

**EXPLANATIONS FOR THE
MAY 26, 2009 ANNUAL TOWN MEETING
WARRANT ARTICLES**

ARTICLE 1

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.

ARTICLE 2

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.

ARTICLE 3

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.

ARTICLE 4

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.

ARTICLE 5

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.

ARTICLE 6

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.

ARTICLE 7

The purpose of this article is to make any year-end adjustments to the current year (FY2009) budget.

ARTICLE 8

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 presentation of the Town Administrator's Financial Plan on February 12th. 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.

ARTICLE 9

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.

ARTICLE 10

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.

ARTICLE 11

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.

ARTICLE 12

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.

ARTICLE 13

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.

ARTICLE 14

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

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 selecting 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.

ARTICLE 16

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.

ARTICLE 17

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.

ARTICLE 18

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 through 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 of 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.

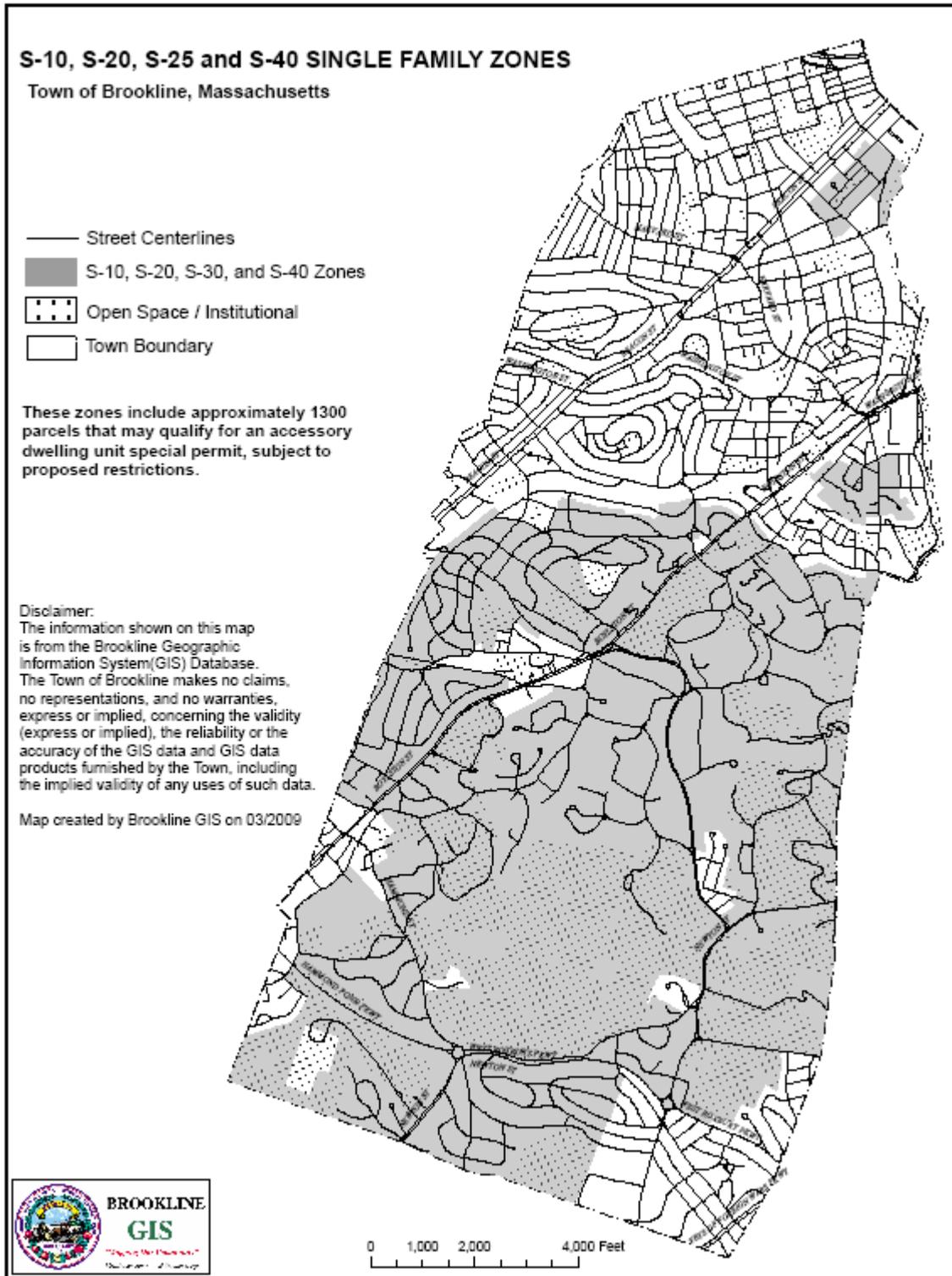
The HAB sees ADU's as one component of a strategy that encourages a diversity of housing types to serve many legitimate social, economic and housing needs of our diverse Brookline citizenry.

