ARTICLE 1

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

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

SELECTMEN’S RECOMMENDATION
The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 23, 2010, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Warrant Article 1 would permit the appointment of Measurers of Wood and Bark.

DISCUSSION:
As directed by Town Meeting in 2000, the first Warrant Article of the Annual (Spring) Town Meeting is customarily a proposal to appoint Measurers of Wood and Bark. Advocates for this (fairly recent) tradition cite that the appointments reflect Brookline's colonial traditions.

Some members of the Advisory Committee opined that this Article is an anachronism and has no place on a modern-day warrant as it serves to distract Town Meeting’s time and attention away from other (and presumably more pressing) concerns.

In support of this proposal, however, the Advisory Committee is aware of an actual instance within recent memory where a Town resident, unhappy about the amount of firewood s/he received, called upon a Measurer of Wood and Bark to address the dispute.
An unremunerated position, the Measurers of Wood and Bark draw no salary or stipend and receive no health-care or other benefits from the Town; moreover, the Town would incur no other current financial cost or other future post-employment benefit (OPEB) liability in carrying-out this Article.

RECOMMENDATION:
By a vote of 23 in favor and 3 opposed, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: That the Town establish that the number of Measurers of Wood and Bark be two, appointed by the Selectmen.
ARTICLE 2

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

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

SELECTMEN’S RECOMMENDATION
There are no Collective Bargaining agreements for Town Meeting authorization at this time. As a result, the Board recommends NO ACTION, by a vote of 5-0 taken on April 27, 2010.

ADVISORY COMMITTEE’S RECOMMENDATION
Article 2 would ask Town Meeting to raise and appropriate funds for collective bargaining agreements. As there are no agreements at this time, the Advisory Committee unanimously recommends NO ACTION.

XXX
ARTICLE 3

THIRD ARTICLE
To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2011 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

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

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

Funds have been included in the Treasurer’s FY2011 budget to pay for these services directly and the Treasurer does not anticipate using this procedure at this time. This authorization, however, will give the Treasurer the flexibility to enter into such agreements if it should be in the best interest of the Town.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 23, 2010, on the following vote:

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2011 in accordance with General Laws Chapter 44, Section 53F.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Warrant Article 3 seeks Town Meeting’s approval to “authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY’11 pursuant to Massachusetts General Laws ch. 44, §53F. ¹ Under this state law, the Town’s treasurer may not enter into a compensating balance agreement without an annual authorization from his or her respective town meeting. A compensating balance agreement permits the Town to receive banking services free of bank charges in exchange for its maintaining an agreed-to, specified level of deposits and also foregoing interest.

DISCUSSION:
The Town Treasurer met with the Advisory Committee and one of its subcommittees to provide a thorough overview of the benefits and drawbacks of compensating balance arrangements and the current market for banking services. We learned of the Town’s willingness to “shop” its banking business in response to the current market in which banks have increased their existing fees and added new ones. Until recently, cities and towns rarely engaged in discussions about changing banks; it was almost unheard of for municipalities to change banks, and the Town’s financial management merits our thanks for making sure we maximize the benefits we get from our banking relationships.

The Treasurer has not, to date, used this authority to enter into compensating balance arrangements, finding it more advantageous to place Town funds in interest-bearing accounts and negotiate service fees with banks seeking the Town’s business. Of late, regional and local banks are competing with each other and with larger banks for access to the Town’s business. Due to extraordinarily low interest rates, the Town has been receiving fairly miniscule amounts of interest from its cash balances. Historically, interest income had generally been sufficient to cover the majority of the Town’s banking fees; however, the current low interest rates have made it such that this is no longer the case – with the result that the Town has been seeing an increasing level of bank service

¹ The statute provides in relevant part:

[A] treasurer … of a … town … is authorized to enter into written agreements for a period not to exceed three years, with banking institutions having their principal offices in the commonwealth, pursuant to which such treasurer or collector agrees to maintain on deposit in said institutions specified amounts of the funds of the municipality in return for said institutions providing banking services … [N]o such agreement shall be effective unless and until the town meeting has authorized its treasurer … to enter into such agreements … during the fiscal year in which such agreement takes effect and such agreement has been approved by the selectmen of such town.
charges. However, the increased amount of funds the Town would have to “park” in one account in exchange for no-fee banking under a compensating arrangement is, under current market conditions, too large to consider such an arrangement as a feasible option.

The Treasurer has no specific plans to enter into any compensating balance agreements, but would like the flexibility to do so if conditions warrant.

The Advisory Committee also learned that Town Meeting’s approving Warrant Article 3 approving the right to enter into compensating balance arrangements, without more, will obviate the need for the Town’s financial management to prepare and file a fairly elaborate and time-consuming report to the state Department of Revenue; if Town Meeting grants the right to enter into compensating balance agreements, no DOR filing will be required.

RECOMMENDATION:
By a vote of 20 in favor and none opposed, the Advisory Committee unanimously recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.
ARTICLE 4

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

PETITIONER’S ARTICLE DESCRIPTION
Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a warrant article showing the status of all special appropriations.

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

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

The Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 13, 2010, on the article.

ADVISORY COMMITTEE’S RECOMMENDATION

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

DISCUSSION:
The Advisory Committee has not received any requests for rescissions on any bond authorization; such requests for rescission, if made, would require Town Meeting’s approval. It is likely that Town Meeting would be presented with a rescission request at
the May 2011 Town Meeting in connection with the “close-out” of the previously approved landfill bonding.

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

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

XXX
<table>
<thead>
<tr>
<th>Project Description</th>
<th>Revised Budget</th>
<th>YTD Expended</th>
<th>YTD Encumbered</th>
<th>Available</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>C141 DRISCOLL SCHOOL HVAC EQUIPMENT</td>
<td>153,916</td>
<td>127,376</td>
<td>26,538</td>
<td>2</td>
<td>On-going projects to be completed 12/1/10</td>
</tr>
<tr>
<td>C142 PUTTERHAM MEADOWS GOLF COURSE</td>
<td>1,448,064</td>
<td>23,280</td>
<td>46,748</td>
<td>1,378,036</td>
<td>Will be used for drainage project over next couple years</td>
</tr>
<tr>
<td>C146 DRISCOLL SCHOOL IMPROVEMENTS</td>
<td>2,729</td>
<td>0</td>
<td>2,729</td>
<td>0</td>
<td>On-going projects to be completed 12/1/10</td>
</tr>
<tr>
<td>C147 NEWTON STREET LANDFILL</td>
<td>124</td>
<td>125</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>C149 DRISCOLL SCHOOL IMPROVEMENTS</td>
<td>343</td>
<td>0</td>
<td>343</td>
<td>0</td>
<td>On-going projects to be completed 12/1/10</td>
</tr>
<tr>
<td>C156 EVELYN KIRRANE AQUATICS CTR IMPROVEMENTS</td>
<td>4,613</td>
<td>0</td>
<td>4,613</td>
<td>0</td>
<td>On-going projects to be completed 12/1/10</td>
</tr>
<tr>
<td>C157 NEWTON ST LANDFILL (TRANSFER STATION)</td>
<td>83,199</td>
<td>33,191</td>
<td>45,975</td>
<td>4,033</td>
<td>To be completed by 9/1/10</td>
</tr>
<tr>
<td>C152 STORM DRAIN IMPROVEMENTS</td>
<td>132,163</td>
<td>60,022</td>
<td>5,689</td>
<td>66,453</td>
<td>Funding for Inflow investigation</td>
</tr>
<tr>
<td>C162 BHS RENOVATIONS</td>
<td>362,745</td>
<td>278,032</td>
<td>14,945</td>
<td>69,767</td>
<td>To be completed by 9/1/10</td>
</tr>
<tr>
<td>C164 TOWN HALL/Main Library Garage</td>
<td>1,200,000</td>
<td>10,939</td>
<td>0</td>
<td>1,189,061</td>
<td>Phase 1 to commence this summer/fall</td>
</tr>
<tr>
<td>C165 RUNKLE SCHOOL RENOVATION/ADDITION</td>
<td>29,100,000</td>
<td>315,621</td>
<td>1,368,489</td>
<td>27,415,890</td>
<td>To be bid this summer</td>
</tr>
<tr>
<td>C150 MUDDY RIVER RESTORATION</td>
<td>745,000</td>
<td>0</td>
<td>0</td>
<td>745,000</td>
<td>Permitting and Partnership Agreements in process</td>
</tr>
<tr>
<td>C151 WATER METER REPLACEMENT</td>
<td>3,152</td>
<td>2,026</td>
<td>0</td>
<td>1,126</td>
<td>On-going</td>
</tr>
<tr>
<td>C157 NEWTON ST LANDFILL</td>
<td>198,748</td>
<td>160,483</td>
<td>3,650</td>
<td>34,615</td>
<td>On-going</td>
</tr>
<tr>
<td>C160 RESERVOIR AT FISHER HILL</td>
<td>1,350,000</td>
<td>0</td>
<td>0</td>
<td>1,350,000</td>
<td>Purchase and Sale process in place. Design Review Process to start Fall/Winter 2010-2011.</td>
</tr>
<tr>
<td>C163 NEWTON ST LANDFILL</td>
<td>3,275,000</td>
<td>0</td>
<td>0</td>
<td>3,275,000</td>
<td>On-going. Need to actually borrow for project is limited. Will seek bond rescission at future Town Meeting.</td>
</tr>
<tr>
<td>C158 WASTEWATER SYSTEM IMPROVEMENTS</td>
<td>5,205,407</td>
<td>122,754</td>
<td>26,523</td>
<td>5,056,130</td>
<td>On-going</td>
</tr>
<tr>
<td>C159 BEACON STREET RECONSTRUCTION</td>
<td>77,647</td>
<td>77,647</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>C166 CARLTON ST FOOTBRIDGE RESTORATION</td>
<td>1,400,000</td>
<td>0</td>
<td>0</td>
<td>1,400,000</td>
<td>Application Submitted for TE funds; coord. with MA-DOT</td>
</tr>
<tr>
<td>40C DPW CAPITAL</td>
<td>12,824,044</td>
<td>647,748</td>
<td>244,431</td>
<td>11,931,866</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>45,184,604</strong></td>
<td><strong>1,438,419</strong></td>
<td><strong>1,757,531</strong></td>
<td><strong>41,988,655</strong></td>
<td></td>
</tr>
<tr>
<td>ACCOUNT NUMBER</td>
<td>ACCOUNT NAME</td>
<td>Revised Budget</td>
<td>YTD Expended</td>
<td>YTD Encumbered</td>
<td>Available Comment</td>
</tr>
<tr>
<td>---------------</td>
<td>----------------------------------------</td>
<td>----------------</td>
<td>--------------</td>
<td>---------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>K016</td>
<td>IT HARDWARE-SOFTWARE (MUNIS)</td>
<td>43,053</td>
<td>16,537</td>
<td>24,883</td>
<td>1,633 On-going implementation of MUNIS (financial system)</td>
</tr>
<tr>
<td>K017</td>
<td>FURNITURE, FIXTURES, EQUIPMENT</td>
<td>8,716</td>
<td>704</td>
<td>4,625</td>
<td>3,388 On-going furniture upgrades</td>
</tr>
<tr>
<td>K018</td>
<td>SCHOOL FURNITURE UPGRADES</td>
<td>25,000</td>
<td>25,000</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Finance</td>
<td>76,769</td>
<td>42,241</td>
<td>29,508</td>
<td>5,021</td>
</tr>
<tr>
<td>K003</td>
<td>STREETSCAPE/CIVIC SPACE</td>
<td>137,811</td>
<td>0</td>
<td>136,401</td>
<td>1,411 Project nearing completion</td>
</tr>
<tr>
<td>K004</td>
<td>GATEWAY EAST PROJECT</td>
<td>45,267</td>
<td>7,747</td>
<td>37,520</td>
<td>0 25% design to be complete by the end of FY10</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Planning</td>
<td>183,079</td>
<td>7,747</td>
<td>173,921</td>
<td>1,411</td>
</tr>
<tr>
<td>K016</td>
<td>IT HARDWARE-SOFTWARE</td>
<td>280,977</td>
<td>135,583</td>
<td>77,923</td>
<td>67,472 On-going projects</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Information Technology</td>
<td>280,977</td>
<td>135,583</td>
<td>77,923</td>
<td>67,472</td>
</tr>
<tr>
<td>K008</td>
<td>BULLET PROOF VESTS</td>
<td>59,352</td>
<td>4,780</td>
<td>15,729</td>
<td>38,843 To be expended by the end of next fiscal year</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Police</td>
<td>59,352</td>
<td>4,780</td>
<td>15,729</td>
<td>38,843</td>
</tr>
<tr>
<td>K004</td>
<td>FIRE TRAINING MODULE &amp; EQUIPMENT</td>
<td>46,000</td>
<td>46,000</td>
<td>0</td>
<td>0 Funds were re-allocated as part of FY10 CIP</td>
</tr>
<tr>
<td>K009</td>
<td>FIRE APPARATUS REFURBISHING</td>
<td>350,000</td>
<td>165,280</td>
<td>184,720</td>
<td>0 Apparatus currently being refurbished</td>
</tr>
<tr>
<td>K011</td>
<td>FIRE STATION FURNITURE</td>
<td>836</td>
<td>836</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K005</td>
<td>PURCHASE FIRE ENGINE</td>
<td>1,000,000</td>
<td>986,748</td>
<td>7,302</td>
<td>5,950 Will be fully expended by end of fiscal year</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Fire</td>
<td>1,396,836</td>
<td>1,198,864</td>
<td>192,022</td>
<td>5,950</td>
</tr>
<tr>
<td>K002</td>
<td>ENERGY CONSERVATION</td>
<td>105,572</td>
<td>70,753</td>
<td>0</td>
<td>34,819 On-going projects</td>
</tr>
<tr>
<td>K010</td>
<td>ENERGY MANAGEMENT SYSTEMS</td>
<td>100,000</td>
<td>90,380</td>
<td>9,620</td>
<td>0 On-going projects</td>
</tr>
<tr>
<td>K012</td>
<td>CLASSROOM CAPACITY EXPANSION</td>
<td>383,981</td>
<td>132,394</td>
<td>103,778</td>
<td>147,809 On-going projects</td>
</tr>
<tr>
<td>K042</td>
<td>CLASSROOM CAPACITY EXPANSION</td>
<td>400,000</td>
<td>9,881</td>
<td>377,422</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K021</td>
<td>FIRE STATION #5 WINDOWS</td>
<td>119,620</td>
<td>119,620</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K022</td>
<td>TOWN-SCHOOL SECURITY-LIFE SAFETY</td>
<td>124,487</td>
<td>112,101</td>
<td>8,870</td>
<td>3,516 On-going projects</td>
</tr>
<tr>
<td>K023</td>
<td>PUTTERHAM LIBRARY FLOOR REPLACEMENT</td>
<td>25,000</td>
<td>0</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K024</td>
<td>PUTTERHAM LIBRARY HVAC UPGRADE</td>
<td>288,760</td>
<td>286,010</td>
<td>2,750</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K025</td>
<td>MUNICIPAL POOL REHAB</td>
<td>19,581</td>
<td>0</td>
<td>15,381</td>
<td>0 In process of completing project</td>
</tr>
<tr>
<td>K026</td>
<td>TAPPAN ST GYM</td>
<td>35,284</td>
<td>35,284</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K027</td>
<td>WALDSTEIN BUILDING RENOVATIONS</td>
<td>12,000</td>
<td>12,000</td>
<td>0</td>
<td>0 Funds were re-allocated as part of FY10 CIP</td>
</tr>
<tr>
<td>K028</td>
<td>SCHOOL FACILITIES MASTER PLAN</td>
<td>2,452</td>
<td>2,452</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K029</td>
<td>MAINT. CRAFTSMEN GARAGE/PARKS FACILITY FEAS STUDY</td>
<td>40,000</td>
<td>0</td>
<td>0</td>
<td>40,000 To commence 5/1/10</td>
</tr>
<tr>
<td>K030</td>
<td>PUBLIC HEALTH BUILDING</td>
<td>827</td>
<td>827</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K033</td>
<td>ASBESTOS REMOVAL</td>
<td>50,000</td>
<td>46,493</td>
<td>3,500</td>
<td>0 On-going projects</td>
</tr>
<tr>
<td>K034</td>
<td>BHS REPAIRS</td>
<td>80,326</td>
<td>80,326</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K035</td>
<td>FIRE STATION ST</td>
<td>50,000</td>
<td>20,125</td>
<td>29,875</td>
<td>0 To be completed by 6/30/10</td>
</tr>
<tr>
<td>K037</td>
<td>MAIN LIBRARY RENOVATIONS</td>
<td>110,000</td>
<td>0</td>
<td>16,800</td>
<td>93,200 To be completed by 12/1/10; additional funds in FY11 CIP</td>
</tr>
<tr>
<td>K038</td>
<td>PIERCE SCHOOL RENOVATIONS</td>
<td>113,782</td>
<td>0</td>
<td>40,000</td>
<td>73,782 On-going projects</td>
</tr>
<tr>
<td>K040</td>
<td>PUTTERHAM LIBRARY</td>
<td>424,137</td>
<td>188,218</td>
<td>102,279</td>
<td>133,640 Remaining balance for roof project</td>
</tr>
<tr>
<td>K041</td>
<td>RUNKLE SCHOOL</td>
<td>386,710</td>
<td>344,979</td>
<td>25,822</td>
<td>14,909 Feasibility Study/Schematic Design phase complete</td>
</tr>
<tr>
<td>K043</td>
<td>SOULE RECREATION CENTER REHABILITATION</td>
<td>297</td>
<td>2,973</td>
<td>0</td>
<td>0 Complete</td>
</tr>
<tr>
<td>K044</td>
<td>RUNKLE-DEVOTION STUDY</td>
<td>100,000</td>
<td>0</td>
<td>100,000</td>
<td>For Devotion school project</td>
</tr>
<tr>
<td>K045</td>
<td>TOWN HALL RENOVATIONS</td>
<td>973,693</td>
<td>666,562</td>
<td>152,731</td>
<td>154,399 In process of completing project</td>
</tr>
<tr>
<td>K046</td>
<td>TOWN HALL/MAIN LIBRARY GARAGE IMPROVEMENTS</td>
<td>20,200</td>
<td>14,575</td>
<td>0</td>
<td>5,625 Design underway</td>
</tr>
<tr>
<td>ACCOUNT NUMBER</td>
<td>ACCOUNT NAME</td>
<td>Revised Budget</td>
<td>YTD Expended</td>
<td>YTD Encumbered</td>
<td>Available</td>
</tr>
<tr>
<td>----------------</td>
<td>-------------------------------------------</td>
<td>----------------</td>
<td>--------------</td>
<td>---------------</td>
<td>-----------</td>
</tr>
<tr>
<td>K047</td>
<td>TOWN/SCHOOL FACILITY ROOF REPAIR</td>
<td>705,945</td>
<td>280,122</td>
<td>23,918</td>
<td>401,905</td>
</tr>
<tr>
<td>K050</td>
<td>ADA RENOVATIONS</td>
<td>58,370</td>
<td>55,384</td>
<td>0</td>
<td>2,986</td>
</tr>
<tr>
<td>K094</td>
<td>REMOVE PUMPHOUSE &amp; TRANSFORMER</td>
<td>75,000</td>
<td>52,288</td>
<td>22,712</td>
<td>0</td>
</tr>
<tr>
<td><strong>Sub-Total Building Department</strong></td>
<td></td>
<td><strong>4,807,699</strong></td>
<td><strong>2,657,564</strong></td>
<td><strong>566,117</strong></td>
<td><strong>1,584,012</strong></td>
</tr>
<tr>
<td>K014</td>
<td>BHS LANGUAGE LAB</td>
<td>123</td>
<td>123</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Sub-Total School Department</strong></td>
<td></td>
<td><strong>123</strong></td>
<td><strong>123</strong></td>
<td><strong>0</strong></td>
<td><strong>0</strong></td>
</tr>
<tr>
<td>K080</td>
<td>PARK LIGHTING UPGRADE</td>
<td>96,071</td>
<td>0</td>
<td>0</td>
<td>96,071</td>
</tr>
<tr>
<td>K031</td>
<td>PARKING LOTS REHABILITATION</td>
<td>120,000</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
</tr>
<tr>
<td>K048</td>
<td>TRANSFER STATION REHABILITATION</td>
<td>996</td>
<td>696</td>
<td>300</td>
<td>0</td>
</tr>
<tr>
<td>K049</td>
<td>PARK IMPROVEMENTS (WINHROP SQ/MINOT ROSE GARDEN)</td>
<td>39,408</td>
<td>1,408</td>
<td>0</td>
<td>30,959</td>
</tr>
<tr>
<td>K051</td>
<td>TREE MANAGEMENT</td>
<td>191,935</td>
<td>100,846</td>
<td>62,412</td>
<td>28,676</td>
</tr>
<tr>
<td>K055</td>
<td>CARLTON STREET FOOTBRIDGE</td>
<td>90,000</td>
<td>565</td>
<td>0</td>
<td>89,435</td>
</tr>
<tr>
<td>K056</td>
<td>SIDEWALK IMPROVEMENTS</td>
<td>390,497</td>
<td>250,577</td>
<td>84,398</td>
<td>55,522</td>
</tr>
<tr>
<td>K057</td>
<td>CHESTNUT ST DRAIN/WILLOW POND</td>
<td>49,765</td>
<td>3,200</td>
<td>1,930</td>
<td>44,635</td>
</tr>
<tr>
<td>K058</td>
<td>STREET REHABILITATION</td>
<td>3,369,801</td>
<td>1,169,519</td>
<td>475,780</td>
<td>1,724,502</td>
</tr>
<tr>
<td>K059</td>
<td>AMORY FIELD IMPROVEMENTS</td>
<td>0</td>
<td>851</td>
<td>0</td>
<td>851</td>
</tr>
<tr>
<td>K060</td>
<td>NEWTON ST LANDFILL SITE IMPROVEMENTS</td>
<td>2,832,042</td>
<td>928,155</td>
<td>1,432,180</td>
<td>471,697</td>
</tr>
<tr>
<td>K061</td>
<td>LAWTON PLAYGROUND</td>
<td>141,939</td>
<td>148,107</td>
<td>15,791</td>
<td>29,151</td>
</tr>
<tr>
<td>K062</td>
<td>DANIE PAVEMENT</td>
<td>14,391</td>
<td>4,776</td>
<td>8,010</td>
<td>1,605</td>
</tr>
<tr>
<td>K063</td>
<td>PATHWAY RECONSTRUCTION</td>
<td>4,471</td>
<td>1,950</td>
<td>2,521</td>
<td>0</td>
</tr>
<tr>
<td>K064</td>
<td>RIVERWAY PARK IMPROVEMENTS</td>
<td>86,369</td>
<td>0</td>
<td>0</td>
<td>86,369</td>
</tr>
<tr>
<td>K065</td>
<td>PLAYGROUND, FENCE, FIELD, EQUIPMENT</td>
<td>5,32,662</td>
<td>283,015</td>
<td>175,404</td>
<td>74,243</td>
</tr>
<tr>
<td>K066</td>
<td>AMORY PARK</td>
<td>108,016</td>
<td>28,762</td>
<td>11,434</td>
<td>69,20</td>
</tr>
<tr>
<td>K067</td>
<td>OLIMSTED PARK IMPROVEMENTS</td>
<td>38,268</td>
<td>0</td>
<td>0</td>
<td>38,268</td>
</tr>
<tr>
<td>K068</td>
<td>TENNIS/BASKETBALL COURT REHAB</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>K069</td>
<td>LOZAN ANDERSON PARK</td>
<td>5,328</td>
<td>0</td>
<td>0</td>
<td>5,328</td>
</tr>
<tr>
<td>K070</td>
<td>LOST POND CONSERVATION</td>
<td>48,997</td>
<td>0</td>
<td>0</td>
<td>48,997</td>
</tr>
<tr>
<td>K071</td>
<td>TRAFFIC SIGNAL REHABILITATION</td>
<td>115,000</td>
<td>0</td>
<td>0</td>
<td>115,000</td>
</tr>
<tr>
<td>K072</td>
<td>WALNUT HILLS CEMETERY IMPROVEMENTS</td>
<td>220,206</td>
<td>74,378</td>
<td>92,779</td>
<td>53,488</td>
</tr>
<tr>
<td>K073</td>
<td>TOWN-SCHOOL GROUNDS REHAB</td>
<td>68,043</td>
<td>37,083</td>
<td>0</td>
<td>30,959</td>
</tr>
<tr>
<td>K074</td>
<td>FIELD IMPROVEMENTS-DOWNES &amp; LANDFILL</td>
<td>1,794</td>
<td>0</td>
<td>0</td>
<td>1,794</td>
</tr>
<tr>
<td>K075</td>
<td>HEMLOCK TREE ASSESS/REMOVAL</td>
<td>16,746</td>
<td>0</td>
<td>0</td>
<td>16,746</td>
</tr>
<tr>
<td>K076</td>
<td>MUDDY RIVER REHABILITATION</td>
<td>1,395,331</td>
<td>0</td>
<td>0</td>
<td>1,395,331</td>
</tr>
<tr>
<td>K077</td>
<td>WINHROP SQ/MINOT ROSE GARDEN</td>
<td>400,000</td>
<td>0</td>
<td>0</td>
<td>400,000</td>
</tr>
<tr>
<td>K078</td>
<td>TRAFFIC CALMING</td>
<td>149,326</td>
<td>76,415</td>
<td>25,468</td>
<td>47,443</td>
</tr>
<tr>
<td>K079</td>
<td>HORACE JAMES CIRCLE TRAFFIC IMPROVEMENTS</td>
<td>149,959</td>
<td>0</td>
<td>0</td>
<td>149,959</td>
</tr>
<tr>
<td>K080</td>
<td>LONGWOOD/KENT TRAFFIC SIGNAL</td>
<td>69,020</td>
<td>69,020</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>K081</td>
<td>MODIFY TRAFFIC SIGNAL-FIRE STATION 6</td>
<td>53,730</td>
<td>0</td>
<td>0</td>
<td>53,730</td>
</tr>
<tr>
<td>K082</td>
<td>MOUNTFORT ST TRAFFIC SIGNAL</td>
<td>122,238</td>
<td>0</td>
<td>2,238</td>
<td>120,000</td>
</tr>
<tr>
<td>K083</td>
<td>NEWTON ST/W ROXBURY PKWY IMPROVEMENTS</td>
<td>147,900</td>
<td>0</td>
<td>0</td>
<td>147,900</td>
</tr>
<tr>
<td>ACCOUNT NUMBER</td>
<td>ACCOUNT NAME</td>
<td>Revised Budget</td>
<td>YTD Expended</td>
<td>YTD Encumbered</td>
<td>Available</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------------------</td>
<td>----------------</td>
<td>--------------</td>
<td>---------------</td>
<td>-----------</td>
</tr>
<tr>
<td>K090</td>
<td>PEDESTRIAN ACCESS IMPROVEMENTS</td>
<td>45,000</td>
<td>0</td>
<td>45,000</td>
<td>0</td>
</tr>
<tr>
<td>K092</td>
<td>WASH ST/SCHOOL ST/CYPRESS TRAFFIC SIGNAL</td>
<td>103,000</td>
<td>0</td>
<td>0</td>
<td>103,000</td>
</tr>
<tr>
<td>K093</td>
<td>WATER METER REPLACEMENT</td>
<td>150,000</td>
<td>5,568</td>
<td>0</td>
<td>144,433</td>
</tr>
<tr>
<td>K096</td>
<td>PARKING METERS</td>
<td>60,000</td>
<td>29,244</td>
<td>1,116</td>
<td>29,640</td>
</tr>
<tr>
<td>K097</td>
<td>LANDFILL SETTLEMENTS</td>
<td>3,280,000</td>
<td>2,846,891</td>
<td>0</td>
<td>433,110</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total DPW</strong></td>
<td><strong>14,978,346</strong></td>
<td><strong>6,087,326</strong></td>
<td><strong>2,461,393</strong></td>
<td><strong>6,429,626</strong></td>
</tr>
<tr>
<td>K001</td>
<td>LIBRARY SELF CHECK OUT UNITS</td>
<td>32,560</td>
<td>12,020</td>
<td>0</td>
<td>20,540</td>
</tr>
<tr>
<td>K006</td>
<td>PUTTERHAM LIBRARY FURNISHINGS</td>
<td>65,000</td>
<td>51,996</td>
<td>6,481</td>
<td>6,523</td>
</tr>
<tr>
<td>K015</td>
<td>RADIO FREQUENCY IDENTIFICATION (RFID) SYSTEM</td>
<td>418,017</td>
<td>164,056</td>
<td>232,945</td>
<td>21,017</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total Library</strong></td>
<td><strong>515,577</strong></td>
<td><strong>228,072</strong></td>
<td><strong>239,426</strong></td>
<td><strong>48,080</strong></td>
</tr>
<tr>
<td></td>
<td><strong>GRAND TOTAL</strong></td>
<td><strong>22,298,758</strong></td>
<td><strong>10,362,299</strong></td>
<td><strong>3,756,039</strong></td>
<td><strong>8,180,414</strong></td>
</tr>
</tbody>
</table>
ARTICLE 5

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

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

SELECTMEN’S RECOMMENDATION
State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year’s appropriations without the specific approval of Town Meeting. As of the writing of this Recommendation, there are no unpaid bills from a previous fiscal year. Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on April 27, 2010, on Article 5.

It should be noted, however, that the Finance Director is working with NStar on two unpaid electric bills from the Recreation Department. If a resolution to the bills can be reached prior to Town Meeting, then a recommendation will be made in a Supplemental Report. If not, then the bills will come before the November Town Meeting.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Warrant Article 5 would “see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore (sic), and appropriate from available funds, a sum or sums of money therefore, or act on anything relative thereto.”

State law prohibits the Town from paying unpaid bills for goods purchased by it or services rendered to it until and unless Town Meeting has approved the specific appropriation. It is thus customary for every Town Meeting to consider a warrant article
to consider and, if appropriate, approve any such obligations to allow the Town to pay for them.

DISCUSSION:
In late March of this year, the Town’s financial staff advised the Advisory Committee of an unpaid bill in the amount of $9,237.91 purportedly reflecting electricity provided by NSTAR during the renovation of the 2000-2002 renovation of the Soule Recreation Center on Hammond Street. A Town staffer had been negotiating with NSTAR for some time, but the matter only recently became known to senior Finance management; previously, the alleged obligation was not listed on the Town’s general ledger as an account payable.

By way of the history of this matter, the Advisory Committee (after inquiring of Town Counsel) learned that the Town’s contact with the project contractor is silent as to whether the Town, its contractor, or a subcontractor was responsible for electricity used during construction. Compounding this confusion, a computer system change-over at NSTAR made it unable to generate an invoice showing the actual usage amounts in kilowatt hours, the relevant rate structure(s) then in effect, and the date(s) of use; nonetheless, the staffer did negotiate with NSTAR to have NSTAR waive $2,924.38 in alleged late fees. Soon after, the Town’s Recreation Department presented the Advisory Board with a request to pay the $9,237.91 NSTAR invoice.

The Advisory Committee and one of its Subcommittees reviewed this matter at three separate public meeting. Following the Subcommittee meeting, the full Advisory Committee initially voted “NO ACTION” on the request because of the open questions. The Advisory Committee, while appreciative of all involved for their efforts in addressing this issue and noting that its position was not a reflection on the Recreation Department’s management, raised the following:

1. How did an electric bill not get reflected within the Town’s accounts payable/payment systems for eight to ten years?

2. Can a claim be brought against the contactor to pay for some or all of the Town’s alleged liability?

3. Would not NSTAR’s claim be time-barred by state law? (Town Counsel’s office later confirmed that, based on what was known at the time, the answer was likely that the Town could likely successfully assert the 6-year statute of limitations for contract claims)

4. How can the Town make sure the amount NSTAR seeks is the amount actually due based on rates and tariffs in effect when the electricity was allegedly provided?

The Advisory Committee suggested that further review of this matter was needed and that discussions between the Town and NSTAR be initiated to obtain more information. In addition, the Advisory Committee recommended that NSTAR be apprised of the
Advisory Committee’s unwillingness to recommend payment of the already-discounted initial $9,237.91 invoice.

Members of the Advisory Committee note with appreciation the efforts made by Mr. Stephen Cirillo and his staff to perform our requested Financial analysis of this matter. Over a several week period, he and his staff conducted a detailed audit of every NSTAR bill the Town going back to July 2000 – reviewing every late fee NSTAR sought to collect; determining if the Town inadvertently paid any taxes on these invoices (a relevant exercise because the Town’s purchases are generally exempt from sales and other taxes); applying the rate structure then in effect to determine the appropriate charge for each month of service; and matching every payment to NSTAR over this period to one or more invoices received.

Much of the “disconnect” can be traced to well-meant efforts of a staffer and a manager who have long since retired. The analysis indicates that:

1. The actual usage may have actually exceeded the original requested amount;
2. The Town in fact paid for a small amount of taxes.
3. Only a portion of the actual “unpaid” electricity usage invoiced by NSTAR for this period related to the Soule Center renovation project;
4. Some of the claimed amount related to electricity consumed by the restaurant at the Putterham golf facility;
5. While some of the charges might be subject to the statute of limitation, the majority of them (by dollar amount) were not; and
6. Some of the “unpaid” bills had, in fact, been paid, while others had not.

The relevant Subcommittee of the Advisory Committee requested that the Town seek a discounted global settlement to this dispute; pending these discussions, the Board of Selectmen delayed consideration of this matter. Messrs. Kelliher and Cirillo have engaged in extensive negotiations with senior managers at NSTAR and were able to obtain a favorable global settlement figure ($3,076.00) (subject to approval by the Advisory Committee, the Board of Selectmen, and Town Meeting).

The Advisory Committee reiterates its appreciation of Messrs. Kelliher and Cirillo and their staff for its support and efforts in an exercise that, if Town Meeting approves Warrant Article 5, will save the Town $9,086.29 (the original invoiced amount plus NSTAR’s late fees sought less the proposed settlement amount).

RECOMMENDATION:
By a vote of 19 in favor and none opposed, the Advisory Committee recommends FAVORABLE ACTION on the following vote which will allow the $3,076.00 payment
May 25, 2010 Annual Town Meeting
5-4
to NSTAR be paid as full and final payment for outstanding charges for the Recreation Department.

VOTED: To authorize the payment of the following unpaid bill of a previous fiscal year from the FY2010 Recreation Department budget:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>NStar</td>
<td>$2,951.00</td>
</tr>
</tbody>
</table>

VOTED: To authorize the payment of the following unpaid bill of a previous fiscal year from the FY2010 Golf Course Enterprise Fund budget:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>NStar</td>
<td>$125.00</td>
</tr>
</tbody>
</table>
BACKGROUND:  
The Town cannot pay any unpaid bills for goods purchased by it or services rendered to it until and unless Town Meeting has approved the specific appropriation. It is thus customary to place on the Warrant for every Town Meeting if there are any unpaid bills so that Town Meeting can consider and approve such obligations to permit the Town to pay for them.

