



**TOWN OF BROOKLINE
MASSACHUSETTS**

**REPORTS OF SELECTMEN
AND ADVISORY COMMITTEE**

on the

Articles in the Warrant

for the

SPECIAL TOWN MEETING

to be held in the High School Auditorium

Wednesday, August 26, 2009

at

7:00 P.M.

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

Town of Brookline
BOARD OF SELECTMEN

Nancy A. Daly, Chairman

Betsy DeWitt

Jesse Mermell

Richard W. Benka

Kenneth M. Goldstein

Richard J. Kelliher, Town Administrator

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

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Harry K. Bohrs, Chair, 97 Toxteth Street	566-3556
Neil Wishinsky, Vice-Chair, 20 Henry Street	739-0181
Charles A. Baker, 179 Clinton Road	566-4147
Carla Benka, 26 Circuit Road	277-6102
Michael Berger, 112 Wolcott Road	734-6139
Edith R. Brickman, 33 Pond Avenue, #407B	734-5090
Francis G. Caro, 27 Elba Street	739-9228
Kenneth W. Chin, 200 St. Paul Street, #3	233-8338
Benjamin J. Franco, 126 Amory Street, #3	734-3022
Nancy Heller, 40 Abbottsford Road	277-6108
Sytske V. Humphrey, 46 Gardner Road	277-1493
Janice Kahn, 63 Craftsland Road.	739-0606
Estelle Katz, 41 Park Street	566-3457
Bobbie M. Knable, 243 Mason Terrace	731-2096
Frederick Lebow, 71 Colchester Street	739-1930
Fred Levitan, 1731 Beacon Street	734-1986
Pamela Lodish, 195 Fisher Avenue	566-5533
Sean M. Lynn-Jones, 53 Monmouth Street	738-6228
Shaari S. Mittel, 309 Buckminster Road	277-0043
Michael F. Oates, 96 Dean Road.	713-0443
Roberta Ornstein, 20 Webster Street, No. 213	232-5252
William B. Powell, 16 Columbia Street	731-0013
Lori D. Salkin, 1501 Beacon Street, #203	487-8224
Lee L. Selwin, 285 Reservoir Road	277-3388
Stanley L. Spiegel, 39 Stetson Street	739-0448
Michael S. Traister, 71 Griggs Road	839-8900
Leonard A. Weiss, 46 Hawthorn Road	277-8403
Karen Wenc, 84 Summit Avenue	232-4983
Christine M. Westphal, 31 Hurd Road	738-7981
Michele Earley, Executive Assistant, Town Hall	730-2115

AUGUST 26, 2009
SPECIAL TOWN MEETING
INDEX OF WARRANT ARTICLES

ARTICLE
NUMBER

TITLE

1. Acceptance of M.G.L. Ch. 64L, Sec. 2(a) -- adopt a 0.75% local option meals excise tax. (Selectmen)

2. Amendment to the Local Room Occupancy Excise Tax Under M.G.L. Ch. 64G, Sec. 3A -- increase the local option room occupancy excise tax from 4% to 6%. (Selectmen)

2009 SPECIAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2009 Special Town Meeting to be held on Wednesday, August 26 at 7:00 pm.

Note: The following pages of this report are numbered consecutively under each article.



ARTICLE 1

FIRST ARTICLE

To see if the Town will accept G.L. c. 64L, § 2(a) to impose a local meals excise; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Over the past decade, successive Boards of Selectmen consistently advocated for local option taxes with the Brookline legislative delegation. Selectmen advocacy efforts were part of a statewide demand by local officials for greater diversity in municipal revenue sources. Persistent over-reliance on the property tax capped by Proposition 2 ½, accompanied by wild swings in State Aid, have limited the ability of Massachusetts local government to sustain essential services. Here, property taxes were 64% of Town revenue in FY1990 and now stand, two overrides and two debt exclusions later, at close to 80%.

