabilitation	5	8-1	38	8-59	8-45
Traffic Calming Studies and Improvements	6	8-1	39	8-60	8-47
Sidewalk Repair/Reconstruction	7	8-2	40	8-60	8-47
Parking Meter System Replacement	8	8-2	41	8-60	8-47
Parking Lot Rehabilitation	9	8-2	42	8-60	8-48
Playground Equipment, Fields, Fencing	10	8-2	43	8-60	8-48
Town/School Grounds Rehab	11	8-2	44	8-60	8-49
Tree Removal and Replacement	12	8-2	45	8-60	8-49
School Furniture Upgrades	13	8-2	46	8-60	8-49
Town/School Asbestos Removal	14	8-2	47	8-60	8-49
Town/School ADA Renovations	15	8-2	48	8-60	8-49
Town/School Building Security / Life Safety	16	8-2	49	8-60	8-50
Town/School Energy Conservation Projects	17	8-2	50	8-61	8-50
Town/School Energy Management System	18	8-3	51	8-61	8-50
Town/School Roof Repair / Replacement	19	8-3	52	8-61	8-51
Pierce School Auditorium - Design	20	8-3	53	8-61	8-51
Classroom Capacity	21	8-3	54	8-61	8-51
Newton St. Landfill Settlement	22	8-3	55	8-61	8-52
Newton St. Landfill - Corrective Action	23	8-3	56	8-61	8-52
Town Hall / Main Library Garage Repair & Driveway Improvements	24	8-3	57	8-61	8-53

FY10 BUDGET - TABLE 1

		FY07 ACTUAL	FY08 ACTUAL	FY09 BUDGET	FY10 BUDGET	$$ CHANGE FROM FY09	% CHANGE FROM FY09
	REVENUES						
	Property Taxes	128,871,387	133,849,950	147,273,069	152,552,834	5,279,765	3.6%
	Local Receipts	23,281,093	24,524,074	20,475,664	20,217,125	(258,539)	-1.3%
	State Aid	18,023,846	18,946,277	19,623,691	17,157,180	(2,466,511)	-12.6%
	Free Cash	5,387,435	3,814,792	5,954,963	7,053,295	1,098,332	18.4%
	Overlay Surplus	950,000	850,000	0	1,505,000	1,505,000	-
	Other Available Funds	7,998,053	7,753,612	5,986,332	5,938,101	(48,232)	-0.8%
	TOTAL REVENUE	**184,511,814**	**189,738,706**	**199,313,719**	**204,423,534**	**5,109,815**	**2.6%**
	EXPENDITURES						
	DEPARTMENTAL EXPENDITURES						
	1 . Selectmen	583,148	622,009	615,989	600,160	(15,828)	-2.6%
	2 . Human Resources	400,705	478,335	485,892	512,008	26,115	5.4%
	3 . Information Technology	1,411,216	1,362,103	1,416,878	1,421,058	4,180	0.3%
	4 . Finance Department	2,923,699	2,934,091	2,997,394	3,049,791	52,397	1.7%
	5 . Legal Services	690,527	772,840	688,792	748,648	59,857	8.7%
	6 . Advisory Committee	18,507	21,940	19,439	19,615	176	0.9%
	7 . Town Clerk	551,363	525,170	577,007	480,094	(96,913)	-16.8%
	8 . Planning and Community Development	663,106	644,375	715,849	627,081	(88,768)	-12.4%
	9 . Police	13,708,009	13,636,806	14,724,421	14,381,212	(343,209)	-2.3%
	10 . Fire	11,719,128	12,125,596	12,513,780	12,206,045	(307,735)	-2.5%
	11 . Building	6,059,407	6,542,701	6,826,827	6,982,354	155,526	2.3%
(1)	12 . Public Works	12,309,177	13,178,799	12,913,639	12,879,990	(33,649)	-0.3%
	a. Administration	*860,631*	*868,055*	*902,881*	*910,739*	*7,858*	*0.9%*
	b. Engineering/Transportation	*811,671*	*849,680*	*879,764*	*924,628*	*44,864*	*5.1%*
	c. Highway	*4,597,800*	*4,723,284*	*4,893,195*	*4,767,067*	*(126,128)*	*-2.6%*
	d. Sanitation	*2,785,605*	*2,870,421*	*2,726,872*	*2,816,942*	*90,070*	*3.3%*
	e. Parks and Open Space	*2,670,725*	*2,694,138*	*3,143,199*	*3,092,487*	*(50,712)*	*-1.6%*
	f. Snow and Ice	*582,745*	*1,173,221*	*367,729*	*368,127*	*399*	*0.1%*
	13 . Library	3,366,890	3,398,242	3,473,208	3,465,937	(7,270)	-0.2%
	14 . Health	1,055,741	1,024,069	1,081,115	1,099,574	18,459	1.7%
	15 . Veterans' Services	203,128	203,829	214,521	241,409	26,888	12.5%
	16 . Council on Aging	718,469	746,900	778,480	762,772	(15,708)	-2.0%
	17 . Human Relations	139,109	143,236	146,939	101,870	(45,069)	-30.7%
	18 . Recreation	1,024,380	992,864	943,196	972,808	29,611	3.1%
(2)	19 . Energy Reserve	153,167	0	0	0	0	-
(2)	20 . Personnel Services Reserve	1,416,017	750,000	1,282,281	750,000	(532,281)	-41.5%
(2)	21 . Collective Bargaining - Town	1,100,000	1,600,000	3,042,804	960,000	(2,082,804)	-68.5%
	Subtotal Town	*57,545,709*	*59,353,905*	*62,415,647*	*62,262,426*	*(153,221)*	*-0.2%*
	22 . *Schools*	*60,671,696*	*62,924,864*	*68,021,240*	*68,974,271*	*953,031*	*1.4%*
	TOTAL DEPARTMENTAL EXPENDITURES	**118,217,405**	**122,278,769**	**130,436,887**	**131,236,696**	**799,810**	**0.6%**
	NON-DEPARTMENTAL EXPENDITURES						
(1)	23 . Employee Benefits	32,289,078	34,564,193	38,307,598	40,270,929	1,963,331	5.1%
(3)	*a.) Pensions*	*10,129,853*	*11,256,221*	*11,651,618*	*12,293,565*	*641,947*	*5.5%*
	b.) Group Health	*19,011,273*	*19,855,771*	*23,084,980*	*24,245,364*	*1,160,384*	*5.0%*
(3)	*c.) Retiree Group Health Trust Fund*	*0*	*0*	*0*	*250,000*	*250,000*	*-*
	d.) Employee Assistance Program (EAP)	*24,568*	*24,968*	*28,000*	*28,000*	*0*	*0.0%*

		FY07 ACTUAL	FY08 ACTUAL	FY09 BUDGET	FY10 BUDGET	$$ CHANGE FROM FY09	% CHANGE FROM FY09
	e.) Group Life	*152,721*	*151,643*	*161,000*	*162,000*	*1,000*	*0.6%*
	f.) Disability Insurance	*0*	*12,813*	*16,000*	*16,000*	*0*	*0.0%*
(3)	*g.) Worker's Compensation*	*1,450,000*	*1,600,000*	*1,550,000*	*1,350,000*	*(200,000)*	*-12.9%*
(3)	*h) Public Safety IOD Medical Expenses*	*245,000*	*250,000*	*300,000*	*300,000*	*0*	*0.0%*
(3)	*i.) Unemployment Compensation*	*125,000*	*166,000*	*166,000*	*166,000*	*0*	*0.0%*
	j.) Medical Disabilities	*16,643*	*15,718*	*30,000*	*30,000*	*0*	*0.0%*
	k.) Medicare Coverage	*1,134,020*	*1,231,059*	*1,320,000*	*1,430,000*	*110,000*	*8.3%*
(2)	24 . Reserve Fund	603,861	774,834	1,746,546	1,834,186	87,640	5.0%
	25 Stabilization Fund	22,248	0	0	0	0	-
	26 . Liability/Catastrophe Fund	225,039	254,629	297,476	1,443,397	1,145,921	385.2%
	27 . General Insurance	275,989	276,146	279,490	286,198	6,708	2.4%
	28 . Audit/Professional Services	196,148	99,433	138,987	138,987	0	0.0%
	29 . Contingency Fund	15,796	11,806	15,000	15,000	0	0.0%
	30 . Out-of-State Travel	2,260	1,979	3,000	3,000	0	0.0%
	31 . Printing of Warrants & Reports	16,805	14,487	20,000	20,000	0	0.0%
	32 . MMA Dues	11,389	10,959	11,532	11,820	288	2.5%
	Subtotal General	*765,674*	*1,444,273*	*2,512,031*	*3,752,588*	*1,240,557*	*49.4%*
(1)	33 . Borrowing	14,376,306	13,824,443	12,374,047	12,572,215	198,168	1.6%
	a. Funded Debt - Principal	*9,696,587*	*9,432,797*	*8,218,816*	*8,536,243*	*317,427*	*3.9%*
	b. Funded Debt - Interest	*4,582,344*	*4,354,324*	*3,978,698*	*3,686,572*	*(292,126)*	*-7.3%*
	c. Bond Anticipation Notes	*55,593*	*0*	*116,533*	*289,400*	*172,867*	*148.3%*
	d. Abatement Interest and Refunds	*41,782*	*37,322*	*60,000*	*60,000*	*0*	*0.0%*
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**47,431,058**	**49,832,909**	**53,193,676**	**56,595,732**	**3,402,057**	**6.4%**
	TOTAL GENERAL APPROPRIATIONS	**165,648,463**	**172,111,678**	**183,630,562**	**187,832,429**	**4,201,866**	**2.3%**
	SPECIAL APPROPRIATIONS						
	34 . Reservoir Buildings (revenue financed)				75,000		
	35 . Technology Applications (revenue financed)				239,000		
	36 . Fire Apparatus Rehab (revenue financed)				350,000		
	37 . Fire Engine ($475,000 = revenue financed, $255,000 = overlay surplus, $270,000 = capital project surplus)				1,000,000		
	38 . Street Rehabilitation (revenue financed)				1,720,000		
	39 . Traffic Calming Studies and Improvements (revenue financed)				100,000		
	40 . Sidewalk Repair/Reconstruction (revenue financed)				256,000		
	41 . Parking Meter System Replacement (capital project surplus)				60,000		
	42 Parking Lot Rehabilitation (revenue financed)				120,000		
	43 . Playground Equipment, Fields, Fencing (revenue financed)				260,000		
	44 . Town/School Grounds Rehab (revenue financed)				120,000		
	45 . Tree Removal and Replacement (revenue financed)				150,000		
	46 . School Furniture Upgrades (revenue financed)				25,000		
	47 . Town/School Asbestos Removal (revenue financed)				50,000		
	48 . Town/School ADA Renovations (revenue financed)				50,000		
	49 Town/School Building Security / Life Safety (revenue financed)				100,000		
	50 . Town/School Energy Conservation Projects (revenue financed)				105,572		
	51 Town/School Energy Management System (revenue financed)				100,000		
	52 . Town/School Roof Repair / Replacement ($125,000 = revenue financed, $500,000 = capital project surplus)				625,000		
	53 . Pierce School Auditorium - Design (revenue financed)				75,000		
	54 . Classroom Capacity (revenue financed)				400,000		
	55 . Newton St. Landfill Settlement ($1,250,000 = overlay surplus, $2,030,000 = revenue financed)				3,280,000		

		FY07 ACTUAL	FY08 ACTUAL	FY09 BUDGET	FY10 BUDGET	$$ CHANGE FROM FY09	% CHANGE FROM FY09
	56 . Newton St. Landfill - Corrective Action (bond)				4,275,000		
	57 . Town Hall / Main Library Garage Repair & Driveway Improvements (bond)				1,200,000		
(4)	**TOTAL SPECIAL APPROPRIATIONS**	**7,874,562**	**5,928,000**	**8,575,746**	**9,260,572**	**684,826**	**8.0%**
	TOTAL APPROPRIATED EXPENDITURES	**173,523,025**	**178,039,678**	**192,206,308**	**197,093,001**	**4,886,692**	**2.5%**
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	117,738	120,749	122,866	112,111	(10,755)	-8.8%
	State & County Charges	5,375,086	5,410,405	5,424,518	5,543,424	118,906	2.2%
	Overlay	1,451,262	1,858,148	1,535,026	1,650,000	114,974	7.5%
	Deficits-Judgments-Tax Titles	0	0	25,000	25,000	0	0.0%
	TOTAL NON-APPROPRIATED EXPEND.	**6,944,086**	**7,389,302**	**7,107,410**	**7,330,535**	**223,125**	**3.1%**
	TOTAL EXPENDITURES	**180,467,111**	**185,428,981**	**199,313,719**	**204,423,535**	**5,109,815**	**2.6%**
	SURPLUS/(DEFICIT)	**4,044,703**	**4,309,725**	**0**	**0**		

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #33).

FY10 BUDGET - TABLE 2

Department/Board/Commission	Personnel Services	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Snow & Ice	Debt Service	Personnel Benefits	Agency Total
Board of Selectmen (Town Administrator)	578,497	7,463	4,500	6,400		3,300					600,160
Human Resources Department (Human Resources Director)	256,646	228,587	8,500	15,900		2,375					512,008
Information Technology Department (Chief Information Officer)	864,971	490,432	22,336	27,550		15,769					1,421,058
Finance Department (Director of Finance)	1,886,930	1,088,839	39,502	17,783	1,011	15,727					3,049,791
Legal Services (Town Counsel)	511,541	126,442	2,200	104,700		3,765					748,648
Advisory Committee (Chair, Advisory Committee)	17,247	36	1,275	570		487					19,615
Town Clerk (Town Clerk)	398,974	67,270	9,000	1,600		3,251					480,094
Planning and Community Department (Plan. & Com. Dev. Dir.)	588,793	16,817	9,432	4,513		7,525					627,081
Police Department (Police Chief)	13,083,437	334,845	224,103	53,000	324,357	361,470					14,381,212
Fire Department (Fire Chief)	11,609,007	95,284	119,500	25,125	230,486	126,643					12,206,045
Public Buildings Department (Building Commissioner)	1,911,243	1,851,968	127,770	5,800	3,056,685	28,887					6,982,354
Public Works Department (Commissioner of Public Works)	7,184,246	2,902,776	625,972	35,150	1,043,719	700,000	20,000	368,127			12,879,991
Public Library Department (Library Board of Trustees)	2,482,871	141,702	503,454	4,502	281,307	52,101					3,465,937
Health Department (Health Director)	756,548	255,518	14,570	4,120	40,817	28,000					1,099,574
Veterans' Services (Veterans' Services Director)	121,116	2,718	650	116,200		725					241,409
Council on Aging (Council on Aging Director)	601,207	58,282	18,825	5,300	70,258	8,900					762,772
Human Relations/Youth Resources (Human Relations Dir.)	96,017	1,807	2,800	450		796					101,870
Recreation Department (Recreation Director)	678,334	89,179	40,703	2,400	131,312	30,880					972,808
School Department (School Committee)											68,974,271
Total Departmental Budgets	**43,627,626**	**7,759,964**	**1,775,092**	**431,063**	**5,179,952**	**1,390,601**	**20,000**	**368,127**			**129,526,700**
DEBT SERVICE											
Debt Service (Director of Finance)									12,572,215		12,572,215
Total Debt Service:									**12,572,215**		**12,572,215**
EMPLOYEE BENEFITS											
Contributory Pensions Contribution (Director of Finance)										12,063,565	12,063,565
Non-Contributory Pensions Contribution (Director of Finance)										230,000	230,000
Group Health Insurance (Human Resources Director)										24,245,364	24,245,364
Retiree Group Health Insurance - OPEB's (Director of Finance)										250,000	250,000
Employee Assistance Program (Human Resources Director)										28,000	28,000
Group Life Insurance (Human Resources Director)										162,000	162,000
Disability Insurance										16,000	16,000
Workers' Compensation (Human Resources Director)										1,350,000	1,350,000
Public Safety IOD Medical Expenses (Human Resources Director)										300,000	300,000
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)										1,430,000	1,430,000
Total Employee Benefits:										**40,270,929**	**40,270,929**
GENERAL / UNCLASSIFIED											
Reserve Fund (*) (Chair, Advisory Committee)				1,834,186							1,834,186
Liability/Catastrophe Fund (Director of Finance)				1,443,397							1,443,397
General Insurance (Town Administrator)		286,198									286,198
Audit/Professional Services (Director of Finance)		138,987									138,987
Contingency (Town Administrator)				15,000							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)				11,820							11,820
Town Salary Reserve (*) (Director of Finance)	960,000										960,000
Personnel Services Reserve (*) (Director of Finance)	750,000										750,000
Total General / Unclassified:	**1,710,000**	**438,185**	**10,000**	**3,304,403**							**5,462,588**
TOTAL APPROPRIATIONS	**45,337,626**	**8,198,149**	**1,785,092**	**3,735,467**	**5,179,952**	**1,390,601**	**20,000**	**368,127**	**12,572,215**	**40,270,929**	**187,832,428**

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

ARTICLE 8

Motion Offered by Robert I. Sperber and Virginia W. LaPlante, TMM's Prec-6

Resolution of Town Meeting requesting the Transportation Department to utilize a portion of the traffic calming/safety improvement budget (Warrant article 8, p.60, no.39) for installing two traffic-calming devices on Welland Road, in accordance with the October 1999 vote of Town Meeting to approve traffic-calming for the Brookline High School neighborhood and the subsequent April 2000 vote of the Transportation Board to approve two speed humps on Welland Road.

WHEREAS, speeds and volumes of traffic on Welland Road are at historic highs, according to Transportation Department data

WHEREAS, before the BHS renovation, with Greenough Street open around the clock, fewer than 350 cars a day traveled on Welland; and today, with Greenough closed during school hours, more than 1300 cars a day travel on Welland, or roughly 220 cars each afternoon hour, reaching a peak from 1-4 p.m. of one car every 12 seconds

WHEREAS, despite the authorized speed limit during school days being 20 mph, average speeds on Welland throughout the day are consistently 8-11 miles over that limit, with a significant number of cars driving up to a deadly 40 mph

WHEREAS, speeds on Welland are getting worse, as shown by data from April 2008 (2-6 p.m.), when 17 cars drove at 31-40 mph, compared to the same period a year later, when the number of cars driving at 31-40 mph increased to 58

WHEREAS, incidents over the past month of a pet dog and a parked car on Welland being hit by moving cars have given rise to fears of a child being next

WHEREAS, the number of children living on Welland has increased from 8 in 1999, the year of the Town Meeting vote, to 32 today

WHEREAS, the BHS Headmaster and the School Committee Chair support traffic calming on Welland to safeguard high-school students as well as younger children

WHEREAS, over the past decade traffic-calming has been instituted with good results on three of the streets affected by closing Greenough—namely Greenough, Tappan, and Davis—no such measures have been implemented on Welland, the street most seriously and negatively impacted by the closure

NOW THEREFORE BE IT RESOLVED that the Town Meeting of Brookline urges the Transportation Board to utilize a portion of its traffic-calming budget for this long-overdue work on Welland Road, ensuring that the work is accomplished before school starts in September 2009.

XXX

ARTICLE 9

NINTH ARTICLE

To see if the Town will amend the Fiscal Year 2010 budget of the Fire Department to adequately fund five engine companies and two ladder companies for the entire fiscal year 2010 without restriction, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

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 or cuts will result in severe risks to the public safety of firefighters, residents, business owners and any visitors to the town and their property. This article is submitted to prevent these risks and to insure the safety of the public.

SELECTMEN'S RECOMMENDATION

Article 9 is a petitioned article that proposes to amend the FY10 Fire Department budget so that it funds five engine companies and two ladder companies for the entire fiscal year without restriction. Such an action is not required, however, as the budget before Town Meeting includes 147 firefighters in the Suppression Division, enough to staff five engines and two ladders for an entire fiscal year.

Staffing five engines and two ladders with a minimum of four firefighters 24 hours/day 365 days/year with a 24-hour schedule (1 day on, 3 days off) requires a certain staffing ratio, reflecting the need for coverage for vacation leave, sick leave, etc. That ratio results in the need for 147 firefighters in Suppression. Prior to the FY10 budget, there were 151 firefighters in Suppression, meaning there were four additional budgeted positions. By reducing the number from 151 to 147 as proposed, the Department will need to continue its improved leave utilization. In FY09, due in large part to a YTD 30% reduction in the use of sick leave, the Department is projected to end the fiscal year with a surplus of more than $250,000, an amount that is slightly greater than the amount cut in FY10. This indicates that the Fire Department can fully deploy 7 companies for the entirety of FY10 if current leave utilization patterns continue.

The Board of Selectmen recommends NO ACTION, by a vote of 4-0 taken on April 28, 2009, on Article 9.

ROLL CALL VOTE

No Action
Daly
DeWitt
Mermell
Benka

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Typically, departmental budget items are discussed within the full Town Budget (Article 8), and the Fire Department's budget was fully addressed in that context. Warrant Article 9 was submitted by the petitioner as a safety net to preserve overtime funding in the Fire Department. This proposed budget amendment does not specify an amount, however.

The petitioner's concern is that the Chief not be put in a position to consider taking a fire truck out of operation in the event that the Fire Department exceeds its budget. The "without restriction" provision in the article's language refers to this issue.

Historically, sick-time usage has been problematic. During the summer periods of heavy vacation use we also tend to see increases in sick call-ins. Last year when we addressed this issue, sick-leave was up over 40%. Anyone seeing our Department in action knows of the skill, passion and commitment of our fire fighters. Fire fighting is one of a town's core services; and Brookline's Fire Department is recognized as among the best in the Commonwealth. Maintaining and preserving it is a priority. However, excessive sick-time not only affects the Town's finances, it exacts a toll on the entire fire fighting force - and by extension the community at large. The Town, Chief and Fire Fighters' Union realized there was an issue that needed addressing, and all signaled a willingness to work on it. This year, sick-time is down 30%.

If sick-time had remained at those higher levels there would have been insufficient funds to cover all the excess over-time costs. It would have necessitated some combination of a Reserve Fund transfer and taking a piece of equipment out of service for some period during the summer (when fewer people are in town and response and transit times subsequently shortened). The Advisory Committee suggested looking for better ways to distribute vacations or consider running particular trucks with a crew of three in certain situations when call-ins drive down staffing levels (as opposed to simply not running a truck). However, contractually the Town cannot require these things. It is a decision that would have to be made by the Fire Fighter membership. The petitioner made the argument that when there are more vacancies in the Department, the Fire Fighters are spread thin and sick-time use increases. While this argument is appealing and logical on its face, the numbers do not seem to fully support this contention. In FY07, with a high of 11 positions open, sick time actually was lower than in other years. Still, the timing of vacancies has the capacity to put extra stress on the Department at just the wrong time - in the summer when everyone (Fire Fighters included) takes vacation. Therefore, it is important we focus of filling vacancies.

The Brookline Fire Department is required by contract to have a 4-person minimum manning on every piece of apparatus at all times. Brookline is one of only two municipalities out of 351 state-wide that require this 4-person minimum on all vehicles every day of the year. The other is the City of Boston. Other municipalities require 2, 3 or 4-persons per vehicle, depending on the time of year or the type of apparatus, and they give some discretion to the Fire Chief. Chief Skerry stated to the Advisory Committee that for Fire Fighter safety, public safety and the efficiency of fighting fires, he would rather take a piece of apparatus out of service than reduce the manpower on that vehicle. However, he also noted that Brookline, unlike other municipalities, responds with multiple trucks on the first call. Furthermore, he

asserted that even if there were an occasional truck taken out of service, he would ensure that the initial response will remain within 4 minutes.

This year demonstrates that with reasonable levels of sick call-ins there is sufficient budget capacity to cover over-time costs. In fact, this year the Fire Department is running in the black as a result.

DISCUSSION:

Budgets cannot be made with an unconditional structure – an amount must be assigned. The best that can be done is to budget to reasonable expectations with some cushion. That has been done in the FY'10 budget (under Article 8) – even as we take on tremendous financial challenges.

A fractioned budget approach pursued through multiple warrant articles is, at the very least, terribly inefficient and hazardously disruptive. The proper approach to allocating funds is through the budget. The salient question in budgeting is "have we budgeted enough or what we can?". Admittedly, this is not always an easy question to answer. In the case of the Fire Department budget, however, we believe the answer is yes.

Brookline's per capita Fire Department spending is one of the highest compared to surrounding and comparable communities. Brookline also provides for one of the highest per capita staffing levels of comparable and surrounding communities. By both measures, Brookline funds its Fire Department generously. We also have a Department that is held in the highest regard.

In determining the appropriate amount to budget, we must calculate in some assumptions. To fully staff our manned fleet on a 24/7 basis (with the 4-person minimum provision), we need to budget for 116 Fire Fighters. However, this does not include vacations and sick time. Therefore, we budget for 147 Fire Fighters (in effect 5 Fire Fighters per truck to cover vacation and sick-time for a 4-person crew).

Fire Fighters are paid for 92 tours per year. A tour is a 24-hour shift followed by three days off. In calculating budgeted staffing levels (and the need for coverage) we assume that of those 92 tours 8 will be for vacation, plus 2 possible additional vacation tours for those firefighters with at least 10 years of service; 1.5 "A days" (personal days); and 7.5 sick tours. Keep in mind that with a 24 hours on/ three days off schedule, using only two consecutive vacation tours or sick tours can provide the equivalent of 11 days of vacation or sick leave. For budgeting purposes we assume that every Fire Fighter will use every vacation day, every "A day" and every sick day. We assume a Fire Fighter is only available 73 times during the year. Incorporating these factors in the budget should provide more than sufficient coverage. Even if a position is vacant, it is funded in the budget and the money is available to pay for over-time. In addition, we budget over $240K in additional over-time money over and above the 147 budgeted Fire Fighter positions.

RECOMMENDATION:

We recognize that there are varied forces that influence sick-time and over-time. Some of these are controllable and others are not. A major fire resulting in serious injury that creates long-term absences is uncontrollable and the Fire Fighter force, to the extent financially possible, should be held budgetarily harmless. However, we cannot and should not budget

unconditionally to accommodate excessive and abusive use of sick call-ins. There are distinct differences between the varying drivers of over-time usage.

We believe that the amount currently budgeted is sufficient to meet the needs and goals of the Fire Department. This year has demonstrated that with reasonable sick leave, the Fire Department will be safely in the black.

Beyond the budgeted "cushion" and the additional over-time funds, the Town has reserve funds to meet a number of extraordinary needs. Some of the over-time factors could well qualify as extraordinary needs for these funds. But, others do not have a place in a reasonable and structured budget.

The Fire Department budget as enumerated under Article 8 is demonstrably sufficient and should not be supplanted by an artificially chosen figure that might allow for the possibility of funding unwarranted or clearly inappropriate sick-time/over-time usage. The Committee understands the petitioner's concerns and acknowledges that extraordinary circumstances may arise requiring a financial response, but those are not things that can be predicted in the departmental budget. That is something that would be addressed through our reserves.

By a vote of 19-0, the Advisory Committee unanimously recommends NO ACTION on Article 9.

XXX

ARTICLE 9

Motion Offered by the Petitioner, Nick Inchierca

Moved: That Town Meeting adopt the following resolution:

Whereas maintaining Brookline Fire Department staffing for fewer than five fire engine companies and two ladder companies raises public safety concerns;

NOW, THEREFORE, BE IT RESOLVED THAT Town Meeting requests that the board of Selectman direct the Brookline Fire Department to administer it's budget appropriation in such a manner that five engine companies and two ladder companies are fully staffed at all times during fiscal year 2010.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND
The Advisory Committee considered new language offered by the petitioner under Article 9. This time, however, it was offered in the form of a resolution rather than a budget amendment.

DISCUSSION
We noted in our previous report that it is terribly inefficient and hazardously disruptive to approach budgeting through a fractioned approach of multiple warrant articles – even if presented as resolutions. One can well imagine setting a standard with this article whereby successive articles could be introduced by any particular (and equally legitimate) interest group to advance an implicit budget commitment (e.g. a resolution to safeguard Police detail work, or a resolution on a particular student/teacher ratio). These are things to consider within the confines of collective bargaining, departmental policies and the overall budgeting process – not through ad hoc resolutions.

As we originally outlined in our report on Article 9, we believe the current FY'10 Fire Department Budget more than sufficiently funds the full-time operation of five pumpers and two ladder trucks for the entirety of FY10. This year's experience, with reasonable levels of sick call-ins, clearly demonstrates that.

Brookline's per capita Fire Department spending is one of the highest of any of our surrounding or comparable communities. Brookline also provides for one of the highest per capita staffing levels. By both measures, Brookline funds its Fire Department generously.

To imply that under no circumstances could a truck ever be taken out of service, is disingenuous. We all understand the financial realities. The Advisory Committee believes, and the petitioner has concurred, that the amount currently budgeted is sufficient to meet the needs and goals of the Fire Department.

Again, we recognize that there are varied forces that influence sick-time and over-time. Some of these are controllable - others not. However, we cannot and should not commit unconditionally (even implicitly) to accommodating excessive or abusive use of sick call-ins.

The Committee understands the petitioner's concerns and acknowledges that extraordinary unforeseen circumstances may arise requiring an additional financial response. It is precisely for those sorts of things that we maintain a Reserve Fund.

RECOMMENDATION

The Advisory Committee believes that this resolution is unnecessary as the stated goals are satisfied in the FY'10 budget, and it risks setting a poor precedent for future budget deliberations.

By a vote of 10-2-2, the Advisory Committee recommends NO ACTION on the petitioner's resolution under Article.

XXX

ARTICLE 10

TENTH ARTICLE
To see if the Town will amend the Fiscal Year 2010 budget of the Fire Department to adopt NFPA Standard 1710 for the entire Fiscal Year 2010 without restriction, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

We the Petitioner and signatories to this article, believe the Town is at or below minimum levels of staffing and equipment for the Fire Service and any further reduction or cuts will result in severe risk to the public safety of firefighters, residents, business owners and any visitors to the town and their property. This article is submitted to prevent these risks and to insure the safety of everyone in the town.

SELECTMEN'S RECOMMENDATION

Article 10 seeks to amend the FY10 Fire Department budget by adopting NFPA Standard 1710 for the entirety of the fiscal year. Standard 1710 is not a law or regulation. It is a guideline against which communities can measure their fire services. Fire Chief Skerry reports that the Brookline Fire Department currently meets or exceeds virtually all the provisions of 1710 and will continue to do so for the upcoming fiscal year. As stated in the Selectmen's Recommendation for Article 9, the budget before Town Meeting includes 147 firefighters in the Suppression Division, enough to staff five engines and two ladders for an entire fiscal year. As a result, the Department will continue to have the manpower to meet or exceed the standards as they currently do. In addition, the Selectmen do not believe the motion proposed by the petitioner should be part of a budget vote. The Board recommends NO ACTION, by a vote of 5-0 taken on April 28, 2009, on Article 10.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 10 is a citizen petitioned article than advances the same aim as Article 9, but through a slightly different strategy. Article 10 specifically references the National Fire Protection Association report 1710.

NFPA 1710 is a series of recommendations for manning, equipment and response times for fire departments nationally. In Brookline, this reference is something to which we closely adhere. It is worth noting what NFPA 1710 is and is not.

DISCUSSION:
1710 is a series of suggestions and recommendations that are meant to be considered within the specific needs and circumstances of a given community. It offers guidance in the broader decision making process. The NFPA is an advisory association and not a governmental agency. While professional fire fighting organizations form a close allegiance to these guidelines, there is some controversy, even within the NFPA itself concerning these recommendations and practical administration.

Among the most fundamental elements of the NFPA 1710 standards is the guideline for an initial response of at least four Fire Fighters to arrive on scene in four minutes (transit time); and 14 to 15 Fire Fighters on scene in eight minutes for a large fire. With Brookline's 4-person minimum requirement, it only takes one truck in four minutes to satisfy the first call recommendation. In fact, Brookline's first response involves multi-vehicles. We routinely put 20 Fire Fighters on the scene from the start. Most other communities do not. Brookline easily meets, and exceeds, the NFPA recommendations.

Brookline's five pumpers and two ladder trucks are distributed across town. Brookline is also part of a metropolitan mutual aid agreement where neighboring communities will contribute fire-fighting companies if we need added equipment. Brookline has responded to fires in Newton and Boston and they have responded to ours. There is also a level of cross-coverage in border areas. As an example, the West Roxbury firehouse will respond to a fire call at Hancock Village (arriving in the same amount of time as Brookline).

The Fire Department credits an aggressive initial approach with being able to manage a fire more quickly. In the context of the FY'10 budget, there are sufficient funds to maintain our conformity to these standards. The Chief has assured us that even if there was occasional limited use of a fire truck (sometimes referred to as "brown outs"), that Brookline would still meet these standards.

RECOMMENDATION:
Discussion of how best to apply NFPA guidance is ultimately a matter of collective bargaining and professional fire management. It is not appropriate to address it as a line item in a budget. Further, the FY'10 budget funds the staff needed to comfortably meet NFPA recommendations.

By a vote of 19-0, the Advisory Committee unanimously recommends NO ACTION on Article 10

XXX

ARTICLE 11

ELEVENTH ARTICLE

To see if the Town will amend the Fiscal Year 2010 Budget of the Fire Department to retain the Fire Alarm Superintendent and Signal Maintainer and their respective wages and benefits within the Fire Department without restriction, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

We the petitioner and signatories to this article, believe the Town is at risk if the two Public Safety positions are removed from the Fire Department. To properly maintain the current Fire Alarm systems of Fire Boxes and Fire Station Notification, communications should be under the direct control of the Fire Department and assigned to public safety personnel. If there is any further reduction of the fire Alarm Systems it could result in severe risk to the public safety of firefighters, residents, business owners and any visitors to the Town and their property. This article is submitted to prevent these risks and to insure the safety of everyone in the Town.

SELECTMEN'S RECOMMENDATION

The FY2010 Financial Plan included consolidating the wires division of the Fire Department with the traffic systems unit of the Department of Public Works (DPW) as one of the many efficiency proposals required to close a $4 million budget gap. The consolidation allowed for the elimination of a vacant position in the DPW budget for a salary savings of $51,367. The Efficiency Initiative Committee (EIC) recommended such a consolidation in its report as a short-term measure, along with a longer-term proposal to investigate the possibility of moving to a wireless master box system. Article 11 calls for the reversal of this sensible proposal.

A staff of two non-firefighters comprises the Fire Department's wires division and those two individuals are responsible for the maintenance and upkeep of the 530 hard-wired fire boxes throughout the town. Of the 530, 300 are street boxes and 230 are master boxes located in multi-unit buildings. The traffic signals unit of DPW is responsible for various electrical-related systems, including traffic signals and streetlights. Since both the wires division and the traffic systems unit deal with electrical wires in some capacity, merging the two groups makes sense operationally. The proposal results in synergies that provide DPW with in-house electrician services, which will be an asset for its traffic signal and streetlight maintenance program, including assisting in the effort to remove "double-poles". It should be made clear that the fire box system will continue to be maintained, as it is a vital component of the Town's public safety notification system. The merger will not result in the diminution of maintenance of the system.

The proposal to merge these two groups is a prudent one that results in efficiencies and budgetary savings without reducing the level of services. Both the Fire Chief and the Commissioner of Public Works are committed to making the merger work for both departments. This consolidation was part of the budget balancing plan and the approval of Article 11 would put the budget into a deficit situation. The Board recommends NO ACTION, by a vote of 4-0 taken on April 8, 2009, on Article 11.

ROLL CALL VOTE
No Action
Daly
DeWitt
Mermell
Benka

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
WA 11 seeks to retain the positions of Fire Alarm Superintendent and Signal Maintainer within the Fire Department. It was filed by the Fire Department's Fire Alarm Superintendent, Patrick Carroll, who was concerned about the proposed transfer of the Wire Division employees to the Department of Public Works. The Wire Division's responsibilities include the maintenance and repair of the Fire Alarm, Voice Alarm, and Mutual Aid Notification Systems. There are 530 hard-wired call boxes, tied into the system: 230 are located in private hospitals, nursing homes, private schools, day care centers, large (12+ unit) apartment buildings and office buildings; and 300 are standing fire call boxes that are on Brookline's streets. He noted that the fire alarm system is in very good condition because of the daily maintenance it receives from the Wire Division. His primary concern was that the integrity of the fire alarm system would suffer because the maintenance of the fire call boxes would no longer be a priority if the division employees were part of the DPW and had new responsibilities.

Town Administrator Rich Kelliher stated in his budget message that among the key considerations he used in preparing the FY2010 budget were: avoiding layoffs, achieving personnel reductions through attrition or other strategies, maintaining essential services and adopting feasible recommendations of the Efficiency Initiative Committee (EIC). A strategy available for retaining current personnel while keeping essential services is to shift personnel from one department to another. One of the recommendations in the EIC Report was to transfer fire call box maintenance personnel from the Fire Department to the Department of Public Works, where their qualifications would also be helpful in maintaining the Brookline traffic systems and other electrical systems. This would accomplish two goals: the retention of electricians who are skilled at wire maintenance and the elimination of a DPW Traffic System Technical position that is currently vacant.

From a Town perspective, the shift in personnel would help by transferring electricians who know the Town and are skilled in wire maintenance—including above ground traffic wires that are currently handled by DPW personnel, and where there is currently a vacancy. Perhaps equally important, within the next several years the wired fire alarm system, pending a cost/benefit analysis, may be replaced by a wireless alarm system, a technological move that is being done in an increasing number of municipalities throughout the United States.

DISCUSSION:
Although both Chief Skerry and the employees that make up the Wire Division in the Fire Department have expressed a desire to retain the positions in the Fire Department while the town's fire call boxes are in operation, the current move achieves a budgetary restructuring that is beneficial to the town. Chief Skerry and Commissioner DeMaio will work together to make the transfer as smooth as possible so that the fire call boxes will continue to be maintained until such time as they are phased out. The Advisory Committee understands that maintaining these boxes will continue to be a priority service item even with the staff restructuring.

In view of the Town's decision to effect the transfer of the Wire Division employees to the DPW, the petitioner has decided not to move his warrant article at Town Meeting.

RECOMMENDATION:
The Advisory Committee unanimously recommends a vote of NO ACTION on Warrant Article 11.

XXX

ARTICLE 12

TWELFTH ARTICLE

To see if the Town will vote to create a local fund titled "School Facility Maintenance Trust Fund" for the purpose of funding appropriate school facility maintenance projects that meet the provision of 963 CMR 2.00, Section 2.18 4(b), and further that the Town affirm its intent to accept all matching grant funds from the Massachusetts School Building Authority (MSBA) for which it qualifies, relative to the regulations outlined in 963 CMR 2.00, Section 2.18 4 (b), and deposit said funds into the "School Facility Maintenance Trust Fund" for use in funding such projects, or take any other action related thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Massachusetts School Building Authority (MSBA) has promulgated regulations that could award additional grant funds to communities that have established a School Facilities Maintenance Trust Fund. The additional funds would be awarded as a matching grant equivalent to up to 1% of the total MSBA reimbursement grant award for a project. Brookline hopes to receive this bonus as part of any MSBA funding that may be approved for the Runkle School Project.

SELECTMEN'S RECOMMENDATION

Article 12 asks Town Meeting to establish a School Facility Maintenance Trust Fund, per the regulations promulgated by the Massachusetts School Building Authority (MSBA). Such a trust would be funded by (1) the State on a one-time basis at an amount equal to up to 1% of the Total Facilities Grant awarded for a MSBA-approved project and (2) a one-for-one local match for any funds deposited by the State into the Trust. The funds from the trust can be used to pay for capital repairs and improvements in all school facilities, not just for the facility for which the MSBA grant was awarded.

The Town is currently working with the MSBA on the Runkle School renovation/addition project and the feasibility / schematic design phase is well under way. The MSBA regulations detail a reimbursement formula that ranges from not lower than 40% to a maximum of 80% of project costs. The reimbursement rate for the Runkle project can be increased under the discretionary tier of "incentive factors", one of which is the "Maintenance Rating", which can add up to 8% to a project's reimbursement formula. One of the components that goes into the Maintenance Rating is the establishment of a School Facilities Maintenance Trust. By creating the trust, we can maximize the Town's chances of receiving the full 8% maintenance rating.

Article 12 only establishes the existence of the School Facility Maintenance Trust fund; no funds are being expended at this time. If the Town ultimately receives the one-time grant, estimated to be approximately $100,000, we will return to a future Town Meeting to seek

approval for the funding of the 1-1 match. That possible $200,000 ($100,000 state / $100,000 town) can then be used on maintenance and upkeep projects at all schools.

The Selectmen welcome the opportunity to secure matching funds that will assist the Town with its school facility maintenance and upkeep program. The Town's commitment to facility maintenance and upkeep is well documented, and was punctuated last year when the voters approved an Override that included $500,000 for building repair and maintenance. The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on March 24, 2009, on the following vote:

VOTED: That the Town create a local fund titled "School Facility Maintenance Trust Fund" for the purpose of funding appropriate school facility maintenance projects that meet the provision of 963 CMR 2.00, Section 2.18 4(b), and further that the Town affirm its intent to accept all matching grant funds from the Massachusetts School Building Authority (MSBA) for which it qualifies, relative to the regulations outlined in 963 CMR 2.00, Section 2.18 4 (b), and deposit said funds into the "School Facility Maintenance Trust Fund" for use in funding such projects.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

Article 12 asks the Town to create a School Facility Maintenance Trust Fund. The proposal to establish such a fund at this time is prompted by the Runkle School Renovation Project, expected to be financed in part by the Massachusetts School Building Authority (MSBA). Within the regulations governing the MSBA (963 CMR 2.00, Section 2.18.4(b)) is a provision authorizing the creation of a local fund used solely for undertaking capital repairs and preventative maintenance in the school facilities of an applicant.