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

RECOMMENDATION:  
..................the Advisory Committee recommends NO ACTION on Warrant Article 5.
BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

At the beginning of the Town Meeting process, the Board was notified of an unpaid bill of the Recreation Department in the amount of $9,237.91 for electricity provided by NStar during the renovation of the Soule Recreation Center. Discussions between the Town and NStar ensued, led by the Finance Director. Due to confusion over the actual bills, he was able to obtain a favorable settlement figure of $3,076. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 11, 2010, on the vote offered by the Advisory Committee.
ARTICLE 6

SIXTH ARTICLE
To see if the Town will elect to establish an additional property tax exemption for fiscal year 2011 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
This article provides for an increase of up to 100% in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2011 is approximately $x and is funded from the tax abatement overlay reserve account.

SELECTMEN’S RECOMMENDATION
This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY89. The estimated cost is approximately $57,000 and is funded from the tax abatement overlay account. The law allows the Town to increase the exemption by up to 100% as indicated on the following schedule:

<table>
<thead>
<tr>
<th>Description</th>
<th>Ch. 59, Sec.5 Clause</th>
<th>Current Amount of Taxes Exempted</th>
<th>Proposed Amount of Taxes Exempted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surviving Spouse</td>
<td>17D</td>
<td>$175</td>
<td>$350</td>
</tr>
<tr>
<td>Veteran (10% Disability)</td>
<td>22</td>
<td>$400</td>
<td>$800</td>
</tr>
<tr>
<td>Veteran (loss of one hand, foot or eye)</td>
<td>22A</td>
<td>$750</td>
<td>$1,500</td>
</tr>
<tr>
<td>Veteran (loss of two hands, feet or eyes)</td>
<td>22B</td>
<td>$1,250</td>
<td>$2,500</td>
</tr>
<tr>
<td>Veteran (special housing)</td>
<td>22C</td>
<td>$1,500</td>
<td>$3,000</td>
</tr>
<tr>
<td>Veteran (certain widows of soldiers)</td>
<td>22D</td>
<td>$250</td>
<td>$500</td>
</tr>
<tr>
<td>Veteran (100% disability, cannot work)</td>
<td>22E</td>
<td>$1,000</td>
<td>$2,000</td>
</tr>
<tr>
<td>Blind</td>
<td>37A</td>
<td>$500</td>
<td>$1,000</td>
</tr>
<tr>
<td>Elderly</td>
<td>41C</td>
<td>$500</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 23, 2010, on the following vote:
VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2011 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

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ADVISORY COMMITTEE’S RECOMMENDATION

Warrant Article 6 would allow the Town to continue its current practice of increasing state mandated property tax exemptions for several classes of taxpayers by “establish(ing) an additional property tax exemption for fiscal year 2010 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.”

State law creates a variety of categories of residents who may be eligible for property tax exemptions of varying amounts. It is a matter of state law, not at Brookline’s option, who may be (and who is not) eligible for these exemptions. Likewise, state law sets forth the base amount of the exemption and, in some cases, the amounts of the exemptions for which the Commonwealth will reimburse the Town.

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

<table>
<thead>
<tr>
<th>Eligible Tax Exemption Recipients</th>
<th>State law (Mass. G.L. ch. 59, §5) allowing exemption</th>
<th>Default exemption</th>
<th>Proposed exemption (if Warrant Article 6 is approved)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surviving Spouse</td>
<td>17D</td>
<td>$175</td>
<td>$350</td>
</tr>
<tr>
<td>Veteran (with 10% disability)</td>
<td>22</td>
<td>$400</td>
<td>$800</td>
</tr>
<tr>
<td>Veteran (loss of one hand, foot, or eye)</td>
<td>22A</td>
<td>$750</td>
<td>$1,500</td>
</tr>
<tr>
<td>Veteran (loss of both hands, feet, or eyes)</td>
<td>22B</td>
<td>$1,250</td>
<td>$2,500</td>
</tr>
<tr>
<td>Veteran (who by reason of such disability have received assistance for “specially adapted housing”)</td>
<td>22C</td>
<td>$1,500</td>
<td>$3,000</td>
</tr>
<tr>
<td>Surviving spouses of killed or missing soldiers, sailors and members of the National Guard.</td>
<td>22D</td>
<td>$250</td>
<td>$500</td>
</tr>
<tr>
<td>100%-disabled veterans</td>
<td>22E</td>
<td>$1,000</td>
<td>$2,000</td>
</tr>
<tr>
<td>Blind</td>
<td>37A</td>
<td>$500</td>
<td>$1,000</td>
</tr>
<tr>
<td>Elderly (70+ years)</td>
<td>41C</td>
<td>$500</td>
<td>$1,000</td>
</tr>
</tbody>
</table>
(Various of the these exemptions are subject to means tests and also require occupancy and other limitations. The Town’s Assessor’s Department can provide more information regarding eligibility for these exemptions.)

Town Meeting’s attention is directed to the following restrictions. First, while the Town may increase these exemptions (see the column in the table set forth above in the column captioned “Default exemption” by any amount up to 100% of the statutory amount, the Town cannot, on its own, create new exemption categories or increase the existing exemptions such that they exceed the amounts proposed by this Warrant Article. Additionally, the doubling must be uniform across all the exemptions, and the increased exemption may not decrease an individual taxpayer’s liability below his or her previous fiscal year’s amount.

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

Notwithstanding the Town’s fiscal shortfalls and future projected structural deficits, there seems a consensus for doubling the statutory exemptions to assist many needy residents. The Town Assessor estimates that the proposed doubling of the exemptions will cost the Town approximately $57,000 for FY 2011 (as compared to $66,500 for FY 2010 reflecting deaths of eligible veterans and other demographic trends), and there is already a budgeted-for reserve in the abatement overlay account.

The Advisory Committee also reiterated its appreciation the ongoing efforts the Town Assessor’s office has made to publicize the exemptions and other programs available to Town residents (such as, the tax deferral program Town Meeting approved in May 2008).

RECOMMENDATION:
By a vote of 20 in favor and none opposed, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Board of Selectmen.
ARTICLE 7

SEVENTH ARTICLE
To see if the Town will raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2010 budget or transfer funds between said accounts, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
The purpose of this article is to make any year-end adjustments to the current year (FY10) budget.

SELECTMEN’S RECOMMENDATION
There are no proposed amendments to the FY10 budget. Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on April 27, 2010.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Article 7 provides for adjusts to the FY’10 budget and transfers among accounts if necessary.

RECOMMENDATION:
As no motion is required under this Article, the Advisory Committee unanimously recommends NO ACTION on Article 7.
EIGHTH ARTICLE

To see if the Town will:

A.) Fiscal Year 2011 Budget

Appropriate the sums, or any other sum or sums, requested or proposed by the Selectmen or by any other officer, board or committee, for the fiscal year 2011 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, and fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with the option to purchase, or installment purchase of equipment; stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with G.L. Chapter 44, Section 53E½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F½, and as otherwise authorized; and provide for a reserve fund.

B.) Fiscal Year 2011 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $250,000, or any other sum, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for the enhancement of town-wide hardware and software.

2. Appropriate $150,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a fire rescue / special operations truck.

3. Appropriate $50,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Board of Library Trustees, for repairs, alterations, and renovations to the Main Library front entrance.

4. Appropriate $1,740,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.

5. Appropriate $100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Board of Selectmen on a semi-annual basis.
6. Appropriate $262,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of sidewalks.

7. Appropriate $25,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for bicycle access improvements.

8. Appropriate $120,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pathway reconstruction.

9. Appropriate $1,400,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the replacement of the parking meter system and costs incidental thereto.

10. Appropriate $50,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.

11. Appropriate $35,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the replacement of the Newton Street guardrail.

12. Appropriate $250,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the School Committee, for repairs to the Kennard House parking area and the Lincoln School wall.

13. Appropriate $270,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.

14. Appropriate $130,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town and School grounds.

15. Appropriate $155,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

16. Appropriate $25,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen and the School Committee, for school furniture upgrades.

17. Appropriate $55,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town and School buildings.
18. Appropriate $55,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town and School buildings.

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

20. Appropriate $100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School buildings.

21. Appropriate $300,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and, with respect to School Buildings, approval of the School Committee, for roof repairs and replacements in Town and School facilities.

22. Appropriate $100,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for structural repairs to the surface of the Old Lincoln School.

23. Appropriate $1,800,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for remodeling, renovating, reconstruction or making extraordinary repairs to the garages located on the grounds of the Town Hall complex.

24. Appropriate $200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Trustees of the Walnut Hills Cemetery, for upgrades to the Walnut Hills Cemetery; to be funded from the Sale of Lots special revenue fund (SW01).

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants, gifts, reimbursements, and aid from both federal, state, and other sources and agencies for any of the purposes noted in this Article 8, or act on anything relative thereto.
PETITIONER’S ARTICLE DESCRIPTION
This is the annual appropriations article for FY2011. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the publication of the Town Administrator’s Financial Plan on February 16th. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Board of Selectmen. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

SELECTMEN’S RECOMMENDATION
The Selectmen would like to thank the Town Administrator and his staff, the Advisory Committee, all Town Department Heads, the School Superintendent and his staff, and the School Committee for all of their efforts and collaboration in dealing with this FY11 budget. We also want to thank Town Administrator Richard Kelliher for his budgetary guidance over the past 15 years. The fact that Brookline is far better positioned fiscally than most of its counterparts speaks clearly and loudly to his efforts.

SELECTMEN’S BUDGET VOTE vs ADVISORY COMMITTEE’S BUDGET VOTE
The vote taken by the Board of Selectmen on April 27 has just one difference from the vote taken by the Advisory Committee on April 29, and it relates to the Council on Aging (COA) budget. The Advisory Committee increased the FY11 recommended budget by $18,500 to restore a part-time (18.5 hours / week) Outreach Worker that was cut out of the FY10 budget. In order to fund this increase, the Advisory Committee reduced the recommended appropriation from Free Cash for the Liability / Catastrophe Fund. The Board will take up the budget again at its May 11 meeting and will submit a Supplemental Recommendation prior to the commencement of Town Meeting.

ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN
As stated in last year’s Recommendation for the FY10 budget article, the recession has placed enormous stress on governmental budgets at all levels across the country, and the 351 cities and towns in Massachusetts have not been immune. The current intergovernmental relationship between the State and her municipalities is one where the State provides localities with minimal revenue raising capacity, with the state collecting all growth taxes (e.g., income, sales, corporate). Because of this, cities and towns are very dependent on the State equitably sharing its revenues. With the massive loss of revenue at the state level resulting from the economic recession, the State’s ability to maintain its current level of distribution of its revenues to municipalities has been seriously compromised.

In the face of a large State budget deficit, the Governor proposed a budget that level-funded local aid to municipalities. He was able to do so, in large part, by relying on close to $2 billion of one-time sources. Many State legislative leaders urged caution in using the Governor’s Local Aid proposal when building local budgets for FY11. As a result, the Town
May 25, 2010 Annual Town Meeting

Administrator’s Financial Plan used the Governor’s proposed Ch. 70 distribution figures (level-funded for Brookline), but assumed the 15% reduction in Unrestricted General Government Aid (UGGA) that was set out in the initial Financial Forecast. The total assumed Local Aid cut was $892K (6.7%).

The House Ways and Means (HWM) Committee proposed its budget on April 14th. This proposal took a different approach to balancing the state budget: no additional taxes were proposed, the use of one-time revenues was smaller, and total proposed spending was less. In terms of Local Aid, UGGA was cut by 4% ($37.4 million) and Chapter 70 education aid was cut by 0.5% ($18.7 million), exclusive of the use of $75 million in Federal stimulus monies. The stimulus funds were used to both (1) keep all districts at foundation and (2) not cut any district by more than 4%. When those monies are included, the HWM proposal cuts Section 3 aid (UGGA and Ch. 70) by 3% ($148.4M).

For Brookline, the HWM’s local aid proposal results in a reduction of 5.3% ($704K), exclusive of the ARRA funding, which would come in the form of a direct grant to the schools (not part of “Cherry Sheet Aid”). The reduction in the HWM proposal is $188K less than the amount used in the Financial Plan. When the ARRA funding is included, the reduction is $322K less. While this is welcome news, the use of $75M of Federal stimulus monies results in a measure of uncertainty surrounding the HWM Local Aid proposal. It does so because stimulus funds are under the authority of the Governor, not the Legislature. More generally, we saw last year that the Local Aid scenarios worsened as the State budget moved from the Governor, to the House, and to the Senate. There are no assurances at the moment that this year’s experience will be any different.

Another area of budget uncertainty is the Group Health budget. As you know, the Town is in the process of transferring 2,800 subscribers plus their dependents into the Group Insurance Commission (GIC). Budgetarily, the GIC change is the principal reason why the upcoming FY11 outlook is dramatically more stable than prospects appeared for this time last Spring. However, we will not know the actual final savings from this move until the specific enrollments in the various GIC plans are accounted for. The actual GIC rates for one of its more attractive plans for municipal employees increased by 15% rather than our projected 9%. On the other hand, the GIC added new lower cost HMO’s that might help offset some of the higher rates. Even though a $400,000 reserve has been set aside in anticipation of this contingency, we anticipate that enrollments might not be confirmed by the GIC until June.

Because of these uncertainties, both this Board and the Advisory Committee have decided the most sensible course of action is to use the revenue assumptions used in the Financial Plan as presented by the Town Administrator as the basis for the FY11 budget. Any adjustments to the budget should wait until the total picture becomes more settled, and then acted on at the Fall Special Town Meeting. A potential Fall Town Meeting adjustment to the Town budget is the restoration of the $18,500 cut from the Liability / Catastrophe Fund to fund the part-time Outreach Worker position in the COA budget.

There are two significant changes from the original Financial Plan that have been incorporated into this budget before Town Meeting. They are the following:
• **OPEB Assessments to Special Revenue Funds** – the Financial Plan included a plan to phase-up OPEB assessments for the Water & Sewer Enterprise Fund, Golf Course Enterprise Fund, and Recreation Revolving Fund. While all involved with the development of this approach believe it is part of a credible plan established to begin funding OPEB’s, there have been questions raised during budget review about whether or not the plan for these funds was aggressive enough. As a result, the Advisory Committee established an ad-hoc OPEB Sub-Committee, and the Deputy Town Administrator and Finance Director worked very closely with the sub-committee to resolve this issue. The final recommendation was to fully assess these three funds, for each employee enrolled in health insurance, the normal cost based on the funding schedule that assumes a 5.25% discount rate. This results in a cost of $5,672 per employee enrolled in health insurance. In addition to increasing the bottom-line in each of these funds, there is an increase in the OPEB line-item, as the monies are transferred from those funds to the General Fund. (To cover the expense, the Other Available Funds category of revenue increases by the same amount.)

• **Refinancing of Existing Debt / Issuance of New Debt** – in February, the Finance Director recommended to the Board that the $55.8 million of bonds originally issued for 20 years at a rate of 5.3% in CY2000 be refinanced. The borrowing included funds for the renovation of the High School, construction of the Senior Center, and several smaller projects. The High School project was supported by a 61% grant from the State and a debt exclusion override for the remaining 39%. As part of the refinancing, the State gave the Town a lump-sum payment for the entirety of the remaining grant, which was used to reduce the outstanding principal, thereby allowing for the refinancing of the net amount of $13.15 million. The result is a reduction of the debt exclusion portion of the Property Tax in the amount of $5.27 million over the remaining 10 years of the term. In addition, the savings on the other projects will result in a savings of nearly $673,000 over the remaining 10 years of the term.

The new issue totaled $5.275 million, $1.125 million of which is supported by enterprise funds. The lowest bid offered had an average rate of 2.126%. The Debt Service budget (#33 in Table 1) of $9.59 million is $2.42 million less than the amount originally included in the Financial Plan, a reflection of the impact of both the refinancing and the new issue. Although this reduction does not create any new capacity in the FY11 expenditure budget, it directly accrues to a lowered property tax burden for Brookline taxpayers through a reduction of the debt exclusion obligation from the BHS renovation project.

**SUMMARY**

The budget proposed by the Advisory Committee totals $200.7 million, a decrease of $3.3 million (1.6%). Table 1 on the following page details the entire FY11 budget, including enterprise / revolving funds. This budget recommendation includes a General Fund Operating Budget of $186.8 million, which represents a decrease of $689,034 (0.4%); revenue-financed capital of $6.6 million; enterprise / revolving funds of $27.3 million (gross); and non-appropriated expenses of $7.3 million. Table 2, found on page 8-8, details the FY11 General Fund revenues and expenditures.
# May 25, 2010 Annual Town Meeting

## Table 1

### FY2011 Budget Summary

<table>
<thead>
<tr>
<th></th>
<th>FY2010</th>
<th>FY2011</th>
<th>Increase/Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund Revenue</td>
<td>204,048,949</td>
<td>200,705,302</td>
<td>(3,343,647)</td>
</tr>
<tr>
<td>Water and Sewer Enterprise Fund</td>
<td>23,953,371</td>
<td>24,199,108</td>
<td>245,737</td>
</tr>
<tr>
<td>(less Water &amp; Sewer Overhead included in General Fund Rev)</td>
<td>(2,046,265)</td>
<td>(1,869,338)</td>
<td>176,926</td>
</tr>
<tr>
<td>Golf Enterprise Fund</td>
<td>1,266,200</td>
<td>1,266,200</td>
<td>0</td>
</tr>
<tr>
<td>(less Golf Overhead included in General Fund Rev)</td>
<td>(186,349)</td>
<td>(191,161)</td>
<td>(4,811)</td>
</tr>
<tr>
<td>Recreation Revolving Fund</td>
<td>1,661,795</td>
<td>1,797,000</td>
<td>135,205</td>
</tr>
<tr>
<td>(less Rec. Revolving Fund Overhead included in General Fund Rev)</td>
<td>(210,870)</td>
<td>(257,205)</td>
<td>(46,335)</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>228,486,831</td>
<td>225,649,906</td>
<td>(2,836,926)</td>
</tr>
<tr>
<td><strong>Appropriations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund Operating Budget</td>
<td>187,490,396</td>
<td>186,801,363</td>
<td>(689,034)</td>
</tr>
<tr>
<td>Non-Appropriated Budget *</td>
<td>7,297,982</td>
<td>7,331,939</td>
<td>33,957</td>
</tr>
<tr>
<td>Revenue-Financed CIP Budget / Other Special Approp.</td>
<td>9,260,572</td>
<td>6,572,000</td>
<td>(2,688,572)</td>
</tr>
<tr>
<td>General Fund Total</td>
<td>204,048,950</td>
<td>200,705,302</td>
<td>(3,343,649)</td>
</tr>
<tr>
<td>Water and Sewer Enterprise Fund</td>
<td>23,953,371</td>
<td>24,199,108</td>
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<td>228,486,831</td>
<td>225,649,906</td>
<td>(2,836,925)</td>
</tr>
<tr>
<td><strong>Balance</strong></td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

* State and County Charges/Offsets, Overlay, Deficits/Judgments.
May 25, 2010 Annual Town Meeting
8-8

TABLE 2

<table>
<thead>
<tr>
<th>FY2010 BGT.</th>
<th>FY2011 BGT.</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Tax</td>
<td>152,681,998</td>
<td>157,583,115</td>
</tr>
<tr>
<td>Local Receipts</td>
<td>20,357,125</td>
<td>19,868,475</td>
</tr>
<tr>
<td>State Aid</td>
<td>16,536,492</td>
<td>13,604,374</td>
</tr>
<tr>
<td>Free Cash</td>
<td>7,053,295</td>
<td>4,590,079</td>
</tr>
<tr>
<td>Other Available Funds</td>
<td>7,420,040</td>
<td>5,059,259</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td>204,048,949</td>
<td>200,705,302</td>
</tr>
</tbody>
</table>

(LESS) NON-APPROPRIATED EXPENSES

<table>
<thead>
<tr>
<th>FY2010 BGT.</th>
<th>FY2011 BGT.</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>State &amp; County Charges</td>
<td>5,550,741</td>
<td>5,554,903</td>
</tr>
<tr>
<td>Tax Abatement Overlay</td>
<td>1,619,162</td>
<td>1,650,000</td>
</tr>
<tr>
<td>Deficits &amp; Judgments</td>
<td>25,000</td>
<td>25,000</td>
</tr>
<tr>
<td>Cherry Sheet Offsets</td>
<td>103,079</td>
<td>102,036</td>
</tr>
<tr>
<td><strong>TOTAL NON-APPROPRIATED EXPENSES</strong></td>
<td>7,297,982</td>
<td>7,331,939</td>
</tr>
</tbody>
</table>

AMOUNT AVAILABLE FOR APPROPRIATION

<table>
<thead>
<tr>
<th>FY2010 BGT.</th>
<th>FY2011 BGT.</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>196,750,968</td>
<td>193,373,362</td>
<td>(3,377,606)</td>
</tr>
</tbody>
</table>

APPROPRIATIONS

<table>
<thead>
<tr>
<th>FY2010 BGT.</th>
<th>FY2011 BGT.</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Town Departments</td>
<td>61,277,427</td>
<td>61,863,357</td>
</tr>
<tr>
<td>School Department</td>
<td>68,823,845</td>
<td>71,947,765</td>
</tr>
<tr>
<td>Non-Departmental Total</td>
<td>57,389,123</td>
<td>52,990,241</td>
</tr>
<tr>
<td>General Fund Non-Departmental</td>
<td>54,945,639</td>
<td>50,672,537</td>
</tr>
<tr>
<td>Water and Sewer Enterprise Fund Overhead*</td>
<td>2,046,265</td>
<td>1,869,338</td>
</tr>
<tr>
<td>Golf Enterprise Fund Overhead*</td>
<td>186,349</td>
<td>191,161</td>
</tr>
<tr>
<td>Recreation Revolving Fund Overhead*</td>
<td>210,870</td>
<td>257,205</td>
</tr>
<tr>
<td><strong>OPERATING BUDGET SUBTOTAL</strong></td>
<td>187,490,396</td>
<td>186,801,363</td>
</tr>
</tbody>
</table>

Revenue-Financed Special Appropriations

<table>
<thead>
<tr>
<th>FY2010 BGT.</th>
<th>FY2011 BGT.</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>9,260,572</td>
<td>6,572,000</td>
<td>(2,688,572)</td>
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</table>

**TOTAL APPROPRIATIONS**

<table>
<thead>
<tr>
<th>FY2010 BGT.</th>
<th>FY2011 BGT.</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>196,750,968</td>
<td>193,373,362</td>
<td>(3,377,604)</td>
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</tbody>
</table>

**BALANCE**

<table>
<thead>
<tr>
<th>FY2010 BGT.</th>
<th>FY2011 BGT.</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

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

The fully-allocated $186.8 million General Fund Operating budget is broken out in the pie chart on the following page.
Total General Fund revenues will remain stagnant in FY11 in comparison to FY10 levels. The Town’s General Fund non-property tax collections (Local Receipts) will drop below prior year actuals to the lowest level in six years. As previously noted, estimates about State assistance continue to be in flux. Without the relative stability of the property tax (up 3.5%), overall Town revenues would be in a state of decline.

Yet, because of the actions the Town has taken in recent years, most recently culminating in the agreement to join the state GIC in FY11, we will not have to employ the extreme measures that, unfortunately, are being increasingly utilized nationally by state and local governments. Even though the FY11 budget calls for the exercise of significant restraint in
light of the overall long-term outlook, it does not have to resort to severe cutbacks, unpaid furloughs, compensation rollbacks, and lay-offs. Nevertheless, while seeking to preserve essential health, safety, and education services in the near-term, the recommended budget also attempts to strategically position the Town for continued economic and fiscal stress.

BACKGROUND
Since FY08, the Town and Brookline community have fully utilized virtually all of the major tools available to Massachusetts municipalities for stabilizing budgets in the face of the dual challenges of structural shortfalls and economic decline:

- **FY08 CLOSED $3.2 MILLION BUDGET GAP**
  - $1.5 million in increased local fees and fines
  - Group health plan design changes
  - DPW savings initiatives
  - Budget cuts

- **FY09 APPROVAL OF $6.2 MILLION PROP 2 ½ OVERRIDE**
  - $2.1 million for structural deficit
  - $1.5 million for infrastructure
  - $2.6 million for education

- **FY10 ADDRESSED $5 MILLION DEFICIT**
  - $4 million reduction via reorganizations, consolidations, cuts
  - First round implementation of Efficiency Initiative Committee (EIC) recommendations
  - Initiated OPEBs funding plan
  - Adopted newly enacted local option taxes are earmarked for pension funding

- **FY11 EXECUTED GIC AGREEMENT**
  - $4+ million town budget savings
  - $1+ million net employee savings (premium savings less out-of-pocket costs)
  - Provides capacity for salary reserve; expanded OPEB funding; and continuation of pension funding plan

This multi-year strategy involving reductions, revenue, and reforms has brought the Town in FY11 to a point of relative budgetary respite from long-term fiscal tumult that will undoubtedly continue beyond the upcoming fiscal year. Some of the principal actions by which the FY11 budget attempts to sustain services near-term and brace for long-term uncertainty are:

- **WORKFORCE MANAGEMENT** – In recent years, the Town has sought reduced workforce levels without layoffs from efficiencies, cutbacks, and hiring freezes. While the FY11 budget does not require lay-offs, past inroads made in these levels are preserved and, in fact, slightly reduced below FY10 counts. Since FY06, Town General Fund FTEs are down nearly 5%.
• BALANCED APPROACH TO COMPENSATION – Due to the budget cuts required in FY10 and lack of reform in the local government group health system for that year, cost of living adjustments were not provided to any employee groups in FY10. The FY11 budget does not retroactively increase this base budget item, but does set aside a prospective salary reserve equivalent to 1% in light of the group health change taking place on July 1, 2010.

• INCREASED FUNDING FOR OPEBs – The OPEBs funding schedule initiated in the FY10 budget is not only continued but expanded. The FY11 budget includes an OPEB allocation in excess of $1.1 million. By the end of FY12, it is projected that the Trust Fund balance will likely approach $10 million.

• CONTINUED DEDICATION OF LOCAL OPTION TAXES TO PENSION FUNDING – For FY11, newly adopted local option taxes of approximately $1 million are again earmarked for pension funding in order to ramp up to an adequate appropriations level by FY12 as part of the overall strategy to recover from 2008 investment losses.

• TOWN/SCHOOL PARTNERSHIP – By continuing the past practice of evenly dividing net revenue after accounting for fixed costs, inclusive of Special Education, funding for the Schools can be increased 4.5%. Recent education program expansion can therefore be continued.

• NO PUBLIC SAFETY STAFF REDUCTIONS – Fire suppression levels and uniformed police enforcement are maintained after the reductions experienced in both areas in the current fiscal year. It is important to note that, according to the Chiefs, losses due to fire and reported crime are both down notwithstanding these reductions.

• ON-GOING EMPHASIS ON EFFICIENCIES THROUGH TECHNOLOGY AND OTHER MEANS – Continuation of Efficiency Initiative as identified in the 2009 Report of that Committee, often utilizing technology for greater productivity in areas such as parking management/enforcement.

• PRESERVATION OF RESERVES – All reserve policies are followed and operating reserves, along with reserve funds for liability, stabilization, and property tax overlay, are fully-funded. The Advisory Committee’s proposal to add $18,500 to the COA budget at the expense of funding the Liability / Catastrophe Fund does, however, result in Free Cash supporting the Operating Budget, a deviation from the Town’s Free Cash Policy.

• CIP FUNDING RESTORED – CIP appropriations, which were reduced in FY10 from 5.5% of net revenue to 5.0% of net revenue, are increased to 5.25% per the recommendation when the FY10 reduction was taken. It is fully expected that this allocation will increase to 5.5% in FY12 as originally planned.
As a result of the Town’s multi-year approach in its fiscal strategy, Moody’s Credit Service once again renewed the Town’s Aaa rating in February, a designation the Town has earned annually since the Aaa rating was reinstated in 1995. In addition to citing the Town’s stable property tax base and favorable debt profile, Moody’s noted “Brookline’s well managed financial position…given the Town’s proactive budgeting strategies.”

**FY11 BUDGET ACTIONS**

Group Health - The cornerstone for the balanced FY11 budget that also advances the objective of addressing long-term concerns is the upcoming transition for health coverage into the GIC. This switch is expected to save a total of approximately $7 million in avoided premium costs, creating more than $4 million in freed-up budget capacity for the Town and providing over $2 million for employee/retiree subscribers in the form of reduced withholdings. The figures below illustrate how significant the budget variance is from what had been expected to be a $25.7 million line-item had the change not been made.

<table>
<thead>
<tr>
<th></th>
<th>NON-GIC</th>
<th>WITH GIC</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FY2010</td>
<td>FY2011</td>
</tr>
<tr>
<td>Approp.</td>
<td>24,073,604</td>
<td>25,757,341</td>
</tr>
<tr>
<td>$$ Var.</td>
<td>1,683,737</td>
<td>6.99%</td>
</tr>
<tr>
<td>% Var.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$$ Var.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>% Var.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The impetus for this change began with a 2006 Metro Mayors study, chaired by an area bank executive, that recommended allowing municipalities to join the State-administered health program for the employees and retirees of the Commonwealth covering 300,000 members inclusive of dependents. This concept took shape over the course of year-long deliberations between statewide union and municipal representatives who came to consensus on an approach for localities to make this switch through a concept called coalition bargaining. The Municipal Partnership Act that was enacted into law in July, 2007 allowed cities and towns for the first time ever the opportunity to join the GIC through coalition bargaining, which requires 70% approval of the unions and retirees.

The Override Study Committee, whose January 2008 Report led to only the Town’s second property tax override since Proposition 2 ½ was enacted in 1981, recommended that the Town take advantage of the new law and join the GIC. Subsequently, the Efficiency Initiative Committee and the OPEBs Task Force likewise urged the same action. Even Town Meeting in 2008 resolved that town management and labor should negotiate in earnest over joining the GIC.
In anticipation of this possible course of events, the Board of Selectmen in 2007 adopted Section 19 of G.L. Ch. 32B, which authorizes the coalition bargaining process. The Town and the union Public Employee Committee (PEC) could not come to agreement about the GIC in 2008. However, in November 2009 the parties signed an MOA allowing the Town to transfer its group health subscribers to the GIC on July 1, 2010. The core of the Agreement calls for the Town to increase its percentage share of premium from the current 75% to 78%-80%-83% over the three years of the MOA term. In exchange, the PEC agreed to decrease the Town’s premium share for the more costly indemnity coverage from 75% to 65% and to relinquish union bargaining rights over future plan design changes.

Because of the substantial variance between GIC premiums and current Town premiums (family coverage is currently $1,834/mo, 30% greater than the initial FY10 premium for comparable GIC coverage at $1,273/mo), the Town ultimately agreed with the PEC to share with the employees and retirees about one quarter of the Town’s savings through increasing the Town’s percentage contribution of premiums to 83%.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>FY11</th>
<th>FY12</th>
<th>FY13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Savings</td>
<td>$7,147,065</td>
<td>$8,743,485</td>
<td>$10,591,656</td>
</tr>
<tr>
<td>Town Savings</td>
<td>$4,753,061</td>
<td>$5,390,709</td>
<td>$5,858,066</td>
</tr>
<tr>
<td>Employee/Retiree Savings</td>
<td>$2,394,004</td>
<td>$3,352,776</td>
<td>$4,733,590</td>
</tr>
</tbody>
</table>

Notes: 10% Indemnity Migration is assumed

The above pro forma, prepared by the Town’s consultant Longfellow Benefits, shows the potential amount of premium cost avoided annually assuming 12% growth rates for current Town plans and 9% for the GIC. It also illustrates and how the Town and PEC negotiated the allocation of these savings inclusive of the subscribers’ pre-existing 25% share of savings enhanced by the Town shifting additional savings through reducing employee premium withholdings from 25% to 17% over the term of the agreement. It is important to note that these figures do not reflect the estimated $1 million a year increase in subscriber out-of-pocket costs due to the higher co-pays of the GIC.

The three-year effort to transfer into the GIC is indicative of the obstacles associated with coalition bargaining as the means of making this change. Of the state’s 351 cities and towns, only 20 have joined thus far (along with several regional schools and planning agencies) despite the potential for significant savings. Fear of change, loss of local control, and the need for a super majority of 70% union approval and many other factors are contributing to the lack of movement.

The stakes are obviously huge. Notwithstanding this change, the following projection of 9% annual increases shows that in two years, Town group health costs even under the GIC will exceed current FY10 costs. The GIC is not in and of itself an ultimate solution. As noted earlier, FY11 actual savings, while still quite substantial, might turn out to be slightly less than projected because of ultimate plan enrollment decisions by employees. Some plans are more costly than others; if more employees enroll in those plans, then the budget would be
underfunded. For this reason $400,000 of Town savings have been set aside as a contingency reserve for group health purposes. However, without this switch to the GIC, the Town would be facing a formidable cutback budget and a severely constricted ability to take meaningful actions addressing unfunded long-term obligations.

WORKFORCE PLANNING/MANAGEMENT – Since FY03, the Town has imposed a hiring freeze in all but two years in order to manage the workforce downsizing necessary to cope both with year-to-year deficits and long-term structural shortfalls. This period of episodic suspensions of hiring was preceded by several years of a “NO NET NEW HIRE POLICY” that mandated back in those times of economic growth that the Town control against workforce expansion by requiring new positions to be offset by the elimination of old positions. In two instances - FY08 and FY10 - the Hiring Freeze was augmented by a Retirement Incentive Program designed to encourage employment separation without expanding retirement costs themselves.

As is shown in the Table on pp. II-29 of the Financial Plan, over the past five fiscal years the Town has reduced General Fund FTEs by more than 30 positions, or nearly 5% of the workforce. Enterprise and Revolving Fund supported positions have been held virtually constant during this same period. These reductions have occurred across departments and throughout all levels of the organization.

This overall downward trend has not only allowed the Town to avoid layoffs, but has also greatly assisted the Town in the fiscal years when there were mid-year State Aid cuts (FY03 and FY09). In addition, these reductions also help mitigate unfunded retirement obligations for both pensions and health insurance.
Despite the budget capacity created for FY11 by the change to the GIC, this budget not only preserves the past inroads made in workforce levels, but actually expands them slightly by further implementation of last year’s recommendations of the Efficiency Initiative Committee.

The Hiring Freeze currently in effect was initially authorized by the Board of Selectmen in October 2008. Even though there have been a few “authorizations to hire” during this period based upon the formal exemption provision of the policy, the Town has recently had as many as 27 vacant positions subject to the Freeze. As a result of the recommendations outlined in this budget, several of these positions remain unauthorized. Authorizations to hire for the remainder have been sought by the involved departments in order to continue the service levels that are actually budgeted for in FY11.

BALANCED APPROACH TO COMPENSATION – Through the last two labor contract cycles (two 3-year agreements back to FY04), contractual COLA’s have been held within the growth of the CPI as measured on a compounded basis against the Northeast Urban Index.