The goal of municipal advocates had been for the Commonwealth to enable localities to raise and retain increases of at least 2% in both the meals tax and hotel excise tax. While the authority for municipalities to raise and retain 2% hotel tax increase was granted (see Recommendation for Article 2), equivalent authority was not granted for meals taxes. Instead the Legislature increased the meals tax statewide 1.25% subject to its own appropriation authority and provided localities with the local option to increase meals taxes by another 0.75%. Thankfully the Legislature allocated the full 1.25% increase in FY10 to reduce proposed Local Aid cuts by \$71 million statewide, or \$391 thousand for Brookline. However, because that Local Aid reduction was based on a formula rather than value of estimated meals taxes from the community of origin, the net effect for localities like Brookline with a relatively sizable concentration of restaurants was less favorable than the pure local option approach.

As laid out in both the legislation that created it and guidance from the Department of Revenue (DOR), the mechanics of the meals excise tax are as follows:

1. it becomes operative only if accepted by a majority vote of the legislative body (Town Meeting in Brookline).
2. acceptance must occur at least 30 days in advance of the first day of a calendar quarter in order to become operative for that quarter. As a result, October 1, 2009 is the earliest an acceptance can become operative for FY10. A community must

accept on or before August 31, 2009 in order for the DOR to begin collecting the excise on that date.

3. the DOR will collect the local meals excise at the time it collects the state tax on the sale. Therefore, the local excise applies to all meals subject to the state sales tax. (A community may not vary the rate or the meals subject to the excise.)
4. the DOR will distribute the collections to the municipality on the same quarterly schedule that applies to the local room occupancy excise, which is shown below:

FY QUARTER	QUARTER START DATE	DISTRIBUTION DATE	REVENUE COLLECTED DURING
Q1	1-Jul	30-Sep	June, July, August
Q2	1-Oct	31-Dec	September, October, November
Q3	1-Jan	31-Mar	December, January, February
Q4	1-Apr	30-Jun	March, April, May

This means that if Town Meeting adopts the meals excise tax prior to August 31, the Town stands to collect eight months (October – May) of revenue over three quarters (Q2-Q4).

5. the Town Clerk must notify the Divison of Local Services (DLS) of the DOR whenever the statute is accepted or rescinded.
6. after the Town Clerk notifies the DLS of the community's acceptance, the local licensing board (in Brookline, the Board of Selectmen) will be asked to verify the restaurants or other establishments that serve meals in the community. The verified information will be used by the DOR to notify vendors of their obligations to collect and pay over the local excise and to ensure that sales are properly sourced to the community.

The DOR has provided estimates of the amount of new revenue each city and town could realize during FY10 from imposing the local meals excise beginning on October 1, 2009. For Brookline, the 8-month estimate is \$564,581. On an annualized basis, it is \$846,872. As stated in a DOR Bulletin, the amount shown reflects the maximum estimated receipts a city or town adopting these options may use. Estimates using any other method will not be accepted. Since restaurant operators do not currently report meals tax collections to DOR by municipality, in order to develop the revenue estimate, DOR reviewed United States Census information about restaurant sales and number of establishments. Until FY11, when actual excise collection data by municipality will be available, the amounts shown in the spreadsheet reflect the most reasonable estimate of new revenue Brookline

can realize from imposing the excise. Therefore, any anticipated new revenues used by a community in FY10 cannot exceed the estimate provided.

Appropriation of these new local option revenues, if adopted, will be left to the Fall Town Meeting in November when budget amendments are customarily considered. At that time, the Town will be in a more informed position concerning needs and resources than in this very early stage of the budget cycle. However, it is not too early to be acutely mindful that these new revenues fall far short of providing a permanent solution for long-term Town financial sustainability. Not only are these new resources less than what had been sought and based on likely inflated numbers, but also the Town's fiscal stress is caused by factors that dwarf this added revenue capacity. The Retirement Board's actuaries have indicated that Town appropriations for pensions might have to increase by as much as \$5 million in FY12 to begin to make up for the 28% (\$62 million) loss in 2008 retirement funds. Unfunded retiree group health obligations could require millions in additional funding annually over the next 30 years to satisfy that obligation. The needs for capital improvements are unrelenting. The estimate for the Runkle School renovation has grown while at the same time expected School Building Authority reimbursements could decline due to changes in guidelines.