With the creation of such a fund now, the Town will increase its chances of receiving a higher reimbursement rate for the Runkle project by increasing its Maintenance Rating, a factor which can add up to 8% to a Project's reimbursement formula.

In addition, with the creation of such a Trust Fund, the Town could be awarded a one time, dollar-for-dollar matching grant of up to 1% of the total MSBA reimbursement grant or approximately $100,000 (assuming a State reimbursement rate of 40%). Both the state funds and local match would be deposited in the Trust fund and could be used for all school buildings.

No money is being sought or will be expended in connection with the fund at this time. Should the Town eventually receive the one-time grant of approximately $100,000, then Town Meeting will be asked to approve funding on a one-to-one basis.

DISCUSSION:
The Advisory Committee notes that the maintenance of both renovated buildings and new construction is critical to protecting the Town's capital investments. Establishing a School Facility Maintenance Trust Fund at this time will have the short term effect of increasing the Town's chances of a receiving a higher reimbursement rate from the State for the Runkle School project and the longer term effect of securing additional funds for the upkeep and maintenance of school facilities.

RECOMMENDATION:
By a vote of 17-0, the Advisory Committee recommends FAVORABLE ACTION on the language 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 55 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 ARTICLE DESCRIPTION

The Town owns a number of properties that it leases. The term of a lease cannot exceed 10 years without special legislation. The current lease for 55 Newton Street expires on June 30, 2009. In order to enter into a new lease, Town Meeting must authorize the Selectmen to do so. In accordance with G.L.c.30B a request for proposals was issued and the Town and the selected 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 55 Newton Street, as the current lease expires on June 30, 2009. The Selectmen unanimously recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 24, 2009, 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 55 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:

Article 13 addresses the leasing of the Town-owned property at 55 Newton Street and asks Town Meeting to authorize the Board of Selectmen to lease the property for not more than ten years. Leases may not exceed ten years without special legislation. Rents from Town-

owned properties are deposited into a revolving fund and are used to cover the costs of maintaining the properties. No tenant has been selected for 55 Newton Street yet, but the Town has issued a RFP in accordance with the provisions of G.L Chapter 30B

DISCUSSION:
The current occupant of 55 Newton Street, a house located on the grounds of Larz Anderson Park and dating from the mid 19th century, is Long Bow Group, Inc., a non-profit corporation founded in 1982 to produce and disseminate educational media. Although the property is used for offices, it could also be leased for residential purposes.

Under the terms of the current lease, due to expire on June 30, 2009, Long Bow Group has been paying $1400 per month and is responsible for all utilities and for maintaining the property in a "proper, safe, and attractive condition." It is anticipated that a new lease would increase rent to approximately $1800 per month, with utility costs covered by the tenant.

RECOMMENDATION:
By a vote of 18 - 0, the Advisory Committee recommends FAVORABLE ACTION on the language offered by the Selectmen.

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ARTICLE 14

FOURTEENTH ARTICLE

To see if the Town will amend Article 3.10, Sections 3.10.2 and 3.10.4 of the General By-Laws as follows (language to be deleted is in brackets and language to be added is in bold and underlined):

SECTION 3.10.2 MEMBERSHIP

The Council on Aging shall consist of the Chair of the Board of Selectmen, Chair of the Park and Recreation Commission, Chair of the Housing Authority, Director of Public Health, Superintendent of Schools, Head Librarian, or their respective representatives, and, in addition, [eleven] **fifteen** citizens reflecting the general composition of the citizenry of Brookline. The Citizen members shall be appointed by the Board of Selectmen after receiving recommendations from public and private agencies concerned with the welfare of older persons. Fifty-one percent of the members of the Council on Aging shall be composed of persons 60 years of age or over. The terms of office expire on August 31, unless otherwise specified by the Selectmen or unless such appointment is for an indefinite term.

SECTION 3.10.4 NON-VOTING MEMBERS

The Board of Selectmen may appoint from time to time up to [fifteen (15)] **ten (10)** non-voting members to the Council on Aging who shall be designated Associate Members. One-third of the Associate Members shall be appointed initially for a one year term; one-third of the Associate Members shall be appointed initially for a two year term; and one-third of the Association members shall be appointed initially for a three year term. All subsequent Associate Members shall be appointed for a three year term. The terms of office expire on August 31, unless otherwise specified by the Selectmen or unless such appointment is for an indefinite term.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Council on Aging has had up to 26 members since its by-laws were amended in 1980. We have been out of compliance with town by-laws by having more associate members than citizen members. We need to be in compliance with the town by-laws, but still would like to have 25 members. This is a simple way to accomplish this.

SELECTMEN'S RECOMMENDATION

Article 14 is a proposed amendment to Article 3.10, the by-law regarding the Council on Aging (COA). As currently written, the by-law allows for a membership consisting of 11 full voting members plus 15 non-voting associate members. However, Section 3.1.5 (Associate Members on Committees) of the Town's by-laws states that associate members shall not exceed two-thirds of the number of voting members. Therefore, the COA is currently out of compliance with the by-law. In order to rectify this, Article 14 proposes increasing the number of full members by four to 15 and decreasing the number of non-voting associate members to 10, for a total of 25.

The Selectmen agree that this is a simple way to accomplish bringing the COA into compliance with Section 3.1.5 and recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 14, 2009, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Since 1980 he Council on Aging has been operating under a Committee By-law with more Associate Members (non-voting) than Citizen Members (voting). The current composition of the Board is 15 Associate Members and 11 Citizen Members. However, it has come to light that there is a Brookline By-law which supersedes the current arrangement stating that Associate Members should not exceed two thirds of Citizen Members. This places the Committee in non-compliance.

The proposed article recommends that the Council on Aging be reconfigured to include 15 Citizen Members and up to 10 Associate Members. Some of the existing Associate Members would be re-designated Citizen Members.

DISCUSSION:
This is essentially a housekeeping item to bring the Council on Aging into compliance with the Brookline By-law.

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

VOTED: That the Town amend Article 3.10, Sections 3.10.2 and 3.10.4 of the General By-Laws as follows (language to be deleted is in brackets and language to be added is in bold and underlined):

SECTION 3.10.2 MEMBERSHIP

The Council on Aging shall consist of the Chair of the Board of Selectmen, Chair of the Park and Recreation Commission, Chair of the Housing Authority, Director of Public Health, Superintendent of Schools, Head Librarian, or their respective representatives, and, in addition, [eleven] **fifteen** citizens reflecting the general composition of the citizenry of Brookline. The Citizen members shall be appointed by the Board of Selectmen after receiving recommendations from public and private agencies concerned with the welfare of older persons. Fifty-one percent of the members of the Council on Aging shall be composed of persons 60 years of age or over. The terms of office expire on August 31, unless otherwise specified by the Selectmen or unless such appointment is for an indefinite term.

SECTION 3.10.4 NON-VOTING MEMBERS

The Board of Selectmen may appoint from time to time up to [fifteen (15)] **ten (10)** non-voting members to the Council on Aging who shall be designated Associate Members. One-third of the Associate Members shall be appointed initially for a one year term; one-third of the Associate Members shall be appointed initially for a two year term; and one-third of the Associate members shall be appointed initially for a three year term. All subsequent Associate Members shall be appointed for a three year term. The terms of office expire on August 31, unless otherwise specified by the Selectmen or unless such appointment is for an indefinite term.

XXX

ARTICLE 15

FIFTEENTH ARTICLE

To see if the Town will amend SECTION 3.12.6 PLANNING BOARD of its General By-laws as follows (amended text in **bold and underlined**):

The Board of Selectmen shall appoint ~~five~~ **seven** residents to serve on the Planning Board for five year staggered terms. **At least one of the appointees must be qualified for such appointment by virtue of relevant and significant experience or training in the field of urban planning.**

The Planning Board is established under G.L.c. 41, §81A, and shall perform and discharge all of the statutory powers and duties required by law, including those set forth in The Zoning Act, G.L.c. 40A, in the Subdivision Control Act and other relevant sections in G.L.c. 41, Sections 81A to 81GG, inclusive, in Chapter 270 of the Acts of 1985 and in G.L.c. 41.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Introduction

The purpose of this warrant article is to insert language which will expand the Planning Board by adding two members, and by requiring that at least one member have relevant and significant training in urban planning.

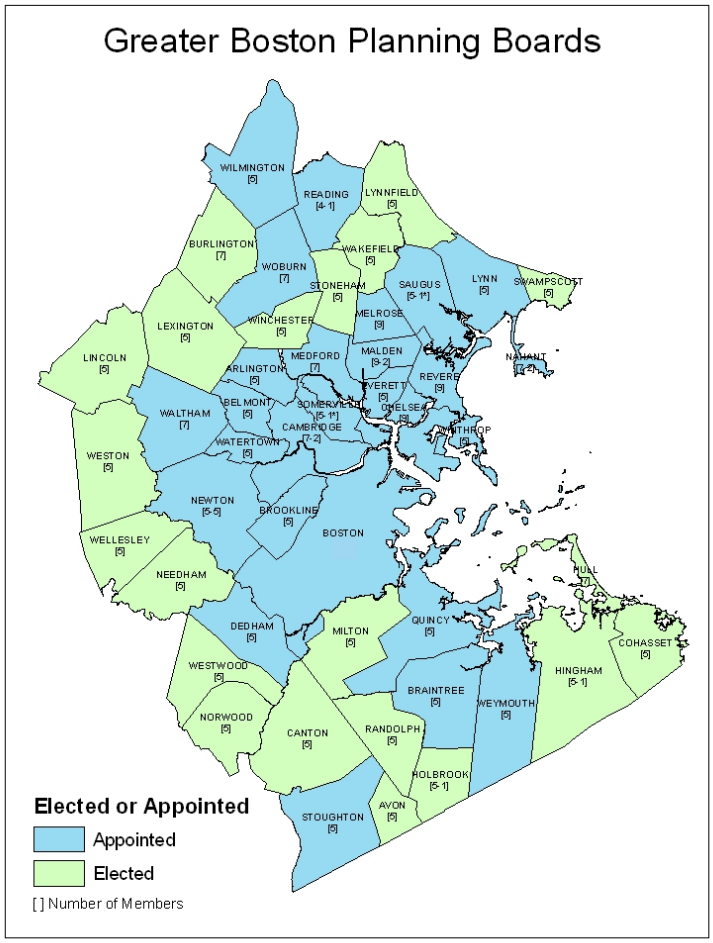
Background

Brookline's current Planning Board consists of five members appointed by the Board of Selectmen to serve five-year staggered terms. There are no specific qualifications. Their duties are specified in Mass. General Laws Chapter 41, Section 70 as making "careful studies of the resources, possibilities and needs of the town….and make plans for the development of the municipality, with special reference to proper housing of its inhabitants."

In Brookline, the Planning Board is specifically charged with developing the Comprehensive Plan, implementing subdivision regulations, reviewing Board of Appeals cases, reviewing matters and cases dealing with the zoning by-law, open-space planning and preservation, and review of facades and signs.

Mass. General Laws Chapter 41, Section 81A permits a size of five to nine members, either elected, or appointed by the Board of Selectmen. A survey of 48 municipalities in the Greater Boston Area shows that 56% are appointed, and these tend to be concentrated in the more populous communities around the core city. Thirty-one of the 48, or 65%, have 5 members. Others have 6 to 9 members, with some having alternates.

Adding Two Members



This warrant article would add two members to increase the size of the existing five-member Board to seven. Increasing the size of the current Planning Board to seven members would allow the substantial workload, which averages one regular meeting a week, in addition to participation on other committees, to be spread over more members.

Urban Planning

One definition of urban planning is "the study or profession dealing with the growth and functioning of cities and towns, including environmental concerns, zoning, the infrastructure, etc." In recent years, a host of concepts have appeared – Low Impact Development, permeable pavement, stormwater control, bioretention, transportation demand management (TDM), Smart Growth, LEED certification, "green buildings", "sprawl" and sustainability are a few.

How do other communities keep up-to-date with current trends? A survey sent to these municipalities yielded a variety of training strategies. The Citizen Planner Training Collaborative (CTPC) at UMass/Boston is recommended by the Metropolitan Area Planning Council (MAPC). A number of communities used "in-house" training by staff or workshops.

The one common theme expressed by planning staff in this survey was that Planning Boards should be diverse in terms of professional experience, thoughtful, dedicated and impartial (see Table 3 for comments from 9 municipalities). There was a general sense that "requiring" special expertise could limit the availability of candidates. However, the Town Census indicates that there are more than thirty residents who are involved in urban planning, and a few urban planners are active on other boards.

Obviously these are new and complex concepts which demand expertise not known a few years ago. Brookline is no longer the sleepy farming community of Muddy River; much of Brookline is surrounded by a dense urban environment. The managed control of development and transportation will shape Brookline's future success. Therefore, urban planning expertise should be represented in its planning policy board.

The requirement for professional qualifications is not new to Brookline. As Table 2 shows, no less than seven Boards/Commissions have membership criteria.

Summary

This warrant article will expand the Planning Board to seven members, and require at least one member to have expertise in urban planning. The goal is to require a new and critical expertise and spread the workload.

Table 1 – Characteristics of Planning Boards in 48 Greater Boston Communities

Municipality	**Elected/ Appointed**	***Number***		**Municipality**	**Elected/ Appointed**	**Number**
ARLINGTON	A	5		NAHANT	A	7+2 alternates
AVON	E	5		NEEDHAM	E	5
BELMONT	A	5		NEWTON	A	5+1 state + 5 alternates
BOSTON	A			NORWOOD	E	5
BRAINTREE	A	5		QUINCY	A	5
BROOKLINE	A	5		RANDOLPH	E	5
BURLINGTON	E	7		READING	A	4+1
CAMBRIDGE	A	7+2 alternates		REVERE	A	9
CANTON	E	5		SAUGUS	A	5+1 associate for special permits
CHELSEA	A	9		SOMERVILLE	A	5+1 associate
COHASSET	E	5		STONEHAM	E	5
DEDHAM	A	5		STOUGHTON	A	5
EVERETT	A	5		SWAMPSCOTT	E	5
HINGHAM	E	5+1 alternate		WAKEFIELD	E	5
HOLBROOK	E	5+1		WALTHAM	A	7
HULL	E	7		WATERTOWN	A	5
LEXINGTON	E	5		WELLESLEY	E	5
LINCOLN	E	5		WESTON	E	5
LYNN	A	5		WESTWOOD	E	5
LYNNFIELD	E	5		WEYMOUTH	A	5
MALDEN	A	9+2		WILMINGTON	A	5
MEDFORD	A	7		WINCHESTER	E	5

MELROSE	A	9		WINTHROP	A	5
MILTON	E	5		WOBURN	A	7

Table 2 – Brookline Boards/Commissions with Alternates and/or Qualification Requirements

Board or Committee * (By-Law Reference)	Number of Members	Membership
Board of Appeals (3.6)	3	One member shall be an **attorney and at least one of the remaining members shall be a registered architect, professional civil engineer or master builder.**
Building Commission (3.7.1)	5	The Commission shall comprise a **registered architect, a registered engineer, a licensed builder**, and two other citizens.
Preservation Commission (5.6.4)	7	1 member nominated by the Brookline Preservation Commission; 1 member, if possible, designated by American Institute of Architects; 1 member, if possible, designated by Greater Boston Real Estate Board; and 4 residents of Historic Districts. **One member, if possible, shall be an attorney.**
Council on Aging (3.10.2)	17	The Council on Aging shall consist of the Chair of the Board of Selectmen, Chair of the Park and Recreation Commission, Chair of the Housing Authority, Director of Public Health, Superintendent of Schools, Head Librarian, or their respective representatives, and eleven citizens relecting the general composition of the citizenry of Brookline. **At least 51% of the members shall be composed of persons 60 years of age or over.**
Housing Advisory Board (3.13.2)	7	seven residents - a member each of the Planning Board and Brookline Housing Authority and 5 appointed by Board of Selectmen. Of the Selectmen's appointees, one should be a low or **moderate income tenant who demonstrates a knowledge of tenant issues.** The other Selectmen's appointees should have knowledge or experience in one or more of the following areas: government housing programs, housing or real estate finances, affordable housing development, design or urban planning, real estate law. The Selectmen should ensure that all of these areas of expertise are represented on the Housing Advisory Board.
Human Resources Board (3.15.5)	5	must be qualified for such appointment by virtue of relevant and significant experience or training, including **service as Human Resources executives, as labor or employment law lawyers; as business executives; or as Human Resources/employment or labor law academicians**; or by equivalent qualifications.

Open Space Design Review Panel (3.16.2)	7	The review panel shall consist of four members to be appointed by the Commission from its membership, and three members to be appointed by the Commission who represent those people who are the likely passive and active users of the improvement including, when appropriate, people from the neighborhood where the improvement is located. **One of the seven shall be trained in landscape architecture or in another relevant field.**

Table 3 – Comments from nine communities surveyed

Cambridge - mix of architects, planners, attorneys, people from different neighborhoods, and some "regular folks" who are non-experts, but who represent various perspectives.
Chelsea - Since the Board is made up of appointed volunteers, it would be difficult for the City to set minimum requirements for membership. Vacancies on the Board sometimes go unfilled for several months due to the lack of volunteers: to set a minimum requirement for membership would exacerbate the problem. The planning staff serves as the primary training personnel.
Lynnfield - As a matter of policy members attend various workshops upon election and continue throughout their tenure.
Medford - I like to have a lawyer, architect or engineer on the Board as well as a couple of citizens whose expertise may be in other areas but have a good sense of the city. A Civil engineer seems to be the most valuable in reading plans and evaluating storm water and other utilities.
Melrose - Our attorneys, architects and engineers have always been very beneficial and the lay people on the board play an important role as well.
Milton - The Milton Planning Board has a landscape architect, a retired builder who is now a home inspector, a finance specialist, and a retired Town draftsman, again all useful but nothing germane to professional planning. The requirement of having at least one urban planner on the board could …. be hard to obtain.
Wellesley – Qualifications for board members – thoughtful, time to review volumes of material, even-handed, being able to manage a meeting, or being an attorney
Weston - The hope is to get qualified members on the Board-a civil engineer, architect, landscape architect, historic preservationist and an attorney. When a new member is elected, I sit down with them for several hours to review the by-laws and responsibilities of the Board members and to let them know about courses that are available for their education (CPTC, Mass. Federation of Planning Boards, etc.)
Wilmington - I am more interested in having a Board member who listens well, demonstrates an interest in land use issues, is fair and weighs the issues rather than any particular discipline. I find it great to have an architect, a lawyer and an engineer on the Planning Board, however, I wouldn't hold a position open for any particular educational qualification.
Winchester - we presently have a transportation planner (GSD trained), architectural historian (teaches at Tufts University), a CPA, an attorney with economics background and a retired college administrator.

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PLANNING BOARD REPORT AND RECOMMENDATION

This general warrant article to amend the Town By-Laws was submitted by citizen petition. It proposes to increase the membership of the Planning Board from five to seven members and requires that at least one of the members has experience or training in urban planning.

State statute, M.G.L.c. 41, Section 81-A requires that a Planning Board have not less than five, nor more than nine members, and does not have a requirement for members to have a particular expertise. The Town General By-Laws, Article 3.12.6, Planning Board, requires that the Board of Selectmen appoint five members to the Planning Board and also does not require specific qualifications.

The current Planning Board consists of: a landscape architect, who is AICP certified by the American Planning Association; an architect with a masters degree in city planning (who maintains a professional practice in planning and urban design as well as architecture); an architect; and a real estate broker. The real estate attorney on the Planning Board recently resigned to run for Selectmen. The Board of Selectmen, who appoint the Planning Board members, have always tried to choose members, who are well-qualified to evaluate development proposals and, at the same time, consider overall planning issues affecting the whole Town. The Planning Board has not had difficulty meeting quorums for meetings, nor with getting Board members to volunteer on numerous Town committees related to planning issues, such as Design Advisory Teams, the Zoning By-Law Committee, the Housing Advisory Board, the Parking Management Committee, the Sign By-Law Committee, and the Fisher Hill Committee. The Board has always met its responsibilities in a timely fashion on making recommendations on Board of Appeals cases, approving signs and façade cases, and reviewing and approving the Town's Capital Improvement Program and the Brookline Comprehensive Plan.

The Planning Board believes that limiting the Board to five members allows the Board to work more efficiently and effectively together than if it was a larger board. During this Board's tenure, the 2006 Comprehensive Plan won an award from the American Planning Association (APA), and in 1982, the Planning Board was honored as an outstanding Planning Board by the New England Chapter of the APA.

Therefore, the Planning Board unanimously recommends NO ACTION on Article 15.

SELECTMEN'S RECOMMENDATION

Article 15 is a citizen petition that proposes to increase the size of the Brookline Planning Board from five to seven members, and also to add a requirement that at least one member be a trained urban planner. The petitioner argues that the complexity of the Board's mission and the significant workload of the Board warrant the additional membership. In addition, given the complex nature of the specialized field of urban planning, he argues that at least one member should have training in the field.

The Board of Selectmen feels that the Planning Board has a complex and time-consuming task. It also notes that, while their overall mission is broad, most of the day-to-day work at the Planning Board involves review of Zoning Board of Appeals cases, including the Design Advisory Team process, and the review of signs and façades in the Town. The current Board generally works well together and includes two members who have training in urban planning. However, that does not mean that changes to the current Board constitution could not help them to better accomplish their tasks, as well as assist in serving on the number of other committees to which members are often appointed. The petitioner has also suggested a possible modification to his article that would have five regular members on the Board, and two alternates. Other ideas that have been floated include changing the term of members and adding additional professional specializations beyond urban planner.

The Selectmen do not feel that they had enough information to properly judge what, if any, changes to the Planning Board were warranted at this time. In the end, the Board of Selectmen felt that this proposed change should be studied by the Committee on Town Organization and Structure (CTO&S) so that the changes make sense in the overall context of Town government. CTO&S can look at the existing and proposed Planning Board structures, the history of Board membership, what it requires to accomplish its mission, and other information that they may require. The Committee could then come up with a thoughtful recommendation as to what, if any, changes are warranted to the existing Planning Board.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 28, 2009, on the vote for referral as offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This Article proposes to increase the size of the Planning Board from five members with no specific requirements for appointment, as presently constituted, to seven members serving five-year staggered terms, with the proviso that at least one appointee have experience or training in urban planning. The principal petitioner, Hugh Mattison, has indicated that he intends to move revised language that leaves the Planning Board with five full members but adds two alternate members who could fully take part in Board deliberations but would only vote if needed to replace absent full board members in order to bring the voting total up to five.

DISCUSSION:
Mr. Mattison described some of the merits of his proposal, including his views that (1) an increased size of the Planning Board would spread its considerable complex workload among more members and hence be more manageable, (2) more members would allow the board to have expertise in more diverse and relevant areas, including in particular the important area

of urban planning, and (3) an enlarged membership might allow the board to broaden its mission and act more proactively in planning and asserting the town's vision for future development. He pointed out that state law permits up to nine members, and that 17 of 48 or 35% of Greater Boston communities have planning boards with more than five members. In response, it was pointed out that two members of the current board already have urban planning credentials, that the present board is able to cope with its workload and defined mission, that a Board with more members might be more cumbersome and not be an improvement, and that the nearby communities that are most similar to Brookline tend to have only five members. The fact that board members typically seek and accept reappointment when their terms expire seems to indicate that they don't feel over worked. The question was raised as to whether it was necessary for the Board to have within its membership wide areas of expertise -- after all the Board holds wide-ranging well-attended public hearings on matters before it and can and does become educated by abundant expert testimony on diverse relevant matter -- or, alternatively, if such expertise is important for the Board members to have, in areas such as civil engineering, architecture, law and real estate to name a few, should these areas of expertise, in addition to urban planning, be spelled out as requirements for appointment.

RECOMMENDATION:

The Advisory Committee believes that this proposal has raised important unresolved issues and that further study and analysis is needed that might lead to crafting a possibly improved Article before Town Meeting votes on modifying one of the most important boards in town. A mechanism for accomplishing this sort of evaluation exists: Under long-standing and appropriate Town practice, proposed changes to Town departments and boards are first considered by the Committee on Town Organization and Structure, a standing blue ribbon committee whose members include three former Selectmen, a former Town Administrator, a former School Superintendent, a former long-term Town Meeting Member, and a former Advisory Committee chairman. (Recall that a few years ago when Town Meeting voted to increase the Advisory Committee's at-large membership from six to eight, the matter was first referred to CTOS for its recommendation.) Accordingly, the Advisory Committee, by a vote of 5-0, recommends FAVORABLE ACTION on the following:

VOTED: That the subject matter of Article 15 be referred to the Committee on Town Organization and Structure, with a request that they report their findings prior to the closing of the warrant for the 2010 Annual Town Meeting.

XXX

ARTICLE 15

Motion Offered by Hugh Mattison, TMM Prec-5

To see if the Town will amend SECTION 3.12.6 PLANNING BOARD of its General By-laws as follows (amended text in **bold and underlined**):

The Board of Selectmen shall appoint seven residents to serve on the Planning Board for five year staggered terms, two of whom shall be alternate members. Alternate members shall have the right to participate in all meetings; and to vote in the place of regular members who are absent or unable or unwilling to vote for any reason as shall be designated by the Chair. At least one of the appointees must be qualified for such appointment by virtue of relevant and significant experience and training in the field of **environmental or** urban planning.

Explanation:
This amendment to Article 15 – Planning Board Membership, would broaden the qualifications of at least one of the appointees to include a background in either environmental planning or urban planning.

Urban planning deals with the built environment in terms of infrastructure and development patterns. A wide range of expertise is involved including urban design, permitting, transportation planning, regional planning, buildout analysis, modeling, demographic forecasting, community involvement, environmental impact assessment, zoning and the regulation of development.

Environmental planning is a subspecialty within the field of urban planning that has evolved since the 1970's in response to a growing recognition of the need to protect and work with existing natural systems when land is being built upon. Benefits derived from environmental planning include improved water quality, minimized land disruption, improved solar access and lower building energy requirements. Low Impact Development (LID) is a strategy designed to minimize negative impacts through stormwater management, solar orientation, pollution and watershed protection.

Our current zoning by-law in Section 5.09 already recognizes the importance of these considerations. The Planning Board can consider a number of factors in section 4 - Community and Environmental Impact and Design Standards. These factors include preservation of trees and landscape, siting of building to minimize the impact of shadow, stormwater drainage, and energy efficiency. Currently, the existing standards are vague and offer little to no guidance. A planning board member or alternate with expertise in environmental planning could strengthen the Board in implementing these provisions of our current Zoning By-law.

XXX

ARTICLE 15

Substitute Motion Offered by Hugh Mattison, TMM Prec-5 & Martin R. Rosenthal, TMM Prec-9

Moved to amend SECTION 3.12.6 PLANNING BOARD of its General Bylaws as follows (amended text in **bold and underlined**):

The Board of Selectmen shall appoint ~~five~~ **seven** residents to serve on the Planning Board for five year staggered terms. **At least one of the appointees must be qualified for such appointment by virtue of relevant and significant experience or training in the field of environmental or urban planning.**

The Planning Board is established under G.L.c. 41, §81A, and shall perform and discharge all of the statutory powers and duties required by law, including those set forth in The Zoning Act, G.L.c. 40A, in the Subdivision Control Act and other relevant sections in G.L.c. 41, Sections 81A to 81GG, inclusive, in Chapter 270 of the Acts of 1985 and in G.L.c. 41.

EXPLANATION

First, we believe that any RECONSIDERATION is totally unnecessary -- as well as unfair. As for the process, a five day delay means that not only will a new vote be by a different sub-set of the 248 TMM's, but that some will be voting without the benefit of hearing the lengthy debate last week. For this reason, especially pertinent seems the following analogy from the unofficial Bible, *TOWN MEETING TIME (*Johnson, Trustman, & Wadsworth, 1962), p. 82:

> In many towns where reconsideration is permitted it is surrounded with restrictions protecting the prevailing side from what is considered to be an unfair flank attack. Such restrictions prohibit reconsideration at late hours when the prevailing partisans are absent from the meeting or present in substantially fewer numbers.

Second, as well as another reason reconsideration is unnecessary, on the merits there was no significant substantive disagreement between proponents of the two "competing" motions after referral (thankfully in our mutual view) failed. Mr. Rosenthal was -- with Mr. Mattison's (the Petitioner) foreknowledge -- simply restoring the latter's original' version, which he had diluted in a failed attempt to get Board of Selectmen and Advisory Committee support.

This joint motion **makes it clear that reconsideration is unnecessary because it** now **explicitly** combines the former Rosenthal amendment and the Mattison main motion of Article 15 into one motion, essentially making the former into a "friendly amendment" to

the latter. The two essential elements are (1) to increase the Planning Board membership from five to seven voting members, and (2) to require at least one of the members to be qualified by virtue of relevant and significant experience and training in the field of environmental or urban planning. As we stated at length last week, and as the Town Meeting agreed after that well-considered debate, there are a number of benefits to these changes.

First, the workload of the Planning Board now borne by five would be shared over seven members, thus reducing the workload of each individual member, and possibly making the appointment more attractive to others. Recall that the Planning Board is responsible for administering the zoning by-law and at least one member sits on many other committees and Design Advisory Teams, as well as coordinating development of the Capital Improvements Program (CIP).

Second, there are many skills demanded – law, architecture, construction, real estate, civil engineering, landscape architecture, knowledge of Brookline's zoning by-law and urban planning are a few. This larger membership will allow more of these skills to be represented.

Third, a larger membership (seven), which is very similar to many other Boards and Commissions, will potentially be more representative of Brookline citizens because of its likely broader perspective.

Fourth, urban and environmental planning expertise are essential skills, and should be explicitly required of at least one member, just as the Zoning Board of Appeals and Building Commission, among others, have requirements for professional qualifications.

ARTICLE 16

SIXTEENTH ARTICLE

To see if the Town will adopt the following general by-law:

Article ___

POSTING OF CALORIC INFORMATION FOR FOOD ITEMS IN FOOD SERVICE ESTABLISHMENTS

Section 1. All food service establishments shall affix and post the calories in any given item on their menu. This must be on both the paper menu and any display menu.

Section 2. Food service establishments shall be in compliance with the requirements of this by-law within five years of the passage of this by-law. In the case that a food service establishment undergoes a renovation within the five year period it shall place the calorie information on the menu and any display menu before the building permit(s) for such renovation(s) is/are issued. Any new food service establishment opening within the five year period shall be in compliance at the time it opens.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

For better health and to increase weight management and help curtail obesity I am proposing a new by-law for Brookline. When people go out to eat they just order regardless of the calories the item may contain. To help raise awareness, I am proposing that Brookline adopt a by-law to require any food service establishment to affix and post the calories in any given item on their menu. This would be on both the paper menu and the display menu that is hanging down from the ceiling. Since this might be a financial burden on restaurants, restaurants would be required to comply by the fifth year from the issuance of this by-law. In the case that a restaurant would undergo a renovation before the five years elapse it would be required that the restaurant plan on placing the calorie information before the permit is released. In the case of a new restaurant, the restaurant would open having complied with this by law. Again this article is meant to crack down on obesity, help raise awareness and help people in determining their calorie intake. When people see this, their lifestyles will change for the better.

SELECTMEN'S RECOMMENDATION

Article 16 recognizes that obesity is a serious and growing public health challenge and is a risk factor for premature morbidity and mortality. It also notes that information regarding calorie content and other nutritional information at point of purchase may assist customers in

choosing healthy food options. The Board, however, had considerable concerns about the impact such a mandate would have on the town's restaurants. The Brookline Advisory Council on Public Health has endorsed the concept of giving caloric information where possible and the Director of Public Health and Human Services has reviewed and endorsed the specific language passed by the Advisory.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 21, 2009, on the resolution offered by the Advisory Committee, which urges foodservice establishments, when feasible, to offer calorie and other nutritional information to consumers and encourages them to offer increased numbers of healthy food and beverage options.

ROLL CALL VOTE
Favorable Action
Daly
DeWitt
Mermell
Benka

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Petitioner is asking Town Meeting to adopt a resolution that "urges that food service establishments provide, when feasible, calorie and other general nutritional information to consumers at the point of sale." Further, the resolution encourages food service establishments to "provide and promote an increased number of healthy food and beverage options."

The resolution replaces the original article would have established a bylaw requiring that food service establishments in Brookline within 5 years provide caloric information for each menu item.

DISCUSSION:
The petitioner, Andrew Ghobrial, proposed the bylaw to encourage improved weight management, curtail obesity, and promote better health. He wants Brookline to be a leader in discouraging overeating in restaurants as it was in banning smoking and prohibiting preparation of foods with transfats in restaurants. The petitioner has withdrawn the proposed bylaw in favor of a resolution because of strong opposition from owners of independent restaurants who anticipated great difficulty in compliance with the proposed requirement.

Nationally, concerns about the role of restaurants in encouraging obesity have been concentrated on some chains that sell food with high caloric content at modest prices. These restaurants attract some customers who eat the high calorie meals on a regular basis. The topic received effective attention in Morgan Spurlock's 2004 documentary film "Super Size Me." Brookline's Public Health director, Dr. Alan Balsam reports that there has been

research that indicated that when fast food restaurants post information about caloric content of menu items, customers increasingly choose items with fewer calories. Further, when they are required to provide information about calories in food, restaurants tend to modify their menu items to offer more options with fewer calories.

Caloric content of food is difficult to establish. The only definitive method for determining caloric content of food is burning the food under laboratory conditions to determine how much heat is generated. Such testing is expensive. Computer programs concerned with caloric content of food that are available on the web provide only a basis for rough estimates of caloric content. Restaurant owners are concerned about the time and expense involved in determining caloric content of their menu items. They argued that a bylaw would discourage innovation in menu offerings because of the effort required in determining caloric content of new items. Consequently restaurant owners are concerned that they would lose customers who like to see new menu offerings.

For fast food chains the determination of caloric content of food is feasible because of their standardized menus. The testing is done for the chains at a national level. Local health departments do not test the caloric content of food served by local outlets.

On the East Coast, New York and Philadelphia have recently introduced regulations that will require that fast food restaurant chains with 15 or more outlets post the caloric content of the items on their menus. On the West Coast similar initiative are in progress in California and the state of Washington. In Massachusetts, the state Department of Public Health has circulated draft regulations that will require chains throughout the state to post information about caloric content of their menu items.

Obesity is less of an issue in Brookline than it is elsewhere. Dr. Balsam reported at a subcommittee hearing that at least among children, there is research evidence that excessive weight is much less of a problem in Brookline than it is in Massachusetts as a whole.

The majority support the resolution because it encourages healthy eating without placing a burden on restaurant owners to do more than they judge to be feasible.

Potential reasons for opposing this well intentioned and seemingly harmless resolution include the following:

- The general language of the resolution permits cooperation in so many ways that meaning of favorable action is uncertain.
- Initiatives that concentrate entirely on food intake as a source of obesity are imbalanced because they do not address the role of exercise in weight control.
- Health information that encourages limits on caloric intake of food can have adverse consequences for those with eating disorders that involve insufficient eating.
- Some prefer to enjoy their occasional “fine dining” experiences in restaurants without receiving health education messages.

RECOMMENDATION:
The Advisory Committee recommends FAVORABLE ACTION by a vote of 11 in favor, 7 opposed, and 1 abstaining on the following:

VOTED: That the Town adopt the following resolution:

WHEREAS obesity is a growing epidemic in America affecting both our youth and adult populations; and that

WHEREAS obesity increases the risk of heart disease, type two diabetes, and some cancers, reduces life expectancy, increases disability, increases social stigma, decreases work productivity and school achievement, and increases health care costs; and

WHEREAS it is the mission of the Town of Brookline Department of Public Health to preserve, promote and improve the health of Brookline citizens and to control and prevent dangerous, contagious and infectious diseases; and

WHEREAS obesity may be prevented through the combined efforts of the whole community. Many factors over the years are responsible for the current obesity epidemic.

THEREFORE BE IT RESOLVED that Brookline Town Meeting firmly believes that individual knowledge, motivation, and skills may be insufficient to fully address and curb the problem of obesity. Individual behavior is greatly influenced by the policies and practices of organizations including food service establishments throughout the community that either promote or thwart individual efforts to engage in healthy eating and physical activity.

TOWN MEETING, THEREFORE, URGES that food service establishments provide, when feasible, calorie and other general nutritional information to consumers at point of sale; and

Food service establishments are encouraged to provide and promote an increased number of healthy food and beverage options.

XXX

ARTICLE 17

SEVENTEENTH ARTICLE

To see if the Town will amend Section 4. of the Zoning By-law as follows:
[bold is new language, strike-out is deletion]

1. Delete Uses 15A and 15B from the Principal Uses section of Table 4.07

2. Add new Accessory Uses 60A and 60B to Table 4.07 as follows:

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	0	I
60A. Family child care home or Family child care plus home operated by an occupant of that household, as defined in draft 102 CMR 8.02 or its successor regulations, provided that no more than 6 children of less than school age, or up to 8 children if 2 are of school age, shall be cared for at one time, inclusive of children of the operator. If such a facility has an outdoor play area, it must not create a noise nuisance for neighbors.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
60B. Large family child care home operated by an occupant of that household, as defined in draft 102 CMR 8.02 or its successor regulations, provided that no more than 10 children shall be cared for at one time, inclusive of children of the operator. If such a facility has an outdoor play area, it must not create a noise nuisance for neighbors.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes

3. Amend Section 4.05 as follows:

"§4.05 - RESTRICTIONS ON ACCESSORY USES IN RESIDENCE DISTRICTS

1. In any residence district, no accessory use shall be permitted which involves or requires any of the following:

   a. The employment of any persons who is not resident in the dwelling unit, other than a domestic employee, except:
      1) Attendant or attendants to an accessory garage or parking space;

      2) Employee or employees of Uses 13, 14, 19, 20, 52, 63, 64, 66, 68 as permitted under §4.07 and Uses 58, 58A**,** ~~**or**~~ 59**, 60A or 60B** as permitted hereunder and in §4.07.

   b. The maintenance of a stock in trade, except for Uses 63, 64, and 68 in §4.07, or the use of show windows or displays or advertising visible outside the premises to

attract customers or clients, other than professional announcement signs, except as provided for Use 64 in §4.07.

1) An accessory use in a dwelling unit in any residence district as permitted under §4.07, Uses 58 or 59, which requires a special permit shall be subject to the office parking provisions of §6.02 unless otherwise modified by the Board of Appeals, by special permit.

2) An accessory use in a dwelling unit in any residence district as permitted under §4.07, Uses 58, 58A or 59, shall not:

c. occupy space which exceeds in area the area of the ground floor; occupy 25% or more of the total floor area in an S, SC, or T district, or occupy 50% or more of the total floor area in an M district;

d. permit the employment of more than two persons not resident in the dwelling unit;

e. be in operation or be open to clients, pupils or other members of the general public (except those seeking emergency professional services of a physician or member of the clergy) between the hours of 10:00 p.m. and 7:00 a.m.; or

f. create any objectionable impact in terms of noise, traffic, parking or other nuisance.

g. **For Family Child Care Homes, Family Child Care Plus Homes, and Large Family Child Care Homes (uses 60A and 60B), the following materials must be submitted and found to serve the facility and the neighborhood adequately by the Building Commissioner (if by right) or the Board of Appeals (if requiring a Special Permit):**

- **Site plans showing existing and as-built conditions;**
- **Hours of operation;**
- **A parking and circulation plan that provides for safe dropoff and pickup areas for parents and adequate parking for employees;**
- **If an outdoor play area is to be provided, a site plan showing the area at such a distance and so screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance;**
- **Information on other Family Child Care facilities, or other accessory uses, existing or known to be proposed on the same parcel as the proposed facility. For all such facilities, all of the above information shall also be provided and reviewed in the context of the new application;**
- **Documentation of application for appropriate licensing in accordance with M.G.L. chapter 28A, §10 and its implementing regulations. The Building Commissioner or Board of Appeals may condition any approval**

of such a facility on the owner providing documentation of appropriate licensing prior to receiving a Certificate of Occupancy."

4. Amend Section 6.02.4. as follows:

"4. Institutions shall include Uses 10, 11, ~~**15, 15A,**~~ 17, and 19 as listed in Article IV."

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Prior to the fall of 2008, the Town of Brookline permitted "family day care homes" provided that the number of children did not exceed 6. At the same time, the state permitted family day care facilities with up to 10 children under certain conditions. A warrant article was proposed for the Special Town Meeting in 2008 that would permit these "large family day care homes" in certain zones by right and in others by Special Permit. This amendment allowed the several large family day care facilities in Town, most of which have been operating without issues, to come to the Town for legalization. However, due to concerns that this might not be the best approach to regulating large family day care facilities, and also due to the fact that the state was in the process of amending its own regulations related to these facilities, this amendment will sunset in June of 2010.

The Zoning By-law Committee (ZBL) met several times since the fall of 2008 to discuss this issue. First, it looked at some basic issues related to regulating large family day care homes. Next, it delineated the basic issues that would need to be addressed in any final zoning language. Finally, it reviewed and commented on a staff draft of revised zoning language. At its February meeting, it recommended unanimously to submit this proposal.