<table>
<thead>
<tr>
<th>FY</th>
<th>% INCR.</th>
<th>CPI (Jul vs Jul)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>2</td>
<td>3.9</td>
</tr>
<tr>
<td>2005</td>
<td>2.5</td>
<td>3.4</td>
</tr>
<tr>
<td>2006</td>
<td>3 + 1</td>
<td>4.6</td>
</tr>
<tr>
<td>2007</td>
<td>2 + 1</td>
<td>2.0</td>
</tr>
<tr>
<td>2008</td>
<td>2</td>
<td>5.7</td>
</tr>
<tr>
<td>2009</td>
<td>2 + 1</td>
<td>(1.9)</td>
</tr>
<tr>
<td>2010</td>
<td>0</td>
<td>2.6</td>
</tr>
<tr>
<td></td>
<td>Cum.</td>
<td>17.70</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20.5</td>
</tr>
</tbody>
</table>

* Not agreed to yet.

In order to balance the $5 million deficit in FY10 budget, the Town eliminated the entirety of the Salary Reserve that had initially been set aside in last year’s Financial Plan. The FY11 budget does not propose any restoration funding for purposes of retroactivity. However, a Salary Reserve equivalent to a 1% COLA for all Town employees is set aside for FY11. No wage adjustment in FY10 and a COLA in the order of magnitude of 1% for FY11 will not likely push the Town’s cumulative long-term COLA trend beyond the CPI trend through FY11.

INCREASED FUNDING FOR OPEBs - In 1998 Special Legislation was approved to create the Retiree Health Trust Fund. In FY2000 the Town began to set aside funding for this purpose, and has accumulated more than $7 million for this long-term obligation. The language of that Trust identified the Town’s Finance Director as the custodian of funds. The legislation that created this Trust Fund pre-dated the Government Accounting Standards Board (GASB) # 43 regulation that identified the “best practice” to have OPEB funds controlled by an independent autonomous board. In June, 2008 the Town took steps to...
convert the existing Trust Fund to conform to GASB # 43, authorizing Special Legislation to create an autonomous board to control the funds. The transfer of the Trust to the autonomous board took place in December, 2009.

In June, 2008 a Task Force was appointed by the Board of Selectmen to address both the issues of cost containment and funding. This OPEBs Task Force completed its work in June, 2009 and recommended to the Board of Selectmen and School Committee a series of actions that could bring the Town to full funding of this obligation within 30 years. One of the key recommendations was that new funding should be committed to this obligation as soon as possible.

In response to that recommendation, the Town included an appropriation in the amount of $250,000 in the current FY10 budget, with the further intention to increase this appropriation by $250,000 each year over the 30-year funding period. This FY11 budget includes an accelerated appropriation of $750,000. In addition, a strategy to phase-up funding of the OPEB unit cost in the Town and School enterprise, revolving and special funds was incorporated into the Financial Plan, and modified during the budget review process (as discussed on page 8-6). The assessment of OPEB’s to these funds adds $377,531 to the Trust in FY11. Lastly, the budget includes the re-direction of the “run-off” in the Non-Contributory Retiree line-item (part of Pensions) to OPEB’s, another recommendation of the OPEB Task Force being implemented. This adds $15,000 to the appropriation, resulting in a total FY11 line-item of $1.14 million.

Joining the GIC will also have an impact on the Town’s OPEBs obligation, which will be measured once the next biennial actuary analysis is completed during the Summer of 2010. The Actuary has preliminarily indicated that entering the GIC could reduce the unfunded liability by as much as $800,000 per year, or $24 million over the next 30 years.

Based upon the last actuary analysis, it is assumed that by committing to the above funding recommendations, the Town will accumulate more than 60% of the required funding over a 30-year period. In addition, we will review a strategy that would allocate the annual pay-as-you-go retiree health portion of the overall health insurance appropriation directly to the Trust Fund and make all necessary expenditures out of the Fund. Other OPEB Task Force cost containment and funding recommendations will also be considered. Once the biennial actuary analysis is completed later this Summer, there will be more complete information to gauge the potential impact of the totality of these tangible actions and conceptual possibilities.

CONTINUED DEDICATION OF LOCAL OPTION TAXES TO PENSION FUNDING - In CY08, pension systems across the country realized steep losses in their assets as a result of the dramatic downturn in the stock market. Brookline’s Retirement System was not immune: it lost 28% of its value, or approximately $62 million. For comparison purposes, the S&P 500 lost 47% of its value; CalPERS, the country’s largest public pension system, lost 25% ($60 billion); and the State’s system (PRIT) lost 29% ($16 billion). Further compounding this loss is the unrealized gain of 8.25% that was expected in CY08, leaving a total gap approaching $80 million between actual assets and expected assets as of December 31, 2008. This is shown in the graph on the following page.
The Retirement Board’s actuary performed an analysis last year that estimated the impact of the CY08 losses on future pension funding schedules. This initial analysis indicated that the originally scheduled FY12 appropriation would have to increase between $3 million and $5 million in order to absorb the losses and be fully-funded by 2028.

As a result, it was recommended to Town Meeting that the new local option taxes adopted in August, 2009 be allocated to augment the FY10 pension appropriation in an effort to start ramping-up for this massive FY12 budget hit. Town Meeting approved the plan and appropriated nearly $1 million for this purpose. This FY11 budget continues this allocation. As a result of this approach and the 28% return in CY09, the Town will be much better positioned to handle the FY12 appropriation increase.

More recently, the actuary performed a preliminary analysis to ascertain what the impact of the 28% return, the stepped-up appropriation schedule, and ability to have until 2030 to fully-fund the pension system could mean for the FY12 appropriation. This more recent analysis shows that the Town’s FY12 appropriation could be approximately $14.5 million, an amount that is $1.5 million more than the FY12 appropriation required under the current funding schedule. However, by using the local option taxes to start funding this pension spike, growth in FY12 over FY11 could be limited to about $700,000 compared to close to $2 million if the Town were not taking these anticipatory actions. This is shown in the table below:

<table>
<thead>
<tr>
<th></th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original funding schedule</td>
<td>12,063,565</td>
<td>12,565,355</td>
<td>13,083,124</td>
</tr>
<tr>
<td>Augmented with local option taxes</td>
<td>13,028,716</td>
<td>13,784,954</td>
<td></td>
</tr>
<tr>
<td>Revised Preliminary FY12</td>
<td></td>
<td></td>
<td>14,500,000</td>
</tr>
</tbody>
</table>

The final numbers for FY12 will not be known until the actuary completes her work (Spring/Summer) and the Retirement Board votes to adopt a new funding schedule (Summer/Fall). If the various factors above fall into place as outlined, then the untenable FY12 budget demand can be avoided.

TOWN/SCHOOL PARTNERSHIP – The Town/School Partnership was established to provide the Town generally and the Brookline Schools specifically with a greater measure of predictability in financial planning. The School Superintendent and Town Administrator entered into a written agreement in 1995, approved by the then Board of Selectmen and School Committee, that established a framework for the predictable allocation of revenue for
municipal and educational purposes. To simplify a bit, the schools receive 50% of the year-to-year change in all General Fund operating revenue less fixed costs as defined in the Agreement – benefits, utilities, debt service, etc.

The Partnership Agreement has also provided a framework of collaboration that has reinforced efforts to more closely integrate common operations. The Municipal IT Department serves the technology needs of the schools (except for actual classroom instruction); payroll functions were consolidated in 2009; employee benefits are administrated centrally as are financial systems, purchasing and legal services. Facility maintenance was actually centralized in the Town Building Department even prior to the Partnership. The School Committee and Board of Selectmen have even gone so far as to retain the same outside law firm for their respective labor counsel services.

The viability of the Partnership is understandably tested in periods of budget stress. For FY11, the Partnership is once again eliminating any public sense of Town and School competition for resources that is all too common within Massachusetts municipalities. Because of the formula underlying the Partnership, the Schools were a direct stakeholder in the GIC negotiations. The pre-established expectations were that savings from reforming the means by which the Town provides group health coverage would be realized by the Schools in the same proportion that their employees/retirees account for group health costs. There was never the need for Town and School Administrations to determine anew the allocation of group health savings because of their shared expectations about such matters spanning two decades. This is the primary reason why the FY11 budget for the Brookline Schools can increase by 4.5% while total growth in the General Fund remains relatively flat.

The Partnership will also come into play during the current fiscal year. The Brookline Schools are projecting a FY10 budget shortfall of approximately $1.2 million. Skyrocketing costs for out-of-district special education expenses are primarily fueling this deficit (see graph). Under the Partnership, both special education and the Town budget reserve are considered fixed costs with both entities sharing responsibility for funding. The School Administration has declared that it will take internal steps to reduce the shortfall through expenditure controls in other areas of its budget. The Schools also have a reported $900,000 accumulated surplus in State special education assistance called Circuit Breaker funds. This, too, will be employed by the Schools to help address the problem. However, the Town should be prepared to stand ready to utilize Town reserve funds to some extent if by the end of the current year a School deficit remains.
PUBLIC SAFETY STAFFING - The budget deficit in FY10 necessitated cutbacks in both the Police and Fire Departments. Police staffing was reduced by four positions, back to the level last deployed in 1994. Fire personnel were reduced by six positions, with four taken from Suppression and two from Prevention. Combined, these are the lowest levels of police and fire staffing since Proposition 2 ½ was enacted in 1981.

Yet, with a measure of relief, it can be reported that crime rates dropped in 2009 and loss due to fire also declined. It is particularly encouraging to note that the current fire suppression staffing levels have not forced a jump in overtime requiring the temporary removal of apparatus for budget balancing purposes. Leave utilization levels in the Department have lessened, thereby taking pressure off the budget that minimum manning contractual obligations would have otherwise caused in the context of reduced staffing.

The FY11 budget does not entail further reductions in public safety staffing, although efficiencies are being pursued in administrative functions as described later in this Recommendation. In conjunction with the partial lift of the Hiring Freeze described earlier, authorizations to hire were recently recommended for the current 10 Police vacancies and for four additional Fire vacancies. In fact, two of the Fire positions are to be supported by State stimulus funds, actually pushing the hirings above levels originally budgeted that, over time, are expected to fall back to initially authorized levels due to attrition.

Nevertheless, budgetary conditions for FY11 should not mislead anyone about the highly likely potential for long-term pressure on all town budgets, including public safety. Use of technology in both departments, especially in Fire operations, must continue to be expanded. While information technology is quite advanced for police operations, administrative processes – especially parking enforcement – should be the focus of continuous improvement.

The recently released Fire Department Technology Integration Assessment is especially telling. It found that the Department is having a "difficult time incorporating technology into operations" and recommends changes in both personnel and systems that are reflected in this budget. Fortunately, through informal but extensive interaction with union leadership on the findings of this report, both departmental management and labor have expressed commitment to carry out the Report’s recommendations. Additionally, the Town has presented the separate Report on Fire Department Operations to the union as part of the formal negotiations that are underway for a successor contract. Because this Report involves matters that are subject to active negotiations, the Town, as a matter of good faith bargaining practice, is not unilaterally releasing that document. However, at some point the findings of the Operations Report will likely become part of future budget deliberations as the Town continues to cope with the budget constraints.

FY11 INITIATIVES/EFFICIENCY MEASURES – the budget includes a number of initiatives and efficiency measures that continue the actions taken in recent budget cycles to help streamline operations and realize budgetary savings.

- Efficiencies from Technology – over the past decade, the Town has continued to place more emphasis on technology to both gain efficiencies and bring government closer
to citizens. Examples are: on-line bill payment options; meeting notification system; town-wide Wi-Fi network; Voice Over IP (VOIP) telecommunications system; and a model GIS application. Direct benefits to the FY11 budget result from three recent IT investments: handheld technology for the issuance of parking tickets, RFID in the libraries, and “Green Technology”.

- **Handheld technology** – the EIC report recommended to concurrently explore the privatization of parking ticket administration and the use of handheld technology for the issuance of tickets. Both options were analyzed and it became clear that investing in handheld technology had the greatest potential for cost savings. After reviewing various types of technology available, the Town chose to procure exciting new technology from Velosum, a Utah-based company. The so-called “magic pens” have allowed for approximately 2/3’s of all tickets to be automatically entered into the parking ticket database once they are written, eliminating the need to manually data enter approximately 7,000 tickets/month. As a result, a clerical position within the Traffic Division of the Police Department can be eliminated for a savings of $38,386, or approximately $50,000 including benefits. In addition, long-term pension and OPEB liabilities are avoided.

- **Radio Frequency Identification (RFID)** – while a widely debated appropriation in FY09, support of the Library Trustees and Board of Selectmen for this highly promising technology was unwavering. The Library currently has authorization to hire three vacant positions. The filling of one of them will result in another vacancy. The Director feels confident he will not need to fill that vacancy and will still be able to maintain current service levels without significant deterioration of services to patrons. He has come to this conclusion because of the anticipated efficiencies of RFID. As a result, a Library Assistant II position is eliminated for a savings of $38,193, or approximately $50,000 including benefits. In addition, long-term pension and OPEB liabilities are avoided.

- **“Green Technology”** – the new “smart building technology” used in the renovated Town Hall has not only helped “green” the facility, but also has resulted in significant cost savings: since re-opening, kWh use has been cut in half. As a result, the utility budget for Town Hall has been reduced by $170,000. This technology enables the Town to better control building access, climate, security, power consumption, and electronics, all of which can now be managed automatically and be controlled to account for off-hours, holidays and unforeseen usage.

- **Fire Department Technology** – since 2004, when the Fire Department was awarded a Federal grant to purchase laptops for fire apparatus, the Department has been working to better utilize technology in its operations. Benefits of technology in the fire services range from firefighter safety (placing critical information in the hands of firefighters on the way to and at the scene of an incident) to better records management (fire prevention and training records). While some advancements have
been made over the past six years, technology has not been widely integrated into
day-to-day operations of the Department.

In an effort to help expedite the incorporation of technology into the Department,
Emergency Services Consulting International (ESCI), a well-regarded consulting firm
that specializes in fire department operations, was retained in CY09. Their
assessment was blunt: the Department continues to rely heavily of log books and
paper; the Department was generally comfortable in the use of outdated methods of
data capture; and there is no ability to perform meaningful data analysis and
performance measurement.

In response, the Chief convened a group of stakeholders to discuss next steps for the
development of a Strategic IT Plan for the Department. The stakeholders agreed that
the services of ESCI should be retained again to assist in this endeavor. This
Financial Plan reflects a number of the recommendations included in the reports:

- a new records management system (RMS) is funded
- additional PC’s for the fire stations are funded
- the current civilian IT staff position is replaced with a higher
  graded position
- the replacement of the older apparatus laptops is funded

• Personnel Consolidations – in FY10, a number of initiatives were undertaken to
  consolidate and re-organize departments. One involved the consolidation of the Fire
  Department Wires Division into the Department of Public Works (DPW), which
  resulted in the reduction of one FTE. Further benefits of this consolidation are reaped
  in this FY11 budget: the streetlight maintenance contract is reduced by a net of
  $50,000 because of DPW’s ability to utilize these personnel for streetlight
  maintenance needs.

A new consolidation initiative is included in this budget: the merger of the DPW IT
position with the IT Department. The position currently budgeted for in DPW is
being eliminated and the vacant position in ITD is being re-classified as part of an
effort to help DPW meet its IT goals. This merger makes sense since DPW’s major
IT applications are currently serviced by ITD. The upgraded position within ITD will
be responsible for supporting enterprise-wide applications, a number of which DPW
currently utilize, and for aiding DPW in their efforts to further integrate technology
across the Department. As a result of this consolidation, the DPW budget is reduced by
$69,727. Including benefits, the total savings to the Town budget is approximately
$95,000. In addition, long-term pension and OPEB liabilities are avoided.

• Contracting Out – the EIC recommended the exploration of privatizing a number of
  functions. Many have been analyzed:

- solid waste collection and street sweeping proved to be more cost-effective in-
  house
- parking ticket administration was more cost-effective in-house, but utilizing
  handheld technology, as explained above, yielded cost savings
- meter collection services, while not privatized, have been civilianized
- specifications for a fleet services bid are being prepared

This budget includes contracting out custodial / houseworker services in two areas: DPW and Building Department. At the Municipal Service Center (MSC), the custodian has retired and the utilization of contractual cleaning services is being recommended. While the budgetary impact on DPW is limited ($11,709), the savings to the budget is approximately $25,000 when benefits are included. In addition, long-term pension and OPEB liabilities are avoided. In the Building Department, it has been determined that hiring contract cleaners instead of houseworkers is more efficient. By eliminating two part-time houseworkers and one full-time houseworker, approximately $8,000 is saved when benefits are included. In addition, long-term pension and OPEB liabilities are avoided.

Conversely, this Financial Plan includes a proposal to establish an Operations Manager in the Public Buildings Division of the Building Department in an effort to reduce the cost of maintenance and repair items that are currently done by outside contractors. In addition, this position will provide increased oversight of the Division’s maintenance resources. The cost of the position ($66,655 in base salary, or approximately $90,000 with benefits) is offset by a reduction in the repair and maintenance budget of the Division.

- Parking Enforcement – the Selectmen’s Parking Committee has been reviewing a number of issues over the past year that have a direct bearing on both the daily experience many residents / visitors have in Brookline and the budget. One of the Committee’s primary findings is that parking enforcement is not as consistently carried out as regulations stipulate. There is an enforcement gap on Saturdays and after 2:00 on weekdays, and that results in a loss of revenue. While not totally void of enforcement during those time periods, resources are not currently available to enforce then as is done between 8:30 a.m. and 2:00 p.m. during the week.

This budget includes two additional full-time Parking Control Officers (PCO’s), whose hours will include Saturdays and up to 6:00 p.m. during the week. The cost ($80,778, or approximately $109,000 with benefits) is covered by the generation of
additional revenue. If these funds were not included in the Police Department’s budget, the FY11 Parking Ticket revenue estimate would be $100,000 less. In order for this revenue to be realized, each new PCO will have to issue an average of one ticket per hour per day, a rate that should easily be exceeded. This initiative should enable the Town to increase its revenue estimate in FY12 and beyond.

Also related to parking enforcement and the Parking Committee is the recommendation contained in the CIP to invest $1.4 million in a new parking meter system. There is a detailed project description on page VII-34 of the Financial Plan; the simple summary of the wisdom behind this investment is increased revenue, reduced operating costs, enhanced user-friendliness, and improved aesthetics. By further utilizing multi-space meters in commercial areas and Town-owned lots, initiatives such as variable pricing and increased rates on lower Beacon during Red Sox games can be implemented. This initiative should enable the Town to increase its Parking Meter revenue estimate in FY12 and beyond.

• *Recreation Department Resource Allocation* – in 2009, the Town contracted with GreenPlay, LLC of Colorado to produce a Cost Recovery Study. One of the most challenging parts of running a public recreation department can be both how to fund needed facilities and programs as well as how to price programs and services. GreenPlay, LLC facilitated a seven-month study during which several public meetings were held and a large amount of research was collected to produce Brookline Recreation’s “Cost Recovery Pricing Model”.

Developing a cost recovery model answers the question “Where should subsidy from revenue sources be directed, and why?” The 2009 Cost Recovery Study helped to identify the recreational needs of the Brookline Community and establish a consistent approach to pricing programs based on benefit to the community as a whole. Cost recovery reserves a higher percentage of tax revenue for those programs and services that should be supported by the entire Brookline population, and allows less subsidy for more individualized programs and services. Additionally, applying a cost recovery model creates a justifiable, transparent method of introducing fees for programs and services. Cost recovery does not imply that the target is 100% total cost recovery for the Brookline Recreation Department, but that subsidy follows the goals established by the staff and community.

The immediate impact on the FY11 budget is the better alignment of administrative expenses and program expenses. By moving program-related expenses from the General Fund to the Revolving Fund and moving administrative expenses from the Revolving Fund to the General Fund, there is a reduction of $24,525 in the General Fund. This alignment allows the Department to consistently assess and align costs associated with programs and to price programs and services accordingly. The long-term effects of the pricing methodology will be seen over the course of the next several budget cycles, as the Brookline Recreation Department implements the cost recovery model throughout the programs and services offered.
CAPITAL IMPROVEMENT PROGRAM (CIP)
Capital planning and budgeting is a critical undertaking for any government and is central to the delivery of essential services and the quality of life for residents. In fact, without a sound plan for long-term investment in infrastructure and equipment, the ability of local government to accomplish its goals is greatly hampered. Since FY95, the Town has invested more than $300 million in the CIP. These efforts, which have been supported by the Board of Selectmen, the Advisory Committee, Town Meeting, and, ultimately, the taxpayers of Brookline, have gone a long way toward addressing the backlog of capital projects, have dramatically improved the Town's physical assets, and have helped yield savings in the Operating Budget through investment in technology and energy efficiency. Although there is more to do in the areas of street and sidewalk repairs, parks/open space improvements, and school and town facilities upgrades, the commitment to capital improvements is clearly showing positive results.

The recommended FY11 - FY16 CIP calls for an investment of $126.3 million, for an average of approximately $21.1 million per year. Part of the plan to balance the FY10 budget was to reduce the 5.5% funding level to 5% for FY10, freeing-up $917,000 for the Operating Budget. Those funds were used to reduce the level of cuts in the Operating Budget. The CIP follows the plan to phase up to 5.5%, reaching 5.25% in FY11 and 5.5% in FY12. It is critical to return to the 5.5% level, as the amount of projected debt service in the out-years requires that level of funding for projects such as the Devotion School and Classroom Capacity.

There were a number of challenges presented during the development of the CIP that made balancing it difficult, including space needs for the schools, additional funding for Town Hall/Main Library Garages, and increased Runkle costs, which placed pressure on each of the out-years of the CIP. This required the deferral of numerous projects. The issue of classroom space in the elementary schools is one of the most pressing matters for the Town, and the CIP addresses it more comprehensively than in the past. The $5 million programmed for FY12 follows the $400,000 approved in both FY08 and FY10 for carving out additional classrooms in various schools and the $29.1 million approved in FY10 for the renovation of and addition to the Runkle School.

The core of any CIP should be the maintenance / repair of and improvement to a community’s infrastructure, and that is the case with this proposed CIP. Governmental jurisdictions across the country continue to struggle with the issue of funding infrastructure needs, especially in these economic and budgetary times. Fortunately, Brookline’s CIP policies (dedicated CIP funding) and taxpayer support (debt exclusions for Schools and an Override that included infrastructure needs) have allowed the community to fund these needs far more adequately than would otherwise be the case.

Major projects in the proposed CIP include:

- Devotion School Rehab - $33.8 million of Town funding plus the possibility of $22.5 million of State funding in FY14-FY15 for feasibility / schematic design and design / construction
- Classroom Capacity (Heath School) - $5 million in FY12
- Newton St. Landfill (Rear Landfill Closure) - $4.5 million in FY15
- Fisher Hill Reservoir Re-Use - $3.25 million in FY14 (outside funding)
- Village Square - $3 million in FY12 (outside funding)
- Wastewater System - $3 million in FY14
- Baldwin School - $2 million in FY14-FY15
- Town Hall/Main Library Garages - $1.8 million in FY11, bringing the total project cost to $3 million
- UAB - $1.4 million in FY12-FY13
- Brookline Reservoir Park - $1.4 million in FY16
- Parking Meters - $1.4 million in FY11
- Pierce School - $1 million in FY12-FY14
- Ladder #2 Replacement - $1 million in FY15

Continued major investments include:

- Street and Sidewalk Rehab - $15.6 million
- Parks and Open Space - $12.4 million
- General Town/School Building Repairs - $7.6 million
- Water and Sewer Infrastructure - $5 million
- Information Technology - $1.6 million
- Public Safety Equipment - $1.3 million
- Tree Replacement - $1 million
- Energy Conservation - $750K
- Branch Libraries - $505K

In an effort to take advantage of the current low interest rate environment, the Town refinanced bonds originally sold in CY2000. That original bond sale in the amount of $55.8 million included the reconstruction of the High School and construction of the Senior Center, along with other smaller projects. The High School project was supported by both a 61% grant from the Massachusetts School Building Authority (MSBA) and a debt exclusion override. With the completion of this refinancing, the property tax levy will be reduced by more than $5 million over a period of the next 10 years, resulting in savings for the taxpayer. In addition, the refinancing of the smaller, non-debt exclusion projects will yield savings of more than $600,000 over the next 10 years that will be used for future capital improvements.
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Please read Section VII of the Financial Plan for an in-depth explanation of the CIP process, financing policies, and debt management.

**LONG-RANGE FINANCIAL PROJECTION**

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

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

The FY11 – FY15 Long Range Financial Projection for the General Fund makes the following key assumptions:

- In FY11 and FY12, $1.5 million of New Growth in the Property Tax Levy. For FY13-FY15, a base of $1.6 million, augmented by additional levy growth from the 2 Brookline Place re-development.

- For State Aid, a 10% cut across all aid categories. For FY13-FY15, level funding.

- Limited growth in Local Receipts (approximately $230,000 / yr, or 1%).

- A 1% wage increase for FY11 for all (municipal and school) unions. For FY12-FY15, a 2% wage increase.

- Inflation in most Services, Supplies, and Capital Outlay accounts of 1.5% - 2.5% (approximately $200,000 per year for the schools and $275,000 for town departments).

- Annual utility increases of $100,000.

- Annual SPED growth of $700,000.

- Annual enrollment growth cost increases of $250,000.

- Step increases in the School Department of $600,000 per year and $225,000 per year for Town Departments.
• Annual Health Insurance rate increases of 9%, plus additional enrollment of 30 per year.

• A Pension appropriation based on the most recent funding schedule approved by PERAC for FY11, plus the additional funding provided by the local option taxes. For FY12-FY15, the preliminary analysis of the Retirement Board’s actuary is used, which results in an appropriation increase of $700,000 in FY12 with annual 4% increases thereafter.

• Debt Service and pay-as-you-go CIP that reflect the plan to get back to fully funding the CIP at 5.5% by FY12 (in FY11, it is set at 5.25%).

These assumptions create an escalating deficit position for FY12 and beyond, starting at $4.1 million in FY12 and reaching $11.3 million by FY15. It should be noted that these figures do not include the approximately $1 million of Federal Stimulus (ARRA) monies currently built into the School Department budget that are due to expire in FY12.

A summary of the Long Range Financial Projection is shown below:

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
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<td>(7,028,479)</td>
<td>(9,252,164)</td>
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<td>DEFICIT AS A % OF OP REV</td>
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<td>-5.4%</td>
<td>-6.7%</td>
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<td>(4,878,479)</td>
<td>(7,102,164)</td>
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<td>(1,183,421)</td>
<td>(1,748,027)</td>
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<td>950,000</td>
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<tr>
<td>Total Town Surplus / (Deficit)</td>
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<td>(2,698,027)</td>
<td>(3,133,011)</td>
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<td>(3,695,059)</td>
<td>(5,354,137)</td>
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<tr>
<td>School Collective Bargaining</td>
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<td>(4,895,059)</td>
<td>(6,554,137)</td>
<td>(8,173,708)</td>
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CONCLUSION

As this Recommendation has attempted to portray, there are a number of noteworthy features of the FY11 budget that, when taken together, amount to a formidable measure of work by all the stakeholders in Brookline Town government – citizen leaders, town administration, unions, school parents, and the citizenry at large – to maintain essential services in the face of structural shortfalls and economic decline. Moving to the Group Insurance Commission; labor agreements in line with ability to pay; workforce planning and management; adherence to fiscal policies and many of the other efforts outlined above directly assisted with achieving a balanced and effective FY11 budget.

But no conversation about FY11 can take place without focus quickly moving to FY12 and beyond. While this budget involves a number of critically important measures that help lay
the groundwork for a relatively stable FY12, several significant factors loom on the horizon that argue for even more emphasis on the future now. On the upside leading into 2012 are:

- A viable plan for an adequate funding schedule to address 2008 pension losses that must be in place by FY12.
- Bending the group health cost curve so that FY12 health insurance budgets should still be less than FY10 levels, although the ‘11 to ‘12 increase could be in the double-digit range.
- A respectable, but admittedly less than fully-funded, OPEBs plan, that according to the Finance Director, would in 30 years provide for more than 60% of the Town’s unfunded obligations as calculated in last year’s actuarial study.
- Preservation of reserves and fund balances during the worst of the recessionary period that do not have to be replenished, and can still serve as a safety net if there is an economic relapse.
- Fact based studies in place from the Efficiency Initiative Committee Report and subsequent spin-offs such as the Fire Technology Integration Assessment and Fire Operations Report.

However, there are looming conditions that can not be controlled this far in advance, but necessitate that anticipatory actions be taken immediately. Among the more worrisome are:

- The State’s reliance on nearly $2 billion in one-time sources to support its own FY11 budget, the preponderance of which will more than likely not be available in FY12.
- The combined impacts on the Brookline School budget of losing about $1 million of its own one-time funding by FY12 while continuing to experience unprecedented enrollment growth.

<table>
<thead>
<tr>
<th>ELEMENTARY SCHOOL ENROLLMENT</th>
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<tbody>
<tr>
<td>A 12% (509) increase in just 3 years.</td>
</tr>
</tbody>
</table>

- The expiration in the summer of 2011 of all town and school labor contracts along with the trigger in FY12 for a potential arbitration process in the GIC agreement with the Public Employee Committee.
- And, of course, the persistently uncertain look for the economy, particularly if inflationary pressures begin to emerge in wage and consumer costs.

Beyond the groundwork now being set in the FY11 budget for longer-term concerns, a number of other factors can emerge as assets in coping with future pressures. The Workforce Planning memo appended to the January 2009 EIC Report indicted at that time there were 35 employees still working who had already reached retirement maximums and another 57 who reach that level in the coming five years. This level of workforce turnover can be a significant factor in responding to pressures to downsize, particularly if attention to this outlook can become an area of concentrated focus throughout the organization.

Expansion of efforts to “Green” town operations can also have a mitigating effect on projected expenditure growth. While these potential operational savings in the form of reduced fuel and utility cost might require considerable upfront investment, the anecdotal evidence of payback is just too strong to leave unheeded – e.g. the 50% reduction in Town Hall electric power costs post-building renovation. Shifting from long-term energy contracts to more activist “portfolio management” should also be examined. In addition, energy efficiency efforts undertaken through both the CIP and the EECBG block grant program should be continued.

Continued emphasis on the utilization of technology for greater productivity should continue to yield budgetary benefits for the Town. This budget’s anticipation of expected staff savings related to technology, such as the library position elimination related to the implementation of RFID in FY09, is illustrative. As technology becomes more integrated with code enforcement and other municipal functions, potential for efficiencies will undoubtedly materialize.

Finally, longstanding Economic Development efforts, especially at 2 Brookline Place, will eventually begin to yield new growth in Town revenues. This potential for new revenue capacity should be managed so as to be made available at the point of most critical need in upcoming fiscal cycles. None of the initiatives noted above can individually make a decisive difference in resolving the on-going budgetary stress the Town is likely to encounter. On the other hand, meeting the challenges ahead has very little chance of success without efforts such as these.

Both Town government and the Brookline Public Schools will have to continue to examine options from fresh perspectives that can not be unnecessarily tied to the status quo.

**RECOMMENDATION**
As stated at the beginning of this Recommendation, there is one difference between the 5-0 budget vote the Selectmen took on April 27th and the budget vote taken by the Advisory Committee on April 29th, and it relates to the Council on Aging (COA) budget. The Advisory Committee increased the FY11 recommended budget by $18,500 to restore a part-time (18.5 hours / week) Outreach Worker that was cut out of the FY10 budget. In order to fund this increase, the Advisory Committee reduced the recommended appropriation from Free Cash for the Liability / Catastrophe Fund. The Board will take up the budget again at its
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May 11 meeting and will submit a Supplemental Recommendation prior to the commencement of Town Meeting.

The Board would like to thank the Advisory Committee again for another excellent job on the Town’s budget, paying particular attention to applying the Financial Polices that have guided Town budgeting over the past decade. The amount of time the Advisory Committee spent on reviewing the Financial Plan is simply remarkable. The willingness of the Advisory Committee, School Committee, this Board, and, ultimately Town Meeting, to work collaboratively throughout the budget process is a major reason why this community has been able to avoid a number of problems that other communities have had to address.
TOWN OF BROOKLINE’S FISCAL POLICIES
Adopted by the Board of Selectmen on April 27, 2004
and Amended on June 17, 2008

FREE CASH POLICIES

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

FREE CASH FOR RESERVES

- ** Appropriated Budget Reserve** – an amount equivalent to 0.25% of the prior year’s net revenue shall be appropriated as part of the Town’s 1% Appropriated Budget Reserve Fund, as allowed for under MGL Chapter 40, Section 6.

- **Stabilization Fund** – Free Cash shall be used to fund the Stabilization Fund at a level equivalent to 3% of the prior year’s net revenue, as prescribed in the Town’s Reserve Policies. If the Fund were drawn down in the immediate prior fiscal year, then an allocation shall be made to the Fund in an amount at least equivalent to the draw down of the immediate prior fiscal year.

- **Liability / Catastrophe Fund** – to the extent necessary, Free Cash shall be used to reach the funding target of the Town’s Liability / Catastrophe Fund, as outlined in the Town’s Reserve Policies.

- **Affordable Housing Trust Fund** – in order to support the Town’s efforts toward creating and maintaining affordable housing, Free Cash shall be appropriated into the Affordable Housing Trust Fund according to the following schedule:
  
  o when Free Cash exceeds $6 million, 5% shall be allocated to the Affordable Housing Trust Fund.
  o when Free Cash exceeds $7.5 million, 7.5% shall be allocated to the Affordable Housing Trust Fund.
  o when Free Cash exceeds $10 million, 10% shall be allocated to the Affordable Housing Trust Fund.

- **Special Use** – Free Cash may be used to augment the trust funds related to fringe benefits and unfunded liabilities related to employee benefits.

FREE CASH FOR CAPITAL

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

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

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

- **Stabilization Fund** – a Stabilization Fund shall be maintained, under the provisions of MGL Chapter 40, Section 5B.

  1. The target funding level for the Fund shall be an amount equivalent to 3% of the Town’s prior year’s net revenue, as defined in the CIP policies. The Fund shall be funded only with Free Cash or one-time revenues.

  2. The Stabilization Fund may only be used under the following circumstances:
     a. to fund capital projects, on a pay-as-you-go basis, when available Free Cash drops below $2 million in any year; and/or
     b. to support the operating budget when Net Revenue, as defined in the CIP policies, increases less than 3% from the prior fiscal year.

  3. The level of use of the Stabilization Fund shall be limited to the following:
     a. when funding capital projects, on a pay-as-you-go basis under #2a. above, no more than $1 million may be drawn down from the fund in any fiscal year. The maximum draw down over any three year period shall not exceed $2.5 million.
     b. when supporting the operating budget under #2b. above, the amount drawn down from the fund shall be equal to the amount necessary to bring the year-over-year increase in the Town’s prior year net revenue to 3%, or $1 million, whichever is less. The maximum draw down over any three year period shall not exceed $2.5 million.
     c. In order to replenish the Stabilization Fund if used, in the year immediately following any draw down, an amount at least equivalent to the draw down shall be deposited into the fund. Said funding shall come
from Free Cash.