In this daunting context it is most advisable to anticipate restricting the use of any new local option proceeds in FY10 for one-time purposes and/or toward unfunded obligations only. Using this new capacity in the current fiscal year for anything other than one-time purposes and/or toward unfunded obligations will only exacerbate FY11 budgetary constraints. While far from total solution in and of itself, a full year's worth of revenue from these new local option taxes will be an important component in balancing next year's budget without further worsening the outlook for service reductions.

The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on August 14, 2009, on the following:

VOTED: That the Town of Brookline accept G.L. c. 64L, § 2(a) to impose a local meals excise.

ROLL CALL VOTE:

Favorable Action

Daly
Mermell
Benka
Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

The State recently enacted a 1.25% meals tax. This is a statewide tax and the appropriation of that revenue is at the discretion of the State Legislature.

Article 1 considers only the application of an additional local option 0.75% meals tax that would benefit Brookline exclusively.

As the meals excise tax is new, there are no historical collections on which to base an estimate of revenues. The Merchants' Association indicated to our committee that town-wide restaurant receipts were probably on the order of \$115M annually. Given that coarse estimate, we anticipate a potential for over \$800K in annual revenue generation from the meals tax. The State Department of Revenue (DOR) has supplied Brookline with an estimated potential revenue figure of ~\$565K for the remainder of FY10 (an 8-month period) – this translates to ~\$847K on an annualized basis. Should we enact this optional 0.75% local meals tax, future estimates will be based on our collections.

DISCUSSION:

The Advisory Committee understands the concerns of the merchant community and citizens with regard to increased consumption taxes, particularly in economically challenging times. Keeping in mind that we can only consider a 0.75% tax on meals under this article, the Advisory Committee is not convinced that an additional 75 cents on a \$100 dining bill [or 37.5 cents on a \$50 dining bill] is so onerous as to dissuade people from eating out or cause them to eat in another community. Further, other towns are expected to adopt this tax as well, thereby neutralizing any geographic disadvantage.

The benefit of this proposed local excise tax is that it is fully returned to the community of Brookline – unlike some other taxes. To the extent we choose to dine in Brookline, or convince our friends to dine with us here, we receive direct financial benefit. Promoting dining in Brookline becomes an investment in our town's well being.

While the additional revenues would provide a much needed infusion into the community's coffer, our financial future is still fraught with significant obstacles. We cannot expect a singular financial solution; therefore, we must continue to develop a program of revenue enhancements and spending reductions. As we pointed out during our spring budget deliberations, Brookline is currently on a financially unsustainable course. We continue to have tremendous (and increasing) healthcare obligations. Our employee bargaining unit has yet to opt into the far less expensive GIC or comparable healthcare consortium. We have a significant unfunded pension liability, and given the severe downturn in the past year, we will need to make up ground in our funding schedule – potentially requiring several millions of dollars in additional payments toward the pension fund. Furthermore, our unfunded retiree healthcare liability is estimated at

nearly \$300M (without participation in the GIC). This spring we budgeted the first of annually increasing \$250K payments into the retiree healthcare fund, but our financial obligations remain immense. Addressing these and other issues will be a challenge. It will ultimately mean changes to programs, services and expectations. This Local option 0.75% meals tax is a small, but important, part of grappling with these issues. Cuts will still need to be made, but hopefully these new revenue sources will mean that the financial lacerations will be a bit shallower.

CAVEAT

Article 1 proposes adopting a State statute allowing us to apply a local meals excise tax. This is not an appropriation article. The appropriation of these potential revenues can only occur through a vote of Town Meeting, which we anticipate in the fall after thoughtful consideration. Our FY10 budget has already been laid out through our Town Meeting votes this spring. In that vein, these potential revenues for the remainder of FY10 are somewhat serendipitous.

The part these excise tax revenues may play in the ongoing financial operations of Brookline will be considered in future Town Meetings. For now, we must decide whether to adopt a local excise tax that broadens our revenue base without increasing property taxes.