This proposed language would:

- Clarify that such facilities are accessory uses, and therefore are limited in size and scale;
- Update the terminology to bring it in line with the new state regulations;
- Provide the Building Commissioner with clear submission requirements and allow him/her some discretion with respect to whether the smaller facilities can meet basic requirements that protect neighbors from impacts;
- Require Special Permits for Large Family Child Care Homes in residential districts, with a set of criteria to be used by the Board of Appeals in reviewing these facilities.
- Make other clarifications, such as stating that children who live in the building must also count towards the total number of children served.

There was discussion at the ZBL Committee about the possibility of only allowing one facility by right on each parcel, and requiring that any second or third such facilities receive Special Permits, at least in S, T and F zones. There were concerns, however, about whether

these different treatments might raise legal and fairness concerns. In the end, it was felt that the discretion given to the Building Commissioner to reject applications for facilities when they are not appropriate could accomplish the same goal without raising legal issues.

If approved, this language would require that several existing facilities come to the Board of Appeals for Special Permits. Other smaller facilities would continue to be able to operate by right provided they continue to meet these requirements.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Planning and Community Development Department with the support of the Zoning By-law Committee.

Prior to the Fall 2008 Town Meeting, only small family home day cares (Use 15A) for up to six children were allowed by the Zoning By-Law. This was not consistent with state license regulations, which allows large home day cares for up to ten children. At the Fall 2008 Town Meeting, Article 14, submitted by Citizen Petitioner Alexander Shabelsky, proposed to make the zoning consistent with state regulations by adding a new use to allow large family day care homes of six to ten children, except in single family districts. Town Meeting passed this warrant article, but added an expiration date of June 1, 2010, in anticipation of an amended warrant article being submitted that would be consistent with any new state regulations.

The Planning Board had supported allowing licensed large family child care homes and is supportive of the intent of this current amendment, which would allow a special permit for large family day cares in S districts. The Planning Board believes that large family child care homes in single family districts should be reviewed on a case-by-case basis through the special permit process to determine if the site is appropriate, the day care facility is safe, adequate parking, drop-off and pick-up space can be provided, and that any impacts to the surrounding neighborhood are minimal.

However, staff has been pointed out that the current numbering and lettering in section 4.05 was unintentionally changed when the Zoning By-Law was reformatted in 2002. Changing that numbering and lettering back to the original legislative intent appears to be beyond the scope of the warrant article. In any case, the current numbering and lettering creates confusion about which portions of Section 4.05 apply to family child care homes. For example, while it initially appears that family child care homes are limited to two employees that live outside the home, a closer examination of the legislative history indicates that interpretation is likely incorrect. The Zoning Bylaw Committee should be able to correct the lettering and numbering, and, more importantly, resolve policy issues such as how many employees these facilities need.

The Planning Board therefore unanimously recommends NO ACTION on Article 17 with referral back to the Zoning By-Law Committee for correction and resubmission.

SELECTMEN'S RECOMMENDATION

Article 17, which was submitted by the Department of Planning and Community Development with the support of the Zoning By-Law Committee, is designed as a permanent replacement to the zoning amendment approved last fall that permitted Large Family Child Care Homes by right or by special permit in all zoning districts except S (single family) zones. The amendment approved last fall was amended to sunset after 18 months, in order to allow Town Meeting time to review and approve a more comprehensive set of zoning regulations for Family Child Care Homes in Brookline.

The language developed by the Zoning By-Law Committee and Town staff would permit both Family Child Care Homes (of up to 6 children) and Large Family Child Care Homes (of 7 to 10 children) in all zones in Town. However, it would require that Large Family Child Care Homes seek a special permit in residential zones, and would also set forth a system of review by the Building Commissioner for any by-right Family Child Care Home. Such a system of review is designed to make sure that these facilities have adequate parking, pickup and drop off plans, and otherwise do not burden the neighborhood with negative impacts.

Unfortunately, it has become clear that some incorrect numbering and lettering in the section 4.05 of the existing Zoning By-Law is included in the language submitted for Article 17. That incorrect numbering and lettering creates some confusion about how certain clauses apply. The incorrect numbering and lettering in the submission would now be codified if Article 17 were approved as submitted. Changing the numbering and lettering is outside the scope of this warrant article.

There is still plenty of time to submit permanent zoning to replace the temporary language passed last fall. In addition, the existing Large Family Child Care homes are about to begin seeking the special permits they require under the temporary zoning, and therefore will not be significantly affected by the postponement of this language. In addition, there will be evidence of whether the permitting process properly balances the interests of day care providers and neighborhoods. Town staff is contacting Large Family Child Care homes to update them on the situation and ask them for information and input into a revised version of this language that will be developed by the Zoning By-Law Committee in the upcoming months.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 21, 2009, on the motion offered by the Advisory Committee.

ROLL CALL VOTE
Favorable Action on Referral
Daly
DeWitt
Mermell
Benka

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
This article proposes to create a method for the permitting of large family day care facilities. Prior to the fall of 2008, the Town of Brookline permitted "family day care homes" provided that the number of children did not exceed 6. At the same time, the state permitted family day care facilities with up to 10 children under certain conditions. A warrant article was proposed for the Special Town Meeting in 2008 that would permit these "large family day care homes" in certain zones by right and in others by Special Permit. This amendment allowed the several large family day care facilities in Town, most of which have been operating without issues, to come to the Town for legalization. However, due to concerns that this might not be the best approach to regulating large family day care facilities, and also due to the fact that the state was in the process of amending its own regulations related to these facilities, this amendment sunsets in 2010.

This proposed language would:

- Clarify that such facilities are accessory uses, and therefore are limited in size and scale
- Update the terminology to bring it in line with the new state regulations
- Provide the Building Commissioner with clear submission requirements and allow him/her some discretion with respect to whether the smaller facilities can meet basic requirements that protect neighbors from impacts
- Require Special Permits for Large Family Child Care Homes in residential districts, with a set of criteria to be used by the Board of Appeals in reviewing these facilities
- Make other clarifications, such as stating that children who live in the building must also count towards the total number of children served

If approved, this language would require that several existing facilities come to the Board of Appeals for Special Permits. Other smaller facilities would continue to be able to operate by right provided they continue to meet these requirements."

DISCUSSION:
At the Advisory Committee Planning and Regulation Subcommittee public hearing, there were a number of questions from various affected residents (owners of large family daycare homes) and town meeting members (including members who have children who utilize such facilities) concerning the apparent prohibition of more than two employees in a large family home daycare facility. Various commentors noted that such a limitation was inconsistent with state licensing and served no useful purpose in that the point of high quality daycare was to have adequate staff.

The Sub-committee and the spokesman for the Planning and Community Development Department concluded in reviewing the article as it related to the "less than 2 employees" provision that this use restriction was in effect a "typo." After the hearing, Mr. Levine

discovered while doing research on the history of this provision of the by-law that there was an inadvertent reformatting of this section of the by-laws at some point after 2001 that applies this restriction to more uses than when the original section was adopted. Proper reformatting could resolve this issue.

There was also discussion of the limitation utilizing 25% or more of the total floor area in S, C or T district. There was general consensus that this space limitation should be waivable by a special permit. There was specific discussion of a single family home that currently has a large family daycare on the first floor (i.e., 50% of the square footage).

Finally, there was discussion of the impact of noise particularly around outdoor play areas and what standards would be applied by the Board of Appeals.

After the hearing, the Planning and Community Development Department sought permission from the Town Moderator to amend the Article to deal with the "inadvertent reformatting/pagination" issue noted above. The Moderator concluded that such an extensive change to the Article was beyond the scope of the Article.

RECOMMENDATION:
The Advisory Committee discussed this information and agreed that a referral of the Article to the Zoning By-law Committee should be recommended, with the goal that a clarified Article be placed before the Fall 2009 town meeting. Moreover, the Committee noted and suggested that the ZBL Committee and the Planning Director should review all zoning provisions to determine if similar pagination/renumbering issues exist in other sections of the By-laws.

The Advisory Committee recommends referral of the substance of Article 17 to the Zoning By-law Committee, for action at the fall town meeting, by an affirmative vote of 15-0-2.

VOTED: To refer Article 17 to the Zoning By-Law Committee for amendment and resubmission at a future Town Meeting prior to June, 2010.

XXX

ARTICLE 18

EIGHTEENTH ARTICLE

To see if the Town will amend the Zoning By-Law as follows (new language appears in bold and italics):

Add a new paragraph c, to the end of §2.01.1 - "A" DEFINITIONS

> ***c. Accessory dwelling unit: A dwelling unit situated entirely within a detached, owner-occupied dwelling that is self-contained or segregated from the principal dwelling unit and subject to size, design, ownership and use restrictions, as further enumerated in §4.0, paragraph 2.***

Add a new paragraph 4 to the end of §2.15 - "O" DEFINITIONS

> ***4. OWNER-OCCUPIED – Serving as the principal or year-round residence of the property owner of record, as defined by the Town Assessor.***

Add to the end of the first paragraph of §4.04.1 - LIMITATION OF AREA OF ACCESSORY USES

> ***, except that an accessory dwelling unit may occupy up to 30 percent of the floor area of the principal building.***

Change the title of §4.05 to

> ***ACCESSORY USES IN RESIDENCE DISTRICTS***

Add the following new paragraph 2 to §4.05

> ***2. Accessory dwelling units in single family owner-occupied buildings shall conform to all of the following provisions:***
>
> ***a. An accessory dwelling unit shall occupy up to (a) 30 percent of the floor area of the principal building or (b) 700 square feet of habitable space, whichever is less.***
>
> ***b. A building containing an accessory dwelling unit may only be situated in an S-10, S-15, S-25, or S-40 zone;***
>
> ***c. A building containing an accessory dwelling unit may only be situated on a lot having at least 10,000 square feet;***
>
> ***d. A building containing an accessory dwelling unit shall be owner-occupied, which status may apply to either the principal or the accessory dwelling unit; qualifying owner-occupancy must be certified in accordance with***

§4.05, paragraph 2.j.1 below, and documented annually thereafter by inclusion in the listing of residential property tax exemptions as maintained by the Town Assessor;

e. A building containing an accessory dwelling unit shall not exhibit any exterior evidence of occupancy by more than one family, including but not limited to the following:

1) having no more than one mailing address;

2) having no electric, gas, or water meters other than those serving the principal dwelling unit of the building in which it is situated;

f. An accessory dwelling unit shall contain no more than one bedroom and may be occupied by no more than two persons;

g. An accessory dwelling unit must have means of egress that conform to the applicable requirements of the Building Code. A second means of egress may be via the principal dwelling unit, providing a continuous and unobstructed path that leads to exit doors. Such egress may not be through a space subject to locking, and the property owner must certify in writing that such passage will remain unobstructed for the full term of the special permit. Certification will be part of the documentation required in §4.05, paragraph 2.j.1, below. If any means of egress required to permit the creation of an accessory dwelling unit is an exterior stairway, any such stairway shall not extend more than one and a quarter stories in height nor be visible from a public way.

h. No residential building shall contain more than one accessory dwelling unit. In addition, an accessory dwelling unit shall not be permitted in the following situations:

1) On any lot which contains two or more permanent dwelling units, whether in one or more than one building;

2) In any building in which there are one or more lodgers in accordance with §4.07(51) ;

3) In any existing garage space, unless all required parking spaces are already accommodated in another existing on-site structure;

4) On any lot upon which is accessed from any public or private street by more than one curb cut, except for lots having a circular driveway designed to serve the original principal dwelling;

i. A property with an accessory dwelling unit shall conform to the following parking provisions:

1) The property must have three parking spaces as specified in §6.02 Table of Off-Street Parking Requirements, except as this requirement may be waived by the Zoning Board of Appeals according to the following criteria:

(a) the property has two parking spaces, and is located within one half mile of an MBTA light rail stop; or

(b) the property has two parking spaces, and the applicant is able to demonstrate that the applicant's household requires no more than one parking space.

2) No exceptions to setback or yard regulations may be granted for the purpose of constructing any parking space that may be required as a condition of securing regulatory approval for an accessory dwelling unit. No part of any parking space added to meet the parking requirement shall lie between the street and the principal plane of the front facade of the house as extended to the side yard setback lines

3) In the event that a parking space waiver is granted, the special permit shall stipulate that no additional parking spaces requiring any setback relief shall be constructed on the subject lot during the term of the special permit.

j. An accessory dwelling unit may be authorized only by means of a special permit, as per §9.04, which shall include all applicable restrictions, including a condition which requires recertification of compliance every five years and upon the sale of the property.

1) The property owner shall record with the special permit, at the Norfolk County Registry of Deeds, an affidavit of principal residence in a form to be prescribed by the Building Commissioner. Such affidavit form may include owner's certification of other conditions relating to maximum number of occupants and maintenance of unobstructed egress through the principal dwelling unit.

2) As a condition of the special permit, every five years and upon sale of the property, the owner shall submit to the Building Commissioner a recertification of compliance with all conditions of the special permit, including a new affidavit of principal residence. The property owner shall record such recertification at the Norfolk County Registry of Deeds upon approval of the Building Commissioner. Prior to approval, the Building Commissioner may re-inspect the property for compliance.

3) A property owner who fails to recertify or dismantle an accessory dwelling unit, as required, shall be subject to regulatory enforcement by the Building Commissioner.

4) A property owner who chooses to discontinue the accessory dwelling unit shall notify the Building Commissioner in writing.

5) Modifications to properties not otherwise subject to Local Historic District Review as per the Preservation Commission and Historic Districts By-law (Article 5.6 of the Town's bylaws), that are listed on the National Register of Historic Places or deemed eligible for such listing by the Preservation Commission, shall, as part of the special permitting procedure, be subject to Advisory Design Review by the Preservation Commission using Local Historic District guidelines.

k. A listing of all accessory dwelling units which currently have a special permit shall be maintained by the Town in such a manner as to be accessible on the Town of Brookline website.

Add the following ***#51.B*** to use categories in §4.07 – TABLE OF USE REGULATIONS

Accessory Uses	Residence				Business			Industry
	S	SC	T	M	L	G	0	I
51B. Within a detached owner-occupied dwelling in zones S-10, S-15, S-25 and S-40, an Accessory Dwelling Unit as further defined and limited in Section 4.05, paragraph 2.	***SP***	***No***	***No***	***No***	***No***	***No***	***No***	***No***

In §5.22- EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS,

Add at the end of paragraph 1.a:

, except for accessory dwelling units as per §4.05(2)

Add after but separate from 2.b, a new paragraph:

For purposes of this subsection only, an accessory dwelling unit, as per §4.05, paragraph 2, shall not be considered a separate unit.

In §6.02 - OFF-STREET PARKING SPACE REGULATIONS

Add a footnote symbol to TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS after "2.0" in first box under Residence (Number of Spaces per Dwelling Unit), and the following footnote below:

An additional parking space is required for accessory dwelling units in eligible single family zones.

Add in the title of paragraph §6.02.2

51B

Add to Paragraph §6.02.2.e, after words "For a dwelling unit"

(excepting a single family home which includes an accessory dwelling unit as defined in §4.05 paragraph 2),

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

An accessory dwelling unit ("ADU") is a self-contained or segregated space within a single family home, comprised of a kitchen, bathroom and living/sleeping area and subject to size, design, ownership, and use restrictions. This Article limits ADU's to single family homes located in zones S-10, S-15, S-25 and S-40, and on parcels of 10,000 square feet or greater. The principal residence or the ADU must be owner-occupied, the ADU can be no greater than 700 square feet or 30 percent of the home's total habitable space, whichever is less, and it can have no more than one bedroom. Parking must be provided or otherwise proven adequate. The house must continue to appear as a single family home and can have only one set of metered utilities.

All ADU's would require a Special Permit that would be recorded, would set forth all applicable restrictions, and would include a special certification of owner-occupancy. Based upon the many specific restrictions included in the article and the fact that the ADU permit is subject to expiration, a single family home containing an authorized ADU would be very different than a two family home.

The map on the following page shows single family areas zoned as S-10, S15, S-25 and S-40. There are just under 1,300 properties in these areas which would meet baseline thresholds of minimum lot size and owner occupancy.

Consistent with the Town's Comprehensive Plan, which favored meeting the Town's affordable housing goals though use of the existing housing stock over new development, the Housing Advisory Board has been urged on several occasions over the years -- by members, Town officials and citizens -- to look at accessory dwelling units as a possible way to increase the Town's inventory of affordable housing units, After doing so, the HAB concluded, that an ADU "affordable housing program" requiring single family home owners

to voluntarily deed restrict their homes and meet program requirements for tenant selection, limits on income and rents and annual reporting would not be successful.

However, at the same time the HAB became aware of the growing popularity of ADU's in urban, suburban and rural communities, both in Massachusetts and nationwide. This trend is mainly a result of households becoming smaller, the continued aging of our population, and more inclusive definitions of "family". The AARP has reported very favorable research on accessory dwelling units, the Commonwealth has developed a model ADU bylaw, and many or our neighboring communities now permit ADU's.

A brief mail survey conducted by the HAB in April of 2008 produced 190 responses that were more favorable than unfavorable by about a two-to-one margin. However, most respondents' replies were conditioned upon knowing more specifics, and many of those who replied expressed concern about possible issues, mainly relating to parking and density.

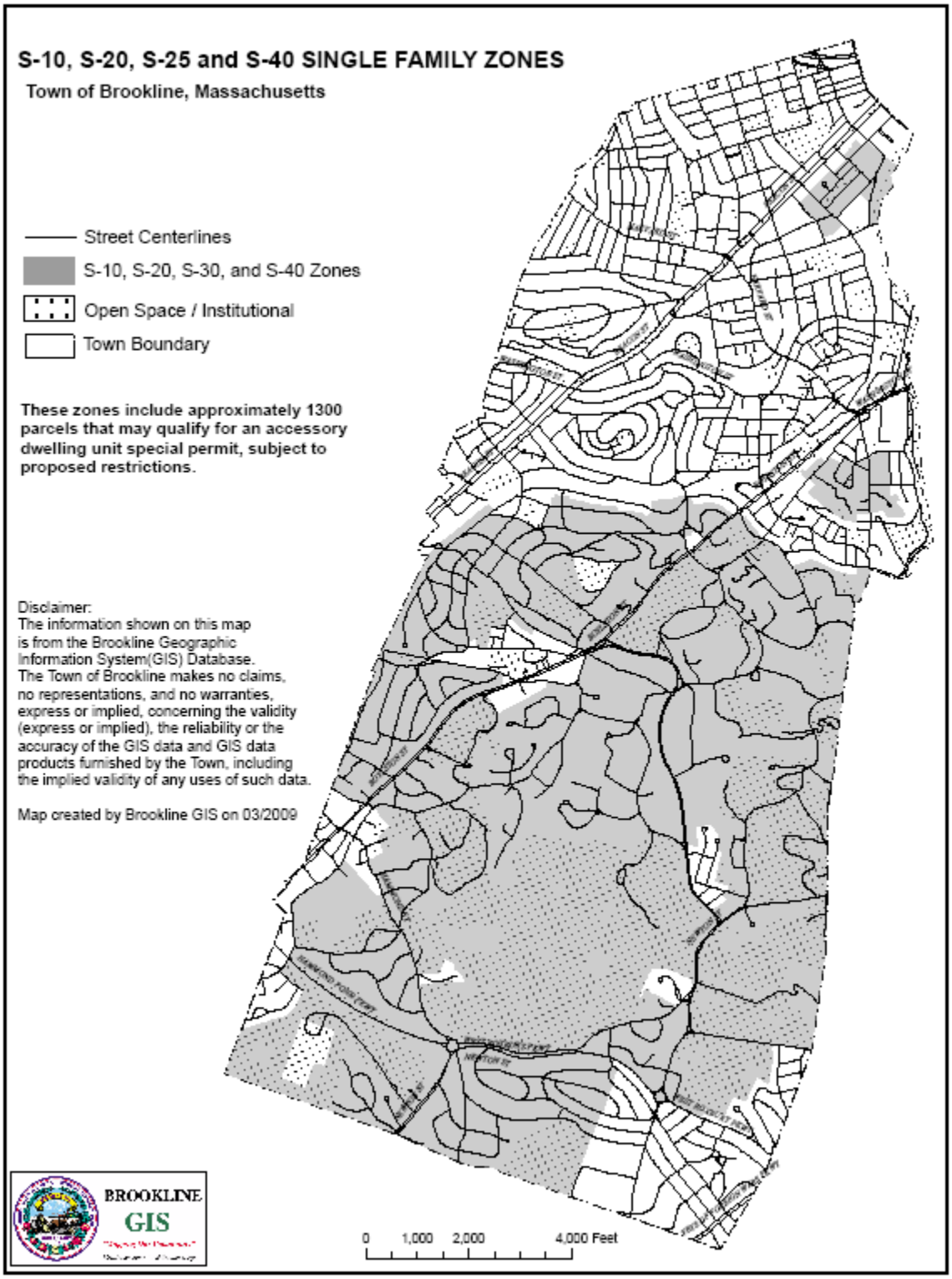
A review of numerous Greater Boston area communities that have adopted zoning provisions permitting ADU's indicates on the one hand significant variations in specific provisions and, on the other hand, remarkable uniformity in the overall volume of resulting activity, which has been low everywhere. The HAB has found no evidence that these communities have experienced any adverse neighborhood effects.

The HAB sees ADU's as one component of a strategy that encourages a diversity of housing types to serve many legitimate social, economic and housing needs of our diverse Brookline citizenry.

In particular, ADU's are seen as potentially helpful to:

- young families or single working parents seeking stable childcare options;
- middle-aged parents helping adult children to become independent;
- frequent travelers, or retirees who winter in warmer climes, concerned about leaving homes unattended;
- elderly homeowners seeking to remain in homes, while needing personal assistance/ companionship;
- families seeking to care for older parents while maintaining independence for both;
- families with disabled members seeking stable and convenient options for in-house care;
- homeowners of all ages struggling to pay costs;
- renters seeking more lower-cost living options.

In summary, the HAB believes that this Article will enable Brookline to provide a way for some homeowners to reduce their own housing (or other life) costs and/or for the occupants of ADU's to live more economically, increasing affordability in general without public cost or further new development. And ADU's also offer greater safety by providing a legal alternative to illegal units which complies with all fire and safety codes, and would allow some existing illegal units to be brought into compliance.


S-10, S-20, S-25 and S-40 SINGLE FAMILY ZONES
Town of Brookline, Massachusetts
Street Centerlines
S-10, S-20, S-30, and S-40 Zones
Open Space / Institutional
Town Boundary
These zones include approximately 1300 parcels that may qualify for an accessory dwelling unit special permit, subject to proposed restrictions.
Disclaimer:
The information shown on this map is from the Brookline Geographic Information System(GIS) Database. The Town of Brookline makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the Town, including the implied validity of any uses of such data.
Map created by Brookline GIS on 03/2009
BROOKLINE
GIS
0 1,000 2,000 4,000 Feet

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Planning and Community Development Department with the support of the Zoning By-law Committee.

This warrant article proposed by the Housing Advisory Board allows accessory dwelling units in single-family districts with required lot sizes of 10,000 s.f. or larger, by special permit. There are multiple stipulations that must be met for an accessory dwelling unit to be allowed by the Board of Appeals, including: size and occupancy limitations (no more than 30% of the floor area of the principal unit or 700 s.f, whichever is less, no more than one bedroom or two persons), owner occupancy of either the principal or accessory unit, no exterior evidence of occupancy by more than one family, compliance with building code egress regulations, providing additional parking (unless waived), recertification of compliance with the Town every five years and upon sale of property.

The Planning Board is in favor of allowing accessory units in single family districts of S-10 or above. Review on a case-by-case basis will allow an assessment of any impact to the surrounding neighborhood. However, the Board believes that not that many residents will avail themselves of this new use, because of the lengthy approval process, difficulty in meeting current building code regulations and recertification required every five years. At its hearing, the Planning Board recommended the deletion of some of the more restrictive language in the article, i.e. limiting the height of exterior stairways to one and one-quarter stories, even though the stairs are not allowed to be visible from a public way, and requiring review by the Preservation Commission of properties either listed on the National Register of Historic Places, or deemed eligible for such listing by the Preservation Commission. However, the Moderator has ruled that these amendments would be outside the scope of the article and cannot be acted on at this Town Meeting.

Overall, the Planning Board supports this article and believes it provides a more low cost housing option and a benefit to those residents who would like to have space in their home for parents or grown children or other individuals who would contribute to the financial upkeep of the home.

Therefore, the Planning Board recommends FAVORABLE ACTION on Article 18.

SELECTMEN'S RECOMMENDATION

Article 18, which was submitted by the Housing Advisory Board (HAB), would amend the Zoning By-Law to permit the construction of accessory dwelling units in single family homes located in S10, S15, S25 and S40 zones and on parcels of at least 10,000 square feet. An accessory dwelling units (ADU) is defined as a "dwelling unit situated entirely within a detached, owner-occupied dwelling that is self-contained or segregated from the principal dwelling unit and subject to size, design, ownership and use restrictions." More specifically, Article 18 would restrict the size of the accessory dwelling unit to the lesser of 700 square feet or 30 percent of the floor area of the principal home. The building would have to be

owner-occupied, and occupancy of the accessory dwelling unit would be restricted to no more than two persons. The building would continue to look like and function as a single family home, and be subject to other design standards. The property would require three parking spaces, which could be waived under certain conditions. The change would require a special permit and, as a condition of the special permit, the owner would have to file an affidavit of owner occupancy and compliance every five years and upon sale.

The Board discussed why this article was needed, since it did not specifically target low- or moderate-income families, and because there was no clamor among the population for regulated accessory units. The HAB Chair, Roger Blood, explained that ADU's are becoming more common in communities throughout Massachusetts and nationwide as a response to smaller households and an aging population, and the current proposal provided a legal and safe path to such housing. While ADU's may in fact offer more economical housing for both the occupant of the principal home and of the accessory dwelling unit, one of whom would have to be the owner, programs that have tried to target the units created to low- or moderate-income populations have had little success, as participating homeowners would have to meet stringent regulations embodied in deed restrictions. ADU's also have successfully served to increase opportunities for homeowners in various life stages, including families with children who need child care; the elderly or the disabled who need caretakers or companions; families who want to house elderly parents; parents helping adult children to become independent; and seniors who travel frequently who are concerned about leaving homes unattended. It should be noted that what is being proposed under Article 18 will not be permissible in the most densely populated areas of Brookline.

The Board also considered the high level of regulation in the current proposal, but agreed that, as written, the amendment would provide welcome flexibility for a number of individuals or families who may benefit. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 4-0-1 taken on April 28, 2009, on the following vote:

VOTED: That the Town amend the Zoning By-Law as follows (new language appears in bold and italics):

Add a new paragraph c, to the end of <u>§2.01.1 - "A" DEFINITIONS</u>

> ***c. Accessory dwelling unit: A dwelling unit situated entirely within a detached, owner-occupied dwelling that is self-contained or segregated from the principal dwelling unit and subject to size, design, ownership and use restrictions, as further enumerated in §4.0, paragraph 2.***

Add a new paragraph 4 to the end of §2.15 - "O" DEFINITIONS

> ***4. OWNER-OCCUPIED – Serving as the principal or year-round residence of the property owner of record, as defined by the Town Assessor.***

Add to the end of the first paragraph of <u>§4.04.1 - LIMITATION OF AREA OF ACCESSORY USES</u>

, except that an accessory dwelling unit may occupy up to 30 percent of the floor area of the principal building.

Change the title of §4.05 to

ACCESSORY USES IN RESIDENCE DISTRICTS

Add the following new paragraph 2 to §4.05

2. Accessory dwelling units in single family owner-occupied buildings shall conform to all of the following provisions:

a. An accessory dwelling unit shall occupy up to (a) 30 percent of the floor area of the principal building or (b) 700 square feet of habitable space, whichever is less.

b. A building containing an accessory dwelling unit may only be situated in an S-10, S-15, S-25, or S-40 zone;

c. A building containing an accessory dwelling unit may only be situated on a lot having at least 10,000 square feet;

d. A building containing an accessory dwelling unit shall be owner-occupied, which status may apply to either the principal or the accessory dwelling unit; qualifying owner-occupancy must be certified in accordance with §4.05, paragraph 2.j.1 below, and documented annually thereafter by inclusion in the listing of residential property tax exemptions as maintained by the Town Assessor;

e. A building containing an accessory dwelling unit shall not exhibit any exterior evidence of occupancy by more than one family, including but not limited to the following:

1) having no more than one mailing address;

2) having no electric, gas, or water meters other than those serving the principal dwelling unit of the building in which it is situated;

f. An accessory dwelling unit shall contain no more than one bedroom and may be occupied by no more than two persons;

g. An accessory dwelling unit must have means of egress that conform to the applicable requirements of the Building Code. A second means of egress may be via the principal dwelling unit, providing a continuous and unobstructed path that leads to exit doors. Such egress may not be through a space subject to locking, and the property owner must certify in writing that such passage will remain unobstructed for the full term of the special permit. Certification will be part of the documentation required in §4.05,

paragraph 2.j.1, below. If any means of egress required to permit the creation of an accessory dwelling unit is an exterior stairway, any such stairway shall not extend more than one and a quarter stories in height nor be visible from a public way.

h. No residential building shall contain more than one accessory dwelling unit. In addition, an accessory dwelling unit shall not be permitted in the following situations:

1. On any lot which contains two or more permanent dwelling units, whether in one or more than one building;

2. In any building in which there are one or more lodgers in accordance with §4.07(51);

3. In any existing garage space, unless all required parking spaces are already accommodated in another existing on-site structure;

4. On any lot upon which is accessed from any public or private street by more than one curb cut, except for lots having a circular driveway designed to serve the original principal dwelling;

i. A property with an accessory dwelling unit shall conform to the following parking provisions:

1) The property must have three parking spaces as specified in §6.02 Table of Off-Street Parking Requirements, except as this requirement may be waived by the Zoning Board of Appeals according to the following criteria:

(a) the property has two parking spaces, and is located within one half mile of an MBTA light rail stop; or

(b) the property has two parking spaces, and the applicant is able to demonstrate that the applicant's household requires no more than one parking space.

2) No exceptions to setback or yard regulations may be granted for the purpose of constructing any parking space that may be required as a condition of securing regulatory approval for an accessory dwelling unit. No part of any parking space added to meet the parking requirement shall lie between the street and the principal plane of the front facade of the house as extended to the side yard setback lines

3) In the event that a parking space waiver is granted, the special permit shall stipulate that no additional parking spaces requiring any setback relief shall be constructed on the subject lot during the term of the special permit.

j. An accessory dwelling unit may be authorized only by means of a special permit, as per §9.04, which shall include all applicable restrictions, including a condition which requires recertification of compliance every five years and upon the sale of the property.

1) The property owner shall record with the special permit, at the Norfolk County Registry of Deeds, an affidavit of principal residence in a form to be prescribed by the Building Commissioner. Such affidavit form may include owner's certification of other conditions relating to maximum number of occupants and maintenance of unobstructed egress through the principal dwelling unit.

2) As a condition of the special permit, every five years and upon sale of the property, the owner shall submit to the Building Commissioner a recertification of compliance with all conditions of the special permit, including a new affidavit of principal residence. The property owner shall record such recertification at the Norfolk County Registry of Deeds upon approval of the Building Commissioner. Prior to approval, the Building Commissioner may re-inspect the property for compliance.

3) A property owner who fails to recertify or dismantle an accessory dwelling unit, as required, shall be subject to regulatory enforcement by the Building Commissioner.

4) A property owner who chooses to discontinue the accessory dwelling unit shall notify the Building Commissioner in writing.

5) Modifications to properties not otherwise subject to Local Historic District Review as per the Preservation Commission and Historic Districts By-law (Article 5.6 of the Town's bylaws), that are listed on the National Register of Historic Places or deemed eligible for such listing by the Preservation Commission, shall, as part of the special permitting procedure, be subject to Advisory Design Review by the Preservation Commission using Local Historic District guidelines.

k. A listing of all accessory dwelling units which currently have a special permit shall be maintained by the Town in such a manner as to be accessible on the Town of Brookline website.

Add the following ***#51.B*** to use categories in <u>§4.07 – TABLE OF USE REGULATIONS</u>

Accessory Uses	Residence				Business			Industry
	S	SC	T	M	L	G	0	I
51B. Within a detached owner-occupied dwelling in zones S-10, S-15, S-25 and S-40, an Accessory Dwelling Unit as further defined and limited in Section 4.05, paragraph 2.	***SP***	***No***	***No***	***No***	***No***	***No***	***No***	***No***

In §5.22- EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS,

Add at the end of paragraph 1.a:

, except for accessory dwelling units as per §4.05(2)

Add after but separate from 2.b, a new paragraph:

For purposes of this subsection only, an accessory dwelling unit, as per §4.05, paragraph 2, shall not be considered a separate unit.

In §6.02 - OFF-STREET PARKING SPACE REGULATIONS

Add a footnote symbol to TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS after "2.0" in first box under Residence (Number of Spaces per Dwelling Unit), and the following footnote below:

An additional parking space is required for accessory dwelling units in eligible single family zones.

Add in the title of paragraph §6.02.2

51B

Add to Paragraph §6.02.2.e, after words "For a dwelling unit"

(excepting a single family home which includes an accessory dwelling unit as defined in §4.05 paragraph 2),

ROLL CALL VOTE

Favorable Action	Abstain
Daly	DeWitt
Allen	
Mermell	
Benka	

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 18, proposed by the Housing Advisory Board, would amend Brookline's Zoning By-Law to allow the creation of accessory dwelling units (ADUs). An ADU is defined as "A dwelling unit situated entirely within a detached owner-occupied dwelling that is self contained or segregated from the principal dwelling unit." The proposed amendments to the Zoning By-Law would regulate the size, design, ownership and use of ADUs. Such units could occupy no more than 30 percent of the floor area of the houses in which they are located or 700 square feet, whichever is less. They would be restricted to dwellings on lots of at least 10,000 square feet in S-10, S-15, S-25, and S-40 zones. Many other regulations would govern the external appearance of buildings with an ADU, the means of egress, the number of bedrooms (one), the number of occupants (no more than two) and provision of parking. ADUs only could be authorized by a special permit. Property owners would be required to apply to the building commissioner for recertification every five years or when the property is sold.

Other communities in Massachusetts have zoning that allows for ADUs. The Commonwealth of Massachusetts is trying to promote this housing option.

DISCUSSION:
The proponents of Article 18 argue that creating new accessory dwelling units and legalizing and regulating existing units has many advantages. Such units could provide housing for old or young relatives who wish to live independently in the same building as family members. They could house childcare providers, caregivers, or caretakers. They could provide rental income to Brookline residents.

ADUs also could be a source of additional low/moderately priced housing in Brookline, although they would not count as affordable units or (according to proponents) as part of the total number of Brookline residential units for purposes of Chapter 40B calculations. There would be no deed restrictions or limits on rent or tenants' income.

The proponents conducted a survey of 900 owner-occupants in Brookline in May 2008. Of 190 responses, 75% thought ADUs were a good idea, depending on the specific proposal. Although this survey does not meet the standards of scientific public opinion polling, the responses (available at www.brooklinema.gov/housing) offer important insights into why many Brookline residents view ADUs favorably, why some are interested in this housing option, and why some have concerns.

Article 18 also might enhance public safety by encouraging homeowners with existing accessory dwelling units to take the steps necessary to bring them into compliance with the Building Code and Zoning Bylaw. This is an important concern of the building commissioner.

Article 18 has been drafted to minimize potential negative effects of accessory dwelling units. For example, eligible properties could not have exterior staircases visible from a

public way or more than one curb cut. The dwellings would continue to look like single-family houses.

Article 18 deliberately does not permit accessory dwelling units in S-7, T, F, and M zones. Residents of those zones—especially in northern Brookline—may be concerned about any increases in density or the potential influx of students who might move into accessory dwelling units. The Article thus would not exacerbate any problems associated with density or students in the zoning districts that are excluded.

Any benefits from Article 18 might be limited in scope, however, for three reasons.

First, because the Article would allow accessory dwelling units only in S-10 and larger zones (and only on lots of 10,000 or more square feet in such zones), there are fewer than 1,300 potentially eligible parcels in Brookline. It is unlikely that a high proportion of owners of eligible properties would want to have accessory dwelling units that would comply with the proposed Zoning By-Law amendments. Article 18 might thus cause only a few dozen new accessory dwelling units to be created. And any existing units in zones in which ADUs were not allowed would remain unregulated and potentially unsafe.

Second, homeowners probably would be reluctant to make the investments necessary to create new accessory dwelling units that would comply with the Building Code and the proposed amendments to the Zoning By-Law. The seniors who might benefit from the rental income from an accessory dwelling unit also might be unable to afford the cost of creating a legal accessory dwelling unit. Property owners also might believe that their tax assessment would increase if they added an accessory dwelling unit or certified the compliance of an existing unit. The regulatory scheme established by the Article, which includes a new filing with the Registry of Deeds every five years, is also likely to discourage the creation of accessory dwelling units. Opponents felt this requirement would impose an unnecessary burden on homeowners, especially since the continued status of owner occupancy could be monitored through applications for the real estate tax exemption. (This would be the only instance of a requirement to recertify a special permit with the Registry of Deeds periodically. Other types of special permits with much greater impact have no refilling requirement.)

Third, residents who wish to provide housing for a relative or caregiver often would be able to do so legally without creating a self-contained accessory dwelling unit.

Opponents of the Article argue that the relatively limited benefits that Article 18 is likely to offer to the Town should be weighed against the potential costs of implementing the change in the Zoning By-Law. Article 18 would add to the workload of the Building Department, which would need to conduct inspections of accessory dwelling units. It would require homeowners to obtain special permits, which would require hearings by the Planning Board and the Zoning Board of Appeals. The building commissioner and the Planning Board have endorsed Article 18, however, which suggests that they are prepared for any additional workload generated by the amendment to the Zoning By-Law. (The Planning Board attempted to delete some of the Article's more restrictive language, but the moderator ruled that such amendments would be outside the scope of the Article.)

Another concern raised by Article 18 is whether creating accessory dwelling units would increase the number of school-age children in Brookline and thus place additional burdens on the Public Schools of Brookline, which have had increasingly high kindergarten registrations in recent years. It is unlikely, however, that many children would live in accessory dwelling units. The various restrictions imposed by Article 18 would limit the number of accessory dwelling units. At a size of no more than 700 square feet, these units would not be attractive to parents with children. In most cases, homeowners would create accessory dwelling units for their elderly relatives, caregivers, au pairs, or grown children—not for rental to parents with children. Homeowners who seek rental income are more likely to rent their accessory dwelling units to single adults. In some cases, it is possible that creating an accessory dwelling might limit the number of school-age children in Brookline by enabling an elderly family to remain in Brookline instead of selling their house to a family with children.

In sum, Article 18 has been carefully drafted to take into account neighborhood concerns and possible drawbacks of accessory dwelling units. Such units could not be created in areas where there is a high probability that they would be occupied by students. The units could only be created by renewable special permit. These restrictions will limit the number of accessory dwelling units that are created and thereby limit the potential benefits of such units, but the restrictions also will minimize the potential disadvantages. This is a balanced and prudent way to implement a new policy.

The Advisory Committee's recommendation on Article 18 reflects the fact that there are clearly some families in Brookline who would benefit from the opportunity to create legal accessory dwelling units. Even though there may not be many families who would take advantage of this opportunity, the Advisory Committee concluded that such families should not be prevented from doing so. If those families were willing to invest the time and resources to comply with the Building Code and the amendments to the Zoning By-Law included in Article 18, the Town should allow them the option to create accessory dwelling units. Although some members of the Advisory Committee were concerned that the Article would pose excessive regulatory burdens on homeowners who attempted to create accessory dwelling units, it probably makes sense to initiate this policy with a limited, cautious approach.

RECOMMENDATION:
By a vote of 15-7, with no abstentions, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 19

NINETEENTH ARTICLE

To see if the Town will amend Section 6.02, subparagraph 1.b. of the Zoning By-law as follows:
[bold is new language, strike-out is deletion]

§6.02 - OFF-STREET PARKING SPACE REGULATIONS

1. Off-street parking facilities shall be provided for each type of land use, in accordance with the following table, which is part of this Article, except as otherwise permitted in this section, and subject to the further provisions of Article VI. Parking spaces for the physically handicapped shall meet the number and dimensional requirements set forth in the Rules and Regulations of the Architectural Access Board and any other applicable provisions of law.

   a. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.

   b. **When a change or expansion of a non-residential use in a business district is proposed primarily within an existing building,** ~~Where the computed requirement for non-residential use in a business district is six spaces or less,~~ the Board of Appeals by special permit may waive all or part of **any increased** ~~such computed~~ requirement. In determining whether a waiver of parking is appropriate, the Board of Appeals shall consider evidence which shall be provided by the applicant regarding the following items:

   1. the operating characteristics of the proposed use including but not limited to a description of the type of business, hours of operation, number of employees, and delivery service requirements;

   2. the peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area;

   3. the need for and provision of employee parking; and

   4. the availability and/or shortage of existing public parking and transit facilities in the area.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Zoning By-law currently contains a section that allows a commercial property to seek a Special Permit for relief of any new or increased requirement for 6 or less parking spaces, in many cases. This section had long been interpreted to permit many commercial uses to seek

relief for up to 6 parking spaces by Special Permit, even if the overall parking need of the use was more than 6 spaces. For example, a new building needing 20 parking spaces could apply for a Special Permit to only provide 14 spaces.

Last fall a zoning amendment was proposed, at the request of the Zoning By-law Committee, to codify this practice. Town Meeting did not approve this amendment, but expressed sympathy for existing commercial spaces that have increased parking requirements due to bringing in a new use.