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

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

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

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

**CAPITAL IMPROVEMENT PROGRAM (CIP) POLICIES**

**Definition of a CIP Project**

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

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

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

Only those projects that have gone through the CIP review process shall be included in the CIP. The CIP shall be developed in concert with the operating budget and shall be in conformance with the Board's CIP financing policy. No project, regardless of the funding source, shall be included in the CIP unless it meets an identified capital need of the Town and is in conformance with this policy.

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

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

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

For the purposes of these policies, the following definitions apply:
- Net Operating Revenue - Gross revenues, less net debt exclusion funds, enterprise (self-supporting) operations funds, free cash, grants, transfers from other non-recurring non-general funds, and non-appropriated costs.
- Net Direct Debt (and Debt Service) - Gross costs from local debt, less Prop 2 1/2 debt
exclusion amounts and amounts from enterprise operations.

- **Net Tax-Financed CIP** - Gross amount of appropriations for capital improvements from current revenues, less amounts for enterprise operations, grants, free cash, transfers, and non-recurring special revenue funds.
- **2008 Override Funds** - the $750,000 included in the CY2008 Override.

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

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

**ENTERPRISE OPERATIONS - SELF SUPPORTING**
Capital projects for enterprise operations shall be financed from enterprise revenues solely.

**CIP BUDGET ALLOCATIONS - 5.5% OF NET REVENUES**
Total net direct debt service and net tax-financed CIP shall be maintained at a level equivalent to 5.5% of prior year net operating revenues, plus the funds provided for in the CY2008 Override. The original $750,000 shall be increased annually by the 2.5% allowable growth in the tax levy.

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

- **DEBT-FINANCED ALLOCATION - 4.25% OF NET REVENUES**
  Net direct debt service shall be maintained at a target equivalent to 4.25% of prior year net operating revenues.

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

**DEBT MANAGEMENT POLICIES**
Debt financing of capital projects shall be utilized in accordance with the following policies:

- Debt financing shall be reserved for capital projects and expenditures which either cost in excess of $100,000 or have an anticipated life span of five years or more, or are expected to prolong the useful life of a capital asset by five years or more.

- Bond maturities shall not exceed the anticipated useful life of the capital
project being financed. Except for major buildings and water and sewer projects, bond maturities shall be limited to no more than ten years.

- Bond maturities shall be maintained so that at least 60% of the outstanding net direct debt (principal) shall mature within 10 years.

- Total outstanding general obligation debt shall not exceed 2.5% of the total assessed value of property.

- Total outstanding general obligation debt per capita shall not exceed $2,000. Beginning on July 1, 2004, the $2,000 per capita shall be adjusted annually by the consumer price index (CPI) for all urban consumers (northeast region all items).

- Total outstanding general obligation debt per capita shall not exceed 6% of per capita income, as defined by the Census Bureau of the U.S. Department of Commerce.

**FREE CASH**

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

OVERVIEW
Like our community at large, Brookline’s budget is complex. In recent years, we have reduced and consolidated positions, streamlined services and operations, opted into the Group Insurance Commission (GIC), enacted local-option hotel and meal taxes, increased fees and passed a general over-ride. This degree of collaboration and commitment is unknown in other municipalities. It also speaks to our core strengths and values as a community.

As we noted last year, Brookline is in a transitional phase. This is why we cannot consider any given budget as a mere annual transaction. We must understand it as part of a longer, and larger, financial process. This longer view, coupled with structural discipline, is a prime reason we have been able to modulate the effects of sustained economic turbulence.

The proposed FY’11 budget reflects the benefits of the aforementioned factors, and continues a commitment to responsible consideration of what lies just over the hill in regards to coming budget challenges.

REVENUES AND EXPENSES

• Revenues
After several years of increasing revenues, FY’11 likely represents an inflection point. Our General Fund Revenue is projected to decrease by 1.6% to $200.7M. This is driven in large measure by a decrease in Free Cash, no contribution from the Overlay Surplus, and reductions in School Building Authority reimbursements resulting from an agreement to settle the remaining High School renovation debt. (While reducing our SBA reimbursement, it reduces our debt service as well – a good thing.) Though a variety of sources contribute to our General Fund Revenue, the greatest is local property tax that comprises more than 78% of total revenues. Property tax receipts increase 3.2% to nearly $158M. Another significant contributor is State Aid ($13.6M). This is another decrease over last year’s near 13% decrease, though indications are that this cut will not be as severe when the State budget is finalized. That said, we do not recommend spending what we do not yet have. Other Available Funds decrease by $855K to $5.1M and Local Receipts decrease to $19.9M – their lowest level in 6 years. To help combat this decline, the proposed budget recommends appropriations for new programmable parking meters and more Parking Enforcement Officers.

• Expenditures
Budget-to-budget Departmental Expenditures (~ 67 % of total expenditures) increase by 1% on the Town side and 4.5% for the Schools [a detailed break-out of the Schools’ figure is provided in the full budget analysis below]. $61.9M is allocated to Town Departments and $71.9M to the School Department. Non-Departmental Expenditures total $53M (~7.7%) and include such things as Employee Benefits (~76% of this category), Reserves, Insurance, and Debt Service (~18 %). There are Special Appropriations (CIP) of $6.6M (~ 29%) and Non-Appropriated Expenses of $7.3M (+0.5%); this includes such things as State assessments and Cherry Sheet offsets.
$200.7M in revenue meets $200.7M in expenditures. After allowing for the $7.3M in Non-Appropriated Expenses, we are left with a total of $193.4M for appropriation – a decrease of 1.7% from last year.

In the face of a budget-to-budget decrease in revenue, we are managing to keep steady largely because of our entry into the GIC for healthcare coverage. That may give us some momentary stability, but we still must proceed deliberatively and cautiously. The precise magnitude of those savings will not be known until our employees have fully migrated into the GIC. Additionally, the decrease presented here is likely to change once we have final State Budget numbers. An outline of Revenues and Expenditures (current) follows:

### Revenues

<table>
<thead>
<tr>
<th></th>
<th>$</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Tax</td>
<td>157,583,115</td>
<td>3.2</td>
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<tr>
<td>Local Receipts</td>
<td>19,868,475</td>
<td>(2.4)</td>
</tr>
<tr>
<td>State Aid</td>
<td>13,604,374</td>
<td>(17.7)</td>
</tr>
<tr>
<td>Free Cash</td>
<td>4,590,079</td>
<td>(34.9)</td>
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<tr>
<td>Overlay Surplus</td>
<td>0</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Other Funds</td>
<td>5,059,259</td>
<td>(14.5)</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>200,705,302</td>
<td>(1.6)</td>
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</tbody>
</table>

### Expenditures

<table>
<thead>
<tr>
<th></th>
<th>$</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Departmental</td>
<td>133,829,622</td>
<td>2.9</td>
</tr>
<tr>
<td>Non-Departmental</td>
<td>52,971,741</td>
<td>(7.7)</td>
</tr>
<tr>
<td>Special Appropriations (CIP)</td>
<td>6,572,000</td>
<td>(29.0)</td>
</tr>
<tr>
<td>Non-Appropriated Exp.</td>
<td>7,331,939</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>Total Expenditures</strong></td>
<td>200,705,302</td>
<td>(1.6)</td>
</tr>
</tbody>
</table>

**PERSONNEL**

As a service provider, our budget is primarily dedicated to personnel expenses. Of this year’s $189M Operating budget, ~76% is dedicated to Personnel and Benefit expenses. Personnel costs increase 2.1% to $104M, while Benefits decrease 1.7% to $40.3M.

It is axiomatic that a budget can support only a certain number of employees at a certain level of compensation (wages + benefits [inclusive of post-retirement obligations]). Eliminating jobs is something we strive to avoid. Instead, we look for ways to consolidate or streamline positions through vacancies, attrition and retirements. We will continue that approach. Significantly, adoption of the GIC has provided essential breathing room in the FY’11
budget. While not a magic bullet, we would have been unable to support the programs and staff envisioned in this budget without that adoption. The reality is that we will still need to make consolidations and use creative approaches to service delivery in the coming years, but with the GIC the task will be less painful than it might have been.

Last year we undertook the realignment or reduction of some positions within and across departments. This included reductions in positions within public safety services through the elimination of vacant position, reassignment of positions and civilianization of meter collections. Though change is uncomfortable and some capacity has been reduced, we also saw those efforts bear fruit this year.

For FY’11 the DPW will reduce its streetlight maintenance costs because of the capacity and efficiency realized through the consolidation of two Wire Division workers from the Fire Department last year. Additionally, a DPW IT position will be merged with the IT Department. It is anticipated that the change will functionally enhance the DPW’s IT needs while saving approximately $95K. Also, the position of Deputy DPW Commissioner is eliminated. As the Library begins to use the new RFID system, one Library Assistant position is eliminated as well.

Not all positional changes in this budget are reductions. A case in point is the establishment of an Operations Manager within the Building Department. With better oversight and management of contractual services, the Town can realize savings in its repair and maintenance budget while increasing the quality and efficiency of Town building repairs. Also, the FY’11 budget calls for adding two full-time Parking Control Officers. The cost, with benefits, is $109K. It is expected that they will generate more than that in additional revenue and provide enforcement where it is now spread thin.

Within the Fire Department, the position of IT Support Specialist will be eliminated and a Director of Technology created in its place. The Town completed a Fire Department Technology Integration Assessment that recommended changes in personnel, systems and approach. The Chief will work with the Director of Technology to advance and adapt the use of new technologies into the routine operations of the Fire Department.

On the human services front, an $18.5K Outreach Social Worker position within the Council on Aging is restored in this year’s proposed budget. The Council on Aging has seen staff reductions but this position can be effective at meeting some of its pressing needs.

Overall, the total number of FTEs on the Town side is reduced by 2.85 to 671.09 FTEs. This continues the Town’s trend toward consolidations. General Fund FTEs have been reduced ~5% over the past five years.

GROUP HEALTH & BENEFITS
Employee Benefits of $40.3M will consume more than 21% of this year’s Operating Budget and include such things as pension, workers’ compensation, unemployment, life insurance and health insurance.
• **Group Health**
  Group Health benefits ($21.2M) account for just over 11% of the Operating Budget and are provided to both active and retired employees. This is a reduction of $2.8M from last year – a sizable and tangible benefit of adopting the GIC. Currently, there are 2882 enrolled employees (1,386 Town / 1,496 School). 52% of the enrollees are active employees, and 48% retired. Historically, the Town paid for 75% of the premium costs. However, the premium split between the Town and its employees was re-negotiated as part of adopting the GIC.

  Had we not opted into the GIC, our Group Health expenditure would have likely increased by approximately $1.7M. Instead, our expenditure decreases by ~$2.8M – that is a potential savings spread of $4.5M. There was a cost to obtaining these savings in the form of the Town assuming a greater share of the premium costs. Again, we will not know the ultimate savings until everyone has converted to the GIC.

  Adoption of the GIC, requires a minimum 70% vote of the unions and retirees. The Town engaged in coalition bargaining with the Public Employee Committee (PEC). Given the magnitude of the savings, the Town agreed to share some of its saving with its employees. As a result, the Town will increase its contribution to premiums from the current 75% to 78%-80%-83% over the next three years. This reduces the employee’s share from 25% to 17% over that period. While employees may see increased co-pays in GIC plans, the premium saving far out weigh them. Cumulative savings over the next three years are projected to be up to $16M for the Town and more than $10M for our employees. Few things, short of an over-ride, can produce these kinds of numbers.

  As noted earlier, the GIC is not a magic bullet. It does reduce our cost base as well as decrease the rate of premium increases. Even in the GIC, however, costs will far outpace inflation. Without this change, though, the Town would be unable to maintain jobs and unable to prepare, as we must, for the coming tough budget years.

• **Retiree Health**
  Just as we provide healthcare benefits for our active employees, we have also made promises to provide healthcare benefits to our employees in retirement. These fall under the category of Other Post Retirement Benefits (OPEBs). The calculated unfunded liability for our retiree health obligation is between $240M and $330M, depending on a host of assumptions. A new actuarial analysis will be completed by the end of this summer and we will then have a firmer grasp on the true magnitude of our obligation. Healthcare costs have been escalating far in excess of inflation and far in excess of the rate of increase of Town revenue for some time. That is a reason it was so important for us to enter into the GIC. This will have a marked effect on our OPEB obligation and could reduce the unfunded liability substantially. In addition, the Town’s adoption of Chapter 32B Section 18 several years ago allowed us to move retirees into a Medicare coverage program for marked savings.

  Brookline is one of only a few communities that began funding a post-retirement benefits trust ($6M as of December 2009). We began regular appropriations toward this fund last year based on a proposed OPEB funding plan. The plan calls for adding $250K incrementally each year for the next 30 years and this year’s proposed allocation is
$750K. With continued and disciplined adherence to the payment schedule, the funding timeline may shorten.

Additional measures can be applied as well. As the Pension Fund becomes fully funded in 20 years, that appropriation may then be directed toward the OPEBs. Enterprise funds are also in a better position to contribute to the fund at a more accelerated rate, and this year we are recommending full funding by several of them. Per a Town Meeting voted resolution, a substantial portion of additional one-time revenues, such as from the sale of taxi medallions, can be directed toward the fund. Other strategies will be reviewed as well.

Much of our unfunded liability is the result of generous commitments made many years ago when times were better. There are a number of lessons here. First, do not promise more than you can reasonably provide. Second, understand the consequence of delaying payment on an obligation to successive generations. That being said, we must honor the promises made. But, going forward we must better safeguard Brookline’s financial resources and our successors so that the next generation doesn’t inherit yet more liability.

The recommended FY’11 appropriation of $750K in concert with and addition $378K from the assessment of other funds will provide a total appropriation of $1.1M to the OPEB liability fund.

- **Pensions**

Pension benefits are provided for Town and School employees not covered as teachers. Many newer positions in the schools tend to be aides, and therefore may be eligible for the Town Pension System. Currently, there are 3,459 employees (active, inactive and retired) enrolled in the Town Pension System and each year the Town must allocate funds for their retirements. That annual amount is determined by a State-authorized funding schedule; Brookline has a payment schedule designed to reach full funding by 2025. The State recently introduced legislation permitting Retirement Boards to extend that payment schedule to 2040. However, as with a mortgage, extending time increases the ultimate cost even if it reduces the annual payments. The approximate value of the pension as of December 31, 2009 was $190M.

During calendar year 2008 the S&P index declined by 47%, the State fund (PRIT) fell by 29%, and Brookline’s pension fund lost approximately 28% of its value. That strong relative performance is cold solace, however. We ultimately must cover that loss. For calendar year 2009 we enjoyed a better than 27% return. Coupled with additional funds provided from our newly adopted local option excise taxes (meals/hotel) we have made up some ground. However, there is much more to do. This year’s allocation to the Pension Fund is $13.8M – an increase of 5.8% ($756.2K). The additional allocation, beyond that originally in the funding schedule, helps us prepare for the challenge of FY’12.

Next year will be another, and potentially greater, challenge. Originally projecting a need for several million dollars in additional funding, we began to prepare. This past year’s returns have helped, using the new State rules we can extend our funding schedule, and we have allocated excise tax revenue toward pensions. By preparing early, we may be
able to reduce a near $2M increase by more than half. This approach fits into our view of the past, current and future budgets being part of a multi-year transition.

The new actuarial figures should be complete this summer and the Retirement Board will vote to adopt a new funding schedule in the fall. At that point we will know the full story. Fortunately, we have applied some disciplined attention to the issue.

**CAPITAL IMPROVEMENTS PLAN (CIP)**

Brookline continues to have significant capital needs. How we accommodate those needs, and maintain our physical assets, is based on community standards and sound financial planning. Our Capital Improvement Plan (CIP) is a way to satisfy Brookline’s fundamental capital needs, provided budgetary stability and predictability and prevent a backslide into a crumbling infrastructure.

The Town’s proposed FY’11 CIP anticipates an average annual investment of ~ $21M over the next six years. We are slated to authorize ~$8.7M from the General Fund toward our CIP (inclusive of Free Cash, over-ride funds, re-appropriations and other). Funding for the CIP comes from grants (including CDBG, State/Federal grants), Enterprise Funds’ budgets, tax revenues ($2.9M) and free cash ($3.7M).

Our financial guidelines call for us to apply 5.5% of the prior year’s net revenues toward the CIP (4.25% towards debt service and 1.25% towards pay-as-you-go financing). This budgetary discipline has allowed us to institute scheduled maintenance and infrastructure repair as well as accommodate needed building projects and capital investments. By having a consistent approach to capital funding, we are able to predict and schedule projects and the associated debt service. However, because of unusually stressed financial times we cut back on this level of funding in FY’10 to smooth the rough patches in our Operating Budget. The funding level for the FY’10 CIP was based on 5% of the prior year’s net revenues. We realized then that it is easy to use “Capital Funds” for operating purposes, but not so easy to re-establish the balance later. Therefore, that recommendation was made cautiously. This year we increase that allocation to 5.25% with the intention of restoring the full 5.5% in the FY’12 budget. Any attempt to maintain a prolonged lower level of commitment to our capital needs, would necessitate reducing and rescheduling our capital projects (and perhaps losing some all together). In particular, it could make classroom capacity and the Devotion School project unattainable. For the FY’10 - FY’12 however, this approach will allow us some budgetary flexibility as we continue to restructure.

This year’s CIP continues our commitment to street and sidewalk rehabilitation, energy conservation, Town and School grounds improvements and repairs, and technology among other things.

Also in the CIP (through a motion under the Special Town Meeting within the Annual Town Meeting) funding is advanced to increase classroom capacity. For the past couple of years (and anticipated again this year), kindergarten enrollment has increased which pushes up through the lower grades. A variety of approaches are being implemented to address this issue (additional class space is being constructed within existing structures and pre-K programs are being relocated) they will not meet the need. Modular classrooms had been considered and Town Meeting previously voted funds for such a possibility in “Classroom
Capacity” line items in the CIP. A better, and ultimately more cost effective, approach is to add permanent additional classrooms at the Heath School with the help of those funds. After meeting with the State’s School Building Authority (SBA), Brookline’s project was fast-tracked at their March meeting. $5M for the project is anticipated in our coming year’s CIP, with nearly 35% to be reimbursed by the State. Within the Special Town Meeting is a proposal for the re-appropriation of $300K for feasibility and specifications related to this project.

This year there is a recommended additional appropriation of $1.8M for the Town Hall/Main Library/Pierce School garage repairs. Combined with the previously voted $1.2M, a total of $3M will be allocated toward this project. This facility has suffered from cracks and leaks for some time. Some aspects of the work are yet to be detailed, as they are dependent on a decision on the best use of the Pierce School’s outdoor amphitheater space. There is currently a study evaluating the options - including its possible elimination.

A significant purchase proposed within the FY’11 CIP is a new Parking System Replacement. Parking meters generate ~ $2.6M a year, but our existing 2500 meters are at least a decade old and need replacing. They are prone to breakage, technologically hindered and replacement parts are hard to secure. The implementation of a new parking meter system will allow us to configure major commercial areas with new multi-space, programmable meters. 100 new multi-space meters will replace 850 single-space meters reducing street clutter in those areas and allow for easier sidewalk upkeep. Additionally, these meters can be programmed for different areas at different times. For example, during Red Sox home games meter rates can be increased in the St. Mary’s area while designating other short-duration spaces for merchant patrons.

This replacement plan requires a significant up front cost, but the saving and potential revenue increases make it very attractive.

A detailed description of the FY’11 CIP items is provided in these Combined Reports.

**DEBT AND DEBT FINANCING**

As has been noted, the CIP is largely financed through debt (bonding). Projected outstanding debt for FY’11 is approximately $78M; $7M of which is State reimbursable via SBA and $9M is attributable to Debt Exclusion projects (e.g Lincoln School and High School). Debt service (annual payments on that debt) decreases $3M to a bit over $12.2M for all funds. Of the $12.2M in debt service, $2.7M is financed through the Enterprise Funds and $1.2M through the State SBA. A significant change this year involves the Brookline High School (BHS) project debt. The BHS project was bonded in 2000 at > 5% through a debt-exclusion over-ride. This spring, the Town negotiated a lump-sum reimbursement from the State and refinanced $9.2M at just 2.14%. This translates to a Debt Service reduction of $400K, which reduces the debt exclusion portion of the property tax bill.

State law limits a town’s level of debt to 5% of its Equalized Valuation (EVU). At a ~ 0.6%, Brookline’s level is nowhere near that limit, and our CIP policy would not allow for such outstanding debt levels. Our practice of long-term financial planning, and use of a relatively short maturation debt periods (more than 80% amortized over 10 years), help to manage our
May 25, 2010 Annual Town Meeting
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debt levels prudently. This is important as debt service immediately impacts our Operating
Budget.

Below are two tables; one details the anticipated funding source (as percentages) for the
proposed FY’11-FY’16 CIP, and the other breaks out the CIP allocation by category. These
figures do not account for possible (and not easily predictable) changes in SBA
reimbursements.

<table>
<thead>
<tr>
<th>CIP (6 Yr) Funding by Source (%)</th>
<th>CIP (6 Yr) Allocation by Category (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund Bond</td>
<td>Facility Renovation/Repair</td>
</tr>
<tr>
<td>Free Cash</td>
<td>Infrastructure</td>
</tr>
<tr>
<td>State/Federal Grants</td>
<td>Park/Open Space/Playgrounds</td>
</tr>
<tr>
<td>Utility Bond/Budget</td>
<td>Misc.</td>
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<tr>
<td>Property Tax</td>
<td>Vehicles</td>
</tr>
<tr>
<td>Other</td>
<td>Total</td>
</tr>
<tr>
<td>CDBG</td>
<td></td>
</tr>
<tr>
<td>Overlay Res. Surplus</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

SCHOOLS
Brookline schools are an enviable “attractive nuisance”. Through the efforts of our schools,
families and community, we have one of the most revered public school systems.

This cherished asset contributes to our vibrant and engaged populace, supports the value of
our homes, and entices school-aged families to move here.

All communities and school systems are grappling with financial pressures. In addition to
this secular trend, the Brookline Public Schools are also contending with a significant
increase in K-4 enrollment. This trend strains the physical capacity of our facilities and
drives the need for additional teaching and support staff.

In addition to the enrollment pressures, the Schools have been contending with increasing
and expensive SPED costs. In particular, out-of-district placements are exacting a toll on the
School Budget. Some of the late-year FY’10 State cuts will need to be absorbed in the FY’11
budget as well. SPED costs are have increased more than $1M this year. State support for the
most expensive above-and-beyond costs (the so-called “Circuit Breaker” reimbursement) has
been reduced from 75% in FY’09 to only 40% – further exacerbating the situation.

The School Department has tried diligently to manage the financial challenges, but limited
capacity demands uncomfortable choices. A number of position reductions and eliminations
resulted from this reality.
Early discussions of realigning and reducing Social Worker positions by 3.8 FTEs (there are 9 licensed Social Workers at BHS in various positions) were met with community outcry. The final budget proposal anticipates a reduction of 0.8 FTEs (a position reduction, not elimination) and a reformatting of the reporting structure within the program.

This issue and discussion is likely indicative of things to come. Whether the discussion is of Library Aids, Social Workers or increases in class size, they are uncomfortable conversations we will be forced to have.

Fortunately, we live in a community that values and supports public education. And, we employ a school administration and staff that takes on these decisions in meaningful, thoughtful and productive ways.

Below is a detailed analysis of the Brookline Public School’s proposed FY’11 budget. We remind you that we can only vote a lump-sum appropriation. Precisely how those funds are allocated falls under the purview of a duly-elected School Committee.

**SUMMARY – Maintaining an Effort and Pace**

Last year we observed, “Budgets tend to be viewed in the here and now. Each year we approach the budget as a sort of transaction. Too often we may view future issues merely as bridges to cross later”. We cannot maintain a here and now view. It is important to view multi-year budgets as part of a longer, cohesive process, where pacing ourselves is vitally important.

The GIC provides us with a brief respite to collect our thoughts, plan and set aside a bit of today’s savings for tomorrow’s challenges. But, there is nothing we can afford to squander.

Economic and political circumstances remain uncertain. What is sure, though, is that we are in transition – these are bridge years. Moreover, just like an actual bridge, a metaphorical bridge requires structural integrity - in this case, financial integrity.

Our continued journey will require stamina, discipline and hard choices, but Brookline has always shown itself capable of going the distance. While other communities close libraries and schools and firehouses, drastically increase fees and lay off core workers, Brookline perseveres. We are a generous community, we practice sound management and use structured financial disciplines. These very values are embodied in the proposed FY’11 budget.

**RECOMMENDATION**
The Advisory Committee unanimously recommends FAVORABLE ACTION.
School Sub-Committee of the Advisory Committee
Report to Town Meeting on
Public Schools of Brookline FY2011 Budget

BACKGROUND
This report and Exhibit discuss the major fiscal issues facing the Public Schools of Brookline (“PSB”) in 2011 and beyond. Financial information was obtained from The Public Schools of Brookline, Superintendent’s Preliminary Budget, FY2011 and subsequent changes made thereto, as well as other information provided by the PSB.

Town Meeting has the authority to approve or disapprove only the total appropriation of the Town’s general fund operating budget that is allocated to the PSB general fund. Other sources of revenue for the PSB general fund are state reimbursement of certain special education expenditures (“Circuit Breaker”) and tuition and other fees. The authority for the specific spending of the revenues in the PSB general, grant and revolving funds is vested in the School Committee. Beyond monies spent by the PSB, the Town’s general fund bears expenses directly supporting the PSB. Accordingly, Town Meeting will be voting on general fund spending of $74.026 million, which includes an appropriation of $71.948 million.

Management of the PSB spending is a major challenge in 2011 and beyond. The process of allocating available funds across the PSB system involves many competing interests, including central administration, individual school leadership, teachers and parents. The ability to achieve a spending plan that satisfies all interests is difficult in the best of times, and much more so in the current environment. The Advisory Committee believes the spending choices reflected in the 2011 PSB general fund budget are reasoned judgments, but will not be satisfactory to all audiences.

DISCUSSION

Overview (Exhibit Tables A, B and C)
In 2011, the budget calls for a combined spending of some $118.6 million on behalf of the PSB, $86.1 million by the PSB, and $32.5 million by the Town (including personnel benefits, school building expenses, and debt service, which are considered separately by Town Meeting). The $86.1 million of PSB spending comes from its general fund ($75.1 million), grant funds ($5.7 million), and revolving funds ($5.3 million). Although $1.1 million of federal American Recovery and Reinvestment Act (“ARRA”) stimulus funds are legally grants, they are presented by the PSB as a component of the general fund because they are funding core services.

The 2010 forecasted general fund spending of $72.8 million is $1.2 million more than the budgeted $71.6 million. This deficit is virtually all attributable to Special Education efforts, including the cost of out-of-district placements and transportation, and lower Circuit Breaker revenue. At the time this report, the expectation is that a combination of additional PSB spending reductions and use of PSB “one-time” reserves, complemented by a Town-side reserve fund transfer, will offset the forecasted deficit. Regardless, the General Fund spending level going into 2011 is at least $72.8 million.
On a nominal basis, general fund spending increases by 5% in 2011 to $75.1 million from $71.6 million. Adjusted for 2010’s spending deficit, the real growth is 3.2%, and the growth in tax appropriation component of the general fund is 2.7%.

**Dynamics of General Fund Change from 2010 to 2011 (Table D and E)**

General fund revenue growth from 2010 is a $3.6 million, but only $2 million is from recurring sources. Some $1.2 million of growth comes from personnel benefit reductions ($1.5 million from the GIC) and $400 thousand from the use of “one-time” reserves (an increase to $650 thousand for the year). The sources of these reserves are (i) cash flow timing differences associated with Circuit Breaker funding and (ii) the non-resident tuition program. Based on the assumptions in the Preliminary Budget, at the end of fiscal 2011, substantially all PSB reserves will be consumed.

With the 2011 General Fund spending level carried over from 2010 at $72.816 million, $2.3 million of revenue growth is available to bring the 2011 General Fund to an aggregate $75.145 million. Compensation through collective bargaining and teacher mix increases by $1.3 million, Special Education by over $700 thousand and enrollment growth requires $442 thousand. Reductions of $575 thousand are needed to compensate for expenditure growth.

Details regarding some expenditure changes are shown in Table E. They reflect revisions to the Preliminary Budget, including the retention of 3.4 of 3.8 social workers at the high school. The emphasis is the 2011 budget is an increase in teaching positions (13.3 net FTEs) and reductions in classroom aides, while the total staff remains unchanged at 949 FTE positions. And within the dynamics of spending changes, 2011 reflects significant efforts to improve the management of out-of-district placements and the value of programs and services within Special Education, particularly at the high school.

The PSB thoughts on restorations and supplements are discussed on page 14 of the Preliminary Budget.

**Grant Funds (Table F)**

Grant funds other than ARRA stimulus ($1.3 million expiring in 2011) are approximately $5 million. The two largest components are for Special Education ($1.7 million) and METCO ($1.3 million).

**Revolving Funds (Table F)**

Food services ($1.8 million), Early Childhood ($1.5 million) and Adult Education ($1.3 million) and the Athletic Fund ($400 thousand) represent $5 million of $5.3 million in revolving funds. Adult Education and Food Services have received significant management attention, and their financial results have improved. The increase in the athletic fee from $175 to $200 is designed to improve shortfalls in that program; traditionally these shortfalls have been absorbed in the general fund appropriation.

**Beyond 2011**

Despite the difficulties in 2010 and 2011, near-term out years will be significantly more challenging, including the following issues:

- Revenue concerns in the general, grant and revolving funds
ARRA stimulus funds of $1.3 million end in fiscal 2011, although a federal
Keeping Our Educators Working Act has recently received some interest
Local revenue, local aid and state funding, including Circuit Breaker
No substantial amount of “one-time” reserves remain

- Scope and cost of Special Education, particularly out-of-district private placements and transportation
- Additional physical and human resources from growth in enrollment at the elementary level
  - Costs of the relocation and expansion issues discussed on pages 13 and 14 of the Preliminary Budget (currently estimated at $250 thousand; expected to be sourced through the capital budget)
- Compensation increases through benefits, collective bargaining increases, and steps and lanes
  - Unemployment insurance costs from reductions in force

The PSB estimates its recent achievements at reducing operating expenses are an annualized $973 thousand (discussed on page 15 of the Preliminary Budget).

**Special Education**

SPED students currently comprise 19% of Brookline’s total student population, delivering federal and state-mandated services to 1,240 students with disabilities aged 3 to 22 years within “least restrictive” settings (110 in Pre-K, 791 in K-8 and 339 in High School), and 80 students in out-of-district placements. SPED students not integrated into their neighborhood schools and not requiring out-of-district placement are placed into district-wide programs.

At the elementary level, these include: Intensive Learning Program at Baker, Therapeutic Learning Center at Devotion, Language-Based Learning Program at Driscoll, Intensive Learning Program at Lawrence, Adaptive Learning Center at Lincoln and the Autism Spectrum Disorder program at Runkle. At BHS there are the Learning Center, SAIL, PREP, EXCEL, Pathways and Winthrop House. EDCO-Manville is a collaborative program at the High School. The Team Facilitator model in place at the elementary schools will be extended in 2011 to the high school.

The number of students in out-of-district placements is unpredictable as families with SPED children relocate to Brookline without prior notice to the Town. Brookline’s private placement tuition costs in 2011 increased by $438K in spite of the Governor’s attempts to freeze rates. There is a $400K SPED Contingency Reserve in 2011’s budget to address the uncertainty of private placement costs.

An important funding source to support SPED comes through the State’s Circuit Breaker program, which had previously paid 75%, then 70%, of costs for out-of-district SPED students with high total education expenses. Unfortunately, this was reduced to 40% for FY 2010. Prior to the introduction of the Circuit Breaker program in 2004, the MA Dept of Education was paying 50% of SPED student tuitions in residential facilities.

SPED personnel include special education teachers, speech and language teachers, occupational/physical therapists, vision/hearing specialists, and aides. SPED personnel costs are $11,837,193 for 263.93 FTEs. Mandated Services (SPED and bi-lingual teachers, aides and coordinators) amount to 282.01 FTEs, or 29.71% of proposed staffing.
Personnel increases include: 6.5 FTE SPED teachers for a total of $412,750; 1.0 FTE OT/PT at $63,500; 1.0 FTE teacher and .84 FTE aide Winthrop House (adding a 9th-grade component to which now serves grades 10-12.) 1.0 FTE SPED teacher will be added to the Community- Based Classroom and 3.5 FTE SPED teachers will be added to Baker, Heath, Lincoln and Lawrence to assist in balancing caseloads across the district. These additions are offset by the reduction of 12 SPED aides (10.1 FTE) for a savings of $315,600 and 1 FTE clerical position for a savings of $47,500.

Efforts to persuade the State to include SPED transportation costs (well over $1.1 million year) in the Circuit Breaker reimbursement have thus far been of no avail. In addition, significant expenditures include psychological services of $370K and nurses of $93K (1.6 FTE).

For FY 2012 through 2015, SPED program growth is projected at $700K annually.