RECOMMENDATION:

The Advisory Committee believes we should seize this opportunity; and the sooner the better.

By a vote of 21-3, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

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ARTICLE 2

SECOND ARTICLE

To see if the Town will amend its local room occupancy excise under G.L. c. 64G, § 3A to the rate of 6 percent; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Legislation enacted in 1985 enabled communities to impose a local option hotel-motel excise of up to 4% in addition to the state excise of 5.7%. Brookline adopted the local option excise tax, at 4%, by a vote of Town Meeting in November, 1985. The FY2010 State budget authorized cities and towns to increase the current local option excise tax on room occupancies from the 4% maximum to a maximum of 6%.

The mechanics of increasing the current 4% lodging excise tax are as follows:

1. a majority vote of the legislative body (Town Meeting in Brookline) is required.
2. the vote must occur at least 30 days in advance of the first day of a calendar quarter in order to become operative for that quarter. As a result, October 1, 2009 is the earliest an increase can become operative for FY10. A community must take action on or before August 31, 2009 in order for the DOR to begin collecting the increased excise on that date.
3. the DOR will continue to distribute the collections to the municipality on the quarterly schedule shown below:

FY QUARTER	QUARTER START DATE	DISTRIBUTION DATE	REVENUE COLLECTED DURING
Q1	1-Jul	30-Sep	June, July, August
Q2	1-Oct	31-Dec	September, October, November
Q3	1-Jan	31-Mar	December, January, February
Q4	1-Apr	30-Jun	March, April, May

This means that if Town Meeting increases the excise tax prior to August 31, the Town stands to collect eight months (October – May) of revenue over three quarters (Q2-Q4).

The DOR has provided estimates of the amount of new revenue each city and town could realize during FY10 from increasing the lodging excise beginning on October 1, 2009. For Brookline, the 8-month estimate is \$132,277 per percentage point. So, at the maximum of an additional 2%, the estimated yield is \$264,554. On an annualized basis, that translates into \$352,739. As was stated under Article 1, Town Meeting is keenly aware that the Town is in the middle of what stands to be a multi-year financial quagmire, and using any proceeds in the current fiscal year for anything other than one-time purposes and toward unfunded obligations will only exacerbate the problem. This Board looks forward to this discussion in the Fall.

The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on August 14, 2009, on the following:

VOTED: That the Town of Brookline amend its local room occupancy excise under G.L. c. 64G, § 3A to the rate of 6 percent.

ROLL CALL VOTE:

Favorable Action

Daly

Mermell

Benka

Goldstein

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:

Article 2 proposes adopting State regulations permitting Brookline to apply a local commercial room occupancy tax of up to an additional 2%.

In 1985, Brookline Town Meeting adopted legislation permitting it to apply a 4% excise tax (above the 5.7% State tax).

The estimated increased revenue to Brookline from applying this new additional 2% excise is ~ \$265K for the remainder of FY10 (an 8-month period). That translates to an annualized figure of ~ \$353K. As with the meals tax, these funds return directly to Brookline.

DISCUSSION:

During the Advisory Committee's hearing and discussion, we heard from the local hotel industry that this proposed tax increase should not prove an impediment to businesses in that it likely represents a secular trend – Boston, Cambridge and Newton are all expected

to enact this excise tax. In fact, Brookline will still have an overall room tax that is less than its surrounding neighbors'.

Underscored during our hearing was the importance of being located in an area of vitality – a mix of shopping, restaurants and entertainment. A healthy retail environment and convenient location is good for the hotel business.

As with the meals excise, this room occupancy tax provides a chance for increased revenues directly to Brookline without creating a competitive disadvantage for business.

RECOMMENDATION:

By a vote of 21-3, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

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BOARD OF SELECTMEN

Nancy A. Daly, Chairman
Betsy DeWitt
Jesse Mermell
Richard W. Benka
Kenneth M. Goldstein

ADVISORY COMMITTEE

Harry Bohrs, Chair