The Zoning By-law Committee discussed this issue at several meetings over the winter, and decided that the current language in the Zoning Bylaw is a good start, but should be changed in 2 ways:

- The relief should only be permitted for uses that are primarily in *existing* buildings; and
- The relief in those circumstances should not arbitrarily be limited to 6 spaces.

This new language would permit flexibility in existing commercial spaces to seek new tenants without requiring a Variance for parking, which is much more difficult to grant than a Special Permit. This flexibility will encourage adaptive reuse of existing commercial spaces in the Town.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Planning and Community Development Department with the support of the Zoning By-law Committee.

Section 6.02.1.b, Off-Street Parking Space Regulations, allows a special permit parking waiver for non-residential uses in a business district, where the computed requirement is six spaces or less, and where certain criteria are met, such as the need for employee parking and the availability of public parking and public transit. This section has been interpreted differently over the years, and in the past, the Board of Appeals has allowed a parking waiver up to six spaces for any business, even if the total parking requirement was greater than six spaces.

After review of the intent of this section, new wording has been proposed which would allow a parking waiver by special permit when there is a change or expansion of non-residential use in a business district primarily within an existing building. If the new use has a higher parking requirement than the previous one, the additional parking can be waived up to any amount found reasonable by the Board of Appeals, after weighing the operating characteristics of the business, the time of the peak parking demand, the need for employee parking, and the availability of nearby public parking and transit.

The Planning Board is supportive of this amendment because so many properties in the commercial areas of Brookline have either very little, or no off-street parking, and flexibility must be provided to allow the entry of new businesses, such as restaurants, which have a higher parking requirement than an optical store or gift shop. Without this flexibility, the

vitality of the commercial districts would be negatively impacted. The Planning Board was comfortable with the revisions proposed by the Advisory Committee subcommittee to limit the parking waiver up to 10 spaces or 50% of the required parking, whichever is greater.

Therefore, the Planning Board recommends FAVORABLE ACTION on Article 19 as amended below:

§6.02 - OFF-STREET PARKING SPACE REGULATIONS

2. Off-street parking facilities shall be provided for each type of land use, in accordance with the following table, which is part of this Article, except as otherwise permitted in this section, and subject to the further provisions of Article VI. Parking spaces for the physically handicapped shall meet the number and dimensional requirements set forth in the Rules and Regulations of the Architectural Access Board and any other applicable provisions of law.

   c. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.

   d. **When a change or expansion of a non-residential use in a business district is proposed primarily within an existing building,** ~~Where the computed requirement for non-residential use in a business district is six spaces or less,~~ the Board of Appeals by special permit may waive ~~all or part~~ **up to 10 spaces, or up to 50%,** of **any increased** ~~such computed~~ requirement**, whichever is greater**. In determining whether a waiver of parking is appropriate, the Board of Appeals shall consider evidence which shall be provided by the applicant regarding the following items:

   5. the operating characteristics of the proposed use including but not limited to a description of the type of business, hours of operation, number of employees, and delivery service requirements;

   6. the peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area;

   7. the need for and provision of employee parking; and

   8. the availability and/or shortage of existing public parking and transit facilities in the area.

or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Article 19 is being submitted by the Department of Planning and Community Development Department with the support of the Zoning By-Law Committee. It would amend Section

6.02 of the Town's Zoning By-Law to amend the conditions under which parking relief for non-residential uses in business districts could be granted. Specifically, it would:

- Change the bylaw so that relief could only be permitted for uses that are primarily in *existing* buildings; and
- Remove a limit on proposed relief of a maximum of 6 spaces.

The Board agrees with the petitioner that this new language would permit flexibility in existing commercial spaces to seek new tenants. This flexibility will encourage adaptive reuse of existing commercial spaces in the Town. Board members share the Planning Board and Advisory Committee's concern that the language originally proposed in the article might provide too much flexibility in cases where parking requirements are quite high. For this reason, the Board agrees with the amendment to this article proposed by both the Advisory Committee and the Planning Board to limit relief to up to ten spaces, or 50% of the increased parking requirement, whichever is greater.

A concern has been raised that the proposed language might permit a very large addition to an existing building by only requiring that the use be "primarily" in an existing building. The Board feels that the upper limits on the number of spaces for which relief can be sought will preclude any likely abuse of this clause. In addition, a concern has been raised about whether the owner of a mixed residential/commercial building might shift parking from residential uses to new or expanded commercial uses. This situation is addressed in Section 6.01 of the Zoning By-Law, which is the proper section to amend if there are concerns about owners removing spaces from one use and providing them to another.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 4-0 taken on April 28, 2009, on the vote offered by the Advisory Committee.

ROLL CALL VOTE
Favorable Action
Daly
Allen
DeWitt
Benka

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Zoning By-law currently contains a section that allows a commercial property to seek a Special Permit for relief of any new or increased requirement for 6 or less parking spaces, in many cases. This section had long been interpreted to permit many commercial uses to seek relief for up to 6 parking spaces by Special Permit, even if the overall parking need of the use was more than 6 spaces, but this interpretation is inconsistent with the wording of the by-law.Last fall a zoning amendment was proposed, at the request of the Zoning By-law Committee, to codify this practice. Town Meeting did not approve this amendment, but many

TMMs expressed sympathy for providing the ZBA with more flexibility where existing commercial uses have expanded, thus triggering a rigid requirement for increased parking under current zoning language if applied as written. The Zoning By-law Committee (ZBC) decided that the current (albeit improper) interpretation of the Zoning Bylaw is a good start, but should be changed in 2 ways:1. The relief should only be permitted for uses that are primarily in existing buildings; and2. The relief in those circumstances should not arbitrarily be limited to 6 spaces.

DISCUSSION:
The language proposed by the ZBC in this Article would give the Zoning Board of Appeals (ZBA) authority to waive up to the full amount of any increase in parking for a new use. The Advisory Committee believes that while allowing the ZBA discretion, under certain defined conditions, to waive by special permit a portion of the additional parking that the Zoning Bylaw requires, allowing the ZBA to waive the total increase would be granting too much latitude. The Moderator confirms that the scope of this Article allows setting limits between the By-law's current waiver limit and a total waiver of any increased parking requirement. Planning Director Jeff Levine commented that although the ZBC was unable to agree on specific limits to set in their proposal, he thought that limiting the ZBA's discretion appropriately would be reasonable, Concern was raised that reducing the amount of additional off-street parking exacerbate existing parking shortages in congested commercial areas such as Coolidge Corner, but it was noted that the Article's language restricts the ZBA's ability to grant parking waivers unless certain defined criteria are met to ensure that such waivers are reasonable.

RECOMMENDATION:
The Advisory Committee believes that the ZBA should be allowed to waive by special permit up to 10 spaces or up to 50 percent, whichever is greater, of any increased parking required for new uses that are primarily in existing buildings. In deciding the amount of any such waiver, the ZBA would have to consider issues such as the nature of the new use in comparison with existing uses. Hours of operation, delivery service requirements, the times of peak parking demands, the need for employee parking, and the availability or lack of public transport and nearby public parking. This language provides a framework upon which the ZBA would apply its flexibility, which seems reasonable to the Advisory Committee. Planning Director Levine has not encountered any objection to this proposal and has voiced his own support. The Advisory Committee, by a vote of 18-2, recommends the following motion under Article 19:

VOTED: That the Town amend Section 6.02, subparagraph 1.b. of the Zoning By-law as follows:
[bold is new language, strike-out is deletion]

§6.02 - OFF-STREET PARKING SPACE REGULATIONS

1. Off-street parking facilities shall be provided for each type of land use, in accordance with the following table, which is part of this Article, except as otherwise permitted in this section, and subject to the further provisions of Article VI. Parking spaces for the

physically handicapped shall meet the number and dimensional requirements set forth in the Rules and Regulations of the Architectural Access Board and any other applicable provisions of law.

a. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.

b. **When a change or expansion of a non-residential use in a business district is proposed primarily within an existing building,** ~~Where the computed requirement for non-residential use in a business district is six spaces or less,~~ the Board of Appeals by special permit may waive ~~all or part~~ **up to 10 spaces, or up to 50%,** of **any increased** ~~such computed~~ requirement**, whichever is greater**. In determining whether a waiver of parking is appropriate, the Board of Appeals shall consider evidence which shall be provided by the applicant regarding the following items:

1. the operating characteristics of the proposed use including but not limited to a description of the type of business, hours of operation, number of employees, and delivery service requirements;

2. the peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area;

3. the need for and provision of employee parking; and

4. the availability and/or shortage of existing public parking and transit facilities in the area.

XXX

ARTICLE 20

TWENTIETH ARTICLE

To see if the Town will amend Section 6.02, paragraph 3. of the Zoning By-law by adding a new subparagraph f. as follows:

"§6.02 - OFF-STREET PARKING SPACE REGULATIONS

f. For any place of public assembly that obtains a license for seasonal outdoor seating subject to section 8.10.8. of the Town's General Bylaws, the additional seasonal outdoor space shall be exempt from parking requirements."

or act on anything relative thereto

PETITIONER'S ARTICLE DESCRIPTION

The Building Commissioner has traditionally allowed restaurants and other eating and drinking establishments a great deal of leeway in providing outdoor seating without providing additional parking spaces. However, the current Building Commissioner has expressed concern that this flexibility is not necessarily supported by the existing language in the Zoning By-law. There is explicit language providing flexibility in cases where the outdoor seating is very small - 15% of the number of seats of the indoor seating area. In most cases the outdoor seating area is larger.

The Zoning By-law Committee discussed this issue and voted to submit this proposed zoning amendment. There was discussion at the Committee about placing a cap on the number of outdoor seats in proportion to the indoor seats. However, Committee members pointed out that the Board of Selectmen issue licenses for seasonal outdoor seating, which would not have to be renewed if there were issues related to parking. For this reason, the Committee recommends not having a zoning cap on the number of seasonal outdoor seats exempt from parking requirements.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Planning and Community Development Department with the support of the Zoning By-law Committee.

This amendment would add a new subparagraph, f., to Section 6.02.3, Off-Street Parking Space Regulations, to waive parking requirements for outdoor seating for restaurants that have been granted a license by the Board of Selectmen for seasonal outdoor seating, for up to six months in any license year.

The Planning Board is supportive of this amendment because it encourages restaurants to have outdoor seating in warm weather, which is a benefit to the Town as it enhances the vitality of the streetscape. Typically, when outdoor seating in a restaurant is being utilized, indoor seating is not in as much demand. Therefore, the overall parking demand for the restaurant is not significantly increased. In addition, if there ever were a need to limit or not allow outdoor seating due to parking issues, the Board of Selectmen is free to condition or not grant the seasonal outdoor seating license for the facility.

Therefore, the Planning Board recommends FAVORABLE ACTION on Article 20.

SELECTMEN'S RECOMMENDATION

Article 20, which was submitted by the Department of Planning and Community Development with the support of the Zoning By-Law Committee, is designed to allow restaurants to provide seasonal outdoor seating without necessarily having to provide additional parking. Such seasonal outdoor seating would still be subject to a license by the Board of Selectmen, which could be conditioned to address any parking problems were they to arise.

Currently, any additional seating that increases the total seating of a restaurant by more than 15% triggers a need for additional parking spaces. Due to the seasonal nature of the outdoor seating, restaurants are usually unable to provide any additional parking. In addition, it is not at all clear that outdoor seating increases the need for parking, since many patrons sit outside in the summer rather than inside. Indoor seats often are unused in good weather. Patrons also are more likely to walk, bike or take transit to restaurants on the same days that outdoor seating is used.

In the past, the Building Commissioner has simply asked that a restaurant reduce their indoor seating by the same amount they are increasing through outdoor seating. This solution may negatively impact the revenue of restaurants on those few nights when they stand to make considerable income. The Board is concerned about the well-being of our local businesses and wishes to make them as successful as possible, provided there is no significant adverse impact to residents or other businesses.

As mentioned above, this seasonal outdoor seating requires a license from the Selectmen. This licensing is a more effecting and sophisticated way to address any parking issues that may arise due to outdoor seating. If issues cannot be resolved, be they parking or otherwise, the Board is always free not to grant the seasonal license. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 14, 2009, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
The Building Commissioner has traditionally allowed restaurants and other eating and drinking establishments a great deal of leeway in providing outdoor seating without requiring additional parking spaces. However, the current Building Commissioner has expressed concern that this flexibility is not necessarily supported by the existing language in the Zoning By-law. There is explicit language providing flexibility in cases where the outdoor seating is very small - 15% of the number of seats of the indoor seating area. In many cases the outdoor seating area is larger.

The Zoning By-law Committee discussed this issue and voted to submit this proposed zoning amendment. There was discussion at the Zoning By-law Committee about placing a cap on the number of outdoor seats in proportion to the indoor seats. However, Committee members pointed out that the Board of Selectmen issue licenses for seasonal outdoor seating, which would not have to be renewed if there were issues related to parking. For this reason, the Committee recommends not having a zoning cap on the number of seasonal outdoor seats exempt from parking requirements.

DISCUSSION:
This article was submitted in an attempt to clarify what has become current practice. Presently, the town allows seasonal outdoor seating where the width of the sidewalk would also allow for clear foot passage. This permits customers for these eating establishments to enjoy al fresco dining during warmer months. Given the limited amount of seating that is allowed and the seasonal nature of this additional seating, the Town has not required the establishments to provide additional parking. Also, it does not make sense for the short time that outdoor seating is allowed, and practical, to make the twice yearly change, i.e. late spring and late summer/early fall.

RECOMMENDATION:
The Advisory Committee by a vote of 20-0 recommends FAVORABLE ACTION on the following:

VOTED: That the Town amend Section 6.02, paragraph 3. of the Zoning By-Law by adding a new subparagraph f. as follows:

§6.02 - OFF-STREET PARKING SPACE REGULATIONS

f. For any place of public assembly that obtains a license for seasonal outdoor seating subject to section 8.10.8. of the Town's General Bylaws, the additional seasonal outdoor space shall be exempt from parking requirements.

XXX

ARTICLE 21

TWENTY-FIRST ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, all positions in the Town of Brookline, including the School Department, with the exception of Police Officers and Firefighters regardless of rank, shall not be subject to the provisions of Chapter Thirty-One of the General Laws.

SECTION 2. The provisions of section one shall not impair the civil service status of any person holding one of the said positions in the Town of Brookline or its School Department on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In November 2002, Town Meeting, with the support of the Board of Selectmen and Advisory Committee, charged the Human Resources Board with the task of "summarize[ing] the status of the civil service as it pertains to the employees of the Town of Brookline, and report and recommend any changes or modifications as deemed appropriate for Town Meeting action." In response, the Human Resources Board undertook an investigation of civil service in Brookline. This was the second time in recent years that Town Meeting has commissioned a study of civil service, a law which dates from 1882.

Over the course of three years, the Board interviewed town managers and union leaders, personnel from the state's Human Resources Division, and others knowledgeable in the operation of civil service in Brookline and Massachusetts. We looked at the historic rationale for the 1882 law and how it operates today in Brookline as well as in other communities. We looked at civil service in other states and read available studies on the subject. Finally, we conducted a public hearing to which all employees, managers, Selectmen, Advisory Committee members, and Town Meeting Members were invited.

As our investigation unfolded, we found in both the Labor Service and Official Service sectors of civil service, a system that is dysfunctional in the extreme, with one exception – Public Safety (Police Officers and Firefighters).

The system for hiring Labor Service (blue collar) employees, unfortunately, is illogical, counterproductive and has nothing to recommend it. There is no testing for Labor Service jobs. To get on a civil service hiring list, a person only needs to be signed up on a list at Town Hall and present with minimum qualifications. When an opening eventually occurs,

the Town must contact and interview the individuals at the top of this list, no matter how long ago they were signed up and even if there are more qualified applicants available. Most qualified job-seekers do not even know about the existence of this list, and, in any case, would not be willing to wait, often for years, for their names to come up for an interview and consideration for a job. This system does not rank people by their abilities or qualifications. Rather, this first come-first served system rewards people who know how the civil service "system" works - the opposite of what a merit-based approach to hiring should accomplish. In the case of Labor Service, the system is inefficient, encourages mediocrity by setting unnecessarily low standards for hiring and tends to narrow the applicant pool through its arcane method of determining who is eligible to be considered for jobs.

The centerpiece of the civil service system for hiring Official Service (white collar) employees has been standardized examinations given by the state. The exams were meant to set an unbiased standard for state and municipal hiring decisions. However, for the past 20 years, Massachusetts has not given examinations on a regular basis for any civil service job categories other than Police and Fire. As a result, the Town can fill other Official Service positions only with so-called "provisional" employees. A provisional employee does not have civil service tenure and, if a test is ever given for that job category, the provisional employee may compete but, if not the high scorer, must be replaced with the high scorer on the test - even if the "provisional" employee has been an excellent employee for many years. In addition, even though the town is hiring a "provisional" employee, the town must still go through all of the same paperwork it would go through had an examination been given for this position and the employee was within civil service. This costs the town significant time and effort while serving no purpose.

The one exception to this broken down, non-operational system with respect to Official Service is in the Public Safety sector. For prospective Police Officers and Firefighters, tests are still administered by the state on a regular basis. Both management and employees believe the current hiring protocol for Police Officers and Firefighters is workable. Both acknowledge the system may not be perfect, but an alternative, more efficient system is not available. The Board agrees with this assessment for this one sector of Official Service.

In addition to hiring protections, civil service was meant to protect workers from unjust firing and discipline. However, our investigation revealed that since the enactment of civil service, there has been enactment of a broad array of specific federal and state laws and the institution of collective bargaining rights which have, in our view, rendered the protections contained within civil service law redundant. While it was abundantly clear from the public hearing we conducted in January 2006 that those employees in attendance see it differently, we were not persuaded that any perceived incremental benefit warranted retaining this anachronistic, broken-down system.

In fact, a review of civil service complaints by Town employees with respect to discipline including terminations reveals that since 2000, very few complaints have been filed with the Civil Service Commission by town employees. Rather, employees and their union representatives have overwhelmingly selected to challenge discipline through the fair and efficient bargained-for grievance process (early on an election must be made between the grievance process and civil service). Of the few who selected civil service over the grievance process, most of these cases were either dismissed by the Commission or withdrawn by the

employee. Importantly, of those that have gone to full hearing, years have passed without decision. In one case, the Commissioner who heard the appeal was not reappointed requiring another evidentiary hearing. Although a number of years have passed, no hearing has even been scheduled.

The system is completely broken down, taking years just to come to hearing and then years more for a decision, if one is ever reached. The grievance/arbitration process on the other hand produces results within a year even if taken to a full arbitration hearing. It is unfair to the employees and to the town to have uncertainty with respect to such important issues for years on end.

After careful review and consideration, the Board has concluded that: (1) Labor Service and Official Service hiring through the civil service system (except for Police Officers and Firefighters) are inefficient, uneconomic, obsolete and operate contrary to the intent of civil service law; (2) Protections offered under civil service have been supplanted by federal and state law and collective bargaining and are, therefore, redundant and anachronistic; and (3) Public Safety (Police Officers and Firefighters) hiring/firing still works as intended under civil service law.

Before making the recommendation we make in this warrant article on how best to address the ills of civil service in Brookline, we looked at possible "fixes" or alternative systems (including those already tried by other cities and towns). Ultimately, we concluded that an alternative "system" is both unnecessary - as it has been supplanted by numerous federal and state laws and collective bargaining - and is uneconomic in the extreme in today's world. Attempting to repair or supplant a system that is broken, but unnecessary, makes no sense.

Whatever perceptions Town Meeting Members may have about the concept of civil service, the reality with which we are confronted every day is a system which handcuffs both the town and its employees. Remember, for current civil service employees, they will remain covered by civil service. If passed by Town Meeting and subsequently, by the state legislature, this change will affect only new hires. In these very difficult economic times where our town's departments are being asked to do more with less, it would be irresponsible stewardship for us to recommend that the town continue to follow a failed system which is unfair to the town and employees alike.

It is with a clear understanding of the political sensitivity of our judgment with respect to how best to address the problems created by this antiquated, dysfunctional but firmly entrenched system, that the Human Resources Board recommends that Town Meeting vote to petition the state legislature to release Brookline from the civil service system for all positions except those of Police Officers and Firefighters, regardless of rank.

SELECTMEN'S RECOMMENDATION

At the November, 2002 Town Meeting, the Human Resources Board (HR Board) was charged with the task of summarizing the status of the civil service as it pertains to the

employees of the Town of Brookline. This charge, which was fully supported by the Board of Selectmen and the Advisory Committee, asked the HR Board to report and recommend any changes or modifications as deemed appropriate for Town Meeting action.

In response, the HR Board undertook a comprehensive three-year study of civil service in Brookline, interviewing a range of persons knowledgeable about civil service, including town managers, union leaders, and personnel from the state's Human Resources Division. They also conducted a public hearing to which all employees, managers, Selectmen, Advisory Committee members, and Town Meeting Members were invited.

The HR Board's investigation found the civil service hiring process for police and firefighters is intact and continues to function as originally intended, with regular testing, production of lists, protections against unlawful bypasses, and re-employment for individuals who are laid off. Unfortunately, the Civil Service System for the rest of the Official Service (white collar) and Labor Service (blue collar) is dysfunctional due to the abandonment of processes at the State level and obsolete processes at the local level. This was the second time in recent years that Town Meeting has commissioned a study of civil service with the same result. The civil service system has only continued to deteriorate and there is no ready mechanism for repair.

The Labor Service process was found to be illogical and counterproductive. There is no testing for Labor Service jobs. Rather, to get on a civil service hiring list, a person with minimal qualifications only needs to sign in and receive a number, with priority over all others with higher numbers. To hire someone off the labor list, the Town must contact and interview the individuals at the top of this list, no matter how long ago they were signed up, even if there are more qualified applicants available. Many qualified job-seekers do not even know about the existence of this list or are not willing to wait, often for years, for their names to come up for an interview and consideration for a job. Generally, the most qualified, motivated employees have already taken a job with another employer when they are eventually called for an interview. This result is contrary to a merit-based approach to hiring. It also has the opposite effect of the civil service law's intent, i.e., to prevent patronage and nepotism. The Labor Service system is inefficient, encourages mediocrity by setting unnecessarily low standards for hiring, and tends to narrow the applicant pool.

The Official Service (white collar) is based on standardized examinations given by the State for the various official service positions, each having a specific civil service job description. Unfortunately, for the past 20 years, Massachusetts has not updated its job descriptions or tests and has not given examinations on a regular basis for any civil service job categories other than Police and Fire[1]. Any civil service lists have long expired and the Town fills the Official Service positions with "provisional" employees. Provisional employees do not have civil service tenure. If the State ever expends its funds to revise and update job descriptions and tests, all provisional employees would be eligible to take the test. However, if a

[1] The one exception to this broken down, non-operational system with respect to Official Service is in the Public Safety sector. For prospective Police Officers and Firefighters, tests are still administered by the state on a regular basis. The system may not be perfect, but an alternative, more efficient system is not available and both management and employees believe the current hiring system is workable and should remain in place.

provisional employee is not the high scorer, he or she would be "bumped," i.e., replaced with the high scorer on the test - even if the "provisional" employee has been an excellent employee for many years and is more qualified. This is particularly troubling outcome.

In addition to hiring protections, civil service was meant to protect workers from unjust firing and discipline. Since the enactment of civil service, there has been a broad array of specific federal and state employment and labor laws that have rendered the protections contained within civil service law redundant. Very few complaints have been filed with the Civil Service Commission by town employees. Rather, employees and their union representatives have overwhelmingly selected to challenge discipline through the fair and efficient bargained-for grievance process (early on an election must be made between the grievance process and civil service). Of the few who selected civil service over the grievance process, most of these cases were either dismissed by the Commission or withdrawn by the employee. Importantly, of those that have gone to full hearing, years have passed without decision.

The Civil Service complaint system is as broken as the hiring process, taking years just to come to hearing and then years more for a decision, if one is ever reached. The grievance/arbitration process on the other hand produces results within a year even when taken to a full arbitration hearing. It is unfair to the employees and to the town to have uncertainty with respect to such important issues for years on end. Provisional employees do not have these civil service protections, and as provisional employees are becoming the majority of our employees, increasingly fewer employees are protected by these "safeguards."

The Board respects that employees and citizens may have very specific notions about civil service. Unfortunately, the reality with which we are confronted is that system handcuffs both the Town and its employees. Significantly, current employees with civil service protection will remain covered by civil service; this change will affect only new hires. In these very difficult economic times where our Town's departments are being asked to do more with less, it would be irresponsible stewardship for us to recommend that the Town continue to follow a failed system which is unfair to the Town and employees alike.

The Selectmen thank the HR Board for undertaking the task laid out to them by Town Meeting. The analysis of the civil service system was both exhaustive and thorough. The Board, after careful review and consideration, recommends FAVORABLE, ACTION, by a vote of 4-1 taken on April 28, 2009, on the following:

VOTED: That the Town 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:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, all positions in the Town of Brookline, including the School Department, with the exception of Police Officers and Firefighters regardless of rank, shall not be subject to the provisions of Chapter Thirty-One of the General Laws.

SECTION 2. The provisions of section one shall not impair the civil service status of any person holding one of the said positions in the Town of Brookline or its School Department on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.

ROLL CALL VOTE

Favorable Action	No Action
Daly	Mermell
Allen	
DeWitt	
Benka	

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 21 would petition the General Court to remove prospectively from civil service all positions in the Town of Brookline, except for positions of Police Officers and Firefighters who would continue to remain in the civil service system.

In November of 2002, Town Meeting charged the Human Resources Board with the task of "summarizing the status of civil service as it pertains to the employees of the Town of Brookline, and report and recommend any changes or modifications as deemed appropriate for Town Meeting action." Over several years, the Board conducted hearings, interviewed town managers, union leaders and others knowledgeable in the operation of civil service, reviewed history of the present system and looked at other state systems.

The Board concluded that the civil service system in Massachusetts with respect to

1. the Labor Service (blue collar jobs) is completely and utterly broken, illogical, counterproductive and has no merit whatsoever, and
2. the Official Service (white collar) is also broken and non-operational except for positions in the Public Safety sector (police and fire).

DISCUSSION:
Hiring under Civil Service
The Labor System for blue collar jobs only requires a sign up and never requires an exam. A person could actually be signed up by his/her parents when a young child, only to have his/her name appear at the top of the list many years later, long after he or she has moved away or has only the barest minimum qualifications for the position. The Town must contact and interview those at the top of the list, even if there are more qualified applicants not on the list. The system is basically first-come, first-served and only rewards those who

know how the system works. The hiring has nothing to do with merit and narrows the applicant pool to those who are eligible to considered, i.e. those at the top of the civil service, irrespective of how long ago that applicant's name was placed on the list. As the pool is narrowed, it becomes much less diverse, negatively affecting the chance of minority hiring.

The Official Service for white collar jobs is supposed to conduct unbiased standardized exams. However, for the last 20 years, the state has not given any exams on a regular basis other than for Police and Fire. Therefore, the Town can fill Official Service position with "provisional" employees, who have no civil service tenure. If an exam is given, such "provisional" employee competes with other test takers, and can be replaced with someone who scores higher, even though that "provisional" employee has performed excellently for the Town. While the Town can hire only "provisional" employees because no exams are given, the town must still complete cumbersome civil service paperwork, a costly and inefficient effort.

Discipline
The disciplinary system of civil service, meant to protect employees, is also completely broken. Disciplinary hearings are practically non-existent, most appeals are never heard, and when they are, the appeal can take years. In Brookline, the unions are much better equipped to represent employees and routinely choose arbitration over civil service hearings. In that way, disciplinary situations are resolved in a more timely manner. The protections afforded employees under the disciplinary system of civil service has been rendered completely unnecessary by a large array of federal and state laws and by collective bargaining, both of which are far better at offering protections to employees.

Prospective Only
Article 21 leaves current civil service employees with their civil service protections. The article only affects prospective employees. Employees who are "provisional" would not be considered as civil service now and proponents point to the fact that they currently don't have civil service protection in hiring since they could be replaced with someone with a higher test score, if a test is finally given.

Police and Fire Not Affected
As stated earlier, the Article does not propose to eliminate civil service for police and fire on the grounds that that portion of the civil service system is a workable system according to the management and employees of those departments. Tests are regularly administered by the State and the current hiring system is satisfactory. Both management and employees believe that the Public Safety sector of civil service may not be perfect, but both agree that an alternative, more efficient system is not currently available.

Conclusion
The current civil service system is dysfunctional and redundant, especially since so many anti-discrimination and worker protections have been legislated at the Federal and State level, and because effective collective bargaining is in place. Furthermore, it behooves the Town to provide employees with competent co-workers in whom they have confidence. The civil service system does not provide this. Rather, due to the lack of examinations, the tentative nature of "provisional" employee status, and the first-come first-served list requirement which trumps qualifications, civil service can undermine employee morale.

During the recent gubernatorial campaign, the current governor talked about reforming the current civil service system to make it an effective and workable one. Opponents of this article, while admitting that civil service is currently lacking, argue this is a sign of a renewal of the civil service system and the State's commitment to it. However, the current economic climate is such that any serious reforms would have to wait for many years before resources are available to enact such major reforms. Given the redundancy of civil service, it does not make sense to reform, at considerable cost, a system which has effectively been replaced by better and more efficient laws and collective bargaining.

RECOMMENDATION:
By a vote of 15-3-2, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 22

TWENTY-SECOND ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT EXPANDING THE RESIDENCY PREFERENCE AFFORDED UNDER THE CIVIL SERVICE LAW TO CANDIDATES FOR APPOINTMENT AS BROOKLINE POLICE OFFICERS TO INCLUDE GRADUATES OF BROOKLINE HIGH SCHOOL

Be it enacted, etc., as follows:

SECTION 1. The purpose of this Act is to place recent graduates of Brookline High School on equal footing under the Massachusetts Civil Service Law, for purposes of competing for original appointment to the Town of Brookline's police force, with current or former residents of the Town who now benefit from Mass. Gen. Laws ch. 31, § 58, the Civil Service Law's residency preference applicable to persons who have resided in a municipality for one year immediately prior to the date of examination for original appointment to a municipal police force, in order to expand the pool of qualified candidates from which the Town may recruit, while still affording preference to individuals who, as Brookline High School graduates, can be expected to retain familiarity with and concern for the Town equivalent to that of persons to whom the Mass. Gen. Laws ch. 31, § 58 residency preference now applies.

SECTION 2. Notwithstanding Mass. Gen. Laws ch. 31 or any other general or special law to the contrary, persons who graduated from Brookline High School within ten years of the date of examination for original appointment to the police force of the Town of Brookline shall be afforded the same status as those persons who have resided in the Town of Brookline for one year immediately prior to the date of examination for original appointment to the police force of the Town of Brookline, for the purposes of a) establishing standing on any eligible list applicable to original appointment to the Brookline police force under the Massachusetts Civil Service Law, Mass. Gen. Laws ch. 31, b) establishing standing for certification from any eligible list applicable to original appointment to the Brookline police force under the Massachusetts Civil Service Law, Mass. Gen. Laws ch. 31, and c) otherwise evaluating candidates for original appointment to the Brookline police force.

SECTION 3. This act shall take effect upon its passage.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The purposes of the Petition are set forth in Section 1. The Town of Brookline has adopted the Massachusetts Civil Service Law, Mass. Gen. Laws ch. 31 (the "Law"). Section 58 of

the Law limits any residency preference with regard to original appointments to municipal police and fire forces to "person[s] who ha[ve] resided in a city or town for one year immediately prior to the date of examination for original appointment to the police force … of said city or town," states that such persons shall be placed ahead of persons without such residency background when their standing on the eligible list is the same as the result of examination, and directs the State's Human Resources Division ("HRD") to place such persons ahead of other persons who do not have such residency background when certifying names of candidates for original appointment to municipal police and fire forces when so requested to do so by the municipality (which request Brookline has made). As a result of a number of factors, the pool of qualified individuals benefiting from the Mass. Gen. Laws ch. 31, § 58 residency preference from which the Department may hire has diminished over the years. To illustrate, the number of persons who sat for the civil service entry examination in 2008 who claimed the benefit of the Mass. Gen. Laws. ch. 31, § 58, residency preference was ninety percent (90%) fewer than the number of such persons who sat for the examination in 1999 (between 1999 and 2008, the number of such persons sitting for such examination declined steadily each year from 67 in 1999 to 7 in 2008). *See* Table A below. To compound further the impact of this decline, a number of these applicants who sat for the examination were subsequently eliminated from the hiring process for a number of reasons, such as failure to pursue employment with the Brookline police force or failure to pass background checks, psychological examinations, physical examinations or physical agility tests. The Brookline Police Department files this Petition in order to expand the pool of qualified candidates for original appointment to the police force while still affording preference to individuals who, as recent Brookline High School graduates, can be expected to retain familiarity with and concern for the Town equivalent to that of persons to whom the Mass. Gen. Laws ch. 31, § 58 residency preference now applies.

TABLE A	
Examination Date	**Number of persons sitting for examination for original appointment to the Brookline police force claiming Brookline residency preference**
1999 – 05/08	67
2001 – 04/28	47
2003 – 04/26	39
2005 – 04/30	34
2007 – 05/19	36
2008 – 06/28	7

SELECTMEN'S RECOMMENDATION

Article 22 is proposed Home Rule legislation that would allow the Town to expand the residency preference afforded under civil service law to candidates for appointment as Brookline police officers to include graduates of Brookline High School (BHS). As

explained in the Petitioner's Article Description above, there has been a significant decline in the number of applicants sitting for examination for original appointment to the Brookline police force claiming Brookline residency preference. In 1999, 67 claimed residence preference compared to just 7 in 2008.

Current civil service law allows residents of the Town preference in the hiring process by placing them above all other applicants for employment as a police officer. In order to qualify for residence preference under current law, an applicant must have resided in the Town for one year prior to the exam date. The intent of this article is to increase the pool of qualified candidates by expanding residence preference to include applicants who have graduated from BHS within 10 years of the exam date. This change will benefit the Police Department by allowing the selection of the most qualified candidates from a larger pool of applicants who would be expected to retain familiarity and concern for the town. It will also benefit long-time residents of Brookline who, for various reasons including college commitment, military service, other career opportunities, and economic circumstances, no longer reside in the town.

The Board thanks the Police Chief for bringing this article forward and agrees that it makes perfect sense to increase the opportunity to have BHS graduates become police officers in Brookline. Therefore, the Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 31, 2009, on the following vote:

VOTED: That Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT EXPANDING THE RESIDENCY PREFERENCE AFFORDED UNDER THE CIVIL SERVICE LAW TO CANDIDATES FOR APPOINTMENT AS BROOKLINE POLICE OFFICERS TO INCLUDE GRADUATES OF BROOKLINE HIGH SCHOOL

Be it enacted, etc., as follows:

SECTION 1. The purpose of this Act is to place recent graduates of Brookline High School on equal footing under the Massachusetts Civil Service Law, for purposes of competing for original appointment to the Town of Brookline's police force, with current or former residents of the Town who now benefit from Mass. Gen. Laws ch. 31, § 58, the Civil Service Law's residency preference applicable to persons who have resided in a municipality for one year immediately prior to the date of examination for original appointment to a municipal police force, in order to expand the pool of qualified candidates from which the Town may recruit, while still affording preference to individuals who, as Brookline High School graduates, can be expected to retain familiarity with and concern for the Town equivalent to that of persons to whom the Mass. Gen. Laws ch. 31, § 58 residency preference now applies.

SECTION 2. Notwithstanding Mass. Gen. Laws ch. 31 or any other general or special law to the contrary, persons who graduated from Brookline High School within ten years of the

date of examination for original appointment to the police force of the Town of Brookline shall be afforded the same status as those persons who have resided in the Town of Brookline for one year immediately prior to the date of examination for original appointment to the police force of the Town of Brookline, for the purposes of a) establishing standing on any eligible list applicable to original appointment to the Brookline police force under the Massachusetts Civil Service Law, Mass. Gen. Laws ch. 31, b) establishing standing for certification from any eligible list applicable to original appointment to the Brookline police force under the Massachusetts Civil Service Law, Mass. Gen. Laws ch. 31, and c) otherwise evaluating candidates for original appointment to the Brookline police force.

SECTION 3. This act shall take effect upon its passage.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 22 seeks home-rule legislation to expand Massachusetts General Law (MGL) Chapter 31: Section 58, as it applies to applicants for employment with the Brookline Police Department.

Currently, MGL 31:58 gives preference to residents of the town of Brookline by placing them above all other applicants for employment. To qualify for residence preference, an applicant must have resided in Town for one year immediately prior to the exam date. Article 22 seeks to grant recent Brookline High School (BHS) graduates the same status in the hiring process as Brookline residents.

While not all municipalities have civil service, the Town of Brookline does hire Police Officers and Firefighters through the Massachusetts Civil Service system. Applicants take the appropriate Civil Service exam, which is given by the Massachusetts Human Resources Division (HRD), and when applicants are needed the Town requests a list of candidates compiled and certified by HRD. The current Civil Service Law also gives preference to the offspring of officers killed in the line of duty, disabled veterans and veterans.

DISCUSSION:
From May of 1999 to June of 2008 the number of persons sitting for examination for original appointment to the Brookline police force who claimed Brookline residency preference dropped from 67 to 7. Chief of Police Daniel C. O'Leary filed this warrant article to extend residential preference to any BHS student within 10 years of graduation, even if they reside outside of Brookline. This would not only increase the pool of qualified applicants in general but would also raise the number of applicants who share strong ties to, concern for, and a familiarity with the Town. .

The Police Department also runs a successful High School Police Academy program that attracts 38-40 juniors and seniors annually. The program provides students a foundation for and insight into the experiences and work of a police officer in town.

While most Massachusetts police departments have adopted residential preference, this article would make Brookline the first municipality to extend preference to its high school graduates who no longer live in the Town

Chief O'Leary states that School Superintendent William Lupini supports the article, as does Director of Human Resources Sandra DeBow. She has spoken with Massachusetts Human Resources Division, which also supports this initiative, provided that Brookline verifies that the candidate is a BHS graduate.

This warrant article is a home rule petition and requires passage by the General Court.

RECOMMENDATION:
By a vote of 17-0-1, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 23

TWENTY-THIRD ARTICLE
To see if the Town will adopt the following Resolution:

Resolution Concerning Citizen Complaint Policy

WHEREAS: an incident involving TMM-6 Arthur Conquest and others on May 24, 2007, after a Zoning Board of Appeals meeting at Town Hall, followed by events involving the Brookline Police and the Board of Selectmen, led to the selectmen's establishment of a Citizen Complaint Review Committee (CCRC), which in January presented to a final report recommending a number of changes in procedures for handling citizen complaints regarding police conduct; and

WHEREAS: for two decades those procedures were derived from the 1987 *Report on Police & Community Relations*, a unanimous Board of Selectmen's response to widespread community concerns not just about obtaining better and more transparent accountability, but also about protecting civil rights and providing greater racial justice while trying to be fair to both citizens and officers. Civil rights specialists widely praised the 1987 Report, e.g., Martin Walsh, regional director of the U.S. Justice Department's Community Relations Service in the *Boston Globe*: "I was very impressed with what Brookline did. ... This is what we keep discussing with various town and city officials, They have to take the leadership role. The leaders in this case have said this is what Brookline stands for in terms of civil rights"; and

WHEREAS: anything diminishing the reforms in place since 1987 must be justified by a high burden of proof and compelling reasons; and

WHEREAS: the current procedure for deciding whether to grant a full selectmen's hearing – a single selectman's request for serious complaints (Class A) or policy issues (Class C) and two selectmen for others (Class B) led to almost no hearings for two decades; so clearly some changes are needed. While the CCCR proposed one salutary improvement in that procedure, an informal presentation by the complainant, it also proposed increasing to three the number of selectmen votes required to grant a full hearing, The committee majority offered two rationales for this major step backward: that the new informal presentation will lead to the granting of more appeals, and that civil service laws conflict with the two-decade-old procedure. These rationales are, respectively, speculative and legally unconvincing. Brookline officials of the Police Department, the Police Union, and Town Counsel were closely consulted in 1987, as were state civil service officials, and none objected. Unless clearly unnecessary or clearly unlawful, neither being the case, the 1-2 vote 1987 procedures should be retained; and

WHEREAS: the CCRC majority rejected proposals to simply urge studies of two issues that were clearly raised by the May 2007 incident – the development of procedural guidelines for

officers seeking criminal complaints regarding situations in which they, themselves, are not actual witnesses, and procedures for citizen complaints concerning non-Police officials;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen to:

1. reject the CCRC's twofold recommendation (a) to abandon the current procedure, adopted in 1987, requiring the Selectmen to grant a full appeal hearing requested by a complainant

- at the request of any individual selectman for a complaint deemed either Class A (alleging "excessive force, unreasonable deprivation of individual rights, conduct or behavior derogatory of a person's race, religion, or ethnic origin") or "Class C" (questioning "policy issues") and

- at the request of any two selectmen for a Class B matter (regarding all other nontrivial complaints);

and (b) to put in its place a new requirement that at least three selectmen must vote to grant a full appeal hearing for complaints of all classes; and

2. take the following three measures, which were considered but not recommended by the CCRC despite the near-unanimous support of those who testified at the its final hearing:

a. study and, in consultation with the Chief of Police, establish procedures to be followed when officers seek the issuance of criminal complaints regarding situations in which the police, themselves, are not witnesses to the alleged crime;

b. oversee the development of procedures for citizen complaints concerning Town officials and employees of departments other than the Police Department, final responsibility for their adoption and implementation residing with the Selectmen; and

c. add to current policy concerning the handling of citizen complaints a provision requiring that written submissions by appellants and/or witnesses that dispute or supplement the police investigative report be appended to the report.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Number of selectman votes required for granting an appeal hearing

The CCRC has commendably recommended that every appellant be permitted an informal presentation to the Selectmen before they decide whether to hold an appeal hearing. At the

same time, however, it recommends that a majority of board members be required for granting a full hearing. The left hand giveth, but the right hand taketh away.