Brookline receives two Federal grants and one State reimbursement allocation specifically targeted to serve SPED students. In addition, the ARRA allocation of stimulus funds grants are targeted for SPED students:

- Federal Special Ed. IDEA $1,737,660
- Federal Early Childhood Special Ed. $31,730
- Federal ARRA (ending in 2011) $1,118,592

**RECOMMENDATION**

The Advisory Committee unanimously recommends **Favorable Action** on $74,026,661 of PSB general fund spending for 2011, including the appropriation of $71,947,765. This recommendation is embedded in this omnibus vote on the Town’s combined 2011 budget.
### Public Schools of Brookline

Total Spending on Public Schools of Brookline  
(amounts in $000s)

#### Table A

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Forecast</td>
<td>Budget</td>
<td></td>
</tr>
<tr>
<td>General Fund spending</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriation (Note 1):</td>
<td>68,235</td>
<td>70,062</td>
<td>71,948</td>
<td>1,886</td>
</tr>
<tr>
<td>Tuition/fees/rental</td>
<td>371</td>
<td>371</td>
<td>416</td>
<td>45</td>
</tr>
<tr>
<td>Special Education Circuit Breaker</td>
<td>1,710</td>
<td>1,012</td>
<td>1,012</td>
<td></td>
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<tr>
<td>ARRA stimulus grant funds (expiring in 2011)</td>
<td>1,121</td>
<td>1,119</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reserves</td>
<td>671</td>
<td>250</td>
<td>650</td>
<td>400</td>
</tr>
<tr>
<td><strong>Total General Fund spending</strong></td>
<td>70,987</td>
<td>72,816</td>
<td>75,145</td>
<td>2,329</td>
</tr>
<tr>
<td>Grant Funds</td>
<td>5,368</td>
<td>5,600</td>
<td>5,686</td>
<td>86</td>
</tr>
<tr>
<td>Revolving Funds</td>
<td>5,071</td>
<td>5,124</td>
<td>5,262</td>
<td>138</td>
</tr>
<tr>
<td><strong>Total PSB funds</strong></td>
<td>81,426</td>
<td>83,540</td>
<td>86,093</td>
<td>2,553</td>
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<tr>
<td>Town-side spending</td>
<td>31,520</td>
<td>33,394</td>
<td>32,549</td>
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<tr>
<td><strong>Total PSB spending (Note 2)</strong></td>
<td>112,946</td>
<td>116,934</td>
<td>118,642</td>
<td></td>
</tr>
</tbody>
</table>

- General Fund spending subject to approval by Town Meeting (excludes ARRA stimulus funds)  
  74,026

- General Fund appropriation subject to approval by Town Meeting  
  71,948

---

**Note 1:** Appropriation includes $1.1 and $4.0 million from overrides in 1995 and 2008.

**Note 2:** Excludes $23 thousand in 2010 and 2011 of support from Brookline Housing Authority for Steps to Success.
## Public Schools of Brookline

### General Fund Spending by Type of Resource

(amounts in $000s)

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>Change</th>
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</thead>
<tbody>
<tr>
<td>Personnel</td>
<td>60,072</td>
<td>60,771</td>
<td>62,389</td>
<td>1,618</td>
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<tr>
<td>Services</td>
<td>8,148</td>
<td>9,666</td>
<td>10,127</td>
<td>461</td>
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<tr>
<td>Supplies</td>
<td>1,549</td>
<td>1,509</td>
<td>1,520</td>
<td>11</td>
</tr>
<tr>
<td>Other</td>
<td>667</td>
<td>432</td>
<td>722</td>
<td>290</td>
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<tr>
<td>Equipment</td>
<td>551</td>
<td>438</td>
<td>387</td>
<td>(51)</td>
</tr>
<tr>
<td><strong>Total spending</strong></td>
<td><strong>70,987</strong></td>
<td><strong>72,816</strong></td>
<td><strong>75,145</strong></td>
<td><strong>2,329</strong></td>
</tr>
<tr>
<td><strong>Excess spending</strong></td>
<td><strong>(214)</strong></td>
<td><strong>(1,238)</strong></td>
<td><strong>(51)</strong></td>
<td><strong>(51)</strong></td>
</tr>
<tr>
<td><strong>Approved Budget</strong></td>
<td><strong>70,773</strong></td>
<td><strong>71,578</strong></td>
<td><strong>75,145</strong></td>
<td><strong>3,567</strong></td>
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</table>

### General Fund Spending from Appropriation

(amounts in $000s)

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriation</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Spending</td>
<td>68,235</td>
<td>70,062</td>
<td>71,948</td>
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<td>Appropriated</td>
<td>68,021</td>
<td>68,824</td>
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<tr>
<td><strong>Excess spending</strong></td>
<td><strong>214</strong></td>
<td><strong>1,238</strong></td>
<td></td>
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</table>
### Public Schools of Brookline
#### 2011 General Fund - Revenue and Expenditure Growth
(amounts in 000s)

#### Table D

<table>
<thead>
<tr>
<th></th>
<th>2010 General Fund - as budgeted</th>
<th>2011 General Fund - as budgeted</th>
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</thead>
<tbody>
<tr>
<td><strong>Revenues:</strong></td>
<td>$71,578</td>
<td>$75,145</td>
</tr>
<tr>
<td><strong>Changes in funding:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net revenue growth from:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel benefits</td>
<td>1,167</td>
<td>1,551</td>
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<tr>
<td>Other Town/PSB sources</td>
<td>1,957</td>
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<tr>
<td>Tuition increase</td>
<td>45</td>
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<tr>
<td>Federal stimulus funds</td>
<td>(2)</td>
<td></td>
</tr>
<tr>
<td>Reserves</td>
<td>400</td>
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<tr>
<td>Total changes</td>
<td>3,567</td>
<td>2,000</td>
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<tr>
<td><strong>Expenditures:</strong></td>
<td>72,816</td>
<td>75,145</td>
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<tr>
<td><strong>Changes in spending:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increases:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Collective bargaining/teacher mix</td>
<td>1,310</td>
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<tr>
<td>Special Education, including $400 contingency</td>
<td>733</td>
<td></td>
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<tr>
<td>Enrollment growth</td>
<td>442</td>
<td></td>
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<tr>
<td>Program growth</td>
<td>184</td>
<td></td>
</tr>
<tr>
<td>General contingency</td>
<td>200</td>
<td></td>
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<tr>
<td>Other</td>
<td>35</td>
<td></td>
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<tr>
<td>Total increases</td>
<td>2,904</td>
<td></td>
</tr>
<tr>
<td>Reductions in spending</td>
<td>(575)</td>
<td></td>
</tr>
<tr>
<td>Net change in spending</td>
<td>2,329</td>
<td></td>
</tr>
<tr>
<td><strong>2011 spending - as budgeted</strong></td>
<td>$75,145</td>
<td>$75,145</td>
</tr>
</tbody>
</table>
### Public Schools of Brookline

#### 2011 Details of Selected Expenditure Changes
(amounts in 000s)

<table>
<thead>
<tr>
<th></th>
<th>Increases</th>
<th>Decreases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FTEs</td>
<td>$</td>
</tr>
<tr>
<td><strong>Special Education</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teachers and specialists</td>
<td>8.5</td>
<td></td>
</tr>
<tr>
<td>Aides</td>
<td>0.8</td>
<td>316.0</td>
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<tr>
<td>Clerical</td>
<td>1.0</td>
<td>47.5</td>
</tr>
<tr>
<td>Wheelock internship program</td>
<td>280.0</td>
<td></td>
</tr>
<tr>
<td><strong>Total special education</strong></td>
<td>9.3</td>
<td>846.0</td>
</tr>
<tr>
<td><strong>Elementary enrollment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teachers</td>
<td>3.0</td>
<td>190.5</td>
</tr>
<tr>
<td>Specialists</td>
<td>0.7</td>
<td>44.5</td>
</tr>
<tr>
<td>Literary specialist</td>
<td>1.0</td>
<td>63.5</td>
</tr>
<tr>
<td>Mid level staffing</td>
<td>1.4</td>
<td>89.0</td>
</tr>
<tr>
<td>Stipends</td>
<td>55.0</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>6.1</td>
<td>442.5</td>
</tr>
<tr>
<td><strong>Elementary specialists</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.4</td>
<td>25.4</td>
</tr>
<tr>
<td><strong>High school staffing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teaching</td>
<td>0.8</td>
<td>48.0</td>
</tr>
<tr>
<td>Tutorial</td>
<td>1.0</td>
<td>64.0</td>
</tr>
<tr>
<td>Student support</td>
<td>0.4</td>
<td>25.0</td>
</tr>
<tr>
<td>Library assistant</td>
<td>1.0</td>
<td>41.0</td>
</tr>
<tr>
<td>Secretarial</td>
<td>2.0</td>
<td>95.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>5.2</td>
<td>273.0</td>
</tr>
<tr>
<td><strong>Educator support</strong></td>
<td>2.9</td>
<td>184.0</td>
</tr>
<tr>
<td>Postions absorbed by 21st Century Fund</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supplies</td>
<td>74.0</td>
<td></td>
</tr>
<tr>
<td>Technology</td>
<td>50.0</td>
<td></td>
</tr>
<tr>
<td>Resources absorbed by Early Childhood program</td>
<td>50.0</td>
<td></td>
</tr>
</tbody>
</table>
# Public Schools of Brookline

Grants and Revolving Funds  
(amounts in 000s)

## Table F

<table>
<thead>
<tr>
<th>Grants - recurring</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Ed IDEA</td>
<td>1,646</td>
<td>1,738</td>
<td>1,738</td>
</tr>
<tr>
<td>METCO</td>
<td>1,462</td>
<td>1,303</td>
<td>1,303</td>
</tr>
<tr>
<td>Over $1 million</td>
<td>3,108</td>
<td>3,041</td>
<td>3,041</td>
</tr>
<tr>
<td>Title 1</td>
<td>341</td>
<td>408</td>
<td>408</td>
</tr>
<tr>
<td>Kindergarten Enhancement</td>
<td>391</td>
<td>393</td>
<td>388</td>
</tr>
<tr>
<td>21st Century Fund</td>
<td>369</td>
<td>224</td>
<td>326</td>
</tr>
<tr>
<td>Early Education and Care</td>
<td>236</td>
<td>236</td>
<td></td>
</tr>
<tr>
<td>Brookline Education Foundation</td>
<td>295</td>
<td>200</td>
<td>201</td>
</tr>
<tr>
<td>Improving Educator Quality</td>
<td>170</td>
<td>175</td>
<td>172</td>
</tr>
<tr>
<td>Enhanced School Health</td>
<td>133</td>
<td>115</td>
<td>115</td>
</tr>
<tr>
<td>Teen Advantage</td>
<td>66</td>
<td>107</td>
<td>107</td>
</tr>
<tr>
<td>Between $100-500</td>
<td>1,765</td>
<td>1,858</td>
<td>1,953</td>
</tr>
<tr>
<td>Total</td>
<td>4,873</td>
<td>4,899</td>
<td>4,994</td>
</tr>
</tbody>
</table>

## Grants - ARRA nonrecurring

| Special Ed IDEA                                                                  | 1,088| 1,098|      |
| Title 1                                                                           | 132  | 132  |      |
| Early Ed                                                                          | 44   | 44   |      |
| Total ARRA                                                                        | 1,264| 1,274|      |
| Special Ed IDEA to G/F                                                             | (1,088)| (1,098)|      |
| Net ARRA                                                                          | 176  | 176  |      |

## Grants administration

<table>
<thead>
<tr>
<th>152</th>
<th>156</th>
<th>158</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,025</td>
<td>5,231</td>
<td>5,328</td>
</tr>
<tr>
<td>5,367</td>
<td>5,600</td>
<td>5,686</td>
</tr>
</tbody>
</table>

## Revolving Funds

<table>
<thead>
<tr>
<th>Food Services</th>
<th>1,656</th>
<th>1,786</th>
<th>1,816</th>
</tr>
</thead>
<tbody>
<tr>
<td>Early Childhood</td>
<td>1,460</td>
<td>1,491</td>
<td>1,550</td>
</tr>
<tr>
<td>Adult Ed</td>
<td>1,432</td>
<td>1,282</td>
<td>1,294</td>
</tr>
<tr>
<td>Athletic Fund</td>
<td>326</td>
<td>330</td>
<td>356</td>
</tr>
<tr>
<td>Total itemized funds</td>
<td>4,874</td>
<td>4,889</td>
<td>5,016</td>
</tr>
<tr>
<td>Total revolving funds</td>
<td>5,071</td>
<td>5,124</td>
<td>5,262</td>
</tr>
</tbody>
</table>

## Total grants and revolving funds

| 10,438| 10,724| 10,948|

---
Capital Sub-Committee Report on the FY2011 Capital Improvement Program (CIP)  
Recommendations and Project Descriptions

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

34. TECHNOLOGY APPLICATIONS  
$250,000 (T)

This annual appropriation funds projects detailed in the Information Technology Department's Long-Term Strategic Plan, which serves as the framework for the selection and management of technology expenditures and is updated periodically by the Chief Information Officer (CIO). Moreover, additional projects that meet the short-term objectives set by the CIO and appropriate committees provide the guidance for the Town's approach to technology management. Primary focus areas for IT investments include Infrastructure lifecycle replacement, Enterprise Applications/Better Government initiatives, School Technology, and Public Safety enhancements. Special consideration is given to projects that reduce operating expenses and/or create efficiencies.

35. FIRE RESCUE/SPECIAL OPERATIONS TRUCK  
$150,000 (T)

In 1985, Rescue #1 was placed into service as Ladder #2. When it was decided to replace Ladder #2, it was also decided to keep the cab and chassis and have it retrofitted with a rescue truck body to serve as Rescue #1. The truck is now 25 years old, has no resale value, and needs to be replaced. Replacement cost is estimated to be $150,000. This type of vehicle can be used in ice/water rescue operations and in incidents involving hazardous materials.

36. MAIN LIBRARY FRONT ENTRANCE  
$50,000 (T)

The front entrance of the Main Library was renovated and made accessible as part of the major renovation of the building several years ago. Water entering the lower part of the building, especially after heavy rain or snow, has been traced to the area where the building meets the sidewalk. To date, there has been no harm to library holdings, but walls and carpeting have been damaged. Current plans to remedy the situation call for the excavation of the terrace area, exposure of the foundation, and installation of a waterproof membrane system. In FY 09, $110,000 was approved for addressing this problem, and an additional $50,000 is now being requested at the suggestion of the design firm and the Building Department.
In 1992, the Department of Public Works (DPW) undertook a comprehensive study of its roads and implemented a pavement management system. The system was designed to bring Town-owned streets to a level of repair and maintenance that would preclude undertaking costly complete reconstruction. From 1992 to 1997, the Town made some progress in this regard, but funding was inconsistent. Starting in 1997, the Town began allocating $1 million per year to streets rehabilitation.

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

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

Based on the recommendations of the OSC, the 2008 Override, which was ultimately approved by the voters, included $750,000 for streets and sidewalks. Of the FY09 override amount, $580,000 was appropriated for streets, with $300,000 addressing the underfunding caused by level-funding and $280,000 for the “catch-up”. In FY11, the base appropriation is recommended at $1.32 million (the original $1 million base, plus the $300,000 added in FY09 adjusted for two years of 2.5% increases). In addition, $420,000 is included for the “catch-up”. Current plans call for the “catch-up” funding to be eliminated by FY13 and for the appropriation base to be set at $1.47 million. Funds would continue to be increased annually by 2.5% after that date.

Streets currently scheduled for work in FY 11 include Hayden Road, Henry Street, Pond Avenue from Highland Road to Jamaica Road, Thatcher Street, and Thorndike Street from Harvard Street to Winchester Street.

STREET REHABILITATION – STATE
$699,552 (G)

The State provides monies under its Chapter 90 program for the maintenance of certain streets. About 1/3 of Brookline's streets are eligible for 100% State reimbursement. The State approved a three-year $450 million Chapter 90 program as part of the 2008 Transportation Bond Bill; FY 11 will be the third year of this funding program.
Streets eligible for Chapter 90 funds and included in the FY 11 work program are South Street from Grove Street to the VFW Parkway and Beverly Road from Grove Street to Lagrange Street.

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

This funding will be used to implement approved traffic calming/safety improvement projects that have been evaluated and designed by the Transportation Division of DPW using the Traffic Calming Policy as a guide. The Transportation Board approves projects before they are implemented. Proposed projects for FY11, with estimates, are as follows:

- Carlton Street - crosswalks, sidewalk ramps and signage ($20,000)
- Welland Road – two speed humps and signage ($20,000)
- Pond Avenue/High Street - raised elements, crosswalk, sidewalk ramps, pavement markings, signage ($60,000)

39. SIDEWALK REPAIR
$262,000 (T)

The Department of Public Works has prepared a sidewalk management program that prioritizes repairs. Some sidewalks are reconstructed as part of the street reconstruction program; those that are not are funded under this program. In CY07-08, the Override Study Committee (OSC) determined that the Town had underfunded road and sidewalk maintenance and construction. Based on the recommendations of the OSC, the 2008 Override, which was ultimately approved by the voters, included $750,000 for streets and sidewalks. Of the FY09 override amount, $50,000 was appropriated for sidewalks. In FY11, the base appropriation is recommended at $262,000 (the original $200,000 base, plus the $50,000 added in FY09 adjusted for two years of 2.5% increases). As urged by the OSC, the amount would continue to be increased annually by 2.5%. The list of sidewalks to be repaired in FY 11 will be prepared in May.

40. BICYCLE ACCESS IMPROVEMENTS
$25,000 (T)

In concert with a request from the Cottage Farm neighborhood for vehicular and pedestrian safety improvements, the Transportation Division of DPW looked at bicycle improvements proposed by the Bicycle Advisory Committee for a corridor extending from the Longwood Medical Area to the Charles River/Cambridge. A subsequent plan was developed and approved by the Transportation Board that added signage, lane delineations, and pavement markings on Carlton Street and Chapel Street from Longwood Avenue to Mountfort Street.
41. **PATH RECONSTRUCTION**  
**$120,000 (T)**

Gardner and Winchester Paths, last refurbished in the late 1980s, are in need of repair, as evidenced by the chipped and cracked condition of their concrete steps. Preventive maintenance, undertaken by the DPW in recent years, is no longer adequate. Handrails will be repainted, existing stairs will be rehabilitated, and the paths will be replaced with FY 11 dollars.

42. **PARKING METER SYSTEM REPLACEMENT**  
**$1,400,000 (T)**

The Town currently owns approximately 2,500 parking meters that generate $2.6 million annually. Not only are parking meters a significant revenue generator, but they are a major component of the Town’s parking management system. With Brookline having urban characteristics in parts of town, managing parking and traffic flow is critical and parking meters play a major roll in that. Lastly, the ability of customers to find parking spaces is important to merchants and parking meters help turnover parking spaces.

Existing meters are now between 10-12 years old. Because of their age, they are more susceptible to breaking down and replacement parts are becoming harder to locate. In addition, the mechanisms inside the meter use out-dated technology, to the point that they cannot read new parking cards. (The existing meter cards are no longer being produced and their replacements are not compatible with the existing meter mechanisms.) As a result of these facts, all meters need to be replaced.

The goal of this meter system replacement project is to reduce meter downtime while introducing new, user-friendly meters. Reducing downtime increases revenue and allows parking meters to remain a successful piece of the Town’s traffic / parking management system. Multi-space meters also improve aesthetics and make snow removal on sidewalks and in lots easier. Multi-space Wi-Fi enabled meters are currently being evaluated in two Town-owned lots. Initial results show a very positive experience: multiple pay options have improved convenience for users, the number of repairs made by DPW has been reduced, and revenue has increased.

The proposed funding in FY11 will allow the Town to implement its meter system replacement plan. In summary, all town lots and major roadways within commercial districts (lower Beacon Street, Coolidge Corner, Brookline Village, Washington Street, and JFK Crossing) will be fitted with multi-space meters; on average there will be one multi-space meter for every eight to ten parking spaces. Single-space meters will continue to be used on the remaining streets, but their mechanisms will be updated. Taking this approach allows for the implementation of a priority of the Selectmen’s Parking Committee: increasing parking rates during the baseball season in the lower-Beacon St. area, from St. Mary’s St. to Hawes St., thereby increasing revenue. In total, approximately 850 single-space meters will be replaced by approximately 100 multi-space meters. This will leave approximately 1,650 single space meters throughout town.
While this plan involves more up-front expense than simply replacing all single-space meters with new single-space meters, additional revenue and reduced maintenance costs make the plan as proposed more attractive financially over the longer-term. When added to the benefits of increased user-convenience, ability to implement variable rate parking schemes, improved aesthetics, and less maintenance expenses, placing multi-space meters in town-owned lots and along major roadways in commercial districts, as proposed, is the desired approach. The estimated monthly $75 fee for each multi-space meter will cover the cost of monitoring the storage of parking meter data and information.

43. STREETLIGHT REPAIR / REPLACEMENT PROGRAM
$50,000 (T)

It is anticipated that this funding will be used to install new decorative poles and lights on Harvard Street from Beacon Street to Stedman Street. The lights were purchased as part of the Reconstruction of Harvard Street (from Beacon Street to School Street) three years ago. Existing conditions plans for this section of Harvard Street have been completed. Design of the lighting system will be done during the winter of 2010/2011 with construction anticipated during the summer of 2011. In addition, poles in the existing inventory that are structurally unstable or need new service feeds will be replaced.

The American Recovery and Reinvestment Act provided FY 10 funds that allowed the Town to undertake a pilot project to install LEDs, a highly efficient lighting technology that holds great promise for energy savings, in town streetlights.

44. NEWTON STREET STEEL GUARDRAIL REPLACEMENT
$35,000 (T)

The portion of Newton Street’s steel guardrail, extending from Wolcott Road to the West Roxbury Parkway, has out-lived its useful life and has rusted to the point where it has become detached from its wooden supports. Its entire 1,800 foot length needs to be replaced, along with 30 wooden posts.

45. LINCOLN SCHOOL / KENNARD HOUSE PARKING AREA REPAIRS
$250,000 (T)

Both the brick stairway leading to the Kennard House (home to the Brookline Music School) and the brick retaining wall at the stairway are in need of replacement. In addition, there remains a 120 foot section of the brick wall on Walnut Street that was not replaced as part of the wall repair project in FY 08. FY 11 funds will be used to address these two projects.
46. PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE
$270,000 (T)

This is an on-going town-wide program for the repair and replacement of unsafe and deteriorating playground, fence, and field facilities or components. This program avoids the more expensive rehabilitation that would be necessary if these items were left to deteriorate. Allowing for year-to-year shifts in specific amounts, the breakdown of funds generally falls into the following categories: Fencing (fabric, posts, rails, backstops, barricades, related services and supplies) +/- $100,000; Playground parts/repair/replacement +/- $30,000; Playground Safety Surfacing (rubber based surfaces, rubber tile, wood fiber) +/- $30,000-$45,000; Athletic fields and infields +/- $60,000-$75,000; Park furniture replacement (picnic furniture, benches) +/- $10,000; and General site repairs +/- $25,000.

47. TOWN/SCHOOL GROUNDS REHAB
$130,000 (T)

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

48. TREE REMOVAL AND REPLACEMENT
$155,000 (T)

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

49. SCHOOL FURNITURE
$25,000 (T)

This is a continuous program to upgrade furniture in all schools. The furniture in classrooms absorbs significant wear and tear annually. This program will replace the most outdated and worn items.
50. **TOWN/SCHOOL BUILDING - ASBESTOS REMOVAL**  
$55,000 (T)

This annual appropriation will allow for the removal of asbestos, lead paint, mold, toxins, and any other hazardous materials whenever they are discovered in a Town/School facility. Many times when mechanical system repairs are in progress, expensive asbestos abatement has been required. These funds will allow for the proper abatement of asbestos. Some of the asbestos removal work will take place at the Old Lincoln School and in the shower spaces at the Kirrane Aquatics Center.

51. **TOWN/SCHOOL BUILDING - ADA RENOVATIONS**  
$55,000 (T)

This annual program of improvements is requested in order to bring Town/School buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all. This work includes adding lifts, modifications to HVAC equipment, and classroom modifications for sound, layout or access. These funds will be used on buildings that are not part of currently planned major renovations. Some of the FY 11 funds will be directed towards the purchase and installation of automatic door openers in school buildings.

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

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

The School buildings will be a priority. Most schools are reasonably secure, but based on an assessment by the Police Department, security can, and should, be improved. These funds will be used to install key card systems at various locations, including Baldwin School, Baker School, Devotion School, the High School, Fire Stations, Soule Recreation Center, and Eliot Recreation Center. These funds would also be used to continue the on-going process of replacement and installation of new fire alarm systems, sprinkler systems, emergency lighting, and egress signs.
53. **TOWN/SCHOOL BUILDING - ENERGY CONSERVATION**  
$100,000 (T)

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

54. **TOWN/SCHOOL BUILDING - ROOF REPAIR/REPLACEMENT PROGRAM**  
$300,000 (T)

In FY07, $275,000 was appropriated for a town-wide roof study. A consultant was hired to review existing conditions, determine the continued life expectancy of the roofs, and develop a master plan for repair and replacement of all roofs. The consultant completed the master plan and a priority list and schedule was established to repair and/or replace roofs on the 74 buildings in the Town. The plan calls for $29.3 million over a 20-year period, with $2.53 million required within the six-year period of this FY11 – FY16 CIP -- $300,000 in FY11, and $1.6 million in FY14, and $525,000 in FY16. Efforts in FY 11 will focus on repair and replacement of roofs on some of the Town’s smaller buildings including the Edward Devotion House.

55. **OLD LINCOLN SCHOOL SURFACE STRUCTURAL REPAIRS**  
$100,000 (T)

The outside areas of the Old Lincoln School are deteriorating. During construction of the new elevator, large voids were discovered at the sides of the buildings. Due to leaking in the asphalt above, erosion, and other conditions, there is a concern that a sinkhole may develop. It is anticipated that the area above the garages and the areas along the front of the building will need to be replaced. The $100,000 in FY11 is for an engineering conditions analysis that will help determine the need and the solution. No estimate is included for FY12, but it will become available once the engineering study is complete.

56. **TOWN HALL / MAIN LIBRARY / PIERCE SCHOOL GARAGE REPAIRS**  
$950,000 (B)  
$850,000 (T)

A consultant’s study, funded with FY 09 CIP dollars, examined the Town Hall garage, the Library garage, and the large Town Employees’ garage. Each has waterproofing and structural issues requiring repair. The consultant’s study outlined a scope of work, recommended a phased approach to design and construction, and provided budget estimates. Monitoring of cracks in the Town Hall garage and repair of cracks and spalls as well as interior waterproofing of the Library garage have been recommended. The large Town Employees’ garage exhibited cracks, spalling, and water infiltration, mostly from the plaza and amphitheater above. Repair of cracks and spalls is recommended for this facility. A total of $3 million is requested for all of
the work, which will also involve removal of soil above both garages so that water
proofing treatment can be applied and repair of damaged concrete can take place. In
FY10, $1.2 million was authorized by Town Meeting; an additional $1.8 in FY 11
funds is now being sought. The exact scope of work in the area around the
amphitheatre will be dependent on the decisions with regard to the use of the
amphitheatre, now being studied by a consultant.

57. WALNUT HILLS CEMETERY
$200,000 (Trust Funds)

Walnut Hills Cemetery was opened in 1875 and enlarged in the 1920s. Today it is a
45-acre rural oasis, designed to enhance the natural beauty of its components,
including native trees, shrubs, grave areas, glacial boulders and Roxbury
Puddingstone outcropping. In March 2004, the Trustees of the Walnut Hills
Cemetery completed a Master Plan that presents numerous recommendations for
improvement and enhancements to the cemetery including the critical need for the
development of additional burial space within the cemetery. The Master Plan also
aims to satisfy current and anticipated future demands by offering alternatives to
traditional burial and memorialization. Guided by the Master Plan, the Trustees have
completed a design process for the build-out of two areas in the cemetery for mixed-
use interment space. The Trustees propose that the existing Cemetery Trust Fund be
used to build out the first area. The Trustees have also identified four other areas for
future build outs that, with careful oversight and management, will assure burial
space for the Town for over the next 50 years. The Cemetery Trustees seek
authorization from Town Meeting to use funds from its Special Revenue Fund
(SW01) to put towards the Phase 1 build-out of the Cemetery (survey work, mapping,
development of lots, installation of markers, etc.) in FY 11 and the creation of mixed-
use interment options.

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

VOTED: To approve the budget for fiscal year 2011 set forth in the attached
Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and
expenditure object classifications within departments, as set forth in Tables I and II, subject to
the following conditions; to raise all sums so appropriated, unless other funding is provided
herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental
appropriations separately set forth in Tables I and II shall be permitted by vote of Town
Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b).
Within each separate departmental appropriation, expenditures shall be restricted to the
expenditure object classifications set forth in the recommendation of the Advisory Committee,
and voted by the Town Meeting, for each department, subject to the following exceptions:
May 25, 2010 Annual Town Meeting
8-64

A) Expenditures within the appropriation for the School Department shall not be restricted.

B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Board of Selectmen and Advisory Committee:

i) Transfers from the appropriation for the capital outlay object classification to any other object classification.

ii) Transfers to the appropriation for the personal services object classification from any other object classification.

iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.

iv) Within the Building Department appropriation, any transfer of more than $10,000 to or from the repairs to public building appropriations, unless coming from or going to public building maintenance supplies.

v) Transfers within the Department of Public Works from the Parks Division to any other purpose.

vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.

C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.

D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Board of Selectmen, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2011 budget, and to solicit and award contracts for terms of more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen.
3.) **ALLOCATION OF SALARY ADJUSTMENTS:** Appropriations for salary and wage adjustments (Item #21) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Board of Selectmen shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

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

4.) **STIPENDS / SALARIES OF ELECTED OFFICIALS:** The stipends of members of the Board of Selectmen shall be at the rate of $3,500 per year for the Chairman and at the rate of $2,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of $94,917 effective July 1, 2010, plus any adjustment approved by vote of the Board of Selectmen. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

5.) **VACANT POSITIONS:** No appropriation for salaries, wages, or other compensation shall be expended for a position which has become vacant during the fiscal year unless the Board of Selectmen, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) **GOLF ENTERPRISE FUND:** The following sums, totaling $1,266,200 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$431,548</td>
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<tr>
<td>Purchase of Services</td>
<td>$167,242</td>
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<tr>
<td>Supplies</td>
<td>$132,975</td>
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<tr>
<td>Other</td>
<td>$4,100</td>
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<tr>
<td>Utilities</td>
<td>$49,398</td>
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<tr>
<td>Capital</td>
<td>$85,580</td>
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<tr>
<td>Debt Service</td>
<td>$189,130</td>
</tr>
<tr>
<td>Reserve</td>
<td>$15,065</td>
</tr>
<tr>
<td>Total Appropriations</td>
<td>$1,075,039</td>
</tr>
<tr>
<td>Indirect Costs</td>
<td>$191,161</td>
</tr>
<tr>
<td>Total Costs</td>
<td>$1,266,200</td>
</tr>
</tbody>
</table>

Total costs of $1,266,200 to be funded from golf receipts with $191,161 to be reimbursed to the General Fund for indirect costs.
May 25, 2010 Annual Town Meeting
8-66

7.) **WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling $24,199,108, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

<table>
<thead>
<tr>
<th></th>
<th>Water</th>
<th>Sewer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>1,919,869</td>
<td>325,619</td>
<td>2,245,488</td>
</tr>
<tr>
<td>Purchase of Services</td>
<td>153,055</td>
<td>156,326</td>
<td>309,381</td>
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<tr>
<td>Supplies</td>
<td>97,815</td>
<td>21,000</td>
<td>118,815</td>
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<tr>
<td>Other</td>
<td>6,400</td>
<td>0</td>
<td>6,400</td>
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<tr>
<td>Utilities</td>
<td>162,998</td>
<td>0</td>
<td>162,998</td>
</tr>
<tr>
<td>Capital</td>
<td>88,300</td>
<td>52,000</td>
<td>140,300</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td>5,335,472</td>
<td>11,276,122</td>
<td>16,611,594</td>
</tr>
<tr>
<td>Debt Service</td>
<td>1,363,163</td>
<td>1,132,036</td>
<td>2,495,199</td>
</tr>
<tr>
<td>Reserve</td>
<td>106,575</td>
<td>133,020</td>
<td>239,595</td>
</tr>
<tr>
<td><strong>Total Appropriations</strong></td>
<td>9,233,646</td>
<td>13,096,124</td>
<td>22,329,770</td>
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<tr>
<td>Indirect Costs</td>
<td>1,530,393</td>
<td>338,945</td>
<td>1,869,338</td>
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<tr>
<td><strong>Total Costs</strong></td>
<td>10,764,039</td>
<td>13,435,069</td>
<td>24,199,108</td>
</tr>
</tbody>
</table>

Total costs of $24,199,108 to be funded from water and sewer receipts with $1,869,338 to be reimbursed to the General Fund for indirect costs.

8.) **REVOLVING FUNDS:**

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

b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed $100,000.

c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed $100,000.
d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed $30,000.

9.) **SCHOOLHOUSE MAINTENANCE AND REPAIR:** The sum of $4,606,456, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) **SNOW AND ICE BUDGET:** The sum of $412,294, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article.

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

- **Parking Meter Special Revenue Fund**
  - [to the Department of Public Works - $1,325,000]
  - [to the Police Department - $1,325,000]
  - $2,650,000
- **State Library Aid Special Revenue Fund**
  - [to the Library]
  - $41,555
- **Cemetery Sales Special Revenue Fund**
  - [to the Department of Public Works]
  - $50,000
- **Recreation Revolving Fund**
  - [to the General Fund for benefits reimbursement]
  - $257,205

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

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

34.) Raise and appropriate $250,000, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for the enhancement of town-wide hardware and software.

35.) Raise and appropriate $150,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a fire rescue / special operations truck.

36.) Raise and appropriate $50,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Board of Library Trustees, for repairs, alterations, and renovations to the Main Library front entrance.

37.) Raise and appropriate $1,740,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.

38.) Raise and appropriate $100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Board of Selectmen on a semi-annual basis.

39.) Raise and appropriate $262,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of sidewalks.

40.) Raise and appropriate $25,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for bicycle access improvements.

41.) Raise and appropriate $120,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for pathway reconstruction.

42.) Raise and appropriate $1,400,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the replacement of the parking meter system and costs incidental thereto.

43.) Raise and appropriate $50,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.

44.) Raise and appropriate $35,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the replacement of the Newton Street guardrail.
45.) Raise and appropriate $250,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repairs to the Kennard House parking area and the Lincoln School wall.

46.) Raise and appropriate $270,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.

47.) Raise and appropriate $130,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town and School grounds.

48.) Raise and appropriate $155,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

49.) Raise and appropriate $25,000, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen and the School Committee, for school furniture upgrades.

50.) Raise and appropriate $55,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town and School buildings.

51.) Raise and appropriate $55,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town and School buildings.

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

53.) Raise and appropriate $100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School buildings.

54.) Raise and appropriate $300,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and, with respect to School Buildings, approval of the School Committee, for roof repairs and replacements in Town and School facilities.

55.) Raise and appropriate $100,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for structural repairs to the surface of the Old Lincoln School.

56.) Appropriate $1,800,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for remodeling, renovating,
reconstruction or making extraordinary repairs to the garages located on the grounds of the Town Hall complex, and to meet the appropriation raise $850,000; and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $950,000 under General Laws, Chapter 44, Section 7, Clause 3A as amended, or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

57.) Appropriate $200,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Trustees of the Walnut Hills Cemetery, for upgrades to the Walnut Hills Cemetery; to meet the appropriation authorize the expenditure of $200,000 from the Sale of Lots special revenue fund (SW01).