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.



ARTICLE 19

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.

ARTICLE 20

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.

ARTICLE 21

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.

ARTICLE 22

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	
	Number of persons sitting for examination for original appointment to the Brookline police force claiming Brookline residency

Examination Date	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

ARTICLE 23

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.

ARTICLE 24

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.

ARTICLE 25

“[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.

The purposes are unclear and provide no justification for the cameras – 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.

There is no evidence that the camera system will achieve valid purposes – 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.**

ARTICLE 26

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.

ARTICLE 27

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.**

ARTICLE 28

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.

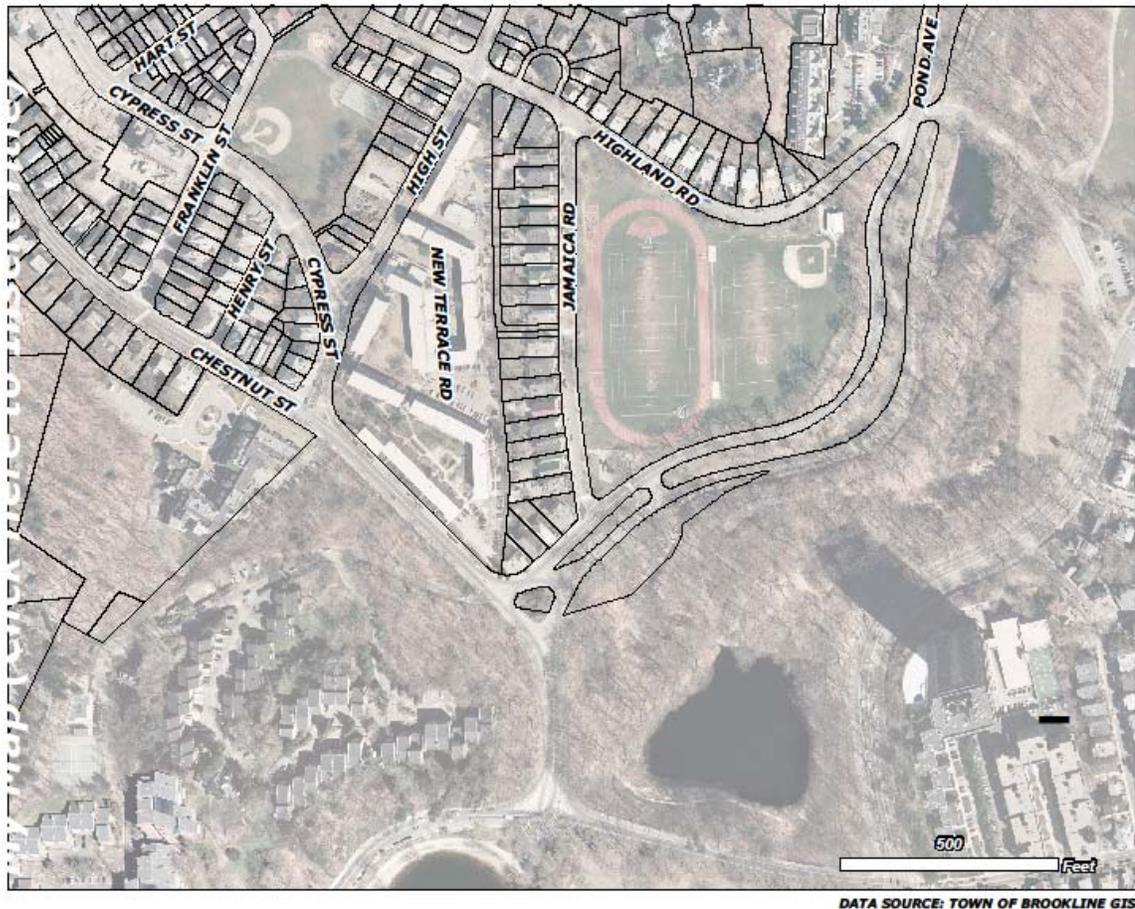
The China Exchange Program enriches Brookline and Xi’an far beyond the direct impact on participating students and teachers. The program has fostered a much broader set of personal relationships among members of the two cultures involving school and community leaders, students and faculty, host families 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.

ARTICLE 29

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.



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.

ARTICLE 30

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.

ARTICLE 31

Any reports from Town Officers and Committees are included under this article in the Combined Reports. Town Meeting action is not required on any of the reports.