This provision of the CCRC report, which would raise the barrier back to its level of the mid-1980's, drew the most extensive and forceful response from those who testified at the committee's final hearing. It would constitute a major step backward, directly opposing the spirit of the policy adopted by a unanimous board more than two decades ago, which has remained unchallenged and unrevised since.

Especially since the 1987 procedures were in large part motivated by civil rights concerns, even any small step retreating from them must be taken very cautiously. This step has not been taken either carefully or for valid reasons.

During the selectmen's meeting at which their response to Conquest's appeal was to be rendered, Selectmen Hoy tried to broaden the scope of the discussion and grant a hearing, but he was outvoted 3-1 (Selectman DeWitt having recused herself). Any selectman can currently mandate a hearing for a complaint deemed either Class A, alleging "excessive force, unreasonable deprivation of individual rights, conduct or behavior derogatory of a person's race, religion, or ethnic origin," or Class C, questioning "policy issues." And in this case, even the police deemed the complaint partly racial, stating, "[The appellant] feels that the police response … was influenced by his race. Whether we define it as 'racial profiling', 'racial discrimination,' or 'racial bias,' the complaint is there and needs to be addressed." Nevertheless, with minimal discussion and over Hoy's objection, the board deemed the complaint of a lesser Class B (all other nontrivial complaints), requiring two votes for a hearing, and Conquest's appeal for a hearing was denied.

The current less-than-majority vote policy for accepting an aggrieved petitioner's appeal was modeled on the Supreme Court's procedure for determining whether to accept petitions for certiorari. Even despite this low barrier, historically the Board has almost never granted an appeal hearing; the CCRC was able to find only one such instance since the barrier was lowered in 1987.

As CCRC member (and PAX co-chair) Marty Rosenthal notes in the committee's minority report, "it seemed that most or all members were troubled by that track record, at least the appearance of a problem." Rep. Frank Smizik wrote in a letter to the committee: "This strikes me as a step backwards... . Since the adoption of the 1987 report, rarely if ever have the Selectmen conducted a full hearing. I see little rationale for making it more difficult to [do so], especially since such hearings also serve to reassure the public that the complaint process is transparent and fair."

The CCRC vote on this issue at its final hearing was 6-3, the stated rationales of the majority being (1) the opportunity to appear and ask for a hearing would likely lead to the granting of more hearings, and (2) civil service law requires a majority vote to docket a full hearing. The former, while a hopeful surmise, is unfortunately nothing more than that. The latter, a more complex legal matter, is misplaced. Petitioners will present a detailed response, including pertinent legal citations, to the Selectmen and the Advisory Committee, who will presumably

advise Town Meeting on their conclusions regarding the validity of this concern on the part of certain CCRC members. In the meantime, Town Meeting Members wishing to pursue this issue in detail are referred to pages 33-36 of the CCRC report, where Rosenthal's lawyerly presentation appears in the minority report. See http://www.brooklinema.gov/index.php?option=com_content&view=article&id=581:final-report-citizen-complaint-review-committee&catid=1:latest&Itemid=179

Guidelines to be followed when officers seek the issuance of criminal complaints regarding situations in which they, themselves, are not witnesses to the alleged crime

The incident on May 24, 2007, occurred in the sixth-floor hearing room following a meeting of the Zoning Board of Appeals. It began as an encounter between a male member of the Board of Appeals and TMM-6 Ruthann Sneider, who criticized the appeal board's decision. It quickly became a verbal confrontation between the ZBA member and African-American TMM-6 Conquest, who took issue with the manner in which the ZBA member was addressing Sneider. As Conquest was leaving the room, the police were called at the ZBA member's request. Conquest and others proceeded to the first floor lobby, where officers detained him. After a hasty police inquiry in which seven citizen eyewitnesses (including TMM's) were not questioned, Conquest was singled out for fault and was not only told that he would be charged with criminally assaulting the ZBA member, but also issued an extraordinary and constitutionally suspect "no trespass" order – neither of which ultimately occurred.

Conquest filed a complaint concerning his treatment in the lobby, and the Police Department conducted a formal investigation, which culminated in an October report characterizing the complaint as twofold – "racial bias" and "rudeness/discourtesy." The investigating officer found the former "unfounded" and the latter "not sustained." So Conquest appealed for a selectmen's hearing.

Current policy contains no provision governing situations in which police officers consider the issuance of criminal complaints when they, themselves, were not witnesses to the alleged crime. Telling someone that he/she will be accused by the Police of a crime is no small matter. In fact, in the Conquest matter, there were citizen allegations that the initial decision was both ill-founded and unfair. The procedure to be followed in such matters needs to be at least minimally spelled out by the selectmen and the Chief to reduce the likelihood of future unfairness, not to speak of recurrences of major embarrassment to both citizens and the Town.

During the CCRC's original consideration of this item, one of the bases expressed by individual members for its rejection was the concern that it might be beyond the committee's charge. However, in its final report the committee (unanimously) says:

> The Committee considered the Charge as a general set of guidelines... [and] never considered itself strictly limited to its provisions. If information arose during our work concerning matters not explicitly addressed in the Charge, but relevant to our overall

> mission, the Committee considered itself free to examine such matters. In this regard our consideration of no-trespass orders, training, and investigative techniques are examples of the Committee's mission-based approach.

State law provides that when officers do not make an arrest, for a misdemeanor they must – and for a felony they usually do – apply to the Clerk of Court for a criminal complaint. After a hearing on the application, if such a complaint is issued it goes on one's criminal (CORI) record (permanently even if later dismissed). The committee was told by Chief O'Leary: "Criminal Complaints – again, we are guided by law on this. We also have a system of checks and balances on these matters, such as report review, supervisory review and review by the courts."

The recently adopted 500-page *Rules and Regulations for the Government of the Police Department* indeed contains the following section concerning the seeking of criminal complaints (emphasis added):

> **ARREST**: ... It shall be the responsibility of the arresting officer to make criminal complaint applications against any person arrested. Complaint applications shall be made out as soon after the arrest as possible, and in any case shall be made out prior to arraignment. *In situations where there is no arrest but a summons is to be issued, it shall be the responsibility of the investigating officer to seek such criminal complaint.*

Especially in light of the Chief's statement quoted above, it appears that this issue could be studied and eventually covered in the Rules and Regulations by a single sentence, e.g., "*Under circumstances in which no arrest is made, any proposal to seek a court complaint shall be reviewed by a superior officer and shall not be conveyed to the alleged victim or perpetrator at the scene.*"

Procedures for handling citizen complaints concerning Town officials and employees of departments other than the Police Department

This proposal is actually unfinished business from the 1987 *Report of Selectmen's Subcommittee on Police and Community Relations* (emphasis added):

> SECTION VI: *Department Disciplinary Process And Selectmen's Review:* ... [W]e believe that *all town departments* should develop similar procedures to process civilian complaints. While the procedures may not be identical and equally detailed, the overall objectives of openness, responsiveness, and fairness to all parties are equally pertinent – particularly to enforce the town-wide civil rights policy (Section I of this report).
>
> RECOMMENDATIONS: ... VII. 1. ... [T]he Town Administrator shall work with other department heads to prepare a proposal for *disciplinary procedures for Town employees,* including a review process by the Board of Selectmen.

Although situations involving non-police personnel are unlikely to arise with similar frequency, it seems prudent to establish a procedure to govern them rather than risk the embarrassment that could result from "muddling through."

Requiring that written submissions by appellants and/or witnesses disputing or supplementing the police investigative report be appended thereto

The investigative report concerning the Conquest incident contains numerous statements to which Conquest and most if not all seven citizen witnesses take exception. Some concern the description of certain events; others, the citizen witnesses' own statements; and still others, the investigating officer's conclusions based on his summaries of the interviews he conducted.

It is difficult at best for any organization to conduct unbiased critical inquiries concerning the conduct of its own members. It is likely that, at times, appellants or witnesses will again take issue with certain aspects of an investigative report. Clearly there will also be more occasions in the future on which appeal hearings will be denied. And when the two events coincide – citizen disagreements with the report but no opportunity to present them in full – the official historical record of the event tells the story of the investigation but remains silent concerning the smoldering resentment generated by unheard disputes.

In this instance, the number of citizen witnesses was extraordinarily large and even included elected Town officials. If the overall policy is inadequate to guarantee that even such a substantial group gets its "day in court," something obviously needs to change to enable both sides to more completely tell their story. Requiring that written responses to the investigative report from the appellant(s) and witness(es) who take issue with it to be appended to the report would seem to be one way to reduce this problem. Let the light shine in.

SELECTMEN'S RECOMMENDATION

Article 23 proposes that the Town disregard certain findings of the Citizen Complaint Review Committee (CCRC). The CCRC submitted its final report in January, 2009 after nearly a year's work. The Committee's mandate was to evaluate the Police Policy Manual and to make recommendations for improvements in the citizen complaint procedures of the Police Department.

The CCRC proposals are widely anticipated to bring about positive change. Among other recommendations, the CCRC Report calls for complainants to have the right to make a presentation in public session before the Board of Selectmen; the police report to be made available to the complainant along with the option to provide written comment before report release, subject to the public records law; and more extensive investigative practices. The

Board of Selectmen endorses all of these concepts. Supporters of Article 23 have also commended these changes.

The primary recommendation of Article 23 is to urge the Selectmen to decide, in seeming contravention of the civil service law, to undertake police disciplinary proceedings by less than majority vote. The CCRC rejected this concept by a two-thirds vote. Article 23 also proposes establishing police procedures for seeking certain criminal complaints. A majority of the CCRC did not support further action on the recommendation made by the petitioner, and the Chief has explained that the procedures sought by the article (including review by a superior) are already in place. In addition, Article 23 proposes extending formal complaint procedures to non-police employees which was a concept that failed to garner a motion in CCRC deliberations, and is not within the scope of police procedures. Finally, Article 23 urges that witness statements and other written submissions be appended to the final investigative report, but that concept is already proposed to be incorporated into the proposed revised policy.

Much of the debate surrounding Article 23 has revolved around its primary recommendation to allow for less than a majority of the Board of Selectmen to initiate disciplinary proceedings. The CCRC vote on this concept was:

Favorable Action	No Action
E. Fernandez	P. King (Chair)
M. Rosenthal	R.E. Fitch (co-Chair)
E. Wang	D. Denniston
	B. Greene
	D. Louison
	R. Ullmann

Among those voting against this recommendation were a retired Superior Court Judge, a former Senior Partner in the municipal practice section of a major law firm, the retired Director of Civil Rights for State Human Services, a former Assistant Attorney General, a former Assistant U.S. Attorney, and a current practitioner in police representation. More specifically, Associate Town Counsel Patricia Correa has issued a legal opinion which clearly states:

"In light of the fact the "appointing authority" in Brookline is the Board of Selectmen as a matter of law, where the Civil Service Law, as quoted and/or summarized above, requires action by the "appointing authority," that action must be the action of the corporal body of the Board and not action by one or two members".

While at least one member of the Board expressed reservation about Town Counsel's opinion, the majority found it persuasive. Not surprisingly, but certainly worth noting, counsel to the Brookline Police Union has warned that "any disciplinary policy that allows a tenured police officer to face a disciplinary hearing based on a minority vote of the Board would clearly violate M.G.L. c.31 and the parties' collective bargaining agreement". The

Town's Human Resources Director has also advised the implementation of this provision of Article 23 would create serious labor relations issues.

The petitioners of Article 23 stated in their explanation that "pertinent legal citations" would be provided to support their position. No additional information was presented to the Board of Selectmen in this regard.

In addition to issues raised under the Civil Service statute and collective bargaining agreement, members of the Board noted two additional points. First, the initiation of disciplinary action against an officer is a step that has serious potential consequences, and it should not be taken lightly, even if that could be done without violating state law. Second, the prior procedure allowing one or two Selectmen to initiate disciplinary hearings (which was never tested to ensure its legality) was in place when the complainant was not even allowed to address the Board prior to its decision, and when eyewitness statements to the Board were not even contemplated. Both policies have been changed in the proposed new procedures to afford more transparency to the process.

Therefore, in recognition of the preponderance legal opinion to the contrary and the underlying policy concerns, the Board of Selectmen unanimously recommends NO ACTION, by a vote of 5-0 taken on April 28, 2009, on Article 23.

ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee's Recommendation will be part of the Supplemental mailing that is to be sent out prior to the commencement of Town Meeting.

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ARTICLE 23

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
This article seeks Town Meeting to resolve that the Board of Selectmen should modify their efforts to revise the Police Dept.'s Manual to provide for an enhanced process to address citizen complaints about a police officer's conduct.

Specifically, the Advisory Committee reviewed the latest working draft of a document arising from the *Final Report Concerning Citizen Police Complaint Procedures, January 7, 2009* (the "report") of the Citizen Complaint Review Committee (the "CCCR"), which draft would revise the Process For Police Department Discipline and Selectmen's Review section (the "policies") of the Police Manual.

There are essentially four purposes of the resolution before Town Meeting – namely, requesting that the Board of Selectmen:

1. Reject a recommendation of the CCCR's report that would change the Selectmen's voting requirements and process for complaint resolution.

2. Establish procedures to be followed when police officers seek the issuance of criminal complaints where they themselves are not witnesses.

3. Add a provision requiring that written submissions by appellants and/or witnesses that dispute or supplement the police investigative report be appended to the police report.

4. Develop procedures for citizen complaints against non-police town officials and employees.

Items 2 through 4 above were considered by the CCCR, but were not recommended in its report.

Contemplation of Item 1 above is complex, and complicated by the fact that, as mentioned, the Selectmen's revision of the policies is a work-in-process, reflecting proposed ideas that are likely to be further changed before any revisions to the policies are made. Selectman Benka appeared before the Advisory Committee and discussed his perspective and opinions on the issues, but he was not speaking for the Board as a whole, nor did he indicate the positions of other Selectmen on the issues.

Items 2 and 3 above are relatively uncontroversial, and may well now exist in the Police Manual. Regardless, it does not appear that these matters are being considered as part of

the Selectmen's revisions. Item 4 above did not receive any substantive discussion by the Advisory Committee.

The remainder of this report will address Item 1 only.

DISCUSSION:

This subject has at its core the inherent risk that a police officer may be accused of misconduct, and that accusations, on occasion, will necessarily require being played out in a public forum. This risk reflects a balance and checks – seeking to find the right mix of a citizen's right to claim misconduct, discourteous treatment and the like, and balance that with a police officer's right to be fairly treated. While it may not always be possible to achieve the exact right balance, the goal is to promote policies that allow all sides to reasonably express their views and be accorded a measure of fairness.

The existing policies, adopted in 1987, seek to encourage and enhance accountability and public confidence in the police department through formal procedures for acting upon allegations of misconduct and providing a mechanism for challenge. The CCCR's report acknowledges that policies become outmoded, rigid and institutionalized, and not always adhered to.

The 1987 policies were a good faith effort to deal with a larger structural weakness (lack of complainant input early on). At the time and still now, the policies are considered a better alternative to a civilian review board. The current effort to revise the policies is an equally good faith attempt to improve them.

In the existing policies, one Selectman can request a "hearing" for "serious" Class A (against a police officer) and Class C (against a policy) complaints, and two Selectmen for "other" Class B complaints. The policies are quite specific about the conduct of the hearing, and the actions to be taken therein and a consequence thereof. In part, the current policies:

- Describe the hearing as "administrative" in nature,
- Establish that the purpose of the hearing is to determine the facts and situations surrounding the case, and
- Do not limit the appearance of witnesses.

Chief O'Leary estimated that there are approximately 20 citizen complaints a year, largely for discourtesy. There was general agreement that since 1987, only one citizen complaint has resulted in a hearing. That may be a testament to either the policies strength or weakness.

The provision allowing one Selectman to vote to commence a formal hearing for a serious matter seemed a good way to make up for a complainant not being able to formally present his/her case to the Board of Selectmen, but it doesn't allow the Selectmen to *first* hear and consider both the complainant and police officer points of view. This has been a fundamental weakness in the standing 1987 policy.

In the latest working draft of the Selectmen's revised policies, a "public meeting" would be held, at which:

- the appellant as of right would make an "informal presentation"
- the appellant could review and formally comment on the police report prior to its presentation to the Selectmen
- by a vote of a yet undetermined number (one, two or a majority) of Selectmen, Selectmen may invite any "eyewitnesses" to make an "informal presentation" at such meeting

At the "public meeting", a majority vote of the Selectmen would take one of the following actions:

- Disciplinary
- Take steps to discipline the subject officer in accordance with law and the town's policies
- Non-disciplinary
- Refer the matter to the Chief of Police for further action
- Appoint independent party(ies) to write a report on the matter
- Dismiss the complaint

Proponents of the article stated that the CCRC has been admirably receptive to citizen input, and that the CCRC made a wide range of proposals, a number of which were in response to citizen input, and that the proponents support. They stress that this resolution would encourage the Selectmen to reject just one of these recommendations (and to consider implementing the three additional ones).

The proponents and their supporters believe the draft majority voting change would raise the barrier back to its level of the mid 1980's. When this recommendation was made at the CCRC's final hearing, it drew frequent and passionate responses from those who opposed it. Nearly everyone who spoke objected to it as a major step backward, directly against the spirit of the policy unanimously adopted by the Selectmen more than two decades ago.

An important complicating issue is the state Civil Service law, which requires a majority of the Selectmen to call for a "disciplinary hearing," as that term is defined in the policies. Town Counsel's office has provided an opinion which supports this statement. Some questions exist as to whether under state Civil Service law, the existing policy, whereby one Selectman can call for a "hearing," is lawful or not. The rub is not the legal issue *per se*, but the nuance between a "hearing" and a "disciplinary hearing," which makes the debate subjective and unresolved.

The 1987 policies may be illegal if they would lead to a disciplinary hearing (i.e., one whose consequence would be, among other things, a greater than 5 day suspension). The issue was not tested in the one complaint hearing that has occurred during the time of their existence, but the potential legal weakness could prove to be counterproductive in those circumstances.

There could possibly be a bifurcated system whereby a majority of the Selectmen would need to vote on "qualifying" disciplinary hearings, but a minority could be enough to initiate a hearing of lesser consequence. However, in the latter circumstance, elevating the matter to a greater level of discipline would most likely be prohibited under Civil Service law. The opinions expressed at the Advisory Committee meeting on this article seemed to be that if you begin at the lower level, you cannot switch midcourse.

The petitioner of this article allowed as how there may be certain disciplinary hearings (as defined by Civil Service) that would likely require a majority vote of the Board of Selectmen. However, the proposed resolution does not draw distinctions.

The working draft of the Selectmen's revised policies seeks to provide the complainant with an early opportunity to view the police report, comment on it, and be heard at a public meeting by the Board of Selectmen.

Explicitly proposed in the draft is a provision to invite, by a vote of the Selectmen, eyewitnesses to the public meeting. The draft offers three alternatives - two minority votes of one or two, or a majority vote – that, at a minimum, will require resolution. That potential provision was particularly commented on by many members of the Advisory Committee as being an advisable component to the new policy. However, other members felt that allowing for eyewitnesses without a vote was preferable because the relevance of the facts and circumstances would be self-determining as to their appearance.

The proposed policy revisions now being considered by the Board of Selectmen are an improvement over the current policy. A policy change allowing the Selectmen to consider all sides of a matter and hear from the parties *prior* to considering a next step should provide for more informed decision making on the part of the Board.

The revised policies, however, are still a work in progress. Again, it must be recognized that the final decision regarding the revised policies rests with the Board of Selectmen.

RECOMMENDATION:
By a vote of 7 favorable - 9 opposed - 2 abstentions, the Advisory Committee recommends **NO ACTION** on Article 23.

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ARTICLE 23

Motion Offered by Marty Rosenthal, TMM Prec-9 & Frank Farlow, TMM Prec-4
(new/amended text underlined)

Moved: That the Town will adopt the following Resolution:

Resolution Concerning Citizen Complaint Policy

WHEREAS: an incident involving TMM-6 Arthur Conquest and others on May 24, 2007, after a Zoning Board of Appeals meeting at Town Hall, followed by events involving the Brookline Police and the Board of Selectmen, led to the selectmen's establishment of a Citizen Complaint Review Committee (CCRC), which in January presented to a final report recommending a number of changes in procedures for handling citizen complaints regarding police conduct; and

WHEREAS: for two decades those procedures were derived from the 1987 *Report on Police & Community Relations,* a unanimous Board of Selectmen's response to widespread community concerns not just about obtaining better and more transparent accountability, but also about protecting civil rights and providing greater racial justice while trying to be fair to both citizens and officers. Civil rights specialists widely praised the 1987 Report, e.g., Martin Walsh, regional director of the U.S. Justice Department's Community Relations Service in the *Boston Globe*: "I was very impressed with what Brookline did. ... This is what we keep discussing with various town and city officials, They have to take the leadership role. The leaders in this case have said this is what Brookline stands for in terms of civil rights"; and

WHEREAS: anything diminishing the reforms in place since 1987 must be justified by a high burden of proof and compelling reasons; and

WHEREAS: the current procedure for deciding whether to grant a full selectmen's hearing – a single selectman's request for serious complaints (Class A) or policy issues (Class C) and two selectmen for others (Class B) led to almost no hearings for two decades; so clearly some changes are needed. While the CCCR proposed one salutary improvement in that procedure, an informal presentation by the complainant, it also proposed increasing to three the number of selectmen votes required to grant a full hearing, The committee majority offered two rationales for this major step backward: that the new informal presentation will lead to the granting of more appeals, and that civil service laws conflict with the two-decade-old procedure. These rationales are, respectively, speculative and legally unconvincing. Brookline officials of the Police Department, the Police Union, and Town Counsel were closely consulted in 1987, as were state civil service officials, and none objected. Unless clearly unnecessary or clearly unlawful, neither being the case, the 1-2 vote 1987 procedures should be retained; and

WHEREAS: the CCRC majority rejected proposals to simply urge studies of two issues that were clearly raised by the May 2007 incident – the development of procedural guidelines for officers seeking criminal complaints regarding situations in which they, themselves, are not actual witnesses, and procedures for citizen complaints concerning non-Police officials;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen to:

1. **, to the extent permitted by civil service law,** reject the CCRC's twofold recommendation (a) to abandon the current procedure, adopted in 1987, requiring the Selectmen to grant a full appeal hearing requested by a complainant

- at the request of any individual selectman for a complaint deemed either Class A (alleging "excessive force, unreasonable deprivation of individual rights, conduct or behavior derogatory of a person's race, religion, or ethnic origin") or "Class C" (questioning "policy issues") and

- at the request of any two selectmen for a Class B matter (regarding all other nontrivial complaints); and (b) to put in its place a new requirement that at least three selectmen must vote to grant a full appeal hearing for complaints of all classes; and

and (b) to put in its place a new requirement that at least three selectmen must vote to grant a full appeal hearing for complaints of all classes; and

2. take the following three measures, which were considered but not recommended by the CCRC despite the near-unanimous support of those who testified at the its final hearing:

a. study and, in consultation with the Chief of Police, establish procedures to be followed when officers seek the issuance of criminal complaints regarding situations in which the police, themselves, are not witnesses to the alleged crime;

b. oversee the development of procedures for citizen complaints concerning Town officials and employees of departments other than the Police Department, final responsibility for their adoption and implementation residing with the Selectmen; and

c. add to current policy concerning the handling of citizen complaints a provision requiring that written submissions by appellants and/or witnesses that dispute or supplement the police investigative report be appended to the report.

EXPLANATION

Over the last ten weeks, we have had helpful discussions about this Resolution with various committees, officials, and citizens. As seen in pages 23-6 to 23-8 of the Combined Reports, the main controversy is the "1-2-3 issue" – how many selectmen are needed to call for a full disciplinary hearing on a citizen's appeal. The main objection that's being raised to our procedure of the past twenty years (basically, "1 or 2 votes are sufficient") is now a *legal argument* – that it has somehow violated civil service law for all that time.

Not only is that alleged legal issue inadequate to justify reversing a 20-year procedure that was widely hailed as important for both civil rights and full civilian control of the police, but in fact it is incorrect – exaggerated to the point of being misleading. The Selectmen's Recommendation cites on page 23-7 a memorandum by Associate Town Counsel Patricia Correa:

> *"... [W]here the Civil Service Law ... requires action by the "appointing authority," that action must be the action of the corporal body of the Board and not action by one or two members ... [and] counsel to the Brookline Police Union has warned that "any disciplinary policy that allows a tenured police officer to face a disciplinary hearing based on a minority vote of the Board would clearly violate M.G.L. ch. 31 ..."*

The foregoing passage omits the crucial conclusion of her very same memorandum, that the foregoing segment of her opinion is explicitly limited to the "*civil service hearings*" that are mandated by the **FIRST paragraph of §41,** which reads:

> "Before ... a tenured employee [is] discharged, removed, **suspended for a period of *more than five days,*** ...". (*emphasis added*)

The "*disciplinary hearings*" contemplated by our 20-year 1-2 vote rule were not "*civil service hearings,*" although they explicitly adopted most of the Due Process of such hearings. Ms. Correa actually and explicitly explains that "[u]nder the second paragraph of c. 31, §41, 'A civil service employee may be suspended for just cause for a period of **five days or less without a hearing** prior to such suspension. ...' "; and, most importantly (*emphasis added*):

> With regard to other decision-making **not covered by § 41** (e.g., to issue a written warning only, dismiss the citizen complaint, return the matter to the Chief for further investigation, etc.), **the Board could, at least theoretically, adopt a version of the Police Discipline Policy that allows such action to occur upon <u>the vote of one or two Selectmen</u> without violating the Civil Service Law.** ... **<u>[T]o answer the legal</u>**

question that I have been asked to answer, doing so would not violate the Civil Service Law.[1]

Since by definition every citizen appeal is by someone unhappy with the Chief's disciplinary decision, it is almost inevitable that – as has been 100% the case for 20 years! – future appeals will **not** be about officers "discharged, removed, or suspended for a period of more than five days." In the very unlikely event that any such severe penalty is some day appealed – or sought by the Chief or any selectman – then civil service procedures of §41 could easily, indeed must, be used.

Our admittedly advisory and *non-binding* Resolution would, if passed and later honored, neither identify nor wholly resolve the details of implementing it. However, in light of the foregoing analysis, the selectmen and their extremely talented staff are fully capable of doing so. **What's really needed is a commitment to the forest; the trees can be easily cultivated and refined**. The issue is the will, not the way. Town meeting can, and should, help supply the will.

For anyone who still feels troubled by the alleged legal issue, we have now added to the beginning of the RESOLVED clause the following explicit language: "**to the extent permitted by civil service law, ...**"

Finally, we have occasionally heard an objection to "1 or 2 votes is sufficient" from some who fear that a single selectman, for petty or frivolous reasons, could put an officer through a difficult hearing – what we'll call the "*Rogue Selectman Scare*." After two decades with only one known hearing under the "1 or 2 votes is sufficient" rule, this fear seems obviously baseless. Instead, we should fear both the reality – and especially the appearance – of raising the 20-year hurdle to hearings. While we agree that many of the CCRC's proposed reforms are excellent ideas, it would be the height of irony if a lengthy study triggered by a procedurally troubling incident were to lead us into taking a giant step backwards. Will the Town snatch some defeat from the jaws of reform?

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[1] Even for a "civil service hearing" under the FIRST paragraph of §41, it is not clear that, as Ms. Correa also opines, "where the Civil Service Law ... requires action by the 'appointing authority,' that action must be the action of the corporal body of the Board and not action by one or two members." The operative §41 language is:

> Before such action [more than 5 day suspension] is taken, such employee **shall be given a written notice by the appointing authority**, ... and shall be given a full hearing ... .

Ms. Correa offers no authority saying that the Board cannot -- e.g. by a standing and majority-voted regulation -- authorize 1 or 2 selectmen to mandate a hearing, with "notice" to then be issued by the full Board. HOWEVER, the Petitioners see no need to contest or debate this issue, since our Resolution renders it both acceptable and irrelevant.

ARTICLE 23

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Background

Article 23 is a resolution that references a new policy being drafted by the Selectmen which defines the procedure for processing a citizen's complaint against a Police Officer.

The current policy dates back to 1987 and has no provisions for a citizen to review or comment on a police report of an incident prior to presentation to the Board of Selectmen,; nor does it allow a citizen to present his/her account of the incident in a presentation to the Selectmen. In light of the potentially limited information presented to the Selectmen, the 1987 policy permits the commencement of "hearing" by the vote of a single Selectman for serious matters, and a vote of at least two Selectmen for lesser alleged offenses.

Currently, the Selectmen are drafting a new policy that likely will allow a citizen to review and comment on a police report prior to its presentation and be permitted, as of right, to make a presentation in front of the Selectmen. Another possible provision will allow for witnesses as well (though that mechanism has yet to be defined). This "full presentation" would occur prior to the Selectmen considering commencing with a "hearing". This current draft policy would require a majority vote of the Selectmen to begin a formal disciplinary hearing.

There is a point of contention as to whether a "hearing" (after the initial presentation) should require a majority vote of the Selectmen or a less number of one or two Selectmen votes. Legal questions around the definition of "hearing" were raised as well.

Discussion

Included in the Supplemental Mailing you received a week ago was a report by the Advisory Committee on Article 23 (Citizen Complaint Resolution). Since the Committee originally heard this article, the petitioner has amended the language to include the phrase "to the extent permitted by civil service law" in the first resolved clause.

Our original report outlined some of the feelings for and against this resolution. A point of concern that was particularly noted relates to a referenced requirement that disciplinary hearings, as defined by Civil Service, require a majority vote of the Board of Selectmen. The original article did not distinguish between the different sorts of hearings or specifically acknowledge that consideration should be paid to Civil Service stipulations when formulating a new policy.

The Advisory Committee reconsidered this article in light of the amended language. The addition of the new reference was influential in persuading members to rethink their positions and recommend favorable action on the amended version of the resolution. This

does still leave open the door that a minority vote could commence a disciplinary hearing not qualified as a "Civil Service Hearing". This might include the potential for lesser discipline, such as a three-day suspension. Regardless of the sort of disciplinary hearing, it is not to be approached lightly as people's reputations are at stake. In balancing this issue, however, the majority of the Advisory Committee felt it was better to tip in favor of a citizen.

Our original report addresses some of the fundamental concerns around this proposal. It is also worth remembering that Article 23 is a resolution that offers guidance to the Selectmen as they formulate new policy, but it is not itself instituting the new policy. That is ultimately the prerogative of the Board of Selectmen.

The new policy being drafted should more fully and openly accommodate citizens and better informs the Selectmen by virtue of having a fuller presentation prior to considering how to proceed in disciplinary matters. This new policy has not been finalized or officially adopted yet, but the Advisory Committee believes it will ultimately prove a significant improvement over our current policy. Article 23 is resolution that offers pointed considerations in the formulation of this new (in process) policy.

Recommendation
By a vote of 14-6-2, the Advisory Committee recommends FAVORABLE ACTION.

ARTICLE 24

TWENTY-FOURTH ARTICLE
To see if the Town will adopt the following resolution:

Resolution to Support a Public Surveillance Camera Pilot Program

WHEREAS, the Town of Brookline, through its Police Department, along with eight other cities and towns in the metropolitan Boston area, is a member of the Metro Boston Homeland Security Region ("MBHSR"); and

WHEREAS, as a member of the MBHSR, the Town has assisted with drafting the MBHSR's Urban Areas Security Initiative ("UASI"), a plan to prepare and train for, respond to, and recover from a chemical, biological, radiological, nuclear, and/or explosive weapon incident in the Port of Boston and elsewhere in the region, as well as a catastrophic natural disaster; and

WHEREAS, the MBHSR has developed and received federal grant funding for a critical infrastructure video camera monitoring system ("CIMS") for the nine member communities to monitor major thoroughfares and evacuation routes that are deemed critical infrastructure; and

WHEREAS, once deployed, a CIMS may also prove effective in deterring criminal activity and public disorder, reducing fear of crime, identifying criminal activity and suspects, identifying and gathering possible evidence for use in criminal and civil court actions, documenting police actions, safeguarding citizen and police officer rights, aiding in Amber alerts and in the search for lost / missing children or elderly people, assisting emergency services personnel when responding to incidents, assisting with the monitoring of traffic conditions, otherwise assisting town officials with the provision of municipal services in order to enhance overall municipal efficiency, and assisting with the training of Department personnel; and

WHEREAS, the first year of operation of the CIMS program is without cost to the Town due to the availability of grant funding if accepted by February 1, 2009; and

WHEREAS, under Mass. Gen. Laws c. 41, § 97, which the Town adopted on March 15, 1921 at its Annual Town Meeting, the Brookline Police Department is established under the direction of the Selectmen and the Selectmen may make suitable regulations for its governance; and

WHEREAS, the Brookline Police Department proposed to the Selectmen as suitable regulation for the implementation of a Brookline CIMS Program a proposed Special Order (now known as Special Order 2009-1); and

WHEREAS, in light of all of the foregoing, on January 13, 2009, a majority of the Selectmen voted to approve acceptance and deployment of the CIMS for a 12-month trial period in order to evaluate its effectiveness in serving any of the purposes described above and any detrimental impact of the program on civil liberties and constitutional rights and values, including privacy and anonymity, free speech and association, government accountability, and equal protection (hereinafter, the "CIMS Pilot Program"); and

WHEREAS, pursuant to the Selectmen's January 13, 2009 vote, the CIMS Pilot Program is subject to a) Special Order 2009-1 regarding the permissible and impermissible uses of cameras and other provisions that seek to safeguard residents' and visitors' interests in privacy and other constitutional values, and b) those other conditions set forth in the Selectmen's January 13, 2009 vote, including i) the establishment of a Surveillance Camera Oversight Committee to assist the Town with evaluating any impact (both favorable and unfavorable) of the CIMS program, and ii) regular reporting by the Chief of Police regarding any impact (both favorable and unfavorable) of the CIMS program; and

WHEREAS, it is clear from testimony given at the Selectmen's hearings that preceded the January 13, 2009 vote, from written testimony submitted to the Selectmen, and from other feedback from the public that there is a range of opinion within the Town about the presence of public surveillance cameras within the Town;

WHEREAS, in connection with executing their responsibilities under Mass. Gen. Laws c. 41, § 97, the Selectmen wish to have, and on January 13, 2009 voted to file an Article for the May 2009 Annual Town Meeting seeking, input from Town Meeting regarding the CIMS Pilot Program;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Selectmen report its findings relative to the evaluation conducted by the Camera Oversight Committee of the CIMS Pilot Program, for review and consideration by the first Annual Town Meeting to be held immediately following the conclusion of the CIMS Pilot Program's 12-month trial period.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In the several months leading up to the Selectmen's January 13, 2009 vote approving the CIMS Pilot Program described in the Article, many Town residents and others testified both for and against the presence of public surveillance cameras within the Town and expressed concerns regarding the Police Department's initial draft of its Special Order. While most spoke against public surveillance cameras at the public hearings, Selectmen also received many other comments representing a mix of views – both for and against – from residents in other venues.

Based on public comments and other information considered by the Selectmen about the proposed CIMS program and about the Police Department's proposed Special Order, it

appeared that a CIMS program could potentially serve a number of uses for the benefit of residents of the Town without financial cost to the Town during the initial year of implementation. Since federal grant funding for the CIMS program would not be available to the Town after January 31, 2009, a majority of the Selectmen voted on January 13, 2009 to approve a 12-month trial CIMS program. The trial period is subject to governance under a tightened Special Order that addressed many of the concerns expressed by residents (now known as Special Order 2009-1), and subject to other conditions set forth in the January 13, 2009 vote and described generally above in the "Whereas" clauses of the Article.

The conditions include appointing a Surveillance Camera Oversight Committee whose charge is to assist the Chief of Police in measuring the impact of the installation of 12 video surveillance cameras in Brookline during the 12-month trial period, by, but not limited to, the following:

(1) Developing an assessment protocol to measure

- The effectiveness in achieving the intended emergency preparedness or law enforcement purposes, with specific reference to each and every significant incident captured in footage and the final disposition of each such incident, and
- The impact on civil liberties and constitutional rights and values, including privacy and anonymity, free speech and association, government accountability, and equal protection.

(2) Overseeing the trial and evaluation of the camera program, including the implementation of Special Order 2009-01 and the January 13, 2009 vote of the Board of Selectmen

At the same time, a majority of the Selectmen voted to seek further public input regarding the presence of public surveillance cameras within the Town and regarding the CIMS Pilot Program by filing an Article for the May 2009 Annual Town Meeting regarding the CIMS Pilot Program for Town Meeting's consideration.

Petitioner the Board of Selectmen intends the "Whereas" clauses of the Article to provide the Town with information regarding the background of and reasons for the Article. For the Town's convenience, the Petitioner attaches to this Article a copy of the Brookline Police Department's Special Order 2009-1 and the Selectmen's vote of January 13, 2009.

SELECTMEN'S RECOMMENDATION

The Board of Selectmen will prepare a Report on both Article 24 and 25 that will be included in the Supplemental Mailing to be sent to Town Meeting Members prior to the commencement of Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 24 is a resolution that asks Town Meeting to support the continuation of a 12- month trial period for the video camera system currently installed in 12 public locations in Brookline. It also asks the Selectmen to report the findings of the Surveillance Camera Oversight Committee's evaluation of that system to Town Meeting for its review and consideration shortly after the Pilot Program's conclusion.

In January 2009 the Board of Selectmen voted 3-2 in favor of a Pilot Program of a surveillance camera system, to be operated in accordance with Special Order 2009-1, a Police Department directive defining the purpose, operation, and management of the camera monitoring program. The Board also approved the creation of a Surveillance Camera Oversight Committee to assist the Town in evaluating the impact of the Pilot Program, and it voted to seek further public input regarding the cameras and the yearlong program by filing an article for Town Meeting's consideration. Article 24 is the result of that vote.

By way of background, the Town is one of nine communities (including Boston, Cambridge, Chelsea, Everett, Quincy, Revere, Somerville, and Winthrop) that make up the Boston Homeland Security Metro Region. In that capacity, it has participated in drafting the Urban Areas Security Initiative (UASI) which focuses on preparing and training for, responding to, and recovering from man-made or natural catastrophes. The Town is also part of a mutual aid arrangement for coordinated emergency response designed to connect public safety and emergency management users. The Metro Boston Homeland Security Region's video camera system, known as "CIMS," is currently in use along major thoroughfares and evacuation routes in Brookline. Recently it was used to coordinate police assignments during the Boston Marathon.

The installation of video cameras was one of a number of programs identified by the Town and/or its partners in the Metro Region as advancing their needs, goals, and priorities related to public safety. Funds to purchase the camera system were requested from and awarded by the federal government's Department of Homeland Security under the UASI program. Since the UASI's start in 2003, the Town has received upwards of $2 million from this program, with funds directed to the Fire, Police, DPW, and Health departments, the Public Schools, and private religious institutions. The construction of the Town's Emergency Operations Center on Hammond Street was, for example, supported with UASI dollars.

DISCUSSION:
Opponents to Article 24, while unopposed to the use of video cameras for individual crime investigations or in "highly sensitive locations" believe that in other instances, video cameras compromise a citizen's rights to privacy and, in creating the sense of government as "Big Brother," are an intrusion into our free and open society. There is, they argue, a significant difference between security cameras installed in a bank and those installed on the street. Further, the initial purpose of installing a public camera system, e.g. aiding in evacuations

from Boston, was not convincing, and subsequent purposes were neither clearly nor consistently identified.

Opponents also argue that because the cameras were purchased with a grant from Homeland Security, a department that has promoted surveillance activities to develop a national database containing information about private citizens, it will be difficult for the Town to avoid becoming part of the national surveillance system "over which we cannot exercise any control." Although there is no relationship with federal government data collection centers now, opponents warn that there could be more pressure in the future to provide information.

Other concerns include cost considerations, future impact on the Police Department's budget, reduction in other areas of policing efforts, and lack of credible documentation that video cameras can be useful in preventing or solving crimes or preventing terrorist acts. According to reliable studies, the opponents assert, community policing and improved lighting are more effective deterrents.

On the subject of the Oversight Committee, those opposing Article 24 assert that studies of surveillance cameras have already shown that they are not effective in crime prevention. They also argue that despite the best of intentions, it will be impossible for the Committee to produce an evaluation that can successfully measure the negative impacts of this program, especially the breadth and depth of the sense of the public's loss of privacy.

Finally, opponents argue, if the Pilot Program were allowed to continue after the trial year, the use of the system would have gained momentum. "Mission creep" is bound to occur; the experience of the United Kingdom where the number of surveillance cameras has increased to approximately four million should be seen as a cautionary tale.