14.) **FREE CASH:** Appropriate and transfer $4,590,079 from free cash for the following purposes:

   a.) Reduce the tax rate (Special Appropriations / Operating Budget) – $3,688,840;
   b.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $464,239;

XXX
<table>
<thead>
<tr>
<th>FY11 REVISED BUDGET - TABLE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUES</strong></td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>Property Taxes</td>
</tr>
<tr>
<td>Local Receipts</td>
</tr>
<tr>
<td>State Aid</td>
</tr>
<tr>
<td>Free Cash</td>
</tr>
<tr>
<td>Overlay Surplus</td>
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<tr>
<td>Other Available Funds</td>
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<tr>
<td><strong>EXPENDITURES</strong></td>
</tr>
<tr>
<td><strong>DEPARTMENTAL EXPENDITURES</strong></td>
</tr>
<tr>
<td>1 . Selectmen</td>
</tr>
<tr>
<td>2 . Human Resources</td>
</tr>
<tr>
<td>3 . Information Technology</td>
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<tr>
<td>4 . Finance Department</td>
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<td>5 . Legal Services</td>
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<td>6 . Advisory Committee</td>
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<tr>
<td>7 . Town Clerk</td>
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<tr>
<td>8 . Planning and Community Development</td>
</tr>
<tr>
<td>9 . Police</td>
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<tr>
<td>10 . Fire</td>
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<tr>
<td>11 . Building</td>
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<tr>
<td>12 . Public Works</td>
</tr>
<tr>
<td>a. Administration</td>
</tr>
<tr>
<td>b. Engineering/Transportation</td>
</tr>
<tr>
<td>c. Highway</td>
</tr>
<tr>
<td>d. Sanitation</td>
</tr>
<tr>
<td>e. Parks and Open Space</td>
</tr>
<tr>
<td>f. Snow and Ice</td>
</tr>
<tr>
<td>13 . Library</td>
</tr>
<tr>
<td>14 . Health</td>
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<tr>
<td>15 . Veterans’ Services</td>
</tr>
<tr>
<td>16 . Council on Aging</td>
</tr>
<tr>
<td>17 . Human Relations</td>
</tr>
<tr>
<td>18 . Recreation</td>
</tr>
<tr>
<td>(2) 19 . Energy Reserve</td>
</tr>
<tr>
<td>(2) 20 . Personnel Services Reserve</td>
</tr>
<tr>
<td>(2) 21 . Collective Bargaining - Town</td>
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<tr>
<td><strong>Subtotal Town</strong></td>
</tr>
<tr>
<td>22 . Schools</td>
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<tr>
<td><strong>TOTAL DEPARTMENTAL EXPENDITURES</strong></td>
</tr>
<tr>
<td><strong>NON-DEPARTMENTAL EXPENDITURES</strong></td>
</tr>
<tr>
<td>(1) 23 . Employee Benefits</td>
</tr>
<tr>
<td>a. Pensions</td>
</tr>
<tr>
<td>b. Group Health</td>
</tr>
<tr>
<td>c. Group Health Enrollment Allocation Reserve</td>
</tr>
<tr>
<td>d. Retiree Group Health Trust Fund (OPEB’s)</td>
</tr>
<tr>
<td>e. Employee Assistance Program (EAP)</td>
</tr>
<tr>
<td>f. Group Life</td>
</tr>
<tr>
<td>g. Disability Insurance</td>
</tr>
<tr>
<td>h. Worker's Compensation</td>
</tr>
<tr>
<td>i. Public Safety IOD Medical Expenses</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
</tr>
</tbody>
</table>
### FY07 FY08 FY09 FY10 FY11 $ CHANGE FROM FY10 % CHANGE FROM FY10

#### Unemployment Compensation
- Actual: 125,000
- Actual: 166,000
- Actual: 166,000
- Budget: 166,000
- Budget: 400,000
- $ Change: 234,000
- % Change: 141.0%

#### Medical Disabilities
- Actual: 16,643
- Actual: 15,718
- Actual: 9,963
- Budget: 30,000
- Budget: 30,000
- $ Change: 0
- % Change: 0.0%

#### Medicare Coverage
- Actual: 1,134,020
- Actual: 1,231,059
- Actual: 1,340,708
- Budget: 1,430,000
- Budget: 1,555,000
- $ Change: 125,000
- % Change: 8.7%

#### Reserve Fund
- Actual: 603,861
- Actual: 774,834
- Actual: 1,297,947
- Budget: 1,834,186
- Budget: 1,851,956
- $ Change: 17,769
- % Change: 1.0%

#### Liability/Catastrophe Fund
- Actual: 22,248
- Actual: 0
- Actual: 0
- Budget: 0
- Budget: 0
- $ Change: 0
- % Change: 0.0%

#### General Insurance
- Actual: 275,989
- Actual: 276,146
- Actual: 279,490
- Budget: 286,198
- Budget: 290,000
- $ Change: 3,802
- % Change: 1.3%

#### Audit/Professional Services
- Actual: 196,148
- Actual: 99,433
- Actual: 3,000
- Budget: 3,000
- Budget: 3,000
- $ Change: 0
- % Change: 0.0%

#### Contingency Fund
- Actual: 15,796
- Actual: 11,806
- Actual: 13,905
- Budget: 15,000
- Budget: 15,000
- $ Change: 0
- % Change: 0.0%

#### Out-of-State Travel
- Actual: 2,260
- Actual: 1,979
- Actual: 1,076
- Budget: 3,000
- Budget: 3,000
- $ Change: 0
- % Change: 0.0%

#### Printing of Warrants & Reports
- Actual: 16,805
- Actual: 14,487
- Actual: 17,143
- Budget: 20,000
- Budget: 20,000
- $ Change: 0
- % Change: 0.0%

#### MMA Dues
- Actual: 11,389
- Actual: 10,959
- Actual: 11,178
- Budget: 11,820
- Budget: 12,116
- $ Change: 296
- % Change: 2.5%

#### Borrowing
- Actual: 14,376,306
- Actual: 13,824,443
- Actual: 12,173,327
- Budget: 12,572,215
- Budget: 12,954,781
- $ Change: (2,977,434)
- % Change: -23.7%

#### Funded Debt - Principal
- Actual: 9,696,587
- Actual: 9,432,797
- Actual: 8,247,516
- Budget: 8,536,243
- Budget: 7,264,649
- $ Change: (1,271,594)
- % Change: -14.9%

#### Funded Debt - Interest
- Actual: 4,582,344
- Actual: 4,354,324
- Actual: 3,884,000
- Budget: 3,686,572
- Budget: 2,176,113
- $ Change: (1,510,459)
- % Change: -41.0%

#### Bond Anticipation Notes
- Actual: 55,593
- Actual: 0
- Actual: 289,400
- Budget: 289,400
- Budget: 94,019
- $ Change: (195,381)
- % Change: -67.5%

#### Abatement Interest and Refunds
- Actual: 41,782
- Actual: 37,322
- Actual: 41,811
- Budget: 60,000
- Budget: 60,000
- $ Change: 0
- % Change: 0.0%

#### Technology Applications (revenue financed)
- Actual: 250,000

#### Fire Rescue / Special Operations Truck (revenue financed)
- Actual: 150,000

#### Main Library Front Entrance (revenue financed)
- Actual: 50,000

#### Street Rehabilitation (revenue financed)
- Actual: 1,740,000

#### Traffic Calming Studies and Improvements (revenue financed)
- Actual: 100,000

#### Sidewalk Repair/Reconstruction (revenue financed)
- Actual: 262,000

#### Bicycle Access Improvements (revenue financed)
- Actual: 25,000

#### Path Reconstruction (revenue financed)
- Actual: 120,000

#### Parking Meter System Replacement (revenue financed)
- Actual: 1,400,000

#### Streetlight Repair / Replacement (revenue financed)
- Actual: 50,000

#### Newton St. Steel Guardrail Replacement (revenue financed)
- Actual: 35,000

#### Lincoln School/Kennard House Parking Area Repair (revenue financed)
- Actual: 250,000

#### Playground Equipment, Fields, Fencing (revenue financed)
- Actual: 270,000

#### Town/School Grounds Rehab (revenue financed)
- Actual: 130,000

#### Tree Removal and Replacement (revenue financed)
- Actual: 194,019

#### School Furniture Upgrades (revenue financed)
- Actual: 25,000

#### Town/School Asbestos Removal (revenue financed)
- Actual: 55,000

#### Town/School ADA Renovations (revenue financed)
- Actual: 55,000

#### Town/School Building Security / Life Safety (revenue financed)
- Actual: 100,000

#### Town/School Energy Conservation Projects (revenue financed)
- Actual: 100,000

#### Town/School Roof Repair / Replacement (revenue financed)
- Actual: 300,000

#### Old Lincoln Surface Structural Repairs (revenue financed)
- Actual: 100,000

#### Town Hall / Main Library Garage Repair & Driveway Improvements ($850,000 = revenue financed, $950,000 = bond)
- Actual: 1,800,000

#### Walnut Hills Cemetery (special revenue fund)
- Actual: 200,000

### TOTAL SPECIAL APPROPRIATIONS
- Actual: 7,874,562
- Actual: 5,928,000
- Actual: 8,575,748
- Budget: 9,260,572
- Budget: 6,572,800
- $ Change: (2,688,572)
- % Change: -29.0%

### TOTAL APPROPRIATED EXPENDITURES
- Actual: 173,523,025
- Actual: 177,264,844
- Actual: 187,847,146
- Budget: 196,750,968
- Budget: 193,373,364
- $ Change: (3,377,604)
- % Change: -1.7%

### NON-APPROPRIATED EXPENDITURES
- Cherry Sheet Offsets: 117,738
- State & County Charges: 5,375,086
- Overlay: 1,451,262

### TOTAL EXPENDITURES
- Actual: 186,875,834
- Actual: 193,057,078
- Actual: 205,706,751
- Budget: 212,626,469
- Budget: 196,875,580
- $ Change: (15,750,889)
- % Change: -7.7%
<table>
<thead>
<tr>
<th></th>
<th>FY07 ACTUAL</th>
<th>FY08 ACTUAL</th>
<th>FY09 ACTUAL</th>
<th>FY10 BUDGET</th>
<th>FY11 BUDGET</th>
<th>$ $ CHANGE FROM FY10</th>
<th>% CHANGE FROM FY10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deficits-Judgments-Tax Titles</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>25,000</td>
<td>25,000</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>TOTAL NON-APPROPRIATED EXPEND.</td>
<td>6,944,086</td>
<td>7,389,302</td>
<td>7,151,783</td>
<td>7,297,982</td>
<td>7,331,939</td>
<td>33,957</td>
<td>0.5%</td>
</tr>
<tr>
<td>TOTAL EXPENDITURES</td>
<td>180,467,111</td>
<td>184,654,147</td>
<td>194,998,929</td>
<td>204,048,949</td>
<td>200,705,303</td>
<td>(3,343,646)</td>
<td>-1.6%</td>
</tr>
<tr>
<td>SURPLUS/(DEFICIT)</td>
<td>4,044,703</td>
<td>5,084,559</td>
<td>3,902,492</td>
<td>0</td>
<td>0</td>
<td>0</td>
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</tr>
</tbody>
</table>

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #33).
## FY11 REVISED BUDGET - TABLE 2

<table>
<thead>
<tr>
<th>Department/Board/Commission</th>
<th>Personnel Services</th>
<th>Purchase of Services</th>
<th>Supplies</th>
<th>Other Charges/Expenses</th>
<th>Utilities</th>
<th>Capital Outlay</th>
<th>Inter-Gov’tal</th>
<th>Snow &amp; Ice</th>
<th>Debt Service</th>
<th>Personnel Benefits</th>
<th>Agency Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of Selectmen (Town Administrator)</td>
<td>500,940</td>
<td>746</td>
<td>8,500</td>
<td>6,400</td>
<td>3,300</td>
<td>600,603</td>
<td></td>
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<tr>
<td>Human Resources Department (Human Resources Director)</td>
<td>260,172</td>
<td>213,227</td>
<td>8,500</td>
<td>15,900</td>
<td>2,375</td>
<td>500,174</td>
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<tr>
<td>Information Technology Department (Chief Information Officer)</td>
<td>872,366</td>
<td>454,284</td>
<td>22,336</td>
<td>27,550</td>
<td>15,769</td>
<td>1,392,304</td>
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<tr>
<td>Finance Department (Director of Finance)</td>
<td>1,908,687</td>
<td>947,381</td>
<td>38,752</td>
<td>17,783</td>
<td>1,371</td>
<td>15,727</td>
<td>2,929,901</td>
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<tr>
<td>Legal Services (Town Counsel)</td>
<td>519,564</td>
<td>126,067</td>
<td>2,200</td>
<td>104,700</td>
<td>3,765</td>
<td>756,296</td>
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<tr>
<td>Advisory Committee (Chair, Advisory Committee)</td>
<td>17,415</td>
<td>36</td>
<td>1,275</td>
<td>570</td>
<td>487</td>
<td>19,783</td>
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<tr>
<td>Town Clerk (Town Clerk)</td>
<td>506,861</td>
<td>74,173</td>
<td>13,750</td>
<td>1,400</td>
<td>4,000</td>
<td>600,183</td>
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<td>Planning and Community Department (Plan. &amp; Dev. Div.)</td>
<td>614,396</td>
<td>16,817</td>
<td>9,432</td>
<td>4,513</td>
<td>7,525</td>
<td>652,684</td>
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<tr>
<td>Police Department (Police Chief)</td>
<td>13,265,255</td>
<td>342,895</td>
<td>210,060</td>
<td>59,500</td>
<td>365,700</td>
<td>452,278</td>
<td>14,695,688</td>
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<tr>
<td>Fire Department (Fire Chief)</td>
<td>11,610,661</td>
<td>121,925</td>
<td>132,500</td>
<td>25,125</td>
<td>241,048</td>
<td>134,167</td>
<td>12,265,426</td>
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<tr>
<td>Public Buildings Department (Building Commissioner)</td>
<td>1,921,958</td>
<td>1,863,993</td>
<td>123,770</td>
<td>5,800</td>
<td>2,878,735</td>
<td>55,487</td>
<td>6,849,744</td>
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<td>Public Works Department (Commissioner of Public Works)</td>
<td>6,952,545</td>
<td>2,965,227</td>
<td>691,372</td>
<td>35,150</td>
<td>1,040,151</td>
<td>655,833</td>
<td>20,000</td>
<td>412,294</td>
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<tr>
<td>Public Library Department (Library Board of Trustees)</td>
<td>2,452,242</td>
<td>141,702</td>
<td>514,992</td>
<td>4,502</td>
<td>303,688</td>
<td>52,101</td>
<td>3,469,227</td>
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<td>Health Department (Health Director)</td>
<td>755,726</td>
<td>262,408</td>
<td>15,500</td>
<td>4,120</td>
<td>43,197</td>
<td>5,000</td>
<td>1,085,950</td>
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<td>Veterans’ Services (Veterans’ Services Director)</td>
<td>122,440</td>
<td>2,718</td>
<td>650</td>
<td>116,200</td>
<td>725</td>
<td>242,733</td>
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<tr>
<td>Council on Aging (Council on Aging Director)</td>
<td>619,131</td>
<td>57,632</td>
<td>18,825</td>
<td>2,900</td>
<td>72,799</td>
<td>8,900</td>
<td>760,187</td>
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<tr>
<td>Human Relations/Youth Resources (Human Relations Dir.)</td>
<td>96,017</td>
<td>1,807</td>
<td>2,800</td>
<td>450</td>
<td>780</td>
<td>101,870</td>
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<tr>
<td>Recreation Department (Recreation Director)</td>
<td>654,186</td>
<td>85,287</td>
<td>40,703</td>
<td>2,400</td>
<td>124,576</td>
<td>31,380</td>
<td>938,533</td>
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<tr>
<td>School Department (School Committee)</td>
<td>71,947,765</td>
<td></td>
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<tr>
<td><strong>Total Departmental Budgets</strong></td>
<td>43,736,563</td>
<td>7,685,041</td>
<td>1,851,918</td>
<td>434,963</td>
<td>5,071,465</td>
<td>14,499,614</td>
<td>20,000</td>
<td>412,294</td>
<td>132,609,625</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### DEBT SERVICE

- Debt Service (Director of Finance) | 9,594,781 | 9,594,781 |
- **Total Debt Service:** | 9,594,781 | 9,594,781 |

### EMPLOYEE BENEFITS

- Contributory Pensions Contribution (Director of Finance) | 13,784,954 | 13,784,954 |
- Non-Contributory Pensions Contribution (Director of Finance) | 215,000 | 215,000 |
- Group Health Insurance (Human Resources Director) | 21,227,416 | 21,227,416 |
- Group Health Enrollment Allocation Reserve (Human Resources Director) | 400,000 | 400,000 |
- Retiree Group Health Insurance - PEBB’s (Director of Finance) | 1,142,531 | 1,142,531 |
- Employee Assistance Program (Human Resources Director) | 28,000 | 28,000 |
- Group Life Insurance (Human Resources Director) | 130,000 | 130,000 |
- Disability Insurance | 16,000 | 16,000 |
- Workers’ Compensation (Human Resources Director) | 1,350,000 | 1,350,000 |
- Public Safety IOD Medical Expenses (Human Resources Director) | 325,000 | 325,000 |
- Unemployment Insurance (Human Resources Director) | 400,000 | 400,000 |
- Ch. 41, Sec. 100B Medical Benefits (Town Counsel) | 30,000 | 30,000 |
- Medicare Payroll Tax (Director of Finance) | 1,555,000 | 1,555,000 |
- **Total Employee Benefits:** | 40,603,902 | 40,603,902 |

### GENERAL / UNCLASSIFIED

- Reserve Fund (*) (Chair, Advisory Committee) | 1,851,956 | 1,851,956 |
- Liability/Catastrophe Fund (Director of Finance) | 437,000 | 437,000 |
- General Insurance (Town Administrator) | 290,000 | 290,000 |
- Audit/Professional Services (Director of Finance) | 138,987 | 138,987 |
- Contingency (Town Administrator) | 15,000 | 15,000 |
- Out of State Travel (*) (Town Administrator) | 3,000 | 3,000 |
- Printing of Warrants (Town Administrator) | 10,000 | 10,000 | 20,000 |
- MMA Dues (Town Administrator) | 12,116 | 12,116 |
- Town Salary Reserve (*) (Director of Finance) | 475,000 | 475,000 |
- Personnel Services Reserve (*) (Director of Finance) | 750,000 | 750,000 |
- **Total General / Unclassified:** | 1,225,000 | 441,987 | 10,000 | 2,316,072 | 3,993,059 |

**TOTAL APPROPRIATIONS:** 44,961,563 | 8,127,028 | 1,861,918 | 2,751,035 | 5,071,465 | 1,449,614 | 20,000 | 412,294 | 9,594,781 | 40,603,902 | 186,801,364

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.
ARTICLE 8

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

As noted in the Selectmen’s Recommendation in the Combined Reports, the Board’s vote on the FY11 budget differed from the Advisory Committee’s in one instance: the Council on Aging (COA) budget. The Advisory Committee increased the recommended budget by $18,500 to restore a part-time (18.5 hours / week) Outreach Worker that was cut out of the FY10 budget. In order to fund this increase, they reduced the appropriation from Free Cash for the Liability / Catastrophe Fund.

The Board reconsidered Article 8 at its May 11 meeting and voted, by a vote of 5-0, to vote FAVORABLE ACTION on the budget vote as offered by the Advisory Committee. However, the Board clearly stated its intention to use the first $18,500 of any additional Local Aid that might arise at the end of the State’s budget debate to bring the Liability / Catastrophe Fund up to its 1% of prior year net revenue level as called for in the Town’s Financial Policies.
ARTICLE 8

Amendment Offered by Francis G. Caro, TMM Prec-8

Moved: To increase the Selectmen's budget by $5,000, to be added equally to the annual stipend of each member of the Board; and to reduce the Reserve Fund by $5,000.

EXPLANATION:
The amendment is a follow up to a resolution (Article 15) considered at the Fall Town Meeting urging an increase in stipends for members of the Board of Selectmen. By a wide margin, Town Meeting voted favorable action. No increase was reflected in the budget proposed by the Town Administrator or as approved by the Advisory Committee. The amendment would make possible a modest increase in the stipends.

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ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The “Caro” amendment to Article 8 (FY’11 Budget) increases the stipend given to the Selectmen by $1000 each. While our employees are enrolling in the GIC with marked premium savings for both them and the Town, the Selectmen were stripped of their post-retirement healthcare benefits last year. In recognition of this change, as well as the fact that the Selectmen’s stipend has not been increased since about the 1940’s, Town Meeting passed a resolution last fall supporting the concept of increasing the stipend and asked that an increase be considered as part of the budget process.

RECOMMENDATION:
By a vote of 10 in favor, 8 opposed and 1 abstention, the Advisory Committee voted to support this amendment.

The effect is to modify the line-items of the Selectmen’s budget and Reserve Fund in the FY’11 budget as outlined in the Combined Reports. This does not alter the bottom-line value of the budget. In addition to the changes reflected on the attached tables, Section 14 needs to be amended to read as follows:

14.) FREE CASH: Appropriate and transfer $4,590,079 from free cash for the following purposes:

a.) Reduce the tax rate (Special Appropriations / Operating Budget) – $3,693,840;
b.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $459,239;
ARTICLE 9

NINTH ARTICLE
To see if the Town will elect to increase the amount of the Senior-Work-off Abatement to $1,000 from the current $750 as allowed by Section 24 of Chapter 27 of the Acts of 2009, which amended the provisions of Section 5K of Chapter 59 as adopted by the 2008 Annual Town Meeting, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
This article provides for an increase of $250 over the current abatement of $750 for certain eligible senior taxpayers. The statute permits the Board of Selectmen to establish a property tax work-off program for taxpayers over 60-years old. Under the program, qualified taxpayers volunteer their services to the Town in exchange for a reduction in their tax bills. The current amount Brookline can abate is $750.00 in taxes per property. The abatement would be granted by the Board of Assessors based on a ‘Certificate of Service’ issued by a Town department head supervising the volunteer services. The credit earned for worked performed could be at a rate no more than the state’s minimum wage (current at $8.00 per hour). Qualifying taxpayers retain their eligibility for other statutory exemptions including the residential exemption. The Town’s program can set the income limits to be imposed. The Board of Assessors & Council on Aging is recommending a limit of $40,000 per household income be continued. There would be no asset limit requirements. Program volunteers performing services in return for property tax reductions would be considered employees for purposes of municipal tort liability. Earned reductions will be applied to the actual tax bill for the fiscal year, not the preliminary (1st & 2nd quarter) tax bills. The amount of the property tax reduction earned by the taxpayer under this program is not considered income or wages for purposes of state income tax withholding, unemployment compensation or workman’s compensation. The IRS has ruled, however, that the abatement amount will be included in the taxpayer’s gross income for both federal income tax and FICA tax purposes.

The Board of Selectmen, with 2008 Town Meeting authorization, previously established the program and directed the Assessors and the Council on Aging to oversee the program as a pilot for Fiscal Year 2009, limiting the number of participants to 20. The Board of Assessors and Council on Aging (COA) would like to expand the program in fiscal year 2011 to include 25 participants. Placement by the COA will be decided based on the match of the applicant’s skills with the interests of the various participating town departments. Applicants will have the right to refuse placements or defer placement pending the possibility of other opportunities. However, there will be no guarantee that other positions will become available. The maximum cost of the program to the Town for FY2011 would be $25,000 and be funded through the overlay reserve account.
SELECTMEN’S RECOMMENDATION

Article 9 asks Town Meeting to increase the Senior-Work-off Abatement to $1,000 from the current $750, as allowed under the provisions of Chapter 59, Section 5K of Massachusetts General Laws (MGL). This program, first adopted by Town Meeting in May, 2008, allows for a senior volunteer program under which qualifying seniors earn a reduction (i.e., abatement) of their property tax in exchange for volunteering services to the community. It is available to residents 60 years and older with income of $40,000 or less (there are no asset limit requirements). The Assessors and the Council on Aging (COA) oversaw a very successful pilot program in FY09 that limited the number of participants to 20, with placement by the COA decided based on the match of the applicant’s skills with the interests of the various participating town departments. In addition to increasing the maximum tax credit, the Board of Assessors and COA propose to increase the number of participants to 25. The maximum cost of the program to the Town for FY11 would be $25,000 and be funded through the overlay reserve account.

The Selectmen thank the Board of Assessors and the COA for bringing this article to Town Meeting, as providing seniors with options for additional tax relief is an important component of the Town’s efforts to keep Brookline affordable. Seniors on fixed incomes often struggle to balance paying for utilities, medical expenses, groceries, and taxes, so offering programs like this are critical. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on March 23, 2010, on the following:

VOTED: That the Town elect to increase the amount of the Senior-Work-off Abatement to $1,000 from the current $750 as allowed by Section 24 of Chapter 27 of the Acts of 2009, which amended the provisions of Section 5K of Chapter 59 as adopted by the 2008 Annual Town Meeting.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND
At the 2008 Annual Town Meeting, members approved the Senior-Work-off Abatement, reducing property taxes by $750. We joined more than 131 other localities in Massachusetts in offering this tax abatement program.

This program offered the following:

- Provides elderly home owners with a form of property tax relief
- Returns older residents to the work force through part-time service to our local government
- Offers participants a more productive aging process
• Helps participants remain independent and continue to live in their own homes
• Uses the expertise of elders to enrich our community
• Honors the contributions of elders.

The Board of Selectmen sets the number of positions. The Board can increase or decrease the number of participants from year to year. The program is administered jointly by the Assessors office and the Council on Aging. The Assessors office determines eligibility; the Council on Aging places participants in positions.

The approved 2008 pilot program has been very successful. In 2008, the Selectmen approved participation of 20 seniors in the Work-off Abatement program. In the second year two of the program, 19 out of 23 applicants were selected to participate. At least seventeen of them are expected to receive full credit (a tax abatement of $750) by June 30, 2010. Among many others, one participant worked at the Senior Center as a Bereavement Group Facilitator; one worked as a file clerk for the Assessors Office; and another worked as a computer assistant for the Tax Abatement program. Currently there is a waiting list of three eligible elders. In the first year of this pilot program no one was turned away; in year two the program has become more competitive. To be selected, applicants must qualify for the job. Applicants must be committed to the position they fill. Participants can be let go if their performance is unsatisfactory.

The EXPANDED Senior Citizen Tax Work-off Abatement Program
The Board of Assessors and Council for Aging continues to qualify citizens who are 60 years and older, with an income of less than $40,000 per household. However, the Town can set the qualifications as it sees fit. The proposed $40,000 limit corresponds to the income ceiling for eligibility for our property tax deferment program. Currently citizens receive a tax abatement (not a check or cash) of $750 in return for stipended volunteer services at the rate of $8.00 per hour (the MA minimum wage): about 94 hours of work annually. Participants in this program are NOT considered to be employees of the Town, except for TORT liability. Because participants are considered volunteers they are not subject to the Living Wage bylaw. Unfortunately participants are required to pay federal income taxes on their tax abatement. The Massachusetts Legislature recognizes the importance of the tax abatement program by exempting the abatement from state income tax liability.

The Massachusetts Legislature has recently increased the annual amount of the abatement that is exempt from state income tax to $1,000. Both the Council on Aging Board and the Board of Assessors have voted unanimously to support an increase of the maximum annual abatement to $1,000. An increase in the maximum abatement would mean that participants could be compensated for 125 hours of service each year.

Costs
The cost for the tax abatement program comes out of the Overlay Reserve Fund. This Fund has its own statutory guidelines and is not part of the annual budget process. The Overlay
Account varies between one and one and a half million dollars. “The Overlay Account is intended to provide relief, where relief is needed.”

RECOMMENDATION
By a vote of 20-0-0, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.
ARTICLE 10

TENTH ARTICLE
To see if the Town will amend the By-Laws of the Town of Brookline by amending our current By-Law for “BOARD OF SELECTMEN, §3.1.2, General Authority, The Selectmen shall exercise general supervision over all matters affecting the general and financial interest and welfare of the town”

by adding immediately afterwards the following new provision:

§ 3.1.2.A, Police and Fire Commissioners:
In accordance with and to implement the Selectmen’s responsibilities under applicable Laws, the Selectmen shall be designated both "Police Commissioners" and "Fire Commissioners," and shall be responsible, *inter alia*, to make suitable regulations and policies for the Police and Fire Departments,
or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

For important symbolic and psychological reasons, this article makes “official” the selectmen’s two titles that have been a universally-used, longstanding Brookline tradition and practice for many decades. It merely codifies and ratifies -- without changing or expanding -- the respective responsibilities of both the selectmen and the two chiefs.

Q1. Does this change the authorities or powers of the selectmen or the two Chiefs?: No.

Just as our nation’s Founding Fathers explicitly emphasized “civilian control” over the military, since at least 1921 (and maybe much longer), Brookline has consciously emphasized “civilian control” over the Police Department -- and, although it raises less complicated choices between competing values, also the Fire Department.

Thus, this article explicitly cites and follows pre-existing law and Brookline traditions, in particular as to Police, *G.L.c. 41, §97*, adopted by the 1921 Town Meeting, the so-called “Weak Chief Law” (as opposed to §97A, “Strong Chief”), which reads (*emphasis added*):

*c.41, §97*: In towns which accept this section ... there shall be a police department established under the direction of the Selectmen, who shall appoint a chief of police and such other police officers as they deem necessary, and fix their compensation ... and the Selectmen may remove such chief or other officers for cause ... . The Selectmen may make suitable regulations

1 See, e.g., “George Washington’s Tear-Jerker,” *N.Y. Times* op-ed, 2/14/10, by John Miller, senior fellow, Discovery Institute: “CIVILIAN control of the military is a cherished principle in American government. ... [T]he new country adopted a Constitution that implicitly recognized civilian control.”
governing the police department and the officers thereof. The chief of police shall be in immediate control of all town property used by the department, and of the police officers, who shall obey his orders.2

Nobody disputes that selectmen have long “been” Police/Fire Commissioners, at least de facto by tradition (see D. Turner, etc., infra).3 And, selectmen civilian control under §97 was discussed at length in 1987’s Selectmen’s Report on Police & Community Relations, e.g.:

We have, and wish to have, a Chief who is “strong” in many ways, e.g., energy, professionalism, managerial and administrative initiative; but by law it is the Board of Selectmen who should make significant policy decisions. It is important that the Selectmen not meddle in the daily administrative and managerial activities of the Department. For “policy” issues, it is important not only that the Selectmen invite, receive, and accord some deference to the advice of the Chief, but also that the community have an opportunity to provide input.

Q2. Why “Commissioners”? Titles matter, especially for “civilian control” in a paramilitary organization.

In the Constitution, the Founding Fathers did not merely put verbiage like, “the President shall appoint the top general and may make suitable regulations governing the armed forces.” Instead, they both gave Congress the power to “raise and support armies and navies,” and gave the President a title, “COMMANDER-IN-CHIEF.”

Not just within the Police and Fire Departments, but even more importantly, both to the selectmen themselves and to Brookline’s citizens, titles convey important messages, especially for a necessarily “paramilitary”-type organization like a Police or Fire Department, where everyone has a title and rank. The title would be, indeed has already been, a daily reminder that our public safety officers derive their authority -- and values and priorities (e.g. complex trade-offs between liberty and safety) -- from the community, i.e. through its elected officials.

Finally, the title can only serve to help the Selectmen assert themselves in their crucial role as “civilian reviewers,” a central reason why in both 1987 and 2009 an independent “civilian review board” was rejected. As to both civilian appeals and overall policy responsibility, the

2 See also, Chief of Police of Westford v. Westford, 365 Mass. 526, 530-31 (1974) (“... the primary control of the police department is in the chief of police under §97A and in the Selectmen under § 97. ... [T]he Legislature [ ] has given towns the alternatives of a 'strong' chief, a 'weak' chief, or no chief at all. G.L. c. 41, § 96.”)

3 Until the 1990’s, selectmen got official, leather-bound badges as Police Fire Commissioners -- see Q4 infra.

4 As to “paramilitary,” the 1987 Report in “§VI, Disciplinary Process & Selectmen’s Review began: “Because all police departments are paramilitary in tone and structure ...”; see also Police Dept. of Boston v. Tolland, 2006 WL 2772632, 3, 67 Mass. App. Ct. 1107 (Unpublished opinion, 2006)(“the head of a paramilitary organization ... is dependent on adherence to the commands of superior officers”)
May 25, 2010 Annual Town Meeting
10-3

The Selectmen’s recently approved Rules & Regulations, Policies & Procedures for the Police Department hints that both the Selectmen and Police officials are slightly unclear about the Selectmen’s roles as Police leaders. This extremely worthwhile, well-done effort is not explicit about either the Selectmen’s roles as Police Commissioners or even their role under §97; the Selectmen are hardly mentioned in its 518 pages, except with regard to the discipline process. See e.g., p. 29, “General Orders - are permanent written orders issued by the Chief of Police outlining policy matters which affect the entire Department. A General Order is the most authoritative written order the Chief issues, and may be used to amend, supersede or cancel any previous order.” While technically accurate, should it also mention the Selectmen? Maybe, maybe not; but it at least deserved some consideration.

Former Chief Simard and current Chief O’Leary have often referred to them as such. See, e.g., the former’s General Order #85-5, creating the Internal Affairs process, beginning: “The Selectmen, in their capacity as the Police Commissioners... have established the position of Internal Affairs/Staff Inspection Officer ... .” Chief O’Leary too has often used it; see, e.g., “Selectmen enjoy power of the badge;” 5/27/04 Brookline TAB:

... Brookline Selectmen apparently believe in the power of the badge. ... a handsome gold one that bears the inscription “Police Commissioner,” ... a title reserved for ... the Selectmen. In most communities, the chief of police answers to the police commissioner; in Brookline's case, that's all five Selectmen. According to Chief Daniel O'Leary, the commissioner's badges are to not to be used "to get [Selectmen] out of problems." ... As for the commissioner's badges, O'Leary confirmed that he does not collect them after Selectmen leave office.

The Police Commissioner title is commonplace in towns; see “5/6/03, “Former Pembroke selectman arrested for Impersonating a PO,” MassCops - Massachusetts Law Enforcement Network, (“... In Massachusetts, Selectmen serve as police commissioners by virtue of their office. ... ”).

Brookline government has numerous “Commissioners.” Cf., 1963 Acts, Ch. 12, establishing a Department of Public Works In Brookline: “... [T]here shall be established in ... Brookline a Department Of Public Works, ... which shall be under the supervision and control of a Commissioner of Public Works, hereinafter called the Commissioner ... [whom] the selectmen shall appoint and may remove ...”; we also have a Building Commissioner, by-law 3.8.1, and several “Commissions” whose “members” are often called “Commissioners.”
hypothetically be tacked onto this, but are left for the selectmen and Chief to continue deciding (as always).

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REPORT FROM THE COMMITTEE ON TOWN ORGANIZATION AND STRUCTURE (CTO&S)

CTO&S, by majority vote, recommends that action on Article 10 be deferred to the 2010 Fall Town Meeting. We do that, not because of any issues related directly to the merits of, or potential pros and cons relating to, the article, but because action now will preclude Town Meeting from making a fully informed decision on how this article might impact another important article that will be before Town Meeting in the Fall.

CTO&S has spent the last year and a half conducting a review of the duties and functions of the Town Administrator. That review was completed late this winter and an article that would amend some of those duties was prepared and supported by a majority of CTO&S for inclusion in this year’s Annual Town Meeting. However, at about the same time, the present Town Administrator announced his intention to retire, triggering the initiation of a Selectmen search process for a replacement. The Selectmen conveyed to CTO&S their concern that debate during the run up to Town Meeting on amending some of the Administrator’s duties at the same time they were screening and interviewing potential candidates would be disruptive to the process. Accordingly, the Selectmen requested, and CTO&S agreed, to postpone action on the Town Administrator article to the 2010 Fall Town Meeting.

Without getting into any of the specifics of the proposed changes in the Town Administrator article or the desirability or lack thereof of any of these changes, one component relates to the hiring of the Fire and Police Chiefs. Thus, there is an important linkage between Article 10 in the current Town Meeting and any potential change in how these two Chiefs might be hired in the future. Whether or not Town Meeting might desire to make any change is not the issue over which CTO&S is currently concerned – rather our concern is that action on Article 10 now will, de facto, have an impact on that change, without Town Meeting ever hearing a full and complete debate on what the pros and cons of making that change might be.

We understand that recent events this Spring relating to the Police Department may make some Town Meeting Members eager to formalize the relationship between the Selectmen and the Police Department, as is the intent of Article 10. In response, CTO&S can only argue that a slight delay in action should be tolerable because:

- The informal relationship has existed for more than 30 years – we are proposing waiting another few months
- The primary petitioner has stated publicly that the article is largely symbolic, is simply meant to codify a relationship that has existed for years and will have little substantive impact other than its symbolic effect (we do not, however, in any way intend to minimize the importance of this)
• Both current Chiefs have stated publicly that they have always considered the Selectmen to be their commissioners, regardless of any written formal relationship, and will continue to do so independent of that formality
• Any interaction the Selectmen wish to engage in between the Board and either of the Departments will not change between now and the Fall, regardless of whether or not Town Meeting acts on or defers this article at this Town Meeting

Thus, in summary, and in the belief that Town Meeting should always be as informed as possible, CTO&S recommends that Town Meeting defer action on Article 10 until the 2010 Fall Town Meeting, at which time they will have a full opportunity to discuss and debate the merits of the Town Administrator article, Article 10, and the linkages between the two. This deferral will also enable reviews of both articles together and will allow the Selectmen, Advisory Committee and/or Town Meeting Members to recommend possible amendments to one or both to achieve the desired overall result.

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SELECTMEN’S RECOMMENDATION

Article 10 would amend the Town By-Laws: “BOARD OF SELECTMEN, §3.1.2, General Authority”, to confer the “official” titles Police Commissioner and Fire Commissioner on each member of the Board. The Board of Selectmen strongly supports the principled intention of the petitioners: to make clear that the Selectmen are the ultimate civilian authority over the Police and Fire Departments. The petitioners propose that conferring the title of "Commissioners" upon the Board of Selectman will reinforce this important concept.

The Selectmen stand united with the effort to clarify the role of the Board in its civilian oversight. Recent experiences with the review of the Citizen Complaint Policy and the Video Surveillance Cameras underscore the crucial functions of the Board in setting policy for public safety. However, enough questions have been raised about the formal titling of the Selectmen as Police/Fire Commissioners to convince the Board that Article 10 should be referred for further study. It is also important to note that, for completely separate reasons, the Committee on Town Organization and Structure (CTO&S) is recommending deferral of action on Article 10 to a future Town Meeting.

The Board is concerned that, without clear definition of the responsibilities of Commissioner in the by-law, this proposed amendment could well have unintended consequences. The definitional issues are complicated and not trivial. Given that “Commissioners” in Brookline and other municipalities are often employees acting in the operating chain of command, assumption of the title could increase the likelihood of Selectmen being named in potential lawsuits regarding employee misconduct or other matters. The Brookline DPW and Building Commissioners are cases in point. Further, it is possible that the term police commissioner implies a law enforcement capability that is not consistent with the Board’s civilian oversight authority. Unqualified inclusion in the By-laws might give rise to confusion about police powers that could be misinterpreted to be vested in the Board. In Cambridge, Boston and
other jurisdictions, the Police Commissioner is the professional department head with direct control over police operations.

Board of Selectmen authority relative to the Police Department falls into the realm of policy and administration and in no way entails the exercise of “police powers”. Under what is informally referred to as the ‘weak chief statute’ G.L.c. 41 s. 97 and also under the general statutory framework that defines the Board of Selectmen as the Town’s chief executive body, Selectmen authority is exercised primarily through:

- Promulgation of policies and regulations
- Approval of appointments and promotions including the chief
- Authority to dismiss with cause
- Adjudication of disciplinary actions under Civil Service
- Adjudication of appeals under the Citizen Complaint Policy

The petitioners offer no examples of similar by-laws in other communities. The powers vested in the Selectmen under G.L.c. 41 s. 97, the civil services laws, and other statutes make no reference to the term police commissioners. In his February 1997 memo on this issue then Town Counsel David Turner stated:

“There is no known statutory authority for the title. There is no known authorization for its use…… ‘It is interesting to speculate about the origin of the title. A Police Chief might have wanted to curry favor with his Board. A selectman may have wanted the title and a solid gold badge for some personal, professional or political reason’.”

More recently, in checking with other municipal officials, the Town Administrator reports that the term seemed to have taken on an informal connotation in some municipal jurisdictions decades ago. However, its usage has diminished over time due to factors such as the police service becoming more professionalized, liability issues becoming more pronounced, and reports of abuses becoming more widespread. In Brookline, the practice of issuing badges to newly elected Selectmen was discontinued more than a decade ago.

Introducing the title as proposed in Article 10, without further definition, creates the possibility of potential confusion about the executive character of the Board itself. Titling the Selectmen as Commissioners could easily convey the impression that the Selectmen are part of the Police Department, rather than the actuality that they are mandated to oversee as the civilian chief executive body.

There are, then, a number of questions that referral of this Article should address before this proposal returns to Town Meeting.

-- What are the historic trends and current practices in this regard in Massachusetts and in comparable jurisdictions?
-- Does the title create any expectation, legal or otherwise, or perception of actual police powers on the part of those who hold the title police commissioners?

-- Are there other titles that should be examined?

-- Does the title establish or imply operational relationships between the Selectmen and the Fire and Police Departments that are different from what has been the actual past practice for the Town?

-- As a result of the above or any other factors, does the adoption of the title of Police or Fire Commissioner create a greater exposure for the Town’s Chief Executive authority to litigation than currently exists?

-- If the term “Police Commissioner” is used, does it apply to the Board as a whole, which acts by majority vote, or does it apply to each individual Selectman?

-- What is the implication of calling individual Selectmen “Police Commissioners”? What authority or powers are implied by the application of such a term to an individual Selectman?

-- What are the implications of this change for the totality of the Town’s scheme of governance, particularly the Town Administrator Enabling Act, which is also currently under review by the CTO&S?

With regard to this latter question of the Town’s overall governance structure, CTO&S notes that it has spent the last year and a half conducting a review of the duties and functions of the Town Administrator. CTO&S had prepared a warrant article to propose amending the Town Administrator Enabling Act to change some of the Town Administrator’s duties, including his/her role in the appointment of Department Heads, for submittal to this Town Meeting. In light of the Town Administrator’s announcement of his decision to step down this summer, the article was deferred to the 2010 Fall Town Meeting at the request of the Board of Selectmen.

CTO&S correctly notes there is an “important linkage” between Article 10 and any proposal about how authority for appointing Department Heads might be changed in the future. Referring Article 10 will assure that there can be an informed assessment as to how these two proposals might relate to each other.

In light of these questions concerning the substance of Article 10 and also the process concerns of the CTO&S, the Board recommends by a vote of 5-0 taken on April 27, 2010, that Article 10 be referred to CTO&S for further review and recommendations, particularly in conjunction with whatever recommendations might be presented relative to the Town Administrator Enabling Act.
May 25, 2010 Annual Town Meeting
10-8

VOTED: To refer Article 10 to the Committee on Town Organization and Structure (CTO&S) for further study and reconsideration at a future Town Meeting.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
This Warrant Article seeks to amend §3.1.2 of our By-Laws, which enumerates the responsibilities of the Selectmen, by clarifying their role as Police and Fire Commissioners. The Selectmen’s responsibilities in these areas were granted and defined under two different state statutes. Though the titles are not codified in our by-laws, their use has been a longtime tradition and practice.

MGL 41 Section 97 (the “Weak Chief” law) is the enabling act for our Police Department and Police Chief. This statute grants authority to the Selectmen to hire and fire the Police Chief and other officers, set compensation for them, and make “suitable regulations” to govern the department. Brookline accepted Section 97 at the 1921 Annual Town Meeting.

Acts 1973 Chapter 534 is a home rule petition abolishing the office of Brookline Fire Commissioner and transferring all powers and duties to the Selectmen. The statute makes the Selectmen the lawful successor to the Fire Commissioner in all regards, including issuing of rules, regulations, and orders for the department. The law also designates the Selectmen as the appointing authority for the Fire Chief, giving them authorization to hire, fire, and set compensation.

The petitioner was inspired to file this article after his work on the Citizen Complaint Review Committee, where he learned the roles were not formalized in our by-laws. He believes it is important for three reasons: for the Selectmen to view themselves in these roles; for residents to view the Selectmen as having authority over these functions; and for the departments to see the Selectmen in these roles. The petitioner seeks to formalize the titles, affirming the Selectmen are the elected civilian authority over the public safety functions in Brookline.

DISCUSSION:
On the surface this article seems like a housekeeping measure to align our by-laws with the statutes under which Brookline governs its public safety departments, codifying titles that have been a longtime tradition. There was broad agreement from the Advisory Committee, CTO&S, and members of the public who expressed their views: the Police and Fire Chiefs should be under civilian authority, the Police and Fire Chiefs have always treated the Selectmen as commissioners, every Selectman has believed himself/herself to be a commissioner, and the relationship between the Chiefs and the Selectmen should be codified in our by-laws.
However, due to a number of issues, the Advisory Committee by a narrow majority recommends that more consideration should be given to this proposal, and recommends referral to the Committee on Town Organization and Structure (CTO&S) for reconsideration at the Fall Town Meeting.

At that time, CTO&S will be submitting a warrant article which seeks to modify the role of Town Administrator, granting additional authority for hiring and firing of department heads. The Town Administrator role was created 40 years ago, replacing the Executive Secretary position. CTO&S has been examining the Town Administrator role in light of the growing size of our annual operating budget, which is nearly a half billion dollars, approximately half of which is on the Town side. At the request of the Selectmen, CTO&S has deferred their proposal to the Fall Town Meeting to eliminate any disruption or debate on the Town Administrator position while the town seeks a replacement for Rich Kelliher who recently announced his retirement. Because this forthcoming proposal is related to the subject of Article 10, CTO&S recommends that the proposals be considered jointly at the same town meeting.

Because the CTO&S proposal is not part of the current warrant, its subject matter is restricted from the debate. This will make it difficult to have a fair and thorough deliberation on this topic, especially for those who may want to have the hiring or firing authority of the Chiefs reside with the Town Administrator.

Other issues were also cited. No other town is known to have formally designated their Selectmen as Police or Fire Commissioners. Without clear and specific role definitions, some members of the Advisory Committee felt the Commissioner title may be misinterpreted to mean a full time managerial role, rather than the appointing and governing authority granted under the enabling statutes. Many members felt that a few more months could be used to clarify the relationship between the Chiefs and the Selectmen before the Fall Town Meeting. Members also reiterated concerns expressed by the Selectmen that formalizing these titles may create personal liability for the Selectmen, and this risk should be carefully evaluated.

A majority of the Advisory Committee felt that since the current practice is working, and in light of the above concerns, it would be prudent and reasonable to wait another four or five months to consider this article together with the CTO&S Town Administrator proposal.

Everyone agrees that civilian oversight by the Selectmen over our public safety departments is paramount – and is the current practice. Furthermore, everyone agrees that titles matter, both symbolically and legally. Though it is something we have inferred for a long time, this article would formally codify and legislate the term “Commissioner”. The majority believes that given the importance of the title, it is worth carefully considering and debating just what that “it” should be. This is especially important given that there have been different understandings of just what this title has meant over the years.

The vote to refer this article was close. A significant minority of the Advisory Committee supported the article as amended by the petitioner. They asserted this article simply makes
official what has been common practice for “time immemorial” in Brookline, and codifies the roles in our by-laws in keeping with the two statutes granting this authority to the Selectmen.

The Selectmen have clearly acted in this capacity: they appoint the chiefs, develop and approve policy manuals for the departments, and act as our civilian review board. There was a strong sentiment that it would be beneficial to affirm that the citizens, through the Selectmen, are in control of the public safety functions. Importantly, the Civilian Complaint Review Committee’s recent proposal assumed that the Selectmen play the role of civilian review board over the police, so creating ambiguity about this is problematic. Many members also thought it was important for the community to know that the elected Selectmen are making these difficult values decisions regarding public safety policy. There is also broad agreement that the Selectmen are seen by both departments to be in this role, and this has been acknowledged by the Chiefs.

Since the Selectmen are by statute the final authority over the public safety departments, it would be impossible to create a complete list of all the responsibilities and functions that the Selectmen should do in this capacity. Allocating a few more months to study the relationship of the Chiefs to the Selectmen would therefore add no value. By intent, this relationship should be left at a high level: “the buck stops here.” This is how the enabling statutes are worded as well.

Additionally, it is likely that the public safety functions would be excluded from the upcoming CTO&S proposal. The minority of the Committee thought it better to clarify this issue before a new Town Administrator is hired, and not wait until afterwards. Doing so now would also help inform the dialogue for the Fall Town Meeting. They believe the CTO&S proposal should be debated with this matter already settled—that the elected Selectmen are indeed in control of the public safety functions.

RECOMMENDATION:
By a split vote of 11-10 with no abstentions, the Advisory Committee joins the Board of Selectmen in referring the subject of Article 10 to the Committee on Town Organization and Structure for further study and reconsideration at a future town meeting.
ARTICLE 10

Amended Motion Offered by Marty Rosenthal, TMM-Prec. 9

To amend the By-Law for “Board Of Selectmen, §3.1.2, “General Authority, The Selectmen shall exercise general supervision over all matters affecting the general and financial interest and welfare of the town” by adding immediately afterwards the following new provision:

§ 3.1.2.A, Police and Fire Commissioners: In accordance with and to implement the Selectmen’s responsibilities under applicable Laws, the Selectmen shall be designated both "Police Commissioners” and "Fire Commissioners.”

FURTHER EXPLANATION for AMENDED MOTION & for OPPOSING REFERRAL

1. Why amend? to make even more obvious its limited intent: merely to codify a tradition:

Responding to arguments for “referral,” the petitioner will move only the first 12 words, of the original version. The resistance of some Town officials to making official these two important titles has been downright amazing. Nobody has ever questioned the first sentence of David Turner’s 1997 memo, “Sometime before the memory of man remembereth the Selectmen acquired the additional title of Police Commissioners,” even in the 13 years since. He went on to say, but it was never publicized and surprised everybody when heard about it, that the titles had never been codified. That was the technical – if not the more important psychological and governmental – impetus for this article, signed by 12 former selectmen and our state rep. It seemed stunningly simple – a “conservative” no-brainer – to eliminate a largely unseen cloud of ambiguity and equivocation that seemed to be used like a fingers-crossed and unspoken footnote by a few knowing officials, wholly unsuspected by nearly all Town Meeting Members and citizens, who welcomed the titles’ connotations about civilian control.

Efforts to refer this are at best ironic, especially the two stated concerns, that it’s “complex” (it isn’t) and that it might “change” things (it doesn’t), sometimes adding “if it ain't broke, don't fix it.” What’s “broke” isn’t the titles or their implications, but their unofficial status -- and our officials’ affirmation and occasional explicit use of the titles with unspoken doubts about them. Everything else has been un-broken since “before the memory of man remembereth” – except occasional selectmen’s leadership reticence (e.g., the 2007 townhall incident, as Town Meeting later voted). Would such reticence be improved by dropping the titles? No! But their codification, especially by Town Meeting, can only help, and in any event would end the psychological cloud from the ambiguity.

1 See Comb./Rpts. 10-1 to 10-4. NB: the “Fire Commissioner” title has seen much less controversy, and will not be the main focus of either this explanation or the debate; but its importance & history is very similar to that for Police.
May 25, 2010
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Page 2

We now simplify our already-simple article, deleting its second half, taken essentially from the statute, c.41, §97, called “weak chief law” (we prefer “strong selectmen”). Since those straightforward words have prompted some questions, and they add nothing, we delete them.

2. Why Vote the Merits Now, and Not Take the “Easy” Route to Refer It?

If anything’s been proven by the “referral” push, especially by the selectmen, it’s that there must be subconscious ambivalence, not about the titles – used many times over the years by the two Chiefs and their predecessors, by selectmen and TMM’s, by the public, and by the media with nobody flinching or wincing – but about the titles’ full implications, i.e., that the selectmen are our public safety leaders. Yet that’s precisely our cherished tradition, dating back at least to 1921, when Town Meeting chose the “strong selectmen law,” c.41, §97 (see fn.2, above).

Why is this so important; why should the titles be embraced, not “studied”; and why should it be done immediately? First, adoption of the titles presents no real issues. More generally, and more than other departments, public safety raises many conflicting and compelling values – crime control vs. civil liberties, public safety vs. privacy, life-and-death for fire/police officers vs. budget constraints, etc. These difficult value judgments must come from the community, not from either an appointed Chief or an appointed Town Administrator, even ones as stellar as ours.

Addressing some of the other alleged reasons (excuses?) to refer or study:

- Someone asked what “inter alia” suggested, in our original “responsible, inter alia, to make suitable regulations and policies.” Although it seemed obvious, it’s now deleted.

- At one meeting it was suggested that David Turner opposed codifying the commissioner titles. In fact, his 1997 memo proposed either dropping or codifying it somewhere: “References in the Manual to "Police Commissioners" should either be replaced ... or, in the introduction, the Board of Selectmen should be designated for further reference as ‘Police Commissioners.’” Our 2009 request to codify them was ignored, so here we are.

- CTO&S’s majority recommends awaiting a fall proposal (two members dissenting) transferring to the Town Administrator the selectmen’s power to hire and fire all department heads. Article 10, based on §97, is legally and practically independent of that idea – which (due in part to the discussions about this article) will probably end up excluding the Chiefs, anyway; and this should be laid to rest before the CTOS proposal is debated.

- Without answering every creative “question,” two stubborn facts are: (1) some are formulas for studying the titles to death (e.g., wanting “better” titles, or to “define” the roles); and (2) none (e.g., potential legal liability) have been serious

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2 c.41, §97: “In towns accepting this section ... there shall be a police department under the direction of the Selectmen, who may ... make suitable regulations governing the department.” (emphasis added)
questions since “before the memory of man remembereth.” So why now? What’s the sudden beef?

- Some have belittled the article by citing only the first half of its main rationale, “for important symbolic and psychological reasons,” and also ignoring our analogy that the “Founding Fathers emphasized ‘civilian control over military,’” and – because titles matter for all in the chain of command having titles – called presidents “Commanders-in-Chief.” Was that title only for “symbolic” reasons? The commissioner titles are important – to the public safety departments, to the selectmen, and to the citizens – especially for such paramilitary organizations, e.g., the selectmen’s two biggest §97 responsibilities for police, making “suitable regulations” and adjudicating discipline.

Finally, while public safety issues are extraordinarily important, there’s nothing that needs to be studied. §97’s “under the direction of the Selectmen” is very broad responsibility, and neither needs nor can have a detailed road map. This article reaffirms core Brookline traditions and should be settled before hiring a new Town Administrator. Delaying or, especially defeating, it (now or later, since it would return!) – an idea whose time long ago hath come --- would be distressing, disempowering the selectmen and (through them) 247 TMM's and Brookline’s citizens.
ARTICLE 10

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

Attached are two 1997 memos from former Town Counsel David Turner on the issue of Selectmen as Police Commissioners.
MEMORANDUM

2 FEBRUARY 1997

TO: TOWN ADMINISTRATOR
BOARD OF SELECTMEN

FROM: TOWN COUNSEL

SUBJ: POLICE COMMISSIONERS

Sometime before the memory of man remembereth, the Selectmen in Brookline acquired the additional title of Police Commissioners. There is no known statutory authorization for the title. There is no other known authorization for its use. Custom and past practice appear to be the only basis for its continued use. The Town Clerk was requested to and did search his records for some reference to the title. He could find no recorded reference "regarding the Board of Selectmen as Police Commissioners." Town Clerk's E-Mail of January 28, 1997.

In Brookline, the Board of Selectmen ("Board") is the appointing authority for Police Officers. G.L.c. 41, §97. Also see G.L.c.31, §1, definition of "Appointing authority." Under Section 97, "there shall be a police department established under the direction of the selectmen, who shall appoint a chief of police and such other police officers as they deem necessary ...." The law also provides that "[t]he selectmen may make suitable regulations governing the police department and the officers thereof."

In reply to your specific questions, the Board is the proper authority for final review and approval of any modifications of or revisions to the Police Manual. References in the Police Manual to "Police Commissioners" should either be replaced by the reference to "selectmen" or "appointing authority" or, in the introduction, the Board of Selectmen should be designated for further reference as "Police Commissioners."

In reply to your last question concerning how to legally constitute the Selectmen as "Police Commissioners", it is important to first establish what powers, duties and responsibilities should be given to the "Police

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1 It is interesting to speculate about the origin of the title. A Police Chief may have wanted to curry favor with his Board. A selectman may have wanted the title and a gold badge for some personal, professional or political reason.
Commissioners.” If something more than the authorization set forth in G.L.c.41, §97, is requested, a so-called Home Rule Petition, approved by Town Meeting, should be filed with the Legislature. A copy of Section 97 is attached for your convenience.

Unless specific powers not now authorized by Section 97 are considered necessary, it is recommended that the Board continue to function in accordance with established custom and past practice.

Respectfully submitted,

[Signature]

David Lee Turner
Town Counsel
§ 97. Police departments; establishment

In towns which accept this section or have accepted corresponding provisions of earlier laws there shall be a police department established under the direction of the selectmen, who shall appoint a chief of police and such other police officers as they deem necessary, and fix their compensation in an amount not in the aggregate exceeding the annual appropriation therefor. In any such town in which such appointments are not subject to chapter thirty-one, they shall be made annually or for a term of years not exceeding three years, as the selectmen shall determine, and the selectmen may remove such chief or other officers for cause at any time during such appointment after a hearing. The selectmen may make suitable regulations governing the police department and the officers thereof. The chief of police shall be in immediate control of all town property used by the department, and of the police officers, who shall obey his orders.

Amended by St.1977, c. 246, § 2.
MEMORANDUM

21 February 1997

TO: Town Administrator
    Chief of Police

FROM: Town Counsel

SUBJ: Police Commissioners

In response to your recent inquiry concerning reports that there were Police Commissioners referred to in prior town reports and Town Meeting matters, additional investigation and research of the issue simply confirmed the conclusions reached in my prior memorandum.

Town Meeting records, filing and reference Index Cards, the Town Clerk's records, Legislative reference materials, the Index for the Laws of Massachusetts and Police records were again checked and reviewed. The matter was discussed with former Police Chief George Simard and former Town Administrator Richard T. Leary. The most recent references that could be found were in the 1987 Police Manual. See Page 3 and General Order #85-5, Appendix C.

In 1921, at the Annual Town Meeting, acting under the Fourteenth Article in the Warrant for that Meeting, Brookline accepted Section 97, in General Laws, Chapter 41, the so-called Weak Chief Law, that provides, in essence:

A. There shall be a Police Department established under the direction of the Selectmen.
B. The Selectmen shall appoint the Chief of Police.
C. The Selectmen shall appoint Police Officers.
D. The Selectmen shall make the Rules and Regulations for the Police Department.
E. The Chief of Police shall be in the immediate control of the town property used by the department.
F. The Chief of Police shall be in the immediate control of the police officers, who shall obey his orders.
The Police Rules and Regulations and the 1987 Police Manual were adopted and promulgated in accordance with the mandate set forth in Section 97.

It is my opinion, based upon the foregoing, that the Selectmen are not so-called "Police Commissioners". They are the appointing authority for the Chief of Police and all Police Officers, and as Selectmen have the powers and duties delegated to them in Section 97, as outlined above.

Respectfully yours,

[Signature]

David Lee Turner
Town Counsel
TOWN of BROOKLINE
Massachusetts

October 9, 1985

General Order #85-5

Subject: Internal Affairs/Staff Inspection

Effective: Thursday, October 10, 1985 – 7:20 a.m.

The Board of Selectmen, in their capacity as the Police Commissioners of the Town of Brookline have established the position of Internal Affairs/Staff Inspection Officer who shall hold the rank of Detective Lieutenant.

This officer shall be answerable only to the Chief of Police and through him the Board of Selectmen.

It shall be the duty of this officer to conduct periodic staff inspections and report in writing to the Chief of Police any violations of the Rules and Regulations or Policies and Procedures of the Brookline Police Department that he observes for corrections or disciplinary action...

3. Exonerated (The action complained of revealed that the action
   4. Unfounded (Investigation revealed that

If the investigation was inaugurated by a complaint upon completion of the investigation a letter informing him or her of the results of the investigation is

Requests by this officer for assistance or requests for direct request from the Chief of Police and he shall be referred from all Divisions within this Department.

This officer shall also perform other duties as assigned by the Chief of Police.

Per Order of:

[Signature]

Chief of Police

Distribution: All Sworn Personnel
            Board of Selectmen
            Town Counsel
Brookline Police Department - Organizational Chart - January 2008
ELEVENTH ARTICLE
To see if the Town will amend the General By-Laws by adopting a new Article 5.9, entitled “Stretch Energy Code” as set forth below, for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 120 AA of the Massachusetts Building Code, 780 CMR, the “Stretch Energy Code”, including amendments or modifications thereto, a copy of which is on file with the Town Clerk:

Article 5.9 STRETCH ENERGY CODE

Section 5.9.1 Purpose
The purpose of this by-law and 780 CMR 120.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

Section 5.9.2 Definitions
a) International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

b) Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 as may be amended from time to time.

Section 5.9.3 Applicability
This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

Section 5.9.4 Authority
The Town of Brookline hereby adopts 780 CMR 120 AA in order to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR Appendix 120 AA and mandates adherence to said Appendix as may be amended from time to time.

Section 5.9.5 Stretch Code
The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein
incorporated by reference into the Town of Brookline General Bylaws, Article 5.9. The Stretch Code is enforceable by the Building Commissioner or his/her designated Building Inspector(s).

or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

State Building Code
The uniform state Building Code ensures residents across the state that new construction and building renovation adheres to appropriate safety and quality standards. The Building Code is regularly revised by the Board of Building Regulations and Standards (BBRS). In 2009, the BBRS did two things: first, it adopted the 2009 International Energy Conservation Code (IECC), which is used throughout the United States, and second, it offered all Massachusetts municipalities the option of local adoption of the Stretch Energy Code, an appendix to the IECC 2009 that provides for even greater energy efficiency. (Because the BBRS has determined that the Stretch Energy Code must be uniform across the state, there can be no amendments to the code or to the bylaw language by Town Meeting.)

Selectmen’s Climate Action Committee
The selectmen’s Climate Action Committee (CAC) was created in 2008 to recommend programs to reduce greenhouse gas emissions in Brookline. The CAC has studied the Stretch Energy Code, including its adoption by Cambridge and Newton in 2009. Based upon its research, and preliminary discussions with Town staff, boards, and commissions, it recommends adoption of the Stretch Energy Code for these reasons:

Good for the Environment: The state of Massachusetts has committed to an 80% reduction in greenhouse gas emissions by 2050. As noted in Brookline’s Local Action Plan on Climate, energy consumption in buildings is the single largest component of Brookline’s emissions. Therefore, increasing the energy efficiency of our buildings is the single most important action the Town can take to address climate change.

Saves Money: Even assuming stable energy prices, most energy efficiency improvements will result in significant cost savings for Brookline residents and businesses within a short pay-back period, and all of the improvements required by the new code will result in savings over the long term. For instance, the state Executive Office of Energy and Environmental Affairs estimates that in construction of a new 2700 square-foot house, compliance with the Stretch Energy Code will cost only an additional $8,000, but, if financed in the home mortgage, will immediately result in an annual net cash flow increase of $800.

Consumer Protection: Adherence to the new code will provide greater assurance to residents that they will actually receive the energy efficiency gains they are promised when they make improvements.

Increased State Funding: Under the state Green Communities Act, a total of approximately $10,000,000 per year will be available in discretionary funding for
municipal projects related to energy. To be eligible, communities must satisfy five Green Communities criteria, once of which is adoption of the Stretch Energy Code. The CAC is pursuing the other criteria as well, which are: provide for siting of renewable energy or research and development facilities, plan to reduce municipal energy consumption by 20% in five years, adopt an expedited permitting process for renewable energy facilities, and purchase only fuel-efficient vehicles.


SELECTMEN’S RECOMMENDATION

The Massachusetts State Building Code allows cities and towns to voluntarily adopt a more efficient building code, known as the Stretch Energy Code. Adoption of the Stretch Code is one of the five criteria needed for the Town to be officially designated as a “Green Community”. Being designated as a Green Community allows the Town to be eligible for funding to help pursue energy efficiency measures, large renewable energy projects, and innovative methods that use less fossil fuel. There is up to $10M of Green Community grant money available annually to be apportioned among the qualifying municipalities.

The stretch code is applicable to new construction of both residential and commercial buildings, although small commercial buildings less than 5,000 square feet are exempt. There are also provisions for residential renovations and additions. Listed or eligible historic buildings are exempt. Energy performance will be monitored by using the Home Energy Rating System (HERS). The HERS index has been in use for many years by beyond-code programs such as Energy Star Homes, and LEED for Homes, and by the Federal IRS for tax credits and energy efficient mortgages.

Residential New Construction
The MA stretch code requires a HERS index of 65 or less for new homes of 3,000 square feet or above, and 70 or less for new homes below 3,000 square feet (this includes multi-family units in buildings of three stories or less).

Residential – Home renovations
Home additions and renovations have two options to meet the stretch code:

1) The same “performance” approach as new construction but requiring a HERS index of 80 or less for significant changes to homes over 2,000 square feet, or 85 or less for homes below 2,000 square feet.

2) A “prescriptive” approach, where specific efficiency measures are required rather than a HERS index number. This utilizes the Energy Star for Homes program prescriptive requirements, and insulation at least equal to IECC 2009.
3) Listed or eligible historic residential buildings are exempt from Building Code energy efficiency requirements.

Commercial
Large buildings of any type over 100,000 square feet, and specialty buildings over 40,000 square feet are required to meet a performance standard set at 20% below the energy usage of the commonly used ASHRAE 90.1-2007 code, demonstrated through modeling by methods and software approved by the BBRS.

Medium-sized commercial buildings, which include residential buildings of four stories or more, but that are less than 100,000 square feet, have the option of meeting the same 20% better than ASHRAE 90.1-2007 performance standard, or using a simplified, prescriptive energy code.

Buildings smaller than 5,000 square feet are exempt, as are building renovations and “specialty” buildings -- supermarkets, laboratories, and warehouses -- below 40,000 square feet in size, due to their widely differing energy needs. These exempt buildings remain subject to the base Massachusetts energy code (IECC 2009 and ASHRAE 90.1-2007).

The Board is pleased to support the efforts of the Climate Action Committee (CAC) and complete one of the first milestones towards becoming a Green Community. The CAC reported to Town Meeting last year that close to 60% of Brookline’s greenhouse gas emissions come from the heating and cooling of buildings. The stretch energy code would be about 20% more efficient than the State’s base code, so it would save more energy and further reduce greenhouse gas emissions. It is expected that the energy savings achieved from complying with the stretch code will exceed the cost of measures required by the code. In addition, energy efficient buildings are more comfortable, healthier, and these buildings will have a marketable advantage over “standard” homes.

The Board thanks the Building Commissioner and the Climate Action Committee for their efforts towards educating the public on the stretch code. The public meeting held in March was well attended and included thoughtful discussion on the benefits of the stretch code. The Board looks forward to taking this step toward reducing greenhouse gas emissions, thereby creating a healthier, stronger community. Therefore the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 6, 2010, on the following vote:

VOTED: That the Town amend the General By-Laws by adopting a new Article 5.9, entitled “Stretch Energy Code” as set forth below, for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 120 AA of the Massachusetts Building Code, 780 CMR, the “Stretch Energy Code”, including amendments or modifications thereto, a copy of which is on file with the Town Clerk:

Article 5.9 STRETCH ENERGY CODE
Section 5.9.1 Purpose

The purpose of this by-law and 780 CMR 120.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

Section 5.9.2 Definitions

a) International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

b) Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 as may be amended from time to time.

Section 5.9.3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

Section 5.9.4 Authority

The Town of Brookline hereby adopts 780 CMR 120 AA in order to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR Appendix 120 AA and mandates adherence to said Appendix as may be amended from time to time.

Section 5.9.5 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Brookline General Bylaws, Article 5.9. The Stretch Code is enforceable by the Building Commissioner or his/her designated Building Inspector(s).

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Article 11 asks that Town Meeting adopt the Stretch Energy Code (780 CMR Appendix 120.AA). The Stretch Energy Code (SEC), based on the 2009 International Energy Conservation Code (IECC), has provisions that will increase building energy efficiency by 20% more than the base energy code now mandates for Massachusetts cities and
towns. For commercial buildings, the Stretch Code is similar to the IECC. For residential properties, the Stretch Code is roughly equivalent to the Energy Star base standard for residential renovations and the National Energy Star for Homes standards for new construction, with the addition of provisions for third party testing and rating of building energy performance.

The Stretch Energy Code was created by the Massachusetts Board of Building Regulations and Standards (BBRS) in response to the demand that there be a stronger state energy code or at least the option for municipalities to adopt stronger local energy codes. Rather than have multiple local codes, the BBRS adopted the Stretch Code as the one local option. Newton, Cambridge, Springfield, and Hopkinton, have adopted the SEC. If adopted by Town Meeting, the Stretch Code would become mandatory on January 1, 2011, although between July 1, 2010 and January 1, 2011, property owners could opt to follow it.

New Residential Construction: The SEC contemplates two categories of building: residential and commercial. In the case of new residential construction (including multi-family units in buildings of three stories or less), a “performance track” is used; to comply, a structure needs to achieve certain Home Energy Rating System (HERS) scores, as determined by a certified HERS rater. There are currently about three dozen HERS raters working for 12 companies in Massachusetts. The rater may be hired by either the contractor or the homeowner.

The scoring index ranges from 0 to about 200. The lower the score, the more energy-efficient the structure. Under the SEC, houses of over 3,000 square feet are required to achieve a score of 65; smaller houses, a score of 70.

Residential Renovations and Additions: Under the Stretch Code, either the “performance” or “prescriptive” track may be used for residential renovations and additions. Using the performance track, a HERS rating of 80 or less is needed for a home over 2000 square feet and a rating of 85 or less for those homes under 2,000 square feet. If the prescriptive track is used, efficiency requirements listed by the National Energy Star Homes program, and insulation at least equal to the IECC 2009 would be utilized.