Police Chief Daniel O'Leary, in response to questions regarding the use of cameras, has noted that while the cameras were intended to assist in managing traffic flow during an evacuation caused by man-made or natural events, other potential uses include criminal activity deterrence, evidence for use in criminal actions, documentation of police actions, and aid in Amber alerts and missing persons searches. The cameras can also be used to monitor traffic conditions in much the same way that cameras on the Mass Pike are now used. Because the cameras may help in assisting the police in follow-ups of crimes and in identifying and apprehending a criminal sooner rather than later, they can in fact prevent crimes. Since their installation at the beginning of April, the cameras have provided evidence in an alleged robbery and a drunken driving accident

In terms of surveillance capabilities and other concerns, Chief O'Leary has pointed out that Special Order 2009-1 was developed and has been implemented to address a number of the opponents' fears. Except for emergencies, the cameras will be in fixed positions aimed at roadways, with digital images passively monitored on a regular basis in three locations, including the lobby of the Public Safety building. According to some Advisory Committee members, images appear on the screen in a somewhat "herky-jerky" fashion, making it next to impossible to identify individual faces under normal monitoring conditions. In addition, Chief O'Leary has pointed out that automatic identification or automatic tracking

technologies will not be used in conjunction with the system and that "shrouding" software allows certain areas, including the interiors of buildings visible through windows, to be blocked out.

Regarding access to digital data, Chief O'Leary has stated on numerous occasions that Brookline owns and controls the camera system. Special Order 2009-1 details the conditions under which real time images produced by Brookline's cameras may be shared with the other eight communities in the Metro Region. Digital records will be made available to federal, state, and law enforcement agencies in connection with open investigations, and any other requests for data would be made under the Freedom of Information Act or Massachusetts Public Records Law and handled in accordance with the Town's current practices regarding requests for public records. Finally, all CIMS recorded data will be destroyed after 14 days unless required by the Police Department's evidence policy, court order, or by law.

Chief O'Leary has also stated that no reduction in other services carried out by the Police Department would result from the installation and monitoring of the video camera system. Police Department operations already change in response to any number of factors including public priorities (e.g., 2-hour parking regulation and graffiti removal enforcement) and increases in undesirable activities (e.g., rowdy student behavior in North Brookline). Adjustments to and shifts in the workload will not jeopardize the Department's ability to provide high quality public safety services. Current training in the appropriate use of the video cameras is not handled in discrete sessions; rather, it has been and will continue to be integrated into existing training sessions that encompass other matters.

The Advisory Committee spent considerable time discussing the approach and the work of the Camera Oversight Committee. Rather than replicating existing studies on surveillance cameras, the Oversight Committee will look at the cameras' use and effectiveness specific to Brookline, within the checks and balances that have been built into their implementation in this community. The Committee will keep a record of a year's worth of surveillance camera use, will review quarterly reports from the Police Department during the 12-month trial period, and will analyze the number and types of requests for data, among other information relative to the operation of the cameras. Although the Committee will have access to staff support from the Police Department and Town Counsel's office, there are no staff members on the Committee itself.

A majority of the Advisory Committee supports Article 24, believing that the best way to draw conclusions concerning a surveillance camera system in Brookline is to go through the proposed trial period. The funding source of the cameras - the Federal Government's Department of Homeland Security (as opposed to local tax dollars) - no doubt increases the anxiety that some citizens have regarding their use in Brookline, but the dissemination of all data from the cameras is controlled by the Town's own directives. Members pointed out that video cameras have become commonplace in our lives, whether at an ATM machine, the Turnpike tolls, Logan Airport, or the Brookline Public Library. The Town's video cameras have been placed in public spaces in which we do not have an expectation of privacy. As one members observed, "It's the cameras that I can't see that worry me." Committee members expressed concern with the use of the data, but it was noted that the Oversight Committee

would be able to address that concern with 12-months worth of information and fact. Finally, a majority of members were satisfied that, with language added to the original article during the vetting process, a detailed accounting of the program's costs would also be included in the Oversight Committee's work.

RECOMMENDATION:
By a vote of 12-7-2, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town adopt the following resolution:

Resolution to Support a Public Surveillance Camera Pilot Program

WHEREAS, the Town of Brookline, through its Police Department, along with eight other cities and towns in the metropolitan Boston area, is a member of the Metro Boston Homeland Security Region ("MBHSR"); and

WHEREAS, as a member of the MBHSR, the Town has assisted with drafting the MBHSR's Urban Areas Security Initiative ("UASI"), a plan to prepare and train for, respond to, and recover from a chemical, biological, radiological, nuclear, and/or explosive weapon incident in the Port of Boston and elsewhere in the region, as well as a catastrophic natural disaster; and

WHEREAS, the MBHSR has developed and received federal grant funding for a critical infrastructure video camera monitoring system ("CIMS") for the nine member communities to monitor major thoroughfares and evacuation routes that are deemed critical infrastructure; and

WHEREAS, once deployed, a CIMS may also prove effective in deterring criminal activity and public disorder, reducing fear of crime, identifying criminal activity and suspects, identifying and gathering possible evidence for use in criminal and civil court actions, documenting police actions, safeguarding citizen and police officer rights, aiding in Amber alerts and in the search for lost / missing children or elderly people, assisting emergency services personnel when responding to incidents, assisting with the monitoring of traffic conditions, otherwise assisting town officials with the provision of municipal services in order to enhance overall municipal efficiency, and assisting with the training of Department personnel; and

WHEREAS, the first year of operation of the CIMS program is without cost to the Town due to the availability of grant funding if accepted by February 1, 2009; and

WHEREAS, under Mass. Gen. Laws c. 41, § 97, which the Town adopted on March 15, 1921 at its Annual Town Meeting, the Brookline Police Department is established under the direction of the Selectmen and the Selectmen may make suitable regulations for its governance; and

WHEREAS, the Brookline Police Department proposed to the Selectmen as suitable regulation for the implementation of a Brookline CIMS Program a proposed Special Order (now known as Special Order 2009-1); and

WHEREAS, in light of all of the foregoing, on January 13, 2009, a majority of the Selectmen voted to approve acceptance and deployment of the CIMS for a 12-month trial period in order to evaluate its effectiveness in serving any of the purposes described above and any detrimental impact of the program on civil liberties and constitutional rights and values, including privacy and anonymity, free speech and association, government accountability, and equal protection (hereinafter, the "CIMS Pilot Program"); and

WHEREAS, pursuant to the Selectmen's January 13, 2009 vote, the CIMS Pilot Program is subject to a) Special Order 2009-1 regarding the permissible and impermissible uses of cameras and other provisions that seek to safeguard residents' and visitors' interests in privacy and other constitutional values, and b) those other conditions set forth in the Selectmen's January 13, 2009 vote, including i) the establishment of a Surveillance Camera Oversight Committee to assist the Town with evaluating any impact (both favorable and unfavorable) of the CIMS program, and ii) regular reporting by the Chief of Police regarding any impact (both favorable and unfavorable) of the CIMS program; and

WHEREAS, it is clear from testimony given at the Selectmen's hearings that preceded the January 13, 2009 vote, from written testimony submitted to the Selectmen, and from other feedback from the public that there is a range of opinion within the Town about the presence of public surveillance cameras within the Town;

WHEREAS, in connection with executing their responsibilities under Mass. Gen. Laws c. 41, § 97, the Selectmen wish to have, and on January 13, 2009 voted to file an Article for the May 2009 Annual Town Meeting seeking, input from Town Meeting regarding the CIMS Pilot Program;

NOW, THEREFORE, BE IT RESOLVED THAT **the Town continue the CIMS Pilot Program as approved by the Board of Selectmen on January 13, 2009, and further that** the Board of Selectmen report its findings relative to the evaluation conducted by the Camera Oversight Committee of the CIMS Pilot Program, for review and consideration by the first Annual Town Meeting to be held immediately following the conclusion of the CIMS Pilot Program's 12-month trial period**; and further that such evaluation be based, among other things, on data collected to measure 1) the effectiveness of the cameras in achieving the intended emergency preparedness or law enforcement purposes, 2) future ongoing costs of the program, and 3) any potential impacts on civil liberties and constitutional rights and values, including privacy and anonymity, free speech and association, and equal protection, and on government accountability.**

XXX

ARTICLES 24 + 25

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 24 is a resolution put forth by the Board of Selectmen to support continuing a 12-month pilot program to study the impact of 12 video cameras that are placed in public areas in Town. The video camera system, named Critical Infrastructure Monitoring System (CIMS), is part of a Greater Boston Region-wide emergency evacuation plan. By choice, Brookline joined the Boston Region Urban Area Security Initiative (UASI) in 2002. This initiative is made up of nine communities surrounding the City of Boston. This area has been identified by the Federal Government as being at high risk of a terrorist attack or catastrophic natural disaster. Because of this designation, the nine communities (Boston, Brookline, Cambridge, Chelsea, Everett, Quincy, Revere, Somerville and Winthrop) have each selected a member of their public safety leadership to represent them in discussions of both region-wide plans as well as budget appropriation. Police Chief Daniel C. O'Leary is the Brookline representative to this governing body, which is tasked with deciding public safety needs for the greater Boston region.

Since the inception of UASI in 2002, the Town of Brookline has received more than $2 million for security-related matters. This money has been used for training, equipment and planning. Funds have been utilized by Town Departments including Police, Fire, Ambulance, DPW, Health, Building, and Schools as well as three Brookline religious institutions. For example, funds were used to purchase new radios, both mobile and portable, that allowed the Town to distribute portable radios to all public schools and some public buildings. At the same time, funds were used to build out an emergency radio channel for all of these Town agencies to communicate with each other.

Brookline has been an active participant in all UASI discussions concerning regional emergency response, and the camera system in an outgrowth of such discussions. At a time when hurricanes had forced millions to evacuate in other parts of the country, the UASI group explored ways to assist people in safely moving out of the area. As part of an overall region-wide plan, cameras were identified as a tool to assist in safe and orderly evacuations. The Town put together a team of people to identify evacuation routes and camera placement along these routes.

As part of this initiative, Chief O'Leary brought the issue of cameras in public places before the Board of Selectmen for discussion in January 2009. It must be noted that these discussions and several public hearings were held before any of the cameras were installed and operational. The Selectmen also reviewed a proposed policy that would guide the operation and security of the Brookline camera system. After much public input, this policy was re-worked and accepted by the Board of Selectmen in the form of Brookline Police Department Special Order 2009-1 (copy at the conclusion of this Recommendation).

The City of Boston, as the fiduciary agent of UASI, purchased equipment for all nine communities. The cameras and accompanying equipment were then provided to Brookline. The cost to UASI of the Brookline camera system was approximately $155,000. There was no cost to Brookline. The Brookline camera system is under the full control of the Town of Brookline. The images can be viewed by non-Brookline public safety agencies only with the permission of the Police Department. For example, Boston Police requested and were granted permission to view images from our cameras during the Boston Marathon. In turn, Brookline could view some of theirs. All images, with specific exceptions, are only retained for 14 days. The system is programmed to automatically record over images after this time period. It was Brookline's choice to develop and commit to abide by its policy, Special Order 2009-1, which sets out strict guidelines for camera operating standards and system capabilities. Any camera upgrade or system enhancements are subject to approval by the Board of Selectmen, as is the public process applicable to changes in Police Department policy. The cost going forward is estimated to be approximately $15,000 for a year's maintenance agreement. The Chief intends to have this system fully integrated into the work activities of the Police Department so that it will become a valuable asset to the Department without taking away from the Department's current public safety services.

During the public discussions, residents brought up a number of concerns regarding cameras in public locations. In order to address some of these concerns, the Selectmen proposed a 12-month trial period that began on April 9, 2009. Prior to this trial period, several steps were taken, such as, adoption of Special Order 2009-1, training of Police Officers and Public Safety dispatchers concerning this Special Order and the use of the camera system, public display of a monitor in the lobby of the Public Safety Building, posting of notices regarding the presence of cameras in the public areas where these cameras are located, and the appointment of a 5-member citizen committee to oversee the 12-month trial period. This committee has been given full access to the operation and records of the camera system and, in addition to the quarterly reports submitted by the police department, will make a full report to the Selectmen at the conclusion of the 12-month trial period. This committee has identified three principal areas to evaluate:

1. The effectiveness of the camera in achieving the intended emergency preparedness or law enforcement purposes.
2. The future ongoing costs of the program.
3. Any potential impacts on civil liberties and constitutional rights and values, including privacy and anonymity, free speech and association, and equal protection, and on government accountability.

Chief O'Leary has identified a number of public safety uses beyond evacuation. He has stated that these cameras may, among other things, reduce fear of crime, identify criminal activity and suspects, identify and gather possible evidence for use in criminal and civil court actions, document police actions, safeguard citizen and police officer rights, aid in Amber alerts or in the search for lost/missing children or elderly people, assist emergency services personnel when responding to incidents, assist with the monitoring of traffic

conditions, assist in providing timely medical care, assist in managing large scale events, and otherwise assist town officials with the provision of municipal services in order to enhance overall municipal efficiency. The Chief has provided information regarding incidents to date where the camera system has aided police in the investigations of armed gas station robberies, house burglaries, and a street robbery, and has assisted with monitoring the Boston Marathon and the Walk For Hunger. In some of these instances, the camera system was used together with other public cameras as well as private camera systems.

There is a proliferation of cameras throughout today's society. Technology is advancing rapidly and the Brookline Police Department has always been in the forefront in this area. In this case, as in many others, the Police Department has been thoughtful in its approach to utilizing technology while balancing the concerns of our Town's residents. The policy put forth by the Police Department and ultimately accepted by the Selectmen addresses many of the concerns that have been raised. This policy has defined the purposes of the system, defined the system's component parts, capabilities, and operation, and sets out management's responsibilities as well as impermissible uses of the system. This policy specifies that all recordings, unless otherwise required by the Police Department's Evidence Policy, by court order or by law, shall be automatically recorded over after 14 days. The policy also regulates the dissemination of information about the CIMS and the handling of citizen complaints and public information inquiries.

The Selectmen are aware that this issue has raised a number of concerns among some residents. We also are aware that the Police Department has gone to great lengths to address most of these concerns. The majority of the Board of Selectmen agrees that the best way to address these concerns even further is through a 12-month trial period. During this period, the camera system, as the property of the Town of Brookline, will be within the control of the Town. Our public safety personnel have been trained in the uses of this system. Outside viewing of the monitors will be subject to the permission of the Police Department, dissemination of images will be controlled by a clear policy. Since the system has become operational, the Police Department has found it helpful to assist in various public safety matters. There is no cost to the Town during the trial period, as the system and its component parts are under a one-year warranty.

A majority of the Board feels it is best to allow the Camera Oversight Committee to continue its work for the 12-month trial period and report back its findings as set out in its charge. Therefore, by a vote of 3-2 taken on May 12, 2009, the Board of Selectmen recommends FAVORABLE ACTION on Article 24 as voted by the Advisory Committee.

ROLL CALL VOTE

Favorable Action	No Action
DeWitt	Daly
Benka	Mermell
Goldstein	

On Article 25, the Board of Selectmen recommends NO ACTION, by a vote of 3-1-1 taken on April 21, 2009.

ROLL CALL VOTE

No Action	Favorable Action	Abstain
DeWitt	Mermell	Daly
Benka		
Allen		

BROOKLINE POLICE DEPARTMENT

Brookline, Massachusetts

DANIEL C. O'LEARY

CHIEF OF POLICE

Special Order 2009-1

Subject: **Brookline Police Department Critical Infrastructure Monitoring System ("CIMS")**

Date: **January 14, 2009**

I. PURPOSES / OVERVIEW

The Brookline Police Department ("Department") shall, deploy, operate, and maintain a fixed video camera monitoring system within the jurisdiction of the Town of Brookline to monitor major thoroughfares and evacuation routes that are deemed critical infrastructure (hereinafter, the system is referred to as "CIMS"), as part of the Critical Infrastructure Monitoring System of the Metro-Boston Homeland Security Region ("MBHSR"). The purpose of the CIMS program is to enhance the management of emergency situations, detect and deter terrorism, and otherwise protect the health, safety and welfare of those who live and work in, visit, and transact business with the Town.

The CIMS program may also be used to deter criminal activity and public disorder, reduce fear of crime, identify criminal activity and suspects, identify and gather possible evidence for use in criminal and civil court actions, document police actions, safeguard citizen and police officer rights, aid in Amber alerts or in the search for lost / missing children or elderly people, assist emergency services personnel when responding to incidents, assist with the monitoring of traffic conditions, otherwise assist town officials with the provision of municipal services in order to enhance overall municipal efficiency, and assist with the training of Department personnel.

The Brookline CMS shall not be used to replace current policing techniques.

II. DEFINITIONS

"Archival footage" shall mean CIMS images captured in the past.
"Automatic tracking" shall mean the ability to follow a specific individual or his or her vehicle with technology operating independently of immediate or direct human control, regardless of whether his or her identity is known, so as to create a seamless record of his or her activity during a specific period.
"Automatic identification" shall mean the ability to ascertain or confirm the identity, using biometric or other digital technologies, of an individual whose image is captured on footage, whether in real time or otherwise.
"Department personnel" shall include persons holding the position of Public Safety Dispatcher with the Town of Brookline.
"Evidence Policy" shall mean the Brookline Police Department Policy: Handling and Processing of Evidence and Property.
"Footage" shall mean any images recorded by the Brookline CIMS.
"Massachusetts Public Records Law" shall mean Mass. Gen. Laws ch. 66, § 10, Mass. Gen. Laws ch. 4, § 7, cl. 26, 950 CMR Parts 32.01 *et seq.*, and court decisions and decisions of the Massachusetts Supervisor of Public Records construing such.
"Normal operations view" shall mean the normal view of a camera as determined by the Department Chief and described in Attachment A.
"Observation" or to "observe" shall mean real-time viewing, and simultaneous recording, of live camera images.
"Operate" shall mean using the pan, tilt, or zoom functions of a camera.
"Pan, tilt, and zoom" shall mean manipulating a camera to view areas outside the original image frame or measurably increase the resolution of the images rendered.
"Recording" shall mean images that are preserved and stored by the Brookline CIMS.
"Sworn Department personnel" shall mean the Department Chief, Superintendent, Captains, Lieutenants, Sergeants, Detectives, and Patrol Officers.

III. OPERATION AND MANAGEMENT:

A. BROOKLINE CIMS COMPONENTS, CAPABILITIES, AND FUNCTIONS

1. CIMS Cameras. The CIMS cameras, as part of the Metro-Boston Homeland Security Region's Critical Infrastructure Monitoring System, shall be deployed for an indefinite period of time, as provided in the vote of the Board of Selectmen on January 13, 2009, and any subsequent votes, to monitor the Town's major thoroughfares and evacuation routes. CIMS cameras are part of the MBHSR CIMS program comprised of similar systems operated and maintained by the nine (9) municipalities within the MBHSR (in addition to Brookline, these are Boston, Cambridge, Chelsea, Everett, Quincy, Revere, Somerville, and Winthrop). When authorized to do so by a municipality, the various other municipalities within the MBHSR will have the ability to view images produced by the CIMS cameras of the municipality that has authorized and granted such access.

In Brookline, the Chief of Police shall have exclusive authority to authorize other municipalities within the MBHSR to view, on an ongoing or time-limited basis and in real time only, images produced by the Brookline CIMS cameras. Other municipalities within the MBHSR may request a copy of archival footage produced by the Brookline CIMS cameras pursuant to the procedures set forth in Sections IV(D)(1) and (3) of this Policy.

2. 24/7 Monitoring and Response. The Brookline CIMS shall be passively monitored (*i.e.*, no personnel shall be assigned specifically to observe video monitor screens) twenty-four (24) hours a day, seven (7) days a week ("24/7"), for traffic coordination, traffic offenses, crime detection and observation, evidence of crime or criminal activity, and for those other purposes set forth in Section I. Monitors shall be located in the Dispatch Area, in the office of the Commanding Officer, and at the front desk of the Public Safety Building. Monitoring may also be conducted within the Detective Division, at the Brookline Emergency Operations Center, or where deemed necessary consistent with the purposes of the CIMS set forth in Section I above. Department personnel monitoring the Brookline CIMS shall dispatch resources as needed.

3. Installation and Recording. CIMS cameras shall transmit signals 24/7 to a Digital Video Recorder ("DVR"), which shall be maintained in a secure environment. All of the images from a recording device for a particular 24-hour period, beginning at 12:00 a.m. and ending at 11:59:59 p.m., shall be referred to as the "Daily Recording." The Daily Recording shall be stored in such a manner that the particular images can be identified by camera location and by the date and time recorded.

4. Camera Capabilities. Cameras deployed as part of the Brookline CIMS shall have pan-tilt-zoom ("PTZ") capability. The Department shall not utilize automatic identification or automatic tracking technologies in conjunction with the Brookline CIMS.

5. Privacy enhancement capabilities. The CIMS camera network comes with "shrouding" software technology that will allow the Administrator to block out certain areas (*e.g.*, any interiors of buildings visible through windows) from viewing and recording. This technology will be used as necessary to protect the privacy rights of individuals consistent with Section III (D)(1) below.

6. System Security. The CIMS network is not a WIFI mesh network, and it does not use 802.11 wireless formats. It consists of a point-to-point wireless network that uses licensed and unlicensed spectrums that are not common for public consumption. The system uses a proprietary Motorola security application that handles the wireless application. Each camera

transmitter is equipped with a secure software key and security algorithm. These features, along with other proprietary security applications that are part of the system's wireless security, protect the system from access by unauthorized persons.

7. Camera Inventory / Log. The Department's Technology Division shall create and maintain a camera inventory of all cameras placed into service as part of the CIMS using the Larimore Property Tracking System ("Camera Log"). The Technology Division shall document in this System the date each camera is placed into service and, if applicable, discontinued, its location and the persons, places or activities being monitored, its specifications, the dates of inspection, the dates each is out of service for maintenance and/or repair, and the dates and nature of any service or repairs.

8. Monthly Visual Inspection. The Department's Emergency Management Coordinator or his / her designee shall conduct a visual inspection of all cameras on a monthly basis. Such person shall document in the Camera Log the visual condition of each camera and lighting in the area of the camera observed during each such inspection.

9. No Sound Recordings. The Brookline CIMS shall not monitor or record sound unless appropriate court orders are obtained.

B. CAMERA OPERATION / VIEWING OF CIMS RECORDINGS

1. CIMS Camera Locations and Normal Views. The Department Chief shall determine locations and normal operations views of CIMS cameras to maximize the degree of satisfaction of the stated goals of the Brookline CIMS set forth in Section I. CIMS camera locations and normal operations views may be changed as situations require by written permission of the Chief. CIMS camera locations and normal operations views are described in Attachment A to this Policy. The Town of Brookline shall post and maintain at CIMS camera locations signage that is clearly visible indicating the presence of a camera.

2. Operation Access Code / Certification. In order to operate any CIMS camera, it shall be necessary to enter an Operation Access Code. All sworn Department personnel and Public Safety Dispatchers shall receive an Operation Access Code from the Technology Division. Operation Access Codes may be changed periodically. Operation Access Codes shall be in addition to Department-issued User Names and Passwords.

3. Certification / Training. Sworn Department personnel and Public Safety Dispatchers shall not receive an Operation Access Code prior to:

a. signing a certification (in the form set forth in Attachment B to this Special Order) that they have received a copy of and have read this Special Order; and

b. receiving training regarding this Policy (with a focus on Impermissible Uses (Section III(D)) and the ethical issues involved in video camera monitoring activities, and on all facets of operating the Brookline CIMS, including, but not limited to, logging on, operating cameras, and retrieving archival footage.

4. Authority to Operate / Return to Normal Operations Views. Sworn Department personnel of the rank of Sergeant or higher and Public Safety Dispatchers are authorized to operate a CIMS camera. Such personnel may operate a camera within their discretion, for the purposes enumerated in Section I above, and at their own instigation or at the request of Patrol Officers, a federal or state agency or another municipality, and/or emergency management personnel. Patrol Officers may operate a camera with authorization of a member of the Department of the rank of Sergeant or higher. All operators must return cameras to the normal operations view when not otherwise directed.

5. Viewing of Archival Footage. Department personnel, with the approval of a member of the rank of Sergeant and above, are authorized to view archival footage from the Brookline CIMS.

C. MANAGEMENT

1. Department Chief.

a. Generally. The Brookline Police Department, by and through its Chief, is solely responsible for the day-to-day operation and management of the Brookline CIMS and for all tasks ancillary to its operation and management.

b. Delegation. The Chief shall assign Department personnel to operate and manage the Brookline CIMS on a day-to-day basis, including, but not limited to, monitoring camera feeds, managing access to the system, managing the inventory control of hardware, reproducing and distributing electronic media (*e.g.*,CD/DVDs), ensuring the chain of custody of recordings and reproductions of footage for evidentiary purposes in civil and criminal court actions, and archiving recordings in accordance with this Policy, the provisions of the Department's Evidence Policy, and as provided in the vote of the Board of Selectmen on January 13, 2009, and any subsequent votes. The Chief or his / her designee may assign civilian personnel (both from within and without the Department) to perform any function or duty related to the operation and management of the Brookline CIMS, including, but not limited to, inventory, service and maintenance work on the system.

c. Enforcement. The Chief shall ensure that the Brookline CIMS is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations of it by Department personnel.

2. Commanding Officer / Supervisor.

a. Generally. The Commanding Officer shall be directly responsible for the operation and management of the Brookline CIMS during his/her shift.

b. Inspection. At the commencement of a patrol shift, a member of the Department of the rank of Sergeant or higher shall inspect the Brookline CIMS available in the Dispatch area and in the office of the Commanding Officer to ensure that each camera is functioning properly and that camera sight lines afford maximum viewing to carry out the purposes of the CIMS, as enumerated in Section I.

c. Reporting of Significant Incidents. Prior to the conclusion of a patrol shift in which a significant incident has occurred (*e.g.*, an assault, an arrest, an accident, etc.), a member of the Department of the rank of Sergeant or higher shall request reproduction of CIMS footage of the incident (as detailed further in Section IV (D)(1) below) by submitting a completed Video Request Form to the Technology Division. Such person submitting such completed Request form shall send a copy of it to the appropriate division or personnel for follow-up (Detectives, Traffic, etc).

3. Audit. In order to maintain a high degree of integrity over the Brookline CIMS, an audit shall be completed on a semi-annual basis. This audit shall determine the Department's adherence to this Special Order and the procedures it establishes, as well as the maintenance and completeness of CIMS records. This audit shall be conducted by the Department's Office of Professional Responsibility. At the completion of this audit, a full report on the outcome shall be forwarded to the Department's Chief.

D. IMPERMISSIBLE USES

Anyone who engages in an impermissible use of the Brookline CIMS may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

It is a violation of this Policy for the Brookline CIMS to be used to observe or record footage of areas or people in the following manners and for the following purposes:

1. Invasion of Privacy. Except pursuant to a court order, it is a violation of this Policy to observe, or record footage of, locations except those that are in public view from a vantage point that is accessible to the general public and where there is no reasonable expectation of privacy. Areas in which there is a reasonable expectation of privacy include the interior of private premises such as a home.
2. Harassment / Intimidation. It is a violation of this Policy to use the Brookline CIMS to harass and/or intimidate any individual or group.
3. Use / Observation Based on a Protected Characteristic. It is a violation of this Policy to use the Brookline CIMS to observe individuals solely because of their race, gender, ethnicity, sexual orientation, disability or other classification protected by law.
4. Personal Use. It is a violation of this Policy to use the CIMS for any personal purpose.
5. First Amendment Rights. It is a violation of this Policy to use the Brookline CIMS for the purpose of infringing upon First Amendment rights.

IV. REQUESTS FOR REPRODUCTION

A. Authority to Request / Permissible Requests. Sworn Department personnel of the rank of Sergeant and higher are authorized to make a request to the Technology Division for a reproduction of a CIMS recording. Requests for reproduction may be made only for legitimate law enforcement purposes, as part of normal procedures for investigations and the handling of evidence or in furtherance of the purposes underlying the Brookline CIMS described in Section I above.

B. Prompt Request. All requests to reproduce a CIMS recording shall be made promptly and in any event as soon as possible to ensure that needed data is not over-written. Requests for reproduction of footage of significant incidents (*e.g.*, an assault, an arrest, an accident, etc.) shall be made prior to the conclusion of the patrol shift during which the incident occurred.

C. Reproduction Responsibility / Evidence. The Department's Technology Division shall be responsible for making reproductions of CIMS recordings. It shall make two copies of any reproduction. One copy shall be logged into the evidence system following the Department's Evidence Policy and shall be maintained in a manner consistent with the Evidence Policy and with maintaining the chain of custody for evidentiary materials. The second copy shall be reproduced to the requesting party utilizing the procedure described in Section IV (D) below. The Technology Division shall document all requests for copies of CIMS recordings in the Camera Log.

D. Reproduction Request Procedures.

. 1. Authorized Department Requests (see Section IV (A) above):
By submitting a completed Video Request Form (available in the Technology Information folder on the "in-house" email system) to the

Technology Division (cc to the appropriate Department Division (*e.g.*, Detective, Traffic) or personnel for follow-up). Department personnel of the rank of Captain or higher may authorize disclosure of a copy of CIMS footage to any federal, state, or municipal law enforcement agency in connection with an open investigation.

2. Court-Related Requests (*e.g.*, Prosecutors, Defense Attorneys, Judges):
By submitting a completed Video Request Form to the appropriate Department court liaison (for the applicable court), who shall forward a copy to the Technology Division. The Technology Division shall send a copy of the requested reproduction to the court liaison, who shall send it to the requesting party.

3. Others (subpoena or public records requests by federal or state agencies, other municipalities, private individuals, or others):
Except in connection with an open investigation as set forth in Section IV(D)(1) above, by submitting a completed Video Request Form to the Department's Records Division, which Division shall process it in accordance with the Massachusetts Public Records Law and the Department's public records procedures, with responsibility for the reproduction falling to the Technology Division. As part of the public records review process with regard to any request for reproduction made under this Section IV (D)(3), Department personnel shall consult, as appropriate, with the Technology Division (who shall consult the Camera Log), any other relevant Department personnel, and Town Counsel to determine whether the requested footage or any portion of it is exempt from the Massachusetts Public Records Law.

V. RETENTION

The CIMS camera network includes video DVR server with a RAID 5 configuration, and video data is striped across four (4) hard drives. It has a thirty-day cycle that automatically overwrites the oldest day and it does not include any server for backing up data. Accordingly, unless otherwise required by the Evidence Policy, by court order, or by law, Brookline CIMS recordings shall be retained for a period of fourteen (14) days and shall then be automatically over-written.

All reproductions of footage within the custody of the Department shall be maintained in a secure environment and shall be destroyed at the conclusion of the retention period specified above.

VI. COMPLAINT PROCEDURE

A. External Complaints. Complaints other than from Department personnel relating to the Brookline CIMS shall be handled in accordance with the Brookline Police Department's Citizen's Complaint Policy and Procedure.

B. Internal Complaints. Any complaint from Department personnel relating to the Brookline CIMS shall be forwarded to the Office of Professional Responsibility and the Chief of Police.

VI. DISSEMINATION OF INFORMATION ABOUT THE BROOKLINE CIMS AND HANDLING OF INQUIRIES

A. Policy Dissemination. This Policy shall be posted on the website for the Town of Brookline (www.townofbrooklinemass.com) and a copy shall be provided upon request consistent with the Department's public record request procedures.

B. Inquiries.

1. General inquiries. In order to alleviate any and all confusion concerning the Brookline CIMS, when the Department receives inquiries from the general public concerning the operational status of the Brookline CIMS, or generally whether the CIMS made a recording and what it may have recorded, the following procedure shall be followed: the telephone call or walk-in shall be transferred or directed to the Commanding Officer (or Patrol Supervisor, in his/her absence), who shall courteously and respectfully inform the inquiring party, in substance, of the following:

   > "The Brookline Police Department's Critical Infrastructure Camera Monitoring System is fully operational at designated, strategic locations throughout the Town of Brookline. Depending upon the vantage point of the specific camera in question at a given time period, an image may have been captured and be available for dissemination."

2. Specific Recording / Footage Requests. If the telephone caller or walk-in has a specific request (date and time) for a recording in a designated area, a Video Request Form shall be either e-mailed to the person (as an attachment) or made available for pick up by the person at the Records Bureau and/or Front Desk.

Special Order 2009-1 – ATTACHMENT A

CIMS CAMERA LOCATIONS AND NORMAL OPERATIONS VIEWS

Camera Location:	Normal Operations View:
Brookline Ave & Aspinwall Ave	North –Facing Boston Hospital District
Beacon St & Carlton St	Eastbound Beacon St
Beacon St & St Paul St	Eastbound Beacon St
Beacon St & Harvard St	Eastbound Beacon St
Beacon St & Washington St	Eastbound Beacon St
Beacon St & Chestnut Hill Ave	Eastbound Beacon St
Boylston St & Hammond St	Eastbound Boylston St
Boylston St & Chestnut Hill Ave	Eastbound Boylston St
Boylston St & Sumner St	Eastbound Boylston St
Boylston St & Cypress St	Eastbound Boylston St
B.F.D.Station 1(140 Washington St)	Eastbound Boylston St
Longwood & St Paul St	East on Longwood Ave

Special Order 2009-1 – ATTACHMENT B

CERTIFICATION UNDER BROOKLINE POLICE DEPARTMENT SPECIAL ORDER 2009-1

(Re: BROOKLINE POLICE DEPARTMENT CRITICAL INFRASTRUCTURE CAMERA MONITORING SYSTEM ("CIMS"))

I, _____, certify that I have received a copy of and have read Special Order 2009-1, dated January 14, 2009, regarding the Brookline Police Department Critical Infrastructure Camera Monitoring System ("CIMS").

_____ Date:_____

(Name)

_____

(Signature)

_____

(Title)

XXX

ARTICLE 25

TWENTY-FIFTH ARTICLE

To see if the Town will adopt the following Resolution:

Resolution Opposing Police Surveillance Cameras from the Department of Homeland Security

WHEREAS the United States Constitution and the Massachusetts Declaration of Rights provide for a right to privacy which is undermined by increasing governmental intrusion into the privacy of citizens at all levels; and

WHEREAS we desire to live in a free and open society, not under the watchful eye of Big Brother spying on citizens in public spaces, characteristic of the Chinese government, the government of the former Soviet Union, South Africa under Apartheid, and other repressive societies; and

WHEREAS the Board of Selectmen, by a vote of 3-2, has approved the use of a police video camera surveillance system funded largely by the U.S. Department of Homeland Security (DHS) for a one-year trial period; and

WHEREAS these cameras will operate 24 hours per day, seven days a week, and will record activities in twelve public locations in Brookline, making digital recordings which can be stored and shared, with images available to law enforcement authorities in eight other neighboring towns, to the state police, and to DHS; and

WHEREAS the National Security Agency, under DHS, has engaged in extensive data mining about private citizens and created databases containing vast amounts of information, as has the Commonwealth Fusion Center created under Governor Romney, and DHS has promoted police camera surveillance systems as part of a massive infrastructure being created for government surveillance of our activities; and

WHEREAS the digital cameras have the capacity to pan, tilt and zoom in and observe the activities of residents engaged in lawful activities, for example, observing and recording what they are reading, the people with whom they are engaged in conversation, and peaceful political demonstrations; and

WHEREAS the creation of the infrastructure for government surveillance of the daily activities of the people, using, among other things, police cameras and government databases, poses a threat to our liberty substantially different from privately owned cameras in places of business; and

WHEREAS such police camera systems used for general surveillance purposes in Britain and other parts of the United States have been studied thoroughly and scientifically, thus making a trial period unnecessary and a waste of time and taxpayer dollars; and

WHEREAS studies uniformly show that such government camera systems are not effective at preventing or solving crime or preventing terrorism; and

WHEREAS studies also show that alternative measures, like improved lighting and community policing, can reduce all types of crime by about twenty percent, and are a better investment of our limited resources; and

WHEREAS the purposes of the Brookline police surveillance camera system have been described in varying and confusing ways and without evidence to demonstrate that those purposes can be achieved by the cameras, and residents are skeptical of the asserted primary purpose – aiding in evacuations from Boston – because the police are aware of intersections which are grid-locked every day but are unable to provide relief; and

WHEREAS the digital images captured by the DHS-funded police cameras will generally be available to anyone who requests copies under the Commonwealth's public records law and can be distributed further without any restrictions; and

WHEREAS no significant benefit has been demonstrated that would outweigh the intrusion on personal freedom and privacy; and

WHEREAS in this time of economic crisis, there is concern about the considerable costs of this system not covered by DHS, including many hours of labor by police officers and other Town employees maintaining the required records, training personnel, and setting up, maintaining, and repairing the cameras, computers, monitors, software and related equipment; and

WHEREAS experience with general police surveillance cameras elsewhere (especially in Britain) strongly suggests that keeping such a system small and limited is unlikely, due to demands for expansion and increased monitoring, and other government agency requests for data sharing; and

WHEREAS the Cambridge City Council voted 9-0 in January 2009 to reject the use of a similar DHS-funded surveillance camera system;

NOW, THEREFORE BE IT RESOLVED:

that Town Meeting urges the Board of Selectmen to immediately terminate the trial period and order the removal of the general police surveillance cameras funded by the Department of Homeland Security,

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

"[*T*]*he privacy and dignity of our citizens* [*are*] *being whittled away by sometimes imperceptible steps. Taken individually, each step may be of little consequence. But when viewed as a whole, there begins to emerge a society quite unlike any we have seen...*" - U.S. Supreme Court Justice William O. Douglas

In January, 2009, by a 3-2 vote, the Board of Selectmen narrowly approved a proposal by the Chief of Police to allow the installation and operation of general surveillance cameras, funded by the Bush Administration's U.S. Department of Homeland Security (DHS), in twelve locations in Brookline, for the stated primary purpose of aiding in "evacuations" from Boston. Because of considerable public opposition, the three-member majority of the Board added the stipulation that the issue be brought to Town Meeting. The majority also restricted the operation of the system to a one-year trial period and created an oversight committee to study the operation during the trial period.

Shortly thereafter, the Cambridge City Council voted unanimously, 9-0, to oppose the installation of similar DHS-funded cameras in that city, in part because public safety officials already knew where traffic logjams would occur and because "the potential threats to invasion of privacy and individual civil liberties outweigh the current benefits [of the cameras] – which do not seem significant in improving public safety."

This petition calls on Town Meeting to put Brookline on record as joining with Cambridge and expressing its opposition to the use of general police surveillance cameras in our public spaces (**not** those used for investigation of specific crimes or in highly sensitive locations), and to reject the one-year trial use of the camera system. There is no evidence to support use of the cameras even for a one-year period, or to justify the expenditure of Town funds for aspects of the program not funded by DHS, such as police officer and Town Hall staff time. Nor can a one-year trial period without valid scientific review provide the same degree of evaluation that has been carried out elsewhere. Furthermore, the one-year trial period will be unable to measure the incremental damage to a free society in which residents expect not to be watched by the police as they go about their daily business. Brookline should go on record as being opposed to the development of a government surveillance infrastructure throughout the U.S. with hundreds of millions of dollars spent by DHS on public surveillance systems helping to create a digital database for federal, state, and local authorities.

<u>The purposes are unclear and provide no justification for the cameras</u> – After months of debate, Town officials have not provided a coherent or consistent justification for the surveillance system. While the cameras were initially proposed primarily as a means of aiding emergency "*evacuations*," when this justification was questioned as at odds with common sense, other justifications were given, e.g., as a deterrent to crime or assistance in criminal investigations. However, the police have acknowledged that the purpose of the surveillance cameras is not primarily to fight crime.

<u>There is no evidence that the camera system will achieve valid purposes</u> – The use of general police surveillance camera systems has been thoroughly studied and has been shown not to be effective in preventing crime, solving crimes, or deterring terrorism. While there may be

anecdotes about the benefits of such cameras, the evidence does not support their effectiveness.

Indeed, any hypothetical benefit is vastly outweighed by the specter of living in a society where the government(s), local or national, are watching all our public actions. At the same time, studies have shown that measures like improved lighting can reduce all types of crime - including violent crime - by 20% or more. Good community policing is also effective at preventing crime.

A free society is one in which police do not follow and track our movements in public places – Brookline is a free and open community, in which no citizen should feel that he or she is being watched by a government Big Brother. The operation of 24/7 surveillance cameras is a step in the wrong direction, toward radically changing our sense of being a free society. To those who say that what we do in public places is not protected by a right to privacy, we urge consideration of general principles that we have long held dear in the U.S.: that we are not and should not become a society in which the police watch our every move in public and in which technology will enable the police to use cameras to identify us by facial recognition and to track our movements, creating digital databases with information about where we are going and with whom we are associating. While public places may not, in a technical *legal* sense, be places where we have an "expectation of privacy," the right to be let alone and not identified or tracked by the police is a fundamental aspect of a free society. And while the Chief of Police and the Selectmen have imposed limits on the use of the cameras, the digital data created is available to other government agencies as well as to the public under the state public records law. Moreover, as advancing technology increases the capabilities of camera systems, "mission creep" is bound to occur.

The camera system is not "free" of costs to the Town – The offer of "free equipment" is highly misleading. Even with the initial purchase of cameras "wholly funded" by Homeland Security in the first year, and DHS paying $15,000 for the first year of maintenance, this figure grossly underestimates the actual cost to the Town, given all the components in the system requiring maintenance, including the cameras themselves; the wireless link to Brookline headquarters; the computers and monitors that the video appears on; the software to administer, control and manage the camera system; the recording equipment; the computer equipment and supplies to make permanent copies on CD of the images for public information requests; and the network link to Boston central headquarters.

In addition, we know already that police officers are spending considerable amounts of time, paid for by Brookline, for training personnel and testing equipment and the entire operation of the system, and the Town will be paying for monitoring of the cameras and operating costs for continued upgrading, replacement and installation of any of the above components. At a time when the Town faces budget shortfalls and possible cuts to vital services, the surveillance system is **not only an erosion of our freedom, it is one we cannot afford.**

SELECTMEN'S RECOMMENDATION

The Board of Selectmen will prepare a Report on both Article 24 and 25 that will be included in the Supplemental Mailing to be sent to Town Meeting Members prior to the commencement of Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 25 asks Town Meeting to urge the Board of Selectmen to terminate the Town's surveillance camera system's current 12-month trial program and to remove the cameras from their 12 installation sites.

See Background for Article 24

DISCUSSION:
See Discussion for Article 24

RECOMMENDATION:
By a vote of 13-8-1, the Advisory Committee recommends NO ACTION on Article 25.

XXX

ARTICLE 25

To: Town Meeting Members
Subject: Article 25, Resolution to terminate one-year trial of surveillance cameras
From: Sarah Wunsch, principal petitioner, and Frank Farlow, co-chair of Brookline PAX

Following is detailed information concerning three aspects of the camera issue: effectiveness in preventing crime, inevitable "mission creep" and cost.

EFFECTIVENESS IN PREVENTING CRIME

Assessing the impact of CCTV (closed-circuit TV, Britain's terminology for video surveillance systems) is a professional, 175-page study published in 2005 by the Research, Development and Statistics Directorate of the British Home Office, the mission of which is "to provide the public and Parliament with information necessary for informed debate." (Study available online at http://www.homeoffice.gov.uk/rds/pdfs05/hors292.pdf)

The foreword states: "No previous research has examined in such detail the issues faced in ensuring effective operation of CCTV systems. The authors have undertaken a painstaking analysis of the effectiveness of systems, both with respect to the impact on crime as recorded by the police and wider measures …" (p. 3)

The main objective of the study was "to measure the impact of the CCTV projects on crime and fear of crime." Of the thirteen representative systems evaluated, with as many as 600 video cameras, "only two showed a statistically significant [crime] reduction relative to the control, and in one of these cases the change could be explained by the presence of confounding variables. Crime increased in seven areas …" (p. 8)

The report points out that in a separate meta-analysis conducted in 2002, of the eighteen studies included, half showed a desirable effect and half did not. (p. 20) The Home Office study concludes that "the review of previous work does not offer conclusive evidence that CCTV on its own impacts positively on crime levels." (p. 20)
In the twelve areas where public attitudes were surveyed, citizens who were aware of the local presence of cameras actually worried *more* about becoming a victim of crime than those who were not. In residential areas, the percentage of those who perceived the impact of CCTV to be positive decreased following its installation in all the areas surveyed." (p. 11)

In February, the Constitution Committee of Britain's House of Lords (akin to our Senate) concluded that the widespread use of surveillance cameras constitutes a "serious threat" to historic rights to privacy and civil liberties, ("Lords Committee Seeks Dramatic Reduction of Intrusion into Private Life," *The Independent*, 2/6/09)

FUTURE MISSION CREEP

Proponents who initially recommend a certain quantity and quality of equipment for a program of this sort will inevitably return later to recommend more, and better. The denial of such future requests to broaden the mission will be as difficult then as denying the proposal before you is today. It's estimated that Britain, which at one point, like Brookline, had only a few cameras, now has one for every thirteen citizens.

There will be various kinds of impetus for future requests:

- to increase tracking capability – obtain more cameras, and cameras with greater resolving power, to track offenders as they move from one area to another – ultimately, to keep them continuously in view. (According to the UK report, "the main objective of urban centre systems was to track offenders.") More – and better – cameras.
- to increase analytic capability – acquire computer programs currently available or under development that increase the capability of the system, e.g., by providing image enhancement, or automatic identification of suspects through correlation of their images with previously established dossiers of biometric or other data. Each program necessitates more extensive training of police and others. More-intrusive accessory computer programs.
- to foil "crime displacement" – The Home Office study points out that "[t]he danger in covering only hotspot areas is displacement of crime" into other nearby areas. The more serious the crime (i.e., the greater the penalty for apprehension), the more a potential criminal will be motivated to avoid known surveillance areas and move into nearby unsurveiled ones. More cameras.
- to increase live monitoring – According to the UK study, "Control room studies found that only 26 percent of incidents were prompted by outside agencies such as police contacts … while [live monitors] themselves identified 74 percent of incidents." The current trial is said to involve, for the most part, "passive monitoring," i.e., intermittent checking of the monitors. Over time, pressure will rise to expand live monitoring. Next will come two-way communica-tion between live monitors and patrol officers: "*We rely on the radios. They're our eyes and ears, really, to find out what's going on. It would be better if we could talk to police on the radio as well. We can watch them on the screen missing the right person, because we cannot communicate with them at the time..."* Clearly, if an objective is to direct police to incidents, then two-way communication is a prerequisite. More personnel assigned to live monitoring.

COST

Town Meeting Members are distinctly handicapped by having been furnished merely a rough estimate of the equipment maintenance portion of the total budget for the initial year of the public surveillance program. The Advisory Committee, our financial watchdog, possessed not even a rudimentary accounting of the dollar value of Police Department and Town Hall personnel time and other resources that have already been committed to this program as well as those that will be required going forward for its continuing implementation.

Such an accounting would not have been difficult to prepare. Of the following partial list of 25 expense items, which we provided to the selectmen six months ago, a strong majority have been taken directly from Chief O'Leary's undated "Draft Special Order VCMS," which details the wide range of activities that the proposal will entail within the Police Department.

Equipment-related

- daily equipment inspection
- future repair, replacement and installation

Records

- maintaining records of and responding to requests from other communities to view real-time images or archival footage and, in reverse, making such requests and tracking responses
- tracking the chain of custody of recordings and reproductions of footage obtained from other communities and state or federal agencies
- maintenance, storage and tracking of the "Daily Recording" from the cameras
- daily maintenance of the camera inventory log by the Technology Division
- establishment and administration of user names, passwords and Operation Access Codes for all police officers and dispatchers
- tracking the periods of employment of mobile cameras when used to supplement the "take" from the DHS cameras
- maintaining records of daily equipment inspections
- ensuring the chain of custody of recordings and reproductions of video footage for evidentiary purposes in civil and criminal court actions

Activities

<u>Police Dept</u>

- policy development and periodic review
- continuing multi-faceted training and updating of current and new personnel
- frequent discussion throughout the police department of implementation details and updates
- collaborative communication with fellow Metro-Boston Homeland Security Region communities
- live ("real time") monitoring of the displays in the Dispatch Area, the Emergency Operations Center, the Detective Division and the office of the Commanding Officer
- daily checking of all "preferred camera views"
- ongoing research and review of potential software and hardware acquisitions and upgrades (e.g., automatic identification or automated tracking programs)
- preparation and presentation of system-related grant proposals and budget requests

<u>Town Hall</u>

- surveillance-related work performed by Town administrators and personnel, Police officers and others in staffing the Board of Selectmen and other Town agencies such

as the Selectmen's Surveillance Oversight Committee

• surveillance-related work performed by the office of Town Counsel (including defense against – let alone settling – citizen suits) and by Finance Department employees

• surveillance-related work performed by the office of Town Counsel (including defense against – let alone settling – citizen suits) and by Finance Department employees

• legal work by Town Counsel in preparing the Town's defense against (let alone settling) any surveillance-related citizen suits

Miscellaneous

• use of office space for system components and operators who would otherwise be available for alternative uses

• compensation of past and future outside consultants

XXX

ARTICLE 26

TWENTY-SIXTH ARTICLE

To see if the Town will adopt the following resolution:

Resolution Calling for the Adoption of a Pay As You Throw (PAYT) Municipal Waste System

Whereas, the Town of Brookline has not yet met Commonwealth of Massachusetts's established a goal of 70% waste reduction and recycling by 2010; and

Whereas, research conducted by The United States Environmental Protection Agency and the Massachusetts Department of Environmental Protection since 1980 has demonstrated that PAYT systems lead to significant reductions in solid waste and increases in recycling; and

Whereas, PAYT systems bring equity to solid waste disposal, while Brookline's current system requires residents who generate a small amount of waste to subsidize the greater generation rates of their neighbors; and

Whereas, PAYT creates an economic incentive for residents to generate less waste and recycle more, because the PAYT consumer is charged for the level of service required; and

Whereas, upon review of multiple municipal waste systems, the Selectmen's study committee has concluded that PAYT is the most efficient and fair way to reduce solid waste and increase recycling in Brookline.

Now, therefore, be it resolved that the Board of Selectmen of the Town of Brookline should adopt a two-tiered PAYT program consisting of a yearly refuse disposal fee and a charge for town approved trash bags, with the yearly fee accounting for the Town's fixed costs and the price per bag reflecting the actual disposal (or "tipping") costs.

Therefore, be it further resolved that the Board of Selectmen of the Town of Brookline institute a separate, modest fee for the collection and disposal of bulky items including but not limited to large furniture and household appliances which would reflect the actual cost to the Town of removing such items.

Therefore, be it further resolved that the Board of Selectmen of the Town of Brookline should adopt a PAYT program by the end of the 2009 calendar year.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Brookline's Solid Waste History

Brookline began its municipal solid waste program in 1921 and paid for it with property taxes. Trash disposal, necessary for health and aesthetic reasons, was a very small municipal expense. Costs were low. But, as the population grew, the landfill reached capacity, the

incinerator was closed, and the trash tonnage, collection costs, and disposal costs continued to rise, the Town had to consider other options. In 1989, refuse disposal costs went from $18 per ton to $75 per ton which represented a 300% increase. Brookline instituted a "refuse fee" of $150 per household per year with the intention to cover approximately 70% of the costs of collection and disposal. In 1992, recognizing that the "flat fee is not a fair system," the Advisory Committee urged "the Selectmen and the Solid Waste Advisory Committee to pursue the 'pay per bag' or other alternative programs in which the fee will reflect usage."

The fee per household is the same regardless of differences in the amount of waste generated. Residents who recycle faithfully and throw out little and residents who use private haulers subsidize those who recycle little and generate greater amounts of trash. With the current system there is no economic incentive for residents to reduce solid waste and increase recycling.

The refuse fee was increased to $200 in 2007.

Selectmen's Study Committee

In June 2008, the Brookline Board of Selectmen, in discussion with the Brookline Solid Waste Advisory Committee, assembled an eleven member committee to study ways to decrease solid waste and increase recycling in Brookline. The committee researched waste disposal and recycling methods including bag-based Pay As You Throw, weight-based PAYT, single stream recycling, yard waste composting, semi-automatic collection, automatic collection, curbside collection of organics, as well as the idea of increased enforcement of the Town's current recycling requirement. In January 2009, the committee recommended to the Board of Selectmen that the Town adopt a bag-based PAYT system.

Pay-As-You-Throw (PAYT) is the popular name for what the waste disposal industry also calls unit pricing or variable-rate waste management. PAYT is a market-based approach to deal with the issues of waste generation rates, rising disposal costs, the environmental problems of transporting and incinerating waste, and state and federal waste prevention and recycling goals. Unit pricing takes into account variations in waste generation rates by charging residents based on the amount of trash they place at the curb. It offers individuals an incentive to reduce the amount of waste they generate and leave for disposal. Residents who throw away more pay more. Most PAYT programs charge residents a yearly flat fee for trash collection. That pays for the staff, the equipment, the fuel, and the administrative costs. Above that basic fee, residents then pay for every bag or barrel that they place at the curb. That covers the trash disposal costs.

129 of the 351 Massachusetts cities and towns have pay-as-you-throw programs In 2007 the EPA reported that PAYT programs were available in about 25 percent of communities in the United States, covering nearly 75 million residents. Five states have more than 75 percent of communities with PAYT. Thirty of the 100 largest cities in the United States are using PAYT.

Potential benefits of PAYT:

Waste reduction: The United States Environmental Protection Agency and the Massachusetts Department of Environmental Protection have been tracking the thousands of communities that have been using unit pricing since the 1980s. The evidence is that pay-as-

you-throw programs lead to reductions in solid waste. For example, about 73% of the Town of Natick's curbside collection was solid waste before PAYT. After PAYT was instituted, solid waste went down to 59% of curbside collection. The nearby communities of Milton and Needham have PAYT. In 2008, they reduced the percentage of trash collected at curbside to 48% and 31% respectively. Brookline's percentage at curbside is 70%.

Reduced waste disposal costs: When the amount of waste is reduced the amount spent on disposal is reduced. Brookline currently pays $82 for every ton of waste sent to the incinerator. By cutting waste disposal by 341 tons between July 1, 2008 and December 31, 2008, Brookline saved $28,000.

Increased waste prevention: To take advantage of the potential savings that unit pricing offers residents typically modify their traditional purchasing and consumption patterns to reduce the amount of waste they place at the curb. These behavioral changes have beneficial environmental effects that include reduced energy use and materials conservation. At the same time more manufacturers are reducing bulky packaging in response to market and environmental demands.

Increased recycling and composting: Experience has shown that recycling rates go up when pay-as-you-throw programs are instituted. Brookline's recycling rates are not as high as those of comparable communities. They are not even close to nearby communities that have instituted unit pricing. For example, Brookline's recycling rate has leveled at about 30% (according to state numbers) while nearby PAYT communities such as Milton (52%) and Needham (69%) are edging toward the state goal of 70%.

Consistency in budgeting: An important part of PAYT in Brookline would be that the Board of Selectmen would set the yearly fee and the bag prices based on the real expenses of collection and disposal over the five-year length of the contract. Setting the rates over that length of time would bring consistency to the solid waste budget.

Support of town, state, and federal goals: Again, though Brookline's recycling rates are good they do not meet the goals for recycling set by the Commonwealth (70% by 2010), nor do they meet the high expectations we have as a town and a nation.

More equitable waste management fee structure: Our refuse disposal fee, in effect, requires residents who generate a small amount of waste to subsidize the greater generation rates of their neighbors. Because the customer with pay-as-you-throw is charged for the level of service required, residents have more control over the amount of money they pay for waste disposal. If we do not adjust solid waste costs, property owners who subscribe to private haulers will increasingly subsidize the municipal program through their property taxes.

Increased understanding of environmental imperatives: Through unit pricing, Brookline has the opportunity to explain the environmental costs of waste management. As Brookline residents understand their impact on the environment, they can take more steps to minimize them. With the increased concern about climate change and the Town's climate change goals, there is a strong argument to reduce solid waste and increase recycling. There is a direct correlation between the amount of solid waste collected, transported, and disposed of and the amount of carbon and toxic emissions released into the atmosphere.

Proposed Model:
The Selectmen's committee recommended initiating a revenue-neutral, multi-tiered pay-as-you-throw program. Such a program would offer economic and environmental incentives and bring some equity to solid waste fees. Households would have an economic incentive to reduce their solid waste. They would have an environmental incentive to recycle more. As for equity, the households that generate little trash would no longer subsidize households that generate larger amounts of trash. Every household would pay its fair share.

Under such a system, each household subscribing to municipal service would be charged a flat annual fee to cover collection costs. Residents would then purchase specially-marked trash bags to be picked up at curbside. The bags, available at local retailers, would pay for disposal costs. There would be a separate charge for bulky items such as refrigerators and couches. There would be no additional charge for recyclables and yard waste.

The committee recommended a trash collection fee somewhere in a range of $150 - $170/unit/year and two sizes of bags: a 15-gallon bag costing in the range of $.70 - $.80 (capable of holding about 12 lbs of trash) and a 30-gallon bag costing in the range of $1.40 - $1.60 (capable of holding about 25 lbs of trash). Charges for bulky items and white goods would reflect their collection and disposal costs - $5 to $20.

For example, if the collection fee was set at $160, a household that threw out one small trash bag per week would pay $160 (annual collection fee) plus $39 ($.75 per bag x 52 weeks). That would be a total of $199 per year. A household that threw out a large bag every week would pay $160 (annual collection fee) plus $78 ($1.50 per bag x 52 weeks). That would be $238 per year. If the resident threw out a convertible couch or a refrigerator, he or she would have to pay an additional $5 to $20 per item.

The trash collection fee would pay for the costs of collecting trash. Those costs include staffing the trucks, maintaining the fleet, buying fuel, contracting for recycling and composting, and administering the operations. Even if solid waste is reduced, the Town must still send personnel and trucks along their respective routes. The disposal fee covered by bag purchases would pay for taking the trash from Brookline's transfer station to the incinerator and having it burned. The fewer bags sent to the incinerator, the lower the disposal costs.

Resolution
The resolution offered above would call on the Board of Selectmen to adopt the PAYT model proposed by the study committee, with the precise fee levels and bag prices to be determined by the Board, in consultation with the Department of Public Works.

SELECTMEN'S RECOMMENDATION

The Board of Selectmen did not take a vote on Article 26 prior to the publication of these Combined Reports. A recommendation will be included in a Supplemental mailing prior to the commencement of Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND

Article 26 is a resolution which was placed on the warrant at the request of the Pay As You Throw Study Committee. In June 2008, the Brookline Board of Selectmen, in discussion with the Brookline Solid Waste Advisory Committee, assembled a committee to study whether instituting a pay-as-you-throw (PAYT) waste disposal program would be environmentally, economically, and equitably viable for Brookline. The PAYT Committee began its work in July 2008. Its work culminated in the resolution before us.

The resolution urges the Selectmen to:

1. Adopt a two tier payment program for refuse; tier 1 would be a yearly flat fee to cover the fixed costs of the town's refuse handling program including the costs of administration and recycling. Tier 2 would be a per bag charge for town approved bags which would cover the variable costs of the program including the fees paid for tonnage of solid waste hauled out of town.
2. Institute a fee based system for pick up of large items such as refrigerators and air conditioners.

According to the resolution, this new system of charging for refuse collection should be implemented by the end of the 2009 calendar year.

Stated a bit differently, the resolution urges the Selectmen to:

(1) Adopt of new policy which changes the way the town charges for refuse pick to more of a utility model whereby those who generate more trash pay more (as opposed the flat fee currently charged whereby household generating little refuse are subsidizing those who generate a lot of refuse) and;
(2) Implement a specific solution, out of a number of options studied by the committee, consisting of trash pickup that is placed in town approved bags sold by merchants.

While a resolution does not change any laws or require any specific action by the Selectmen or the Town, passage of this resolution will indicate Town Meeting's agreement with the proposed change of policy and the specific solution advocated by the resolution. The Selectman will surely take the results of a Town Meeting vote on this resolution into consideration in determining whether to implement a change of policy.

In the early 1990's, a similar proposal to move to a PAYT system was defeated in Town Meeting.

THE PROPOSAL

Brookline now charges a flat $200 per household for town refuse pick-up of which about 50% of town households use. The PAYT committee suggests lowering the refuse fee to about $150-170 per household would pay for administration costs, recycling & yard waste. The resident would then pay by the bag for the variable disposal costs which at present are $82 per ton. The PAYT Committee proposes 2 sizes for the Town-approved bags: a 15-gallon bag would cost approximately 70-80 cents and a 30 -gallon bag would cost about $1.40-$1.60. The bags would be available in at least ten retail stores in Brookline in units of ten and at cost. PAYT bags are not subject to sales tax. The bag price would be set for the term of the disposal contract and take into account any escalator clauses.

As expenses go up (or go down) in succeeding years, the flat fee and the bag costs would be adjusted accordingly in much the same way that water fees are set to reflect yearly costs.
Brookline currently does not charge for disposing of large, bulky items such as refrigerators, air conditioners and large furniture. The PAYT Committee recommends a small fee in the $5 to $20 range, depending on the item, to reflect the actual cost of disposal of these items. As an example, in FY 2008 the Town spent approx. $10,000 to pick up refrigerant goods (requiring the draining & disposal of Freon).

The PAYT Committee states that the PAYT program is intended to be revenue neutral in the aggregate. Using rates at the average proposed by the PAYT committee, a household generating about one (1) 15 gallon bag of refuse a week will pay about the same as they are paying now.

According to the PAYT report, the Mass. Department of Environmental Protection (DEP) would grant the town $4 per household to cover start up education and outreach efforts for the switchover.

DISCUSSION

Everyone agrees that an increase in recycling would be a good thing, better for the environment and better for the town economically by reducing trash disposal costs. What's at issue is whether implementation of PAYT is a reasonable and optimal next step for Brookline to take in pursuit of this objective.

Proponents of PAYT point to studies on the federal and state levels that find PAYT to be the most effective means for a community to increase its recycling rate. The experience in the 124 Massachusetts municipalities that have adopted some form of PAYT is that recycling rates have increased as a result. They assert that by charging residents for each bag of non-recyclables discarded, the town will heighten awareness of the true cost of waste disposal and provide a financial incentive for greater recycling. They also claim that this system would be more equitable, treating waste disposal service like a utility for which one should pay according to usage, thereby eliminating cases where those who generate less trash subsidize those who produce more, as happens under the present flat fee system.

PAYT proponents mentioned a recent small study in which members of the PAYT Study Committee examined the trash discarded from nine single- and two-family homes in Brookline's Point neighborhood and found that although the recycle rate matched the town's overall rate of 44%, (misstated in the written PAYT Study Committee Report as 30%) which

is worth a grade of "B" according to PAYT proponents, they found enough recyclable material included with the ordinary trash such that had it also been recycled, the rate would have increased to 58%, from which they infer that the town as a whole could do a lot better and get an "A" grade. This would come closer to the state DEP's recycling target which the PAYT report claims is 70% (although the DEP's own website specifies their 2010 recycling goal at a much lower 56%-- see http://www.mass.gov/dep/recycle/priorities/06swsumm.htm).

While highly appreciative of the good intentions and hard work performed by the PAYT committee, many Advisory Committee members were not convinced that PAYT is right for Brookline at this time. Questions raised included:

• In a highly educated, fairly affluent community like Brookline that already recycles at a high rate, wouldn't making recycling easier, by going to single-stream (which is coming in a year or so) and providing large, lidded recycling barrels, be more effective than imposing a relatively small per bag fee?

• Have residents expressed any concerns whatsoever about "subsidizing" those, such as large families and those using disposable diapers, who produce more trash?

• Should we be providing an incentive for some residents to hoard trash in order to avoid a PAYT fee? Isn't community sanitation an essential municipal function like public education, rather than a pay-for-service utility?

• A per-bag fee basically charges for trash disposal based on volume, whereas town disposal costs are based on weight. Does this make sense from a budgeting perspective?

• Is it fair that since trash compactors would allow some residents to reduce trash costs without reducing trash tonnage, they would in effect be subsidized by those without compactors?

• Would the town have to hire a new staff person to oversee PAYT implementation and compliance, especially in neighborhoods with multi-family rental property?

• Implementing PAYT would constitute a major change in the town's municipal culture. What evidence is there that residents want, would accept, or even know about this proposed change?

• Isn't considerably more extensive outreach, civic involvement and feedback -- an important part of Brookline's tradition -- necessary before endorsing such a change?

It was pointed out that four of the top five Greater Boston area recycling communities (Lexington, Wellesley, Hingham, Wayland) do quite well without PAYT, and that they all have two advantages that Brookline lacks and that PAYT cannot provide: (1) much higher yard waste tonnage (Brookline is much more urban with smaller house lots, fewer trees, and less greenspace) and (2) much higher owner occupancy and many fewer young, transient tenants (a notoriously poor recycling demographic).

If it were possible for Brookline to have the per-capita yard waste tonnage of, say,

leafier Lexington, the town's recycling rate would be at 57%, above the actual 56% DEP target. This implies a high degree of recycling compliance -- an "A" grade -- among most town residents, aside from the relatively large, recalcitrant transient tenant population. The PAYT committee's small, unscientific trash analysis sample drawn from a single town neighborhood does not prove otherwise.

Inasmuch as landlords bear legal responsibility for weekly trash removal, PAYT offers no incentive for tenants to change their current non-recycling habits and to purchase and place weekly trash in expensive PAYT bags. Problems with having trash placed anonymously in unapproved bags that would remain uncollected at the curb, possibly in front of other people's property, were anticipated, especially in urban North Brookline.

Outreach and education is needed to get more recycling from this problem population; there's no reason to expect improvement from PAYT. Since large numbers of owner-occupants appear to recycle enthusiastically without PAYT and transient tenants who don't recycle wouldn't be affected by PAYT, it's not clear that PAYT would cause any significant increase in town recycling.

RECOMMENDATION

The Advisory Committee believes that the case for implementing PAYT has yet to be made, that the arguments for doing so in the PAYT Study Committee report are not adequately documented, especially with regard to Brookline's demographics and current recycling performance, and that the report does not deal appropriately with various serious public concerns regarding PAYT, some of which are mentioned above. At this time, the town should take steps to make recycling more convenient (such as single-stream) and renew efforts at outreach and education to promote townwide the importance of recycling.

By a vote of 14 in favor, 5 opposed, and 1 abstention, the Advisory Committee recommends NO ACTION under Article 26.

Amendments Proposed by Roger Blood, TMM-Precinct 13

Amendment #1

DELETE the second of the Resolution's three "resolved" paragraphs which presently reads:

"Therefore, be it further resolved that the Board of Selectmen of the Town of Brookline institute a separate modest fee for the collection and disposal of bulky items, including but not limited to larger furniture and household appliances which would reflect the actual cost to the Town of removing such items."

EXPLANATION

This amendment would remove the stand-alone provision of the Resolution that would levy a new per-item fee under a "modest" fee schedule for all items that will not fit in a purchased

Town-approved trash bag. The Department of Public Works (DPW) has always provided this service—efficiently and without any per-item charges—as part of our fixed annual trash fee.

Rate-payers would be charged $5 to $25 each for items weighing more than 20 pounds. They will be required to determine from the Town in advance what is the applicable item-based charge. Items weighing less than 20 pounds would be picked up only if the rate-payer affixes a Town-approved trash bag to the item (and if the paid-for bag remains affixed to the item until the refuse crew arrives for pickup). Both the rate-payer and the refuse collection person would be responsible for determining that any such items in fact weigh less than 20-pounds.

It is notable that the City of Malden is cited by proponents as a PAYT "best practices" success story. Yet, Malden's detailed "Do's and Don'ts" report on their PAYT experience says 'Don't adopt a charge-per-item add-on to your pay-per-bag" program'.
This per-item charge component of PAYT Resolution should be deleted because:

1. Per-item charging <u>does not relate to PAYT's main goal</u> for households to put less waste in refuse bags and more in recycling bins. These larger items are not collectable under the Town's recycling program. Proponents' claim that item-based charging will cause households to reduce substantially their overall purchase, use, and discarding of non-baggable items is questionable. Further, the assertion that we should/will make greater use of alternatives such as Craig's list, Goodwill donations, etc. is unrealistic. (This is in contrast to proponents' documentation of likely behavior change with respect to the "trash bag vs. recycle bin" core piece of their proposal, which seems persuasive).

2. Unlike the "bag vs. bin" piece of the proposal—which involves an all-inclusive contract with an outside bag service provider—the pay-per-item component requires <u>considerable transaction-based accounting and administration by the Town's DPW</u>. Per-item charging will add significant cost to DPW operations—and therefore to rate-payers. For example, if rate-paying households were to discard an average of only four chargeable items (those weighing over 20 pounds) per year, that would translate into over 50,000 separate transactions and added DPW costs likely to exceed $100,000:

Number of rate-paying households	13,200
Total no. of items / transactions per year (one item per household every 3 mos.)	52,800
DPW cost per transaction (10-15 min. per transaction, printing, postage, accounting)	Approx. $2
Total administrative cost to DPW per year (in add'n to collection, disposition, hazmats)	$105,600

. . . and rate-payers themselves would have to pay $5 to $25 per item that they do not pay now. (Proponents suggest possible administrative cost savings via use of stickers or on-line services, etc. Notwithstanding, this DPW-administered charge-per-item idea still

fails to pass any rudimentary cost-benefit test. Furthermore, there has been no proper analysis.)

3. Per-item charging is offered as a way to reduce the problem and cost of student curbside dumping of large items in North Brookline. The more likely—even obvious—outcome will be a dirtier, more congested North Brookline, because undocumented and inadequately documented large items at curbside will simply not be picked up—or removed only after significant delays. No enforcement mechanism will change this predictable outcome. The owners of discarded bulky items and "responsible" property owners will be hard to identify.

4. Special attention is warranted with regard to bulky items that also contain hazardous waste (e.g., refrigerators, air conditioners, computer monitors). Should a per-item charge be levied for only these items? Removing hazardous waste from such collected items does entail added per-item cost for the Town, which arguably should be directly assessed to each rate-payer. However, unlike the nominal per-item charge applicable to bagged waste, these bulky items containing hazardous materials are proposed to carry per-item fees of $20+ each. This much higher charge translates into a greater incentive to avoid the charge, i.e., a greater likelihood that such items will improperly disposed of. Accordingly, a strong environmental argument can be made to NOT charge for such items in order to positively incentivize their proper disposal, including removal of their hazardous wastes by the Town.

5. Proponents assert that it would be unfair to impose a pay-per-bag charge on one household while at the same time imposing no charge on a neighboring household who discards, say, a junk chair. But this is not unfair because, without a pay-per-item obligation, all households are subject to the same charges for their bagged solid waste and all households would continue to have larger (non-recyclable) items picked up "for free"—i.e., covered by their fixed annual fee, as now.

Most persons, on reflection, should conclude that the charge-per-item component of the PAYT proposal is inefficient, costly, and unfair—with little or no demonstrated environmental benefit—as compared to our current method of operation. The basic goals of PAYT may be reached without any Town-administered charge-per-item component.

Amendment #2
ADD the following provision:

"Therefore, be it further resolved that the Board of Selectmen under its existing legal authority shall establish and, from time to time revise, the two-tiered PAYT fee structure to take account of changes in the cost of municipal waste collection and disposal. The PAYT fee structure and budgeted fee income shall be formulated so as to cover only Department of Public Works (DPW) costs that are attributable to its provision of waste collection and disposition services to PAYT rate payers."

EXPLANATION

Under the PAYT's proposed two-tiered fee structure, residents would continue to pay a slightly reduced annual fee, augmented by a per-bag charge.

The PAYT Study Committee Report and various Committee member presentations have characterized the proposed PAYT two-tiered fee structure as "revenue neutral". In fact, the Committee's plan would increase total per-household charges by an amount greater than what is needed to cover projected cost increases. None of the program's stated goals, and none of the main Resolution's five "Whereas" provisions, requires such a revenue-raising component. All stated PAYT goals and Resolution provisions may be addressed by adding a variable per-bag charge to the fixed fee component without also increasing overall per-household charges more than the amount of projected cost increases to the Town.

The existing fixed annual fee arrangement never sought to achieve "full cost recovery" of the DPW's entire municipal waste operation. There is no reason why PAYT fees charged to rate-paying households should cover any costs that are attributable to municipal waste collection and disposal services used by other, non-rate-paying entities, including the Town itself and the Public Schools. In fact such a cost misallocation may run counter to the PAYT program's stated goals. This amendment seeks to correct this flaw in the current proposal.

Furthermore, by restricting the PAYT fee calculation to include only directly-related DPW costs of providing waste collection and disposition services to rate-payers, this amendment will assure that the new PAYT two-tiered fee structure is transparent and free of "creative accounting".

This amendment will not impede achievement of the PAYT program's stated environmental goals.

XXX

ARTICLE 26

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The result of the work of the Selectmen's committee established to study ways to decrease solid waste and increase recycling in Brookline, Article 26 is a proposed resolution directing the Board of Selectmen to adopt a "Pay As You Throw" (PAYT) refuse program. Brookline is proud of its history of environmental awareness and activism and continues to strive to increase the amount of waste recycled. Since PAYT is a well-established and successful program throughout the Commonwealth, the Committee spent much time reviewing the program and its pros and cons for Brookline, in addition to exploring other ways to reduce solid waste and increase recycling.

Like most issues involving change that are publicly debated, the PAYT proposal garnered much discourse, from both advocates and opponents. This Board heard all sides of the proposal and a number of issues arose, many of which are adequately covered in the Advisory Committee's Recommendation under Article 26 in the Combined Reports. In light of these concerns, the Selectmen believe that further study of the issue is warranted. Specifically, the Board has proposed to establish a Solid Waste and Recycling Implementation Committee (SWRIC) that is charged with further examining the resolution proposed under Article 26, including but not limited to the following issues:

- illegal dumping under a PAYT system
- disposal of bulky waste under a PAYT system
- implementation of single stream recycling with or without PAYT
- landlord/tenant responsibility under a PAYT system
- adoption of automated trash collection with or without PAYT
- additional exploration of other methods to reduce solid waste and increase recycling

SWRIC membership will consist of the interested former Solid Waste Reduction Committee members, a resident of North Brookline, another resident of a large family, a resident of a multi-family building serviced by the Town for refuse, plus three at-large community representatives. Additional appointments will be made to fill the roles of former Solid Waste Reduction committee members who are unable or unwilling to serve on SWIRC. The Selectmen recommend FAVORABLE ACTION, by a vote of 4-0-1 taken on May 12, 2009, on the following motion:

VOTED: To refer the question in Article 26 to a Selectmen's Solid Waste and Recycling Implementation Committee (SWRIC) and to report to the Selectmen by January 31, 2010.

ROLL CALL VOTE

Favorable Action	Abstain
Daly	Benka
DeWitt	
Mermell	
Goldstein	

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND

The Advisory Committee had voted for NO ACTION on Article 26 prior to the mailing of the Combined Reports, but since then, the Board of Selectmen has voted to refer the subject matter of this Article to a reconstituted Selectmen's Committee for further study, to report its findings by January 31, 2010. In response, the Advisory Committee met to reconsider the Article with regard to referral and, in addition to the Selectmen's vote, considered an alternative referral motion, to a Moderator's Committee, that would have representation from the original Pay-As-You-Throw Study Committee and would report at a later date, the 2010 Fall Special Town Meeting.

DISCUSSION

The discussion centered around whether a Selectmen's Committee or a Moderator's Committee would be a better choice, and also which reporting deadline would be preferable. It was argued that the Selectmen's appointment process would be more open and transparent, that a Selectmen's Committee might be more visible and attract greater citizen participation and involvement, and that since the Selectmen have the legal fee-setting authority for trash collection/disposal and thus the ultimate power to decide whether to implement Pay-As-You-Throw, it is reasonable that they appoint the study committee which then would report back to the Selectmen.

Supporters of a Moderator's Committee countered that the Selectmen's appointment process for ad hoc committees (as opposed to Boards and Commissions) frequently does not involve public interviews and vetting and hence isn't more transparent then the Moderator's appointment process (which routinely leads to well-balanced, competent committees), and that the deliberations of Moderator's Committees can be just as well publicized and attended. Furthermore, although the Selectmen can, if they choose, implement PAYT on their own (and form their own study committee whenever they wish) without needing authorization from Town Meeting, if they (commendably) want approval from Town Meeting before embarking on PAYT, a study committee reporting to Town Meeting appointed by the Moderator is quite appropriate.

More importantly, it was felt that a Moderator's Committee would be more likely to bring a new set of eyes with more diverse perspectives to the issue, while at the same time having members from the original PAYT committee as a resource, and thus achieve

greater credibility and public buy-in to their findings. This is all the more important because of ongoing questions and criticisms raised regarding the recommendations of the original Selectmen's PAYT Committee.

With regard to the reporting deadline, some thought the issue of increasing the Town's recycling and reducing its solid waste to be so urgent that waiting for a report until after next May's Annual Town Meeting would be too long. But others believed that the although it was important for the town to take steps to improve its recycling, there was no emergency -- Brookline is already recycling at a reasonably high level -- and it was also important to take the time and get it right. The later November 2010 deadline could provide important data about the effectiveness of single-stream recycling, which the Town is planning to implement next year, and also afford an opportunity to learn from the experience of Newton's forthcoming implementation of automated trash collection. Such information would be important for a study committee to consider but would not available by the January reporting date in the Selectmen's motion or even by next May's Town Meeting.

The Advisory Committee voted by large majorities its preferences for referral to a Moderator's (rather than a Selectmen's) Committee and for a November 2010 (rather than a January or May) reporting date and, by a vote of 12-1-2, recommends adoption of the following motion:

MOVED: To refer the substance of Article 26 to a Moderator's Committee, whose members shall include representation from the prior "Pay-As-You-Throw Study Committee," to report, at the latest, to the 2010 Fall Special Town Meeting. Besides studying Pay-As-You-Throw, the Moderator's Committee should also study possible alternative ways of meeting the goals of increasing recycling and reducing solid waste, including but not limited to education, single-stream recycling and automated waste collection.

XXX

ARTICLE 26

Motion Offered by Stanley Spiegel, TMM Prec-2

VOTED: Whereas the Town is planning to implement single-stream recycling in the coming year, and

Whereas single-stream is widely reported to result in an increase in recycling and a reduction in solid waste in communities where it has been implemented,

Now therefore be it resolved that the Board of Selectmen in the Town of Brookline should defer the question of implementing Pay-As-You-Throw trash disposal until after the Town has acquired sufficient experience with the results of single-stream recycling to make an informed judgment as to what additional measures to increase recycling and reduce solid waste may be appropriate.

EXPLANATION

Although it seems clear that further study is needed before deciding whether Pay-As-You-Throw is appropriate for Brookline, even referring the matter for study at this time, either to a Moderator's Committee or to a Selectmen's Committee, would appear to be premature. An objective examination of the Town's current recycling performance indicates that we are already recycling at a fairly high level -- all the more impressive given our large contingent of students and other youthful transients who typically recycle little -- and although it's important to strive for improvement, we should take a reasonable amount of time to assess the best way for Brookline to increase its recycling and reduce its solid waste.

To make this determination, a study committee should be able to evaluate the positive results likely to occur after the Town implements single-stream recycling, which is planned to take place in the coming year. It would also be helpful to learn from the experience of Newton's soon-to-occur implementation of automated trash collection.

Once such information is at hand, a study committee would be in a much better position to recommend appropriate measures for Brookline. But this information will not at all be available by the proposed Selectmen's Committee's Jan. 31, 2010 reporting date, and even the proposed Moderator's Committee's Fall 2010 Town Meeting reporting date will almost surely be too soon to properly analyze and digest the relevant data. To repeat, there's no true recycling emergency confronting us requiring undue haste that would preclude the thoughtful examination of alternative measures the Town could adopt. Given the importance of recycling, it's correspondingly important to take sufficient time to get it right, gathering forthcoming useful information to reach an optimal recommendation.

Therefore the necessary study should not be initiated at this time but rather be deferred (briefly, to be sure) until such important soon-to-appear information is before us. Certainly if a referral is to be voted, referral to a Moderator's Committee for a fresh study with a later reporting deadline would have the most credibility and be by far be the better choice.

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ARTICLE 27

TWENTY-SEVENTH ARTICLE
To see if the Town will adopt the following Resolution:

RESOLUTION FOR SINGLE PAYER HEALTH CARE

WHEREAS, skyrocketing healthcare costs for public employees are placing a heavy financial burden on all municipalities and towns in the Commonwealth and,

WHEREAS, legislation has been filed in the General Court HB 2127 creating the Massachusetts Health Care Trust, a Single Payer public entity that would provide comprehensive lifetime care coverage to every resident of the Commonwealth and,

WHEREAS, this recently updated legislation is co-sponsored by 11 members of the senate and 38 members of the house in 2009 and,

WHEREAS, the main purpose of this legislation is to establish a rational patient-centered system of health insurance financing that would save money and guarantee health care as a right for all Massachusetts residents by consolidating and streamlining administrative and clinical functions and,

WHEREAS, two reports commissioned by the Massachusetts Medical Society found that a Single Payer system would "offer the most care and highest level of savings for Massachusetts compared to all other reform options" and many reports from other states by the Lewin Group show that Single Payer reform would save money and cover everybody and,

WHEREAS, the present health care law (Chapter 58) has failed to achieve universal healthcare coverage and is unable to control the costs of healthcare that are contributing to the budget deficits for the Commonwealth and municipalities across the state

NOW THEREFORE BE IT RESOLVED that the Town Meeting of Brookline urges the Legislature to enact the Single Payer Health Care Trust bill HB 2127 and the Town Meeting call upon Senator Cynthia Creem, Representative Michael Rush, Representative Jeffrey Sanchez, Representative Frank Smizik, and Representative Michael Moran to work towards the passage of this bill so that all residents will have full health coverage as a matter of right with the cost to be shared by all of the citizens of the Commonwealth.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The purpose for bringing the Resolution for SP Health Care to the Town meeting is to add the voices of Brookline residents to the coalition for SP health care reform. We

want our state senator and representatives to know that the Town of Brookline supports SP and wants them to be active supporters of the Health Care Trust bill HB 2127. A SP system would save money, guarantee comprehensive health coverage for all residents, and make health care a right for everyone in the Commonwealth.

Nationally health care reform is heating up. Many people are touting Massachusetts as being the "model" health care system for the nation. Massachusetts adopted a new health reform law in 2006 (Chapter 58). There was great fanfare at the signing of the legislation and great hope for affordable "near universal" health care coverage for the Commonwealth. Almost three years later Massachusetts has failed to get "near universal" coverage, has not been able to halt the annual double digit rises in health care costs, and has cut funding for safety net institutions across the state. Towns and municipalities have been struggling to meet budgets (even before the economic decline) because the health care costs of town employees eat up more and more of the budget. In addition, the individual mandate that requires all Massachusetts residents to buy health insurance or face a stiff fine (over $1000 in 2009) has added to the financial burden of low income people who can't afford the premiums plus the high out of pocket costs of deductibles, co-pays, and co-insurance. **Our present law is not a "model" even for the Commonwealth.**

What is SP health care reform?

a. **A SP system is coordinated by a single agency that takes in money from various sources and pays out the bills to providers, hence the name single payer.** It would be structured like improved and expanded Medicare for all ages. Our present law (Chapter 58) operates in a multipayer system with multiple insurance companies and several public plans (like Medicare, Medicaid, VA) paying the bills. The present system is fragmented, inefficient, and because it has no central coordination it has no mechanism to control costs or make long range planning. Insurance companies are poorly regulated and make money by avoiding sick people. **In other words, there is no system now.**

b. **SP is the only truly UNIVERSAL healthcare system, guaranteeing comprehensive health coverage for every resident based on medical need and not ability to pay.** If you need care you are covered. **EVERYBODY IN NOBODY OUT!**

c. The SP system is continuous from birth to death. No eligibility requirements, no loss of coverage if you change a job or get sick and can't work. Patients have full choice of doctors, and medical care is privately run so it is not socialized medicine.

d. The SP system is affordable for individuals, families, businesses, municipalities. It is paid for through income taxes made as progressive as possible under Massachusetts state law, a business contribution through a payroll tax, and possibly other taxes on unearned income. The taxes paid by individuals and businesses are substitutes for health insurance premiums, and out of pocket costs like co-pays, deductibles, and co-insurance all of which will be eliminated. Most individuals and families would pay less for high quality comprehensive health insurance coverage than they do now. Businesses would not be responsible for providing insurance coverage to their employees but would pay a predictable health payroll tax (varies with size and type of business) which would be less than what they are now paying for healthcare and would increase their ability to compete in the marketplace.

Municipalities would not have to pay the healthcare costs of their employees which would allow them to fully fund schools, police, firemen, and infrastructure needs that have been cut back under our present system.

e. **The SP system would save money**! The commercial health insurance companies would be eliminated. The insurance industry siphons off as much as 31% of the health care dollar for administrative expenses including marketing, underwriting, eligibility determinations, claims denials, and huge CEO salaries. In addition doctors have to hire large staffs to handle the insurance company referrals, denials, and authorizations, and hospitals have to have huge billing departments to deal with the insurance companies.

To save money the SP agency responsible for health coverage would have a budget that controls costs, sets priorities, establishes long term planning, and allows bulk purchasing of pharmaceuticals to lower drug prices. Massachusetts residents spend more than enough money now (the highest per capita health care spending in the world) to cover everyone if we had a SP system. All the other industrialized countries have better quality care, cover everybody, and cost about half as much per capita as in America and all have some form of a SP system.

f. **The SP system is the most ethical and patient oriented system.** SP makes health care a right for everyone because everyone is guaranteed access to comprehensive healthcare. It eliminates the for-profit health insurance industry that has used its underwriting expertise to avoid paying for sick people and to deny care to enrich the industry and its stockholders. Since everybody has access to comprehensive health care it reduces health disparities based on race, gender, income, and disabilities. SP would also improve the quality of care. Under the present system America is rated 37th in the world by the World Health Organization for the care provided to its citizens. We have higher infant mortality rates, lower length of life, and over 47million Americans without access to healthcare. A SP system has the incentive to keep everyone healthy because it is accountable to the people whereas in the present system the insurance companies have the incentive to avoid taking care of sick people to make profits for the stockholders and the CEOs.

What are the politics of Health Care Reform?
With the economic crisis health care reform is not just a policy change to cover the uninsured it is an economic necessity. Healthcare has grown to over 17% of the GDP and if the present rate of rise in costs continues healthcare would theoretically consume the entire budget in the next 30 years. In order to solve the economic crisis healthcare reform is essential. **There are two basic reform models.**

a. "The Massachusetts' Model" (Chapter 58)
The present Massachusetts reform is similar to reforms tried by several other states with the focus on covering the uninsured. All of them have failed. Massachusetts gives subsidies to low income people below 300% of the FPL to help pay for private insurance, and established the Connector to help people find "affordable" insurance for those earning more. The affordability standards don't take into account the high out of pocket costs of the policies so many people who have bought private insurance can't afford to seek medical care when they need it, (underinsured). 50% the people who were in the Free Care Pool before

the new law find that they are worse off than before because they now have co-pays and premiums. The individual mandate is forcing people to pay stiff fines, up to $1012 in 2009, if they don't have insurance. The costs of commercial insurance keep going up by double digits and the Massachusetts law has no significant cost control devices. Although 400,000 people gained health insurance in the first two years, the cost has exceeded expectations forcing the state to cut other programs in order to fund the plan. It is widely believed that the present law is not sustainable in the long run especially in the present economic decline. The total number of uninsured under the present law has started to rise in recent months as the economy slips.

b. The Campaign for Single Payer 2009

SP can be achieved in MA by passing the SP Health Care Trust bill HB 2127, and nationally Rep. Conyers bill HR 676.

Nationally

There is a new coalition, the Leadership Conference for Guaranteed Healthcare. The coalition is educating legislators and held a recent briefing on SP in Washington. Labor for SP is a recently organized group of more than 150 union leaders across the country and is dedicated to coordinating a grassroots campaign across the states. Since a SP system guarantees healthcare for everyone health insurance premiums are "off the table" and union negotiations can focus on wages, working conditions, and other important benefits.

Massachusetts

A new Business for SP group is being organized in Massachusetts through Mass-Care which is the umbrella organization for over 100 groups that support SP including doctors, nurses, unions, immigrant groups, women's groups, teachers, League of Women Voters, religious groups, peace and justice groups, and others. 11 out of 20 state senators and 38 out of 200 state Reps are co-sponsors of the Health Care Trust bill HB 2127 in 2009. In addition Several Democratic Town Committees and several cities and towns have joined the coalition.

Is SP Politically Possible? Yes!

The economic crisis is forcing people to look beyond ideology and politics to find the best solution. 2009 promises to be the year of health care reform. Let's make Massachusetts the first state to get true universal coverage that will save money and make health care a right instead of rationing health care by ability to pay. **Let's make Massachusetts SP Health Care reform the "model" for the nation.**

MOTION TO BE OFFERED BY THE PETITIONER

VOTED: That the Town adopt the following Resolution:

RESOLUTION FOR SINGLE PAYER HEALTH CARE

WHEREAS, skyrocketing healthcare costs for public employees are placing a heavy financial burden on all municipalities and towns in the Commonwealth and,

WHEREAS, legislation has been filed in the General Court HB 2127 creating the Massachusetts Health Care Trust, a Single Payer public entity that would provide comprehensive lifetime care coverage to every resident of the Commonwealth and,

WHEREAS, this recently updated legislation is co-sponsored by 11 members of the senate and 38 members of the house in 2009 and,

WHEREAS, the main purpose of this legislation is to establish a rational patient-centered system of health insurance financing that would save money and guarantee health care as a right for all Massachusetts residents by consolidating and streamlining administrative and clinical functions and,

WHEREAS, two reports commissioned by the Massachusetts Medical Society found that a Single Payer system would "offer the most care and highest level of savings for Massachusetts compared to all other reform options" and many reports from other states by the Lewin Group show that Single Payer reform would save money and cover everybody and,

WHEREAS, the present health care law (Chapter 58) has failed to achieve universal healthcare coverage and is unable to control the costs of healthcare that are contributing to the budget deficits for the Commonwealth and municipalities across the state

NOW THEREFORE BE IT RESOLVED that the Town Meeting of Brookline urges the Legislature to enact the Single Payer Health Care Trust bill HB 2127 and the Town Meeting call upon Senator Cynthia Creem, Representative Michael Rush, Representative Jeffrey Sanchez, Representative Frank Smizik, and Representative Michael Moran to work towards the passage of this bill so that all residents will have full health coverage as a matter of right with the cost to be shared by all of the citizens of the Commonwealth.

SELECTMEN'S RECOMMENDATION

Article 27 is a petitioned article that asks Town Meeting to adopt a resolution supporting a single payer health care system. Specifically, it asks the Town to urge the Legislature to enact the Single Payer Health Care Trust bill (HB 2127). It is well known that there is widespread political, industry, and insurance opposition to the single payer system. In addition, the single payer model as the sole approach to achieve universal health care is seen as too rigid by some unions, supporters of the state's universal health care model, and those drafting current legislation in Washington. These groups argue that we should be open to an incremental approach that builds on the current health care system and that supporting single payer as the only way to achieve universal health care pits the perfect against the good and thwarts any chance for extending health insurance to millions of uninsured Americans.

This is a very complicated issue, one on which the Friends of Brookline Public Health have been sponsoring forums for several years. At the suggestion of the Town's Director of

Public Health and Human Services, the Selectmen are recommending that the issue be referred to the Advisory Council on Public Health. By a vote of 5-0 taken on April 28, 2009, the board recommends FAVORABLE ACTION on the following motion for referral:

VOTED: To refer the subject matter of Article 27 to the Advisory Council on Public Health for report back to a future Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

This article is a resolution that supports the establishment of a single payer healthcare system in Massachusetts – specifically referencing the efforts of Massachusetts House Bill HR 2127 which would establish a State healthcare trust among other things.

The petitioner argues for the establishment of a single payer only model, pointing to the strengths of such an approach and weakness of others – principally our current structure.

The petitioner points out that current healthcare is accounting for nearly 17% of our GDP and growing. This can create a larger economic strain on our economy. Furthermore, the inherent inefficiencies in our commercial multi-payer system means that even with such high spending many people are going without medical care. Administrative costs in commercial payer organizations can range from 15% to near 30%. In the Government's Medicare system that figure is less than 5%.

The petitioner feels that with the global budget of a single payer system, it is possible to provide affordable and comprehensive health coverage to everyone with out the cost of deductibles or high insurance premiums. The proposed system would be progressive by virtue of its funding mechanism: current Medicare/Medicaid funds, 7% Payroll tax, 2% income tax.

Having a single healthcare authority, the petitioner believes, costs and procedures can be more cost effectively controlled.

The petitioner contends the current "Massachusetts Model" of healthcare reform has very serious limitations. One of these is the major gaps in health coverage in some of the policies purchased through the program. Another major limitation is the program's difficulty in containing the continuous growth in health care expenditures. The petitioner points to the perceived success of single payer systems in other countries in providing universal access to health care, in achieving favorable health outcomes as measured by longevity, and in containing health care costs.

She and other physicians and advocates envision a single payer system as the equivalent of Medicare but covering people of all ages. These physicians are pleased with Medicare because of the wide range of conditions for which it provides coverage, the adequacy of reimbursement rates for physicians and the relative ease with which physicians can get reimbursed for their services. These physicians are much less pleased with the coverage provided by private health insurance policies, the effort required of physicians to get insurance companies to accept payment responsibility, and the level of reimbursement paid to providers.

The referenced Massachusetts House Bill, HR 2127, is a wide ranging proposal that would establish a State Healthcare Trust. This trust and its Board of Governors would oversee the payment of all healthcare related procedures – obviating the need for private insurance companies.

Part of the Trust's purpose (as outlined in the bill) is to guarantee access to high quality healthcare, provide reimbursement for healthcare services, fund capital investments for healthcare facilities, save money by replacing the current mixture of public and private healthcare plans with a single uniform plan.

Envisioning the potential impact of such a switchover, the Bill proposes to fund training and re-training programs for professional and non-professional workers in the healthcare sector displaced as a direct result of implementation of the proposed chapter.

The Board is also charged to establish policy on medical issues, public health, research priorities and scope of service to name a few.

The program would be financed through several sources:

- An employer payroll tax that would be comparable to previous spending by employers on health premiums, exempting very small businesses.
- An employee payroll tax that would be comparable to previous spending by employees on health premiums and out-of-pocket expenses, exempting low income earners.
- A payroll tax on the self-employed that would exempt low income earners.
- A tax on unearned income would attempt to distribute fairly the costs of health care across various sources of income.
- In addition the Trust would receive all monies paid to the Commonwealth by the federal government for health care services covered by the Trust.

<u>DISCUSSION:</u>

Obviously, any proposed piece of legislation will undergo many hearings and revisions before there is a finalized bill. Particularly in need of fuller development is the method of financing. While the bill identifies the sources of financing, details would have to be worked out. Projected costs would have to be reconciled with revenues estimated from the various payment sources. The amount of the funding from the various sources will certainly be controversial. Because of the scope of HR 2127 and the significant aspects that remain to be worked out, the Committee had concerns about the specificity of the language of the original resolution.

It was noted that this was somewhat of a symbolic offering, meant to encourage the legislature to work earnestly on the issue and send a signal of support for the single-payer healthcare concept.

The consensus of the Advisory Committee was that the current healthcare model in this country is not working. It is expensive, inefficient and fails to adequately cover everyone.

A central, and perhaps personal, question is whether a single-payer only approach is the correct one. A single payer plan might include options for supplementary private insurance. The Medicare program which some single payer proponents consider a model is a good example of a public program that provides options for private insurance supplementation. Many Medicare beneficiaries currently purchase Medigap policies to address limitations in Medicare coverage.

While some Advisory Committee members raised concerns about how such a system would be funded and how it would be administered, most were in agreement that change is needed. Most expressed a desire to be an example to policy makers on the national level and felt that now is the time to move ahead with a resolution urging the Commonwealth of Massachusetts to enact legislation that includes the major provisions of the Single Payer Health Care Trust Bill (HB2127)

RECOMMENDATION:
After the public hearing, the subcommittee proposed alternate language for the resolution. The Advisory Committee by a vote of 11-6-1, recommends FAVORABLE ACTION on the following resolution (changes from the original article are underlined):

VOTED: That the Town adopt the following Resolution:

RESOLUTION FOR SINGLE PAYER HEALTH CARE

WHEREAS, skyrocketing healthcare costs for public employees are placing a heavy financial burden on all municipalities and towns in the Commonwealth and,

WHEREAS, legislation has been filed in the General Court HB 2127 creating the Massachusetts Health Care Trust, a Single Payer public entity that would provide comprehensive lifetime care coverage to every resident of the Commonwealth and,

WHEREAS, this recently updated legislation is co-sponsored by 11 members of the senate and 38 members of the house in 2009 and,

WHEREAS, the main purpose of this legislation is to establish a rational patient-centered system of health insurance financing that would save money and guarantee health care as a right for all Massachusetts residents by consolidating and streamlining administrative and clinical functions and,

WHEREAS, two reports commissioned by the Massachusetts Medical Society found that a Single Payer system would "offer the most care and highest level of savings for Massachusetts compared to all other reform options" and many reports from other states by the Lewin Group show that Single Payer reform would save money and cover everybody and,

WHEREAS, the present health care law (Chapter 58) has failed to achieve universal healthcare coverage and is unable to control the costs of healthcare that are contributing to the budget deficits for the Commonwealth and municipalities across the state

NOW THEREFORE BE IT RESOLVED that the Town Meeting of Brookline urges the Legislature **to enact legislation that includes the major provisions of** the Single Payer Health Care Trust bill HB 2127 and the Town Meeting call upon Senator Cynthia Creem, Representative Michael Rush, Representative Jeffrey Sanchez, Representative Frank Smizik, and Representative Michael Moran to work towards the passage **of fully-developed legislation that will lead to implementation in Massachusetts of a single payer health care program** so that all the residents will have full health coverage as a matter of right with the cost to be shared by all of the citizens of the Commonwealth.

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ARTICLE 28

TWENTY-EIGHTH ARTICLE

To see if the Town will adopt the following resolution:

Resolution to Commemorate the Tenth Anniversary of the Brookline-Xi'an China Exchange Program and Acknowledge the Friendship Between the People of Brookline and the People of Xi'an, China

WHEREAS Brookline High School has engaged in a student and teacher exchange program with the Gao Xin Number One High School in Xi'an, China for the past ten years.

WHEREAS hundreds of residents of Brookline, including students, parents, teachers and other community members, have formed friendships with their Chinese counterparts as a result of the Brookline-Xi'an Exchange Program.

WHEREAS the Brookline-Xi'an Exchange program has fostered an increased mutual cultural awareness between the people of the United States and China.

WHEREAS The Brookline-Xi'an Exchange program has provided a valuable educational opportunity for both American and Chinese students.

NOW, THEREFORE, BE IT RESOLVED THAT Town Meeting commemorates the tenth anniversary of the Brookline-Xi'an China Exchange Program and acknowledges the valued friendship between the people of Xi'an and the people of Brookline.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

For the past ten years, the Town of Brookline has engaged in an educational and cultural exchange program with Xi'an, China. Every year, a group of students (usually eight in number) and one teacher from Gao Xin High School Number One in Xi'an spend the fall semester at Brookline High School, and their counterparts from Brookline spend the spring semester at Gao Xin School. In total, about 150 Brookline and Gao Xin students have participated in the exchange, having an opportunity for personal growth through increased cultural awareness, foreign language competency, and the maturation associated with living in a new environment.

The China Exchange Program enriches Brookline and Xi'an far beyond the direct impact on participating students and teachers. The program has fostered a much broader set of personal relationships among members of the two cultures involving school and community leaders, students and faculty, host families and other community members. It is also a powerful symbol of and focal point for the value that the two communities place on mutual understanding in an increasingly interconnected world.

Adoption of this article by Town Meeting would give due recognition to the tenth anniversary of a program that represents the best of Brookline's educational and cultural values. Adoption of this article would also be a tangible expression of friendship and partnership extended by the people of Brookline to the people of Xi'an.

SELECTMEN'S RECOMMENDATION

As detailed in the Petitioner's Article Description, the exchange program with Xi'an, China has been a wonderful educational and cultural opportunity for students and teachers who participate in the program. Beyond this, the program allows Brookline to share its own values well beyond our borders and become cultural ambassadors through the exchange. The Board recognizes the positive life changing experience that this program brings and is proud to support this resolution and strengthen the relationship with the people of Xi'an. The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on March 24, 2009, on the resolution offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 28 is a Resolution asking Town Meeting to commemorate the tenth anniversary of the Brookline-Xi'an, China Exchange Program, and acknowledge "the valued friendship between the people of Xi'an and the people of Brookline."

Since the program's inception in 1999, 65 Brookline High School students have spent a semester at the Gao Xin Number One High School in Xi'an China, and an equal number of students from that school have attended Brookline High School, staying with local host families. Participants, including host families, have been enthusiastically supportive of the experience. Benefits to the program's participants include greater language mastery and all the learnings and maturation that come with foreign travel. And there are less obvious benefits to the communities at large, including the greater mutual understanding and appreciation of each other's cultures. The program involves no direct costs to either the Brookline Town government or the Brookline School System. Expenses, primarily the costs of travel, are borne by the participating families.

The China Exchange Steering Committee is seeking this Resolution for reasons that go beyond the simple desire to commemorate this ten year milestone. There was also considerable thought given to how this event will be perceived by the Chinese participants, both here and in Xi'an. Visiting members from Xi'an will get to observe our Town Meeting, a wonderful example of American democracy. Further, Carol Schraft of the Steering Committee will take the Proclamation to Xi'an in July 2009 to present to her counterparts at the Gao Xin School, a gesture, we are told, that is taken quite seriously.

RECOMMENDATION:
Seeing several potential benefits, as discussed above, and no substantive drawbacks to this Resolution, the Advisory Committee recommends FAVORABLE ACTION on the following resolution, by a unanimous vote of 17-0-0:

VOTED: That the Town adopt the following Resolution to Commemorate the Tenth Anniversary of the Brookline-Xi'an China Exchange Program and Acknowledge the Friendship Between the People of Brookline and the People of Xi'an, China:

WHEREAS Brookline High School has engaged in a student and teacher exchange program with the Gao Xin Number One High School in Xi'an, China for the past ten years.

WHEREAS hundreds of residents of Brookline, including students, parents, teachers and other community members, have formed friendships with their Chinese counterparts as a result of the Brookline-Xi'an Exchange Program.

WHEREAS the Brookline-Xi'an Exchange program has fostered an increased mutual cultural awareness between the people of the United States and China.

WHEREAS The Brookline-Xi'an Exchange program has provided a valuable educational opportunity for both American and Chinese students.

NOW, THEREFORE, BE IT RESOLVED THAT Town Meeting commemorates the tenth anniversary of the Brookline-Xi'an China Exchange Program and acknowledges the valued friendship between the people of Xi'an and the people of Brookline.

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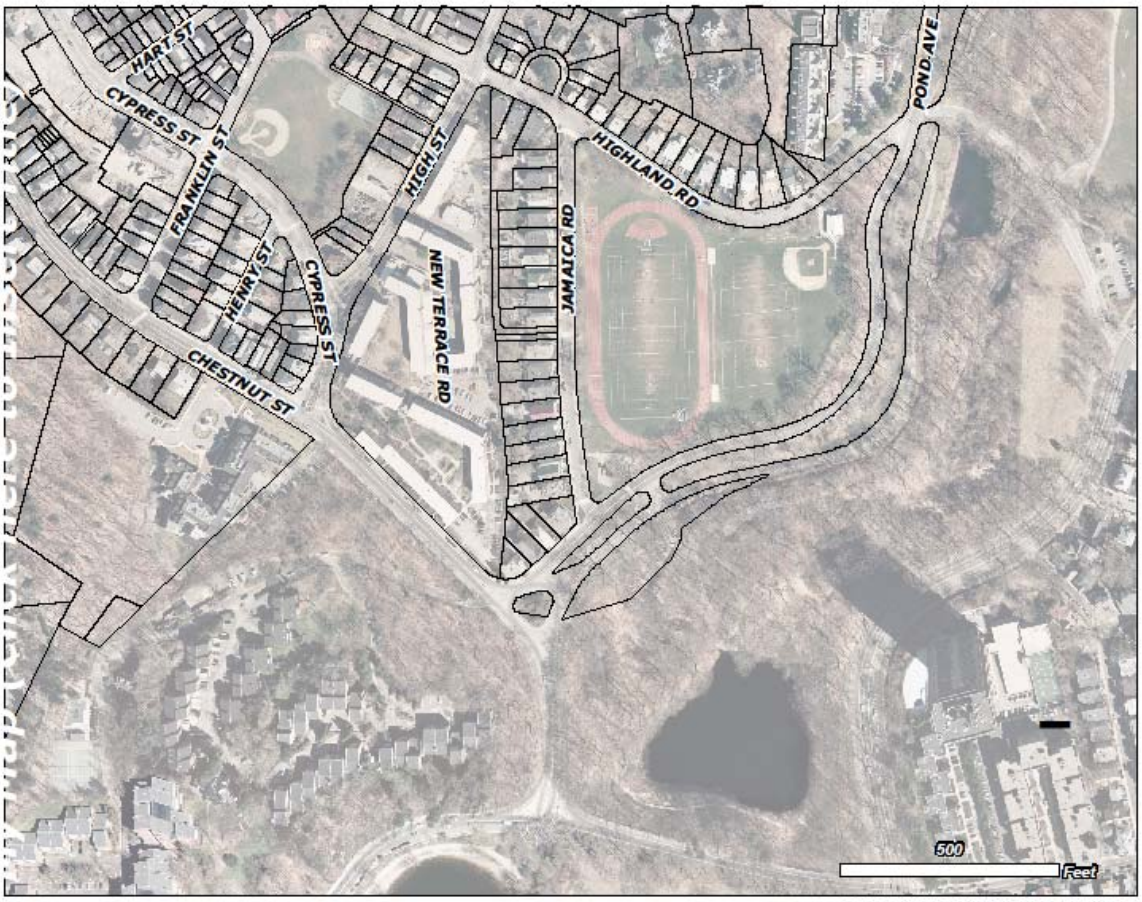
ARTICLE 29

TWENTY-NINTH ARTICLE

To see if the Town will approve the name of the rotary located at the intersection of Pond Ave. and Chestnut Street and near Jamaica Pond as the "Paul Pender Rotary", or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

On March 4, 2009, the Naming Committee voted unanimously to recommend to Town Meeting that the name for the rotary located at the intersection of Pond Ave. and Chestnut Street be called the "Paul Pender Rotary". This change was recommended by Selectman Robert Allen who thought it was an appropriate site to honor the memory of Paul Pender.



DATA SOURCE: TOWN OF BROOKLINE GIS

Paul Pender was born in Brookline in 1930 and is most noted for a boxing career in which he held the title of World Middleweight Champion during the early 1960s. Most notable opponents included Sugar Ray Robinson and Terry Downes. Mr. Pender was a local hero in the Town and inspired many of Brookline's youth to take an interest in boxing. In addition to his boxing career, Mr. Pender served as a Brookline firefighter and was an Assistant Clerk of the Brookline Municipal Court.

The Naming Committee agreed that Paul Pender meets its criterion as a national noteworthy public figure or official and felt that it was appropriate to honor his legacy. Mr. Pender grew up in "the Point" and many residents still have warm memories of following his boxing career and even participating in boxing matches organized by him at the Tappan Street gym. He is remembered as a man of excellent character with deep ties to the community. Therefore, the Committee thought it appropriate that the rotary bear his name.

SELECTMEN'S RECOMMENDATION

Brookline is truly fortunate to be the home of a number of notable residents both past and present. Paul Pender is one of the Town's many sports legends. Many residents still can remember following his boxing career and the pride felt witnessing one of Brookline's own win the World Middleweight Champion back in the 1960's. Born and raised in Brookline, Mr. Pender shared his love of boxing with the youth of Brookline. Often times Mr. Pender organized boxing matches for Brookline youth as a way to burn off steam and settle differences in the ring. In addition to his boxing career, Mr. Pender was a Brookline Firefighter and an Assistant Clerk in the Brookline Municipal Court. Mr. Pender was a devoted family man who loved his community. He and his family have long ties to Brookline, and he was considered one of Brookline's local heroes. The Board agrees that the rotary near where he lived would be an appropriate location for a naming opportunity.

The Selectmen unanimously agree with the Naming Committee that Paul Pender's accomplishments should be recognized and memorialized and recommends FAVORABLE ACTION, by a vote of 5-0 taken on March 24, 2009, on the following vote:

VOTED: To approve the name of the rotary located at the intersection of Pond Ave. and Chestnut Street and near Jamaica Pond as the "Paul Pender Rotary".

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Paul Pender (1920-1977) was born in Brookline and held the title of World Middleweight Champion during the early1960's. Paul Pender was a firefighter in Brookline and an Assistant Clerk of the Brookline Municipal Court. He was involved in organizing a Juvenile Court and he served on the Board of Parks and Recreation.

DISCUSSION:
According to Mr. Allen "Paul was a Whiskey Point guy". Mr. Pender organized many boxing matches for young people in the neighborhood and in the school's gymnasium. He instilled

many positive values in them through organizing games, even though he was not a big believer in boxing.

It was noted that many of our citizens (for example Roland Hayes) made important contributions that may be more reflective of the ideals of our community than boxing. Several members of the Advisory Committee kept an historical perspective and remembered the importance of boxing in the sixties, as well as the importance of Mr. Pender to them and to many others in our community.

RECOMMENDATION:
The Advisory Committee voted 13-2-2 to recommend FAVORABLE ACTION on the vote offered by the Board of Selectmen.

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ARTICLE 30

THIRTIETH ARTICLE

To see if the Town will approve a change in the name of Incinerator Drive to "Saw Mill Road", or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

On February 23, 2009, the Naming Committee voted unanimously to recommend to Town Meeting that the name for the road currently called Incinerator Drive be changed to Saw Mill Road. Incinerator Drive was determined to be an obsolete name for this road, now that there is a new park (Skyline Park) at the site of the former landfill.

The Naming Committee approved Saw Mill Road after a series of discussions with the Chestnut Hill Village Association (CHVA) who had initially suggested "Corduroy Road", in reference to the type of construction that likely would have been used on the site. However, after questions were raised by the Preservation Commission regarding the accuracy and appropriateness of this terminology, CHVA representatives suggested Saw Mill Road, a name that evokes the late 17th century sawmill built nearby by Erosamon Drew, an Irish immigrant who owned 64 acres of wooded land near the present Newton line. Drew's sawmill was located on and powered by Mother Brook (now Saw Mill Brook), a natural outlet of Hammond's Pond.

The Naming Committee found "Saw Mill Road" to be an appropriate choice and voted unanimously in favor of this change.

SELECTMEN'S RECOMMENDATION

In March, 2008, the Town officially opened Skyline Park the new park consisting of 15.15 acres of active and passive recreation. Skyline Park is truly a gem that the Town will enjoy for many years. The Board agrees that the name Incinerator Drive has run its course and that a new name that does not conjure images of burning trash may be a more appropriate lead up to the new park. The Board is appreciative of the process used by the Naming Committee to generate a new name. It is clear that the Chestnut Hill Village Association was very careful to pick a name that still recognizes the history of the road but is better suited for the new use of the land. The Selectmen agree with the Naming Committee's recommendation to make the change and recommends FAVORABLE ACTION, by a vote of 5-0 taken on March 24, 2009 on the following vote:

VOTED: That the Town approve a change in the name of Incinerator Drive to "Saw Mill Road".

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 30, submitted by the Town's Naming Committee in accordance with the Committee's Guidelines, asks Town Meeting to approve changing the name of Incinerator Drive, which runs from Newton Street to the current DPW transfer station, to Saw Mill Road. The incinerator, constructed in 1949-50 according to plans by the engineering firm of Metcalf and Eddy, no longer exists.

DISCUSSION:
Although the name "Incinerator Drive" reflects the former use for the site, its arguably negative connotations are in stark contrast to the current use of a substantial portion of the site as Brookline's newest recreational facility, Skyline Park. The name of Saw Mill Road was submitted by representatives from the Chestnut Hill Village Association whose first choice, "Corduroy Road," was met with objections from some members of the Preservation Commission.

The proposed new name recalls a late 17th century sawmill built by Erosamon Drew, an Irish immigrant who arrived in New England at an early age. Marrying Bethiah Druce, he paid his father-in-law 55 pounds to purchase 64 acres of wooded land near the present Newton line in 1683. Drew's sawmill was located on and powered by Mother Brook (now Saw Mill Brook), a natural outlet of Hammond's Pond. The sawmill was an apparent financial success for a number of years because, according to Town historian John Curtis, "The first settlers in a wooded country may be content to erect crude, substantial homes of logs, but men of taste and a little prosperity require boards."

RECOMMENDATION:
By a vote of 15 - 0 - 3, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX

ARTICLE 31

THIRTY-FIRST ARTICLE
Reports of Town Officers and Committees

Follow-up Report to Town Meeting on the Actions of the Planning Department in Response to CTO&S Report on District Planning Councils to the 2008 Annual Town Meeting

The Committee on Town Organization and Structure (CTO&S), in response to Town Meeting's referral of Article 10 in the November 2007 Town Meeting, issued a report to the 2008 Annual Town Meeting on CTO&S findings. That report dealt both with the specifics of District Planning Councils, the primary subject of Article 10, as well as the Town's development planning process in general. In addition to its findings, the report also included four specific recommendations, one dealing with District Planning Councils and three focused on potential process improvements to development review, notification and citizen outreach in the Town.

Department actions taken in response to votes of Town Meeting, either directly or through referrals to Committees, should be reviewed periodically for follow-up. At the request of the Moderator, in late January of 2008, we asked the Planning Department to provide us with information on what actions, if any, it had taken in response to CTO&S' recommendations in its May 2008 report to Town Meeting. On February 16, 2008 we received a memo from Planning Department Director, Jeff Levine, outlining the actions the Department had taken as a result of our 2008 recommendations. We have attached his memo to this report.

We thank the Director for his responsiveness in answering our request and the thoroughness with which he did so.

Town of Brookline

Massachusetts

Department of Planning and Community Development

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Jeffrey R. Levine, AICP
Director

TO: CTOS
FROM: Jeff Levine
DATE: February 16, 2009
SUBJECT: Update on District Planning Councils Report

I offer an update on what the Department has done to follow up on the CTOS report on District Planning Councils submitted to the Spring 2008 Town Meeting. As you remember, that report included four recommendations as follows:

- **Recommendation 1 – supported by five of the six CTO&S members present: Follow the current process … in creating, appointing, charging and dissolving District Planning Councils. The number of appointees may be flexible as required to meet the scope and breadth of the charge, while including all perspectives relevant to the area.**

- **Recommendation 2 – supported unanimously: The Department of Planning and Community Development , in conjunction with the Information Technology Department develop a method for improved and broader based notification of home owners, commercial property owners, businesses and tenants, including email notification to augment the current practice of hard mail. The goal for implementing a pilot program should be prior to the 2008 Fall Town Meeting.**

- **Recommendation 3 – supported unanimously: That the Planning Department examine the feasibility of establishing a category of "Moderate Impact Project" at about half the levels of the Major Impact Project. Such a designated project would require a neighborhood meeting prior to a project review by the Planning Board and the creation of a streamlined DAT, unless, at the discretion of the Board, they explained why such a requirement was determined not to be in the interest of the Town and was waived.**

- **Recommendation 4 – supported unanimously: That the Department formalize the role of a citizen help desk by instituting a web-based and phone-based ombudsman hot line. Staffing would be accomplished within current levels by those who informally serve that function today. A goal for trial implementation should be early fall 2008.**

Recommendations 2, 3 and 4 all required new actions on the part of the Planning & Community Development Department. We have acted on all of these recommendations, as follows.

Recommendation 2: Implementing an Improved Notification Process, with Email Notification

This recommendation has been implemented. The Town now maintains an email list of all Town Meeting members and any other citizens who wish to receive agendas of public meetings, including all Planning Board and Board of Appeals meetings. Planning Board agendas are emailed to this list automatically at the same time that the agendas are posted with the Town Clerk and on the Town's web calendar. We continue to look at ways of improving notification of Planning Board and other related meetings to make sure that everyone who wishes to know about a proposed development finds out about it as early as possible.

Anyone who wishes can have their email address added to this notification system by going to the main Town of Brookline web site (http://www.brooklinema.gov) and clicking on the link on the bottom left corner labeled " Meeting Notification List," or by entering the following link:

http://www.brooklinema.gov/index.php?option=com_chronocontact&Itemid=903

In addition, the Department maintains email lists on individual projects of interest. Interested parties can join those email lists by clicking on the Planning Ombudsman link on the Departmental web page (http://www.brooklinema.gov/planning) or by contacting Polly Selkoe at 617-730-2130. In addition, the Department puts out a regular newsletter (the "Update") that is sent to all Town Meeting Members and anyone else who wishes to subscribe (anyone can subscribe by using the Planning Ombudsman link above). We had looked at the possibility of providing direct notification to abutters who are not property owners but have run into a number of logistical issues that would render such a system cost prohibitive. However, we are still looking at other methods to improve notification, such as providing signs on-site for Major Impact Projects. We are also looking other technological solutions to improve outreach and hope to implement additional strategies in the next few months.

Recommendation 3: Development of a System for "Moderate Impact Projects"

This recommendation has been implemented. We have developed a system by which projects that are about half the size of a typical "Major Impact Project" have a design review process outside the normal Planning Board process. It works as follows:

- A project applies for zoning relief.
- The Planning & Community Development Director determines that, while the project is not of sufficient size to warrant a Major Impact Project review, it nonetheless is of sufficient size or of sufficient community or neighborhood interest to benefit from a design review process, even though not prescribed by the zoning by-law.
- S/he recommends to the Planning Board that, at their first meeting on the project, they create a design group of 3-4 design professionals and neighbors to hold public meetings on the project.
- A neighborhood meeting is held on the project.
- The design group meets with Town staff and the developer to work on issues related to the project's design. It is generally anticipated that this process will take 3-5 meetings, to be held prior to a Planning Board report on the project.
- The design group reports back its recommendations to the Planning Board, through staff and the Planning Board representative on the group.
- These recommendations are factored into any changes in the design of the project recommended by the Planning Board.

The primary differences between this process and the Major Impact Project review are as follows:

- Major Impact Projects are of such scale that Town staff is generally aware they are coming in for review- they are designated prior to any formal application for zoning review. Therefore, the Design Advisory Group meetings take place prior to the first Planning Board meeting on the project.
- Design Advisory Groups have a larger membership, as per the Town's Zoning Bylaw.

In the case of the Sewall Avenue project, this process has been very successful. The developer was initially wary of such an approach, because he was concerned that it might derail his project or result in changes that he might find unacceptable. Since going through

the process, however, he says it went well and has helped improve the design. We will replicate this success in future projects of similar scale.

Recommendation 4: Institution of an Ombudsman System for the Planning Division

The new Departmental web site (http://www.brooklinema.gov/planning) includes a button on the top page that allows interested parties to contact the Planning Ombudsman for the Department. In addition, we provide phone contact information on the Departmental web page for the Planning Ombudsman. In general we have found that members of the public who call or email us are able to get the information they need regardless of whether through the "Planning Ombudsman" or our main number/emails.

Because CTOS suggested that we institute this system with no budgetary impact, we have been using existing staff in the role of Ombudsman. Specifically, Polly Selkoe, the Assistant Director for Regulatory Planning, receives emails and requests as the initial point of contact. Her role is to serve as an advocate for *all* stakeholders in the zoning review process – residents, property owners, interested citizens, and neighbors – in preparation for or as a result of any experience with the Planning Board or the Planning & Community Development Department. The focus, however, is on residents and neighbors who are concerned about the project. Anyone who contacts her is generally added to an email contact list for future notifications on the project, so that person can keep up with the various review processes. In addition, she passes any comments she receives on any project to the Planning Board and staff.

I hope this is helpful. The Department is always interested in hearing suggestions from the public about how we can better accomplish our goal of mediating land use in the Town and improving its ability to serve the citizens of the Town. Feel free to contact me directly with ideas via email at Jeff_Levine@town.brookline.ma.us or by phone at 617-730-2130.

Town of Brookline
Massachusetts

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Affordable Housing Update

May 2009
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.

Through its housing policies and programs, the Town seeks:

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

Since the 2008 Annual Town Meeting, the Housing Advisory Board (seven citizen appointees) and Housing Division staff have undertaken the following efforts to achieve these objectives:

1. Worked with the nonprofit Brookline Improvement Coalition to subsidize its acquisition of two market rate units at the recently converted and improved condominium property at **1600 Beacon Street**, for resale at affordable prices to low-moderate income buyers. Marketed, held a lottery, qualified and assisted buyers to close on their units.

2. Continued to work with the Planning Office for Urban Affairs (POUA) on design and construction-related and occupancy issues at **St. Aidan's Project**. This 59-unit housing development will include 20 affordable rental units and 16 affordable homeownership units, preserve the historic church building through adaptive re-use for nine market-rate condominiums, and conserve the historic courtyard. (The first building, a mid-rise on Pleasant Street, is expected to be occupied in July.) Provided assistance to the developer

and its management agent in marketing the affordable rentals; and took responsibility for marketing the affordable homeownership units, including outreach to lenders and to potential applicants, and ranking by lottery and qualifying buyers.

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

   - Coordinated closings with buyers, lenders and developer of nine affordable condominium units at 629 Hammond Street.

   - Worked with the new developers of 20 Chapel Street (Longwood Towers) to meet the project's affordable housing requirements; marketed, selected by lottery and qualified a buyer for an affordable condominium unit.

   - Worked with the developer of 109-115 Sewall Avenue to include two on-site condominium units in the project's affordable housing plan.

   - Developed a revised affordable housing plan for three affordable condominium units at 315-325 Hammond Pond Parkway, currently in the permitting process.

   - Began to work with the developer of 310 Hammond Pond Parkway on marketing for two affordable condominiums units.

   - Collected payments to the Housing Trust in lieu of on-site units from the developers of 10 Vernon/164 Harvard Street and 74-76 Green Street, with receipts during the year totaling $422,000.

4. Continued to provide **financial and/or technical assistance to low- and moderate-income households and Town employees seeking to purchase a home in Brookline**, including the following:

   - Counseled dozens of prospective purchasers; provided financial assistance through the HOME and CDBG programs to four low/moderate income first-time homebuyers to purchase condominiums, with an additional homebuyer in process.

   - Hosted a 12 hour "Homebuyer 101" program, qualifying over forty current renters for favorable financing that serves low and moderate income first-time homebuyers.

   - Exercised the Town's right of first refusal under permanent deed restrictions in re-sale of one affordable condominium at the Juniper Gardens (formerly, the Brookline Cooperative), thereby effecting a transfer to a new, eligible homebuyer. A second sale is in process.

   - Assisted buyers of affordable units to access additional savings through close coordination with lenders participating in the Commonwealth's SoftSecond Program.

5. Continued to speak with affordable rental housings developer/owners, and with brokers and property owners in an effort to **identify existing rental housing that might be transferred in ways that would achieve long term affordability**.

6. Participated in and staffed the **Fisher Hill Town site planning process,** which resulted in the release of a Request for Proposals for the acquisition of this Town-owned five acre site and the development of a project that would include 24 affordable units. A development proposal is currently under consideration by a Project Selection Committee.

7. Participated in and staffed the **Hancock Village Planning Committee** to respond to owner initiatives to redevelop the site.

8. Explored the opportunities provided by **accessory dwelling units (ADU's)** to broaden lifestyle choices for Brookline single family homeowners, tested public opinion, received public input, and crafted a proposed amendment to the Zoning By-law to permit such opportunities. This ADU Warrant Article will be considered by the 2009 Annual Town Meeting.

9. Coordinated Town planning for a **Homelessness Prevention and Rapid Re-Housing Program,** to be funded for three years under the American Recovery and Reinvestment Act of 2009, aimed at assisting community members placed at risk by changing economic conditions.

10. Participated in the multi-departmental **Home Heating Task Force**, aimed at assuring that Brookline residents would not be left out in the cold during the winter of 2008-2009.