Exemptions: Under the Stretch Code, multi-family residential buildings that are over three stories are treated as commercial buildings, therefore renovations to these buildings are exempt from SEC requirements. In addition, residential structures in local historic districts, in National Register districts, listed individually on the National Register of Historic Places or found to be eligible for such listing are exempt from the SEC (just as they are exempt from the base energy code). There are more than 1200 properties that fall into this category.

Commercial construction: SEC requirements apply to buildings over 5000 square feet, including multi-family residential buildings higher than three stories. Commercial buildings exceeding 100,000 square feet are subject to specific performance standards, while commercial buildings between 5,000 and 100,000 square feet may opt for performance standards or prescriptive requirements. Specialized facilities with unusual energy requirements (supermarkets, laboratories) that are over 40,000 square feet are
subject to the SEC unless a waiver is granted by the BBRS. Additions to commercial buildings that trigger code compliance fall into the same category as new commercial construction and may use either the performance or prescriptive path.

**Exemptions:** The SEC does not apply to commercial renovations or to the construction of commercial buildings 5000 square feet or smaller. Specialized facilities of up to 40,000 square feet with unusual energy requirements (supermarkets or laboratories) are also excluded from SEC application.

**DISCUSSION:**
The Climate Action Committee (CAC) offers a number of reasons for the Town to adopt the Stretch Energy Code. Among those cited is an overarching concern with rising energy costs, climate change, and national dependence on foreign energy sources. The CAC believes that now is the time to start taking meaningful steps towards fulfilling the State’s commitment to 80% greenhouse gas reduction by 2050. It reports that nearly 60% of Brookline’s greenhouse gas emissions come from the heating and cooling of buildings.

Another reason to adopt the SEC is the impetus it gives the contractor, often the person charged with making technical decisions for home renovations, to “bump up” his/her efforts to increase energy efficiency. Along those same lines, the use of HERS raters offers a layer of protection to the consumer in that the rater will provide third party quality control and verification of proposed efficiency measures in residential construction or renovation. Third, tightening the building envelope and using more efficient lighting, equipment, and appliances will result in lower energy costs. Advocates for the SEC stress that financial incentives, offered through utility companies’ loan programs, make the requirements of the SEC cost effective. Lastly, it is noted that adopting the SEC would be one step toward qualifying for Green Communities Act funding, currently $10 million dollars per year. (There are four other requirements to become a Green Community: provisions for the siting (as of right) of renewable energy or research and development facilities, expedited permitting for renewable energy facilities, purchasing of only fuel-efficient vehicles when practical, and a plan in place to reduce municipal energy consumption by 20% in five years.)

Article 11 raises a number of questions, including: 1) what will be the administrative costs to the Town; 2) how will compliance with the SEC impact the cost of new construction and residential renovation, especially for low or fixed-income homeowners; 3) why are savings in energy costs insufficient incentive for property owners to voluntarily adopt stricter energy efficiency measures; and 4) how will architects, and especially contractors, know to which standards they are to build?

Some members of the Advisory Committee had concerns regarding the apparently large numbers of properties and type of work that would be exempt from the code’s requirements (historic properties, commercial renovations), believing that such exemptions raise the question of fairness. In addition, it was noted that there is little space in Brookline for major commercial development or for new residential construction (as evidenced by approximately 7-8 permits per year for new houses), leading some to question the value of the SEC to Brookline as well as its effectiveness in both increasing
the community’s overall energy efficiency and reducing the community’s overall carbon footprint. Finally, given that it has been predicted that the SEC will become the “base” code when the latter is updated in 2012, there was some interest in waiting until all municipalities are mandated to comply with a uniform code.

Building Commissioner Mike Shepard noted that he as well as some department staff had already attended SEC training sessions, and that he believed the impact of adopting the SEC on his departmental budget would be negligible. He emphasized that adopting the code would have a positive effect on the public in that it would make them more aware of the need – and financial advantages – to become more energy efficient. He expressed the belief that good builders would recognize the validity of the code’s objectives and that to ensure that contractors and architects were up to speed on code requirements, his department would offer seminars. He also stressed that the SEC could not force homeowners to undertake work which they were not contemplating. (If a homeowner is renovating a kitchen, he/she will not have to install more energy efficient windows; if a homeowner is replacing a boiler, it will have to meet the stretch code standards, but there would be no requirement to upgrade building insulation.)

Although some uncertainty was expressed as to whether adopting the Stretch Code in Brookline would yield the desired environmental outcomes, a large majority of Advisory Committee members believe that adoption of the Stretch Code is a start, that it has no apparent significant downsides, and that it is likely to contribute to the important goal of raising public awareness. A very few members prefer letting market forces influence behavior and keeping energy efficiency measures optional.

RECOMMENDATION:
By a vote of 18-3, the Advisory Committee recommends Favorable Action on the motion offered by the Selectmen.

XXX
# Article 11

## CASH FLOW (Savings) from Massachusetts Stretch Energy Code Improvements

### New Construction of Baseline Home (2,672 sq.ft.)

<table>
<thead>
<tr>
<th>HERS Index Modeled in REM/Rate</th>
<th>86</th>
<th>70</th>
<th>70</th>
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<tr>
<td>Improvement Measures (changes - Unconditioned basement relative to Basecase)</td>
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<td>Floor, R30</td>
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<td>Walls, R21</td>
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<td>Ceiling, R38 G2</td>
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<td>Heating, 80 AFUE</td>
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<td>Cooling, 13 SEER</td>
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<td>Water Heating, .59 EF</td>
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<td>Duct leakage, 8%</td>
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<td>Infiltration, 7 ACH50</td>
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<td>Efficient lighting, 50%</td>
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| Stretch Energy Code with optional ENERGY STAR 4, 5 |        |        |        |
| Ceiling, R38 G1                |        |        |        |
| Heating, 94 AFUE               |        |        |        |
| Water heating, .62 EF          |        |        |        |
| Infiltration, 4 ACH50          |        |        |        |
| Efficient lighting, 75%        |        |        |        |
| Exhaust Only Ventilation       |        |        |        |

| Improvement Costs              | $2,049 | $2,155 |
| HERS Rater Fee 1               | $900   | $900   |
| HERS Rater reimbursement 2     | -      | -      |
| ENERGY STAR Incentive 3        | -      | -      |

| Total Improvement Costs        | $2,949 | $1,755 |
| Mortgage Interest Rate         | 6%     | 6%     |
| Loan Term (Years)              | 30     | 30     |

| Annual Incremental Mortgage Payment | $214 | $127 |

| Annual Energy Costs 6          | $3,970 | $3,463 |
| Annual Energy Savings from Baseline | $507 | $516 |
| Annual Cash Flow              | $293   | $389   |

---

1. Estimated Massachusetts ENERGY STAR Homes Program HERS Rater Fee (Range is from $750-$1500, but typically close to $750). Includes cost for conducting Thermal Bypass Inspection.
2. HERS Rater Fees are reimbursed by the Massachusetts ENERGY STAR Homes program by between $650-900 per unit, depending upon the HERS rating achieved.
3. Massachusetts ENERGY STAR Homes Program may receive a minimum incentive of $650.
4. ENERGY STAR requirements have been added to the Stretch Code package.
5. Stretch Code homes may qualify for $1250 where the HERS rating is ~65 or lower.
6. Annual energy costs are based on most recently available fuel costs, from November 2009. Costs for heating are based on natural gas, the least expensive heating fuel. With oil, savings would increase.
### Annual Cash Flow

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<tr>
<td>$340</td>
<td>$66</td>
<td>$6,263</td>
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<td>$225</td>
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**Notes**

- Annual Energy Savings from Baseline
- Annual Energy Costs

**Annual Incremental Mortgage Payment**

- Loan Term (Years)
- Mortgage Interest Rate
- Total Improvement Costs

**HERS Rater Fee**

- HERS Rater Fee
- Improvement Costs

---

**Improve Efficiency Measures (Changes from Massachusetts Stretch Energy Code Improvements)**

- - Exhaust Only Ventilation
- - Efficient Lighting, 75%
- - Insulation, 7’ AC/30
- - Walls, R3.13
- - Frame Floor, R30
- - Efficient Lighting, 60%
- - Insulation, 6” AC/60
- - Heaing, 80 AFUE
- - Ceiling, R38 G2
- - Walls, R13

**HERS Index**

- HERS Index Modeled in REM/Rate

- Base Energy Code
- Renovation of Cambridge Triangle (5,136 sq ft)

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**Cash Flow (Savings) from Massachusetts Stretch Energy Code Improvements**

Prepared by: Mass. DEEP (4/10)
ARTICLE 12

TWELFTH ARTICLE
To see if the town will amend the General By-Laws by adding the following Article:

ARTICLE 8.29 NUISANCE CONTROL

Section 8.29.1 Purpose

In order to protect the health, safety, and welfare of the inhabitants of the Town, this bylaw shall permit the Town to impose liability on owners and other responsible persons for the nuisances and harm caused by loud and unruly gatherings on private property and shall prohibit the consumption of alcoholic beverages by underage persons at such gatherings.

Section 8.29.2 Definitions

Eviction means actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the premises.

Gathering is a party, gathering, or event, where a group of persons have assembled or are assembling for a social occasion or social activity.

Premises means any residence or other private property, place, or location, including any commercial or business property.

Property owner means the legal owner of record as listed by the tax assessor’s records.

Public Nuisance means a gathering of persons on any premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood. Unlawful conduct includes, but is not limited to excessive noise, excessive pedestrian and vehicular traffic, obstruction of public streets by crowds or vehicles, illegal parking, public drunkenness, public urination, the service of alcohol to underage persons, fights, disturbances of the peace, and litter.

Response costs are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering as set forth in a schedule of costs established by the Board of Selectmen.

Section 8.29.3 Mailing of Notice to Property Owner and Others

A notice of response by police or other local officials to a gathering constituting a public nuisance shall be mailed as follows:

(a) Property Owners: Notice of response by police or other local officials to a gathering constituting a public nuisance shall be mailed by Certified Mail to any property
owner listed on the Town of Brookline property tax assessment records and shall advise the property owner that the second such response on the same premises within a one year period, as measured from the date of the first notice, shall result in liability of the property owner for all penalties associated with such response as more particularly described in sections 8.29.4 and 8.29.4.1 below.

(b) Educational Institutions: Notice of each response by police or other local officials to a gathering constituting a public nuisance shall also be mailed to the president/headmaster or his/her designee of an educational institution if the persons who are liable in Section 8.29.4 and 8.29.4.1 are students at such educational institution.

(c) Persons Cited: In addition to the citation handed to the persons cited at the time of the offense, a notice shall also be mailed to the address stated on the individuals’ government issued identification.

Section 8.29.4 Liability for a First Response to a Gathering Constituting a Public Nuisance on a Premise

If the police department is required to respond to a gathering constituting a public nuisance on a premise, the following persons shall be jointly and severally liable for fines as set forth below, with respect to a first response. Response costs may also be assessed.

(a) The person or persons residing on or otherwise in control of the premises where such gathering took place whether present or not.

(b) The person or persons who organized or sponsored such gathering.

(c) All persons attending such gatherings who engage in any activity resulting in the public nuisance.

Section 8.29.4.1 Liability for a Second and Subsequent Response to a Gathering Constituting a Public Nuisance

If the police department is required to respond to a gathering constituting a public nuisance on the premises more than once in any one year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response costs may also be assessed.

(a) The person or persons residing on or otherwise in control of the premises where such gathering took place whether present or not.

(b) The person or persons who organized or sponsored such gathering.
(c) All persons attending such gatherings who engage in any activity resulting in the public nuisance.

(d) The person or persons who own the property where the gathering constituting the public nuisance took place, provided that notice of the first and subsequent responses has been mailed to the owner of the property as set forth herein and the gathering occurs at least fourteen (14) days after the mailing of the first such notice. The owner of the property shall not be held responsible for any violation and penalties if he or she is actively trying to evict a tenant from the property. The one year time period for violations for a property shall pertain only to the same residents occupying the property who have had the prior violation(s). New residents shall start a new time cycle of one year should they violate the bylaw.

Section 8.29.5 Consumption of Alcohol by Underage Persons is Prohibited in Public Place, Place Open to Public, or Place Not Open to Public

Except as permitted by state law, it is unlawful for any underage person to:

(a) Consume any alcoholic beverage at any public place or any place open to the public; or

(b) Consume any alcoholic beverage at any place not open to the public.

Section 8.29.6 Hosting, Permitting, or Allowing a Public Nuisance or Party, Gathering, or Event where Underage Persons Consume Alcoholic Beverages is Prohibited

(a) It is the duty of any person having control of any premises who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the gathering. Reasonable steps include, but are not limited to, controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting driver’s licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages while at the gathering; and supervising the activities of underage persons at the gathering.

(b) A gathering constituting a public nuisance may be abated by all reasonable means including, but not limited to, an order by the Police requiring the gathering to be disbanded and citation and/or arrest of any persons under any applicable provision of local or state law.

(c) It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one underage
person consumes an alcoholic beverage, provided that the person having control of the premises either knows an underage person has consumed an alcoholic beverage or reasonably should have known that an underage person consumed an alcoholic beverage and the person having control of said premises failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by an underage person.

(d) This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian as set forth in G.L. c.138, § 34.

(e) This Section shall not apply to any Massachusetts Alcoholic Beverages Control Commission licensee at any premises regulated by the Massachusetts Alcoholic Beverage Control Commission.

Section 8.29.7 Enforcement

This bylaw shall be enforced by the noncriminal disposition process of M.G.L. c.40 § 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer of the Town of Brookline. If enforced pursuant to noncriminal disposition, the following fines shall apply per person cited under sections 8.29.4 and 8.29.4.1:

- First response: $100
- Second response: $300
- Subsequent response: $300

The Town of Brookline may additionally seek administrative costs and response costs associated with enforcement of this bylaw.

The provisions of this bylaw are enforceable without reference to the Brookline Noise Control Bylaw 8.15 and without reference to the fact that the police officer issuing a citation has not obtained a scientific noise measurement prior to issuing the citation. No such scientific noise measurement is required under this bylaw and the lack of a measurement shall not constitute a defense.

Sections 8.29.5 and 8.29.6 shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated by Sections 8.29.5 and 8.29.6, nor shall they limit the Town of Brookline or the Commonwealth of Massachusetts’ ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of Sections 8.29.5 and 8.29.6.

Section 8.29.8 Local Authority and Severability

Nothing in this bylaw shall be construed to conflict with anything in MGL Chapter 138 in regard to underage drinking.
No provision of this bylaw shall apply where prohibited or preempted by state or federal law.

If any provision of this ordinance, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application, to this end the provisions of this ordinance are severable.

Or act on anything relative thereto.

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PETITIONER’S ARTICLE DESCRIPTION

Every September, thousands of young people move into the many multi-family buildings that line our streets in Brookline Village, Coolidge Corner area, Washington Square, Cleveland Circle, and along the many streets bordering Commonwealth Avenue and Beacon Streets. Lured by the possibilities of the college marketplace, investors have bought and are continuing to buy buildings that once contained a few large apartments and in some instances have divided the buildings into smaller units, remodeling even basement areas into living spaces.

A striking example of the increasing college student population can be found in just one block of North Brookline. According to the Assessor’s database, at least 70 of the 90 condominiums called the Egmont Park Condominiums that stretch along Egmont Street between Pleasant and St. Paul, and then on St. Paul between Egmont and Thatcher, are investor-owned units that are occupied by non-owners, predominantly students.

These investor-owned units are marketed as rentals to the college student crowd. The students are attracted by the safety and desirability of the neighborhood, as well as by the lack of strict rules that are found in student dormitories on campus. Groups of students willing to split rental rates that most families cannot afford flock to the buildings. The legal limit is four unrelated individuals in an apartment, although that is difficult to monitor and enforce. Buildings with three or four apartments that once housed a few families are now packed with as many as 15 or more unrelated individuals, mostly students, who come for a year or two and then leave.

In the fall, after the students have moved in and any parents overseeing the moves of their children have returned home, the partying begins. The problem has been seriously impacting the quality of the lives of the residents and their families.

Two years ago, a group of residents who called themselves the” Sleepless in Brookline” tried to call attention to the problem by appealing to the Board of Selectmen and the Police for help. In response, a Police Task Force was set up by the Police Community Relations Department and members of the community worked with the Police Community Relations
Officer and with representatives of Boston University whose students represent a large number of those living in the Town. Some progress was made:

- Several grants were obtained to fund a special police patrol to monitor the worst areas on Thursday through Saturday nights/Sunday morning.

- Students from Boston University actually rode in the patrol cars late at night so that offending students could not claim that the police were harassing them: the students accompanying the patrol officers were there to learn about the problem first hand, and to confirm the outrageous and just plain thoughtless behavior they had witnessed, particularly at college hearings in instances where the college was informed of an incident and became involved.

- The police contacted owners and personally visited residents at selected problem properties after a reported incident to discuss the problem and solicit cooperation and understanding from the occupants and owners.

In other words, the police and the neighborhoods have made a great effort. However, this effort has not been sufficient to address the continuing problem resulting from an ever-increasing number of new students arriving in our neighborhoods annually.

Because most of the students do not become long term residents of the town, the turnover is enormous, and students’ commitment to their neighborhoods is minimal. While some progress is made each year, at the beginning of each new school year that progress is offset by the arrival of a fresh group of young people, many of whom have never before lived on their own.

At one time, students commuted to school or lived in dormitories where some form of oversight and expectations were set for student behavior. There were curfews, for example, and strict regulations relating to alcohol consumption. Now, however, increasing numbers of students choose to share the rent and to live in groups in unsupervised settings. Apartment buildings and two- and three-family homes owned by absentee landlords and corporations are gradually becoming de facto dormitories without the structure of dormitory-type regulations or supervision.

The Police Department tracks the complaints received regarding nuisance behaviors. Those who live in or near the problem areas know that the number of formal complaints documented by the police is low. One person will call but in reality that one call represents the wishes of multiple families in a neighborhood about a rowdy party or other nuisance behaviors. The call gets registered as a single complaint, although the problem has impacted many.

Another problem is that many people have given up calling the police each time there is an incident. How often in one single night should one get out of bed to identify the source of the noise and notify the police? Anyone who has done so knows that it ruins your night’s sleep and leads to exhaustion the next day. The rowdy behavior is not cited. There are no
consequences so the nuisance behaviors are not checked in any way and are repeated over and over again to the frustration of neighbors and the police.

We have modeled this bylaw on bylaws and ordinances adopted by other communities in Massachusetts, including Amherst, Boston and Worcester. The petitioners of this article believe that Brookline’s current bylaws do not provide sufficient tools for the police to act upon complaints regarding nuisances. In addition, we ask that Brookline make a clear statement that nuisance behavior will not be tolerated and that penalties be imposed to discourage nuisance behavior and prevent future occurrences.

We also reviewed Brookline’s bylaws, particularly Sections 8.1 Alcoholic beverages, 8.5 Disorderly Behavior and 8.15 Noise Control. The petitioners of this article believe that those sections do not provide sufficient clout for the police to address in an effective way the nuisance behaviors targeted in this warrant article.

SELECTMEN’S RECOMMENDATION

The residential neighborhoods of Brookline, particularly the more densely populated neighborhoods, report an influx in the frequency and intensity of loud parties and unruly, disruptive activities. Neighbors and police report nightly incidents of shouting, unreasonably loud amplified sounds, street fighting, public alcohol consumption, and public urination. After sleepless nights, residents are arising to find their streets and front yards vomited upon, littered with empty and broken alcohol containers and vandalized. Clearly, alcohol has fueled many of these incidents. Not surprisingly, many of the participants in these late-night rampages have proven to be under the legal drinking age.

In an effort to arm our justice system with every possible tool to control these behaviors and restore quiet and safety, the petitioners have identified a by-law which has recently been adopted and successfully implemented in the Town of Amherst, Massachusetts. The Amherst by-law identifies social gatherings which constitute a public nuisance. Through notices, assessed costs and fines, responsibility for social gatherings which constitute a public nuisance is imposed on the participants and extended to the persons and entities in control of the premises where the gathering took place, in particular landlords.

Several thoughtful edits were made to the Amherst by-law by the petitioners and later supplemented by the Advisory Board, the Board of Selectman, Town Counsel and others. As revised, the proposed by-law will allow the Town of Brookline controls similar to Amherst while assuring a measured, clear, enforceable new set of rules which will not breech constitutional rights. Key points of the by-law follow:

♦ In the event a gathering is determined to be a “public nuisance” notices of the occurrence will be transmitted by the Town to the property owner where the
gathering occurred and the educational institutions attended by any individuals involved in the nuisance activities.

♦ Person(s) who were in control of the premises where the gathering took place (whether or not they were present at the time) and participants in the nuisance activities will be responsible for the Town’s cost incurred in responding to the event and for fines of $100 or $300 depending upon if it is a first or repeated offense.

♦ Upon a repeated offense, within a one year period, after due notice, response costs and fines may also be imposed against the Property Owner as well.

♦ Police may, at their discretion, issue a warning if a first time complaint occurs prior to 10:00 p.m.

♦ Property Owners will not be liable for fines or costs if they are actively evicting the offending tenant.

♦ Duty is imposed on property owners to prevent underage drinking on their property.

♦ Gatherings covered by the by-law are only social gatherings (Political assembly rights are not affected.)

♦ Fines and enforcement are non-criminal.

The Board of Selectman commends the petitioners for their research into this serious problem and their perseverance in bringing this article to Town Meeting. The Board is hopeful that, if adopted, this by-law will bring new pressures to bear on the problems of disruptive and unsafe conditions in our neighborhoods and underage drinking. By a vote of 5-0 taken on April 27, 2010, the Board of Selectman recommends FAVORABLE ACTION on the following:

VOTED: That the Town amend the General By-Laws by adding the following Article:

ARTICLE 8.29 NUISANCE CONTROL

Section 8.29.1 Purpose
In order to protect the health, safety, and welfare of the inhabitants of the Town, this bylaw shall permit the Town to impose liability on Property Owners and other responsible persons for the nuisances and harm caused by loud and unruly Gatherings on private property and shall prohibit the consumption of alcoholic beverages by underage persons at such Gatherings.

Section 8.29.2 Definitions

Eviction means actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the Premises.

Gathering is a party or event, where two or more persons have assembled or are assembled for a social occasion or social activity.
Premises means any residence or other private property, place, or location, including any commercial or business property.

Property Owner means the legal owner of record of a Premises as listed by the tax assessor’s records.

Public Nuisance means a Gathering of persons on any Premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood. Behavior constituting a Public Nuisance includes, but is not limited to excessive noise and excessive pedestrian and vehicular traffic related thereto, obstruction of public ways by crowds or vehicles, illegal parking, public urination, the service of alcohol to underage persons, fights, disturbances of the peace, and littering.

Response Costs are the costs associated with responses by law enforcement, fire, and other emergency response providers to a Gathering which has resulted in a Public Nuisance as set forth in a schedule of costs established by the Board of Selectmen.

Section 8.29.3 Mailing of Notice to Property Owner and Others

In the event police or other local officials have responded to a Gathering constituting a Public Nuisance, a notice of response shall be made within ten (10) days of the Gathering as follows:

(a) Property Owners: The Chief of Police shall mail a notice of response by Certified Mail to the Property Owner of the Premises where the Gathering occurred as listed on the Town of Brookline property tax assessment records and shall advise the Property Owner that the second such response on the same Premises within a one year period, as measured from the date of the first notice, shall result in liability of the Property Owner for all penalties and Response Costs associated with such response as more particularly described in sections 8.29.4 and 8.29.4.1 below.

(b) Educational Institutions: The Chief of Police shall send a notice of response to the president/headmaster or his/her designee of an educational institution if the persons who are liable in Section 8.29.4 and 8.29.4.1 are students at such educational institution. Such notice shall be sent by mail or other appropriate means.

(c) Persons Cited: The Chief of Police shall send a notice of response to any person who was personally cited at the time of the offense. Such notice shall be sent by mail or other appropriate means to the address stated on the individuals’ government issued identification.

Section 8.29.4 Liability for a First Response to a Gathering Constituting a Public Nuisance on a Premises
If the police department or other local officials have responded to a Gathering constituting a Public Nuisance on a Premises, the following persons shall be jointly and severally liable for fines as set forth below, provided that no previous Gathering constituting a Public Nuisance has occurred at the Premises within the previous one year period. Response Costs may also be assessed at the discretion of the Chief of Police. In lieu of issuing a fine(s) a police officer may issue a written warning if the response to the complaint occurs prior to 10:00 p.m.

(a) The person or persons residing on or otherwise in control of the Premises where such Gathering took place whether present or not.

(b) The person or persons who organized or sponsored such Gathering.

(c) All persons attending such Gatherings who engage in any activity resulting in the Public Nuisance.

Section 8.29.4.1 Liability for a Second and Subsequent Response to a Gathering Constituting a Public Nuisance

If the police department is required to respond to a Gathering constituting a Public Nuisance on the Premises more than once in any one year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response Costs may also be assessed.

(a) The person or persons residing on or otherwise in control of the Premises where such Gathering took place whether present or not.

(b) The person or persons who organized or sponsored such Gathering.

(c) All persons attending such Gatherings who engage in any activity resulting in the Public Nuisance.

(d) The person, persons or business entity which at the time of the Gathering owned the Premises where the Gathering constituting the Public Nuisance took place, provided that notice of the first and subsequent responses has been mailed to the Property Owner of the Premises as set forth herein and the Gathering occurs at least fourteen (14) days after the mailing of the first such notice. The Property Owner of the Premises shall not be held responsible for any violation and penalties if the Property Owner is actively pursuing Eviction from the Premises of a tenant who controlled, organized, sponsored or attended the Gathering. The one year time period for violations for a Premises shall pertain only to the same residents occupying the Premises who have had the prior violation(s). New residents shall start a new time cycle of one year should they violate the bylaw.
Section 8.29.5 Consumption of Alcohol by Underage Persons is Prohibited in Public Place, Place Open to Public, or Place Not Open to Public

Except as permitted by state law, it is unlawful for any underage person to:

(a) Consume any alcoholic beverage at any public place or any place open to the public;

or

(b) Consume any alcoholic beverage at any place not open to the public.

Section 8.29.6 Hosting, Permitting, or Allowing a Public Nuisance or Party, Gathering, or Event where Underage Persons Consume Alcoholic Beverages is Prohibited

(a) It is the duty of any person having control of any Premises who knowingly hosts, permits, or allows a Gathering at said Premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the Gathering. Reasonable steps include, but are not limited to, controlling access to alcoholic beverages at the Gathering; controlling the quantity of alcoholic beverages present at the Gathering; verifying the age of persons attending the Gathering by inspecting driver’s licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages while at the Gathering; and supervising the activities of underage persons at the Gathering.

(b) A Gathering constituting a Public Nuisance may be abated by all reasonable means including, but not limited to, an order by the Police requiring the Gathering to be disbanded and citation and/or arrest of any persons under any applicable provision of local or state law.

(c) It is unlawful for any person having control of any Premises to knowingly host, permit, or allow a Gathering to take place at said Premises where at least one underage person consumes an alcoholic beverage, provided that the person having control of the Premises either knows an underage person has consumed an alcoholic beverage or reasonably should have known that an underage person consumed an alcoholic beverage and the person having control of said Premises failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by an underage person.

(d) This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian as set forth in G.L. c.138, § 34.
May 25, 2010 Annual Town Meeting
12-12

(e) This Section shall not apply to any Massachusetts Alcoholic Beverages Control Commission licensee at any Premises regulated by the Massachusetts Alcoholic Beverage Control Commission.

Section 8.29.7   Enforcement

This bylaw shall be enforced by the noncriminal disposition process of M.G.L. c.40 § 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer of the Town of Brookline. If enforced pursuant to noncriminal disposition, the following fines shall apply per person cited under sections 8.29.4 and 8.29.4.1:

First response: $100
Second and subsequent response(s): $300

The Town of Brookline may additionally seek administrative costs and Response Costs associated with enforcement of this bylaw.

The provisions of this bylaw are enforceable without reference to the Brookline Noise Control Bylaw 8.15 and without reference to the fact that the police officer issuing a citation has not obtained a scientific noise measurement prior to issuing the citation. No such scientific noise measurement is required under this bylaw and the lack of a measurement shall not constitute a defense.

Sections 8.29.5 and 8.29.6 shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated by Sections 8.29.5 and 8.29.6, nor shall they limit the Town of Brookline or the Commonwealth of Massachusetts’ ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of Sections 8.29.5 and 8.29.6.

Section 8.29.8   Local Authority and Severability

Nothing in this bylaw shall be construed to conflict with anything in MGL Chapter 138 in regard to underage drinking.

No provision of this bylaw shall apply where prohibited or preempted by state or federal law.

If any provision of this bylaw, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this bylaw which can be given effect without the invalid provisions or application, to this end the provisions of this bylaw are severable.
May 25, 2010 Annual Town Meeting

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
The bylaw proposed in this article is intended to provide badly needed relief to residents whose peace, quiet, and sleep is being frequently disrupted by noisy gatherings and rowdy behavior, primarily by students and other young adults, who party and congregate, seemingly without regard to the disturbances they are causing to others in several of the Town’s residential neighborhoods.

The Police Department has been making a determined effort to confront this issue in recent years, but with only limited success. Existing legal remedies are not well suited to deal with this problem. The Town’s Noise Control bylaw (Sec 8.14 of the Town Bylaws) is principally concerned with measurable noise produced by various sorts of equipment and does not deal with the loud conversations, hollering and other nuisance behavior, often associated with alcohol consumption, that is the focus of this article. Existing disorderly conduct and underage drinking laws are criminal in nature, requiring a high standard of proof plus witness testimony beyond that of the responding officers, which is sometimes difficult to obtain.

The proposed bylaw targets disruptive nuisance behavior by giving the police a new enforcement tool, enabling police officers responding to citizen complaints to issue fines to all present at the unruly gathering and to everyone in control of the premises (resident property owners or individuals named on the lease for a rental unit) whether present or not. Violations would be treated as civil rather than criminal infractions, similar to the issuance of a parking ticket, meaning penalties could be levied without concern that youthful offenders would be permanently saddled with a criminal record. The fines range from $100 for a first offense to $300 for subsequent offenses occurring within a year after the first response. Moreover, non-resident property owners (i.e. landlords) for a rental unit are also liable for a $300 fine in the event of a second violation occurring within a year of the first, provided that 14 days have elapsed following their notification by certified mail of the first infraction.

This proposed bylaw is closely patterned after a bylaw passed (and approved by the Attorney General) last year in Amherst, MA, a community that has also been troubled by rowdy nuisance behavior. The Amherst Town Manager reports that their bylaw has “worked like a charm”: sixteen tickets have been issued in the past year and there have been no instances of repeated violations. Boston is also cracking down on nuisance behavior, and it's been speculated that the observed uptick in such behavior in certain Brookline neighborhoods results from students and other offenders fleeing this crackdown in Allston and Brighton.

DISCUSSION:
This proposed bylaw has been met with near-unanimous approval by several dozen town residents who appeared personally in support at Advisory Committee discussions and/or sent the committee supportive email messages regarding the bylaw. Police Chief Daniel O’Leary was also highly supportive of the proposed bylaw as an important new tool to combat rowdy behavior, having conferred with the petitioners during its formulation. He explained that the legal construct of civil fines contained in the proposed bylaw would make it easier for the
police to enforce. Under this bylaw, the police can issue fines based on their own observance of the situation.

Chief O’Leary stated the desirability of having an option of issuing a warning rather than a fine on a first offense at a given premises under certain circumstances. For instance, it might be undesirable for the police to be forced to fine attendees at a noisy family graduation celebration, a one-time event, that took place in the afternoon or early evening even though neighbors might ask the police to quiet things down. The Advisory Committee responded to this concern by amending the original language to permit responding officers to issue warnings instead of fines for a first offense when responding to complaints prior to 10 p.m. Furthermore, it’s up to the responding officers to determine whether any observed errant conduct rose to the level of nuisance behavior that would trigger the application of bylaw penalties regardless of the time of occurrence, or whether either a simple admonishment to quiet down would suffice or, at the other extreme, whether criminal disorderly conduct charges would be more appropriate.

A major concern raised during the Advisory Committee deliberations was whether the provision to hold all of those in control of the offending premises liable for bylaw violations, even if not present, was appropriate. As examples, what about an apartment-mate who was away without knowledge or control over goings on in his/her absence, or a case where tenants had moved away, having sublet their apartment to others? That provision had been inserted, with the urging and approval of Chief O’Leary, so that absent parents with teenage kids (the bylaw, after all, is to be applicable in various situations town-wide) and apartment mates who may be away (or flee the scene) would understand they will still be on the hook in the event of unsupervised parties that get out of hand or other nuisance behavior, and hence be encouraged to take steps to prevent this from occurring.

As a general rule, everyone in control of a premises should bear responsibility for taking appropriate measures to ensure that the property not be used in a manner that creates a nuisance to its surrounding neighborhood. It was pointed out that the bylaw penalties were only civil fines rather than criminal sanctions, and moreover could be appealed without undue difficulty to a district court clerk (or judge) in cases of unfair application, under the provisions of Chapter 40, Section 21D of the Massachusetts General Laws. A motion to restrict bylaw sanctions to only those present for a first offense was defeated by the Advisory Committee by a vote of 20 to 6.

Another important bylaw provision calls for notifying property owners of bylaw violations and fining them, after notification of a first offense, for subsequent violations at the same premises during the ensuing year. Fining landlords may make clear the need to take their obligations to the surrounding neighborhood more seriously by admonishing, perhaps on threat of eviction, their tenants to refrain from causing disturbances, and to take greater care in future tenant selection.

Additionally, notifications are to be sent to the addresses listed on government-issued identification cards of all those cited and, in the case of students, to officials at the school or college in which they are enrolled. Sending notifications to school officials and to home
addresses, where parents might thus become aware of bylaw violations, could similarly be instrumental in discouraging future nuisance behavior.

RECOMMENDATION:
The Advisory Committee recognizes that (1) there is an ongoing problem of nuisance behavior that impacts residents in various town neighborhoods that needs to be addressed, (2) that this problem has persisted despite the determined efforts of the Police Department acting under current laws, (3) that the town of Amherst, MA, which has similarly suffered from nuisance behavior, has adopted a bylaw similar to the one proposed whose provisions have been approved by the Attorney General and which has proven highly effective in curbing such rowdy behavior, and (4) that our Chief of Police would like the proposed bylaw to be adopted in order to provide Town police with a more effective means of combating nuisance behavior in Brookline. Therefore there is ample reason for Town Meeting to adopt this bylaw.

There will clearly be a need for the Town to make reasonable efforts to notify property owners, tenants, and nearby colleges of the bylaw provisions to put all on notice that Brookline is taking serious steps to combat nuisance behavior. The Advisory Committee has high confidence that Town officials will take such necessary measures if the bylaw is adopted.

Accordingly, the Advisory Committee by solid majorities of 21-4-1 on a preliminary vote and 16-2 on a subsequent vote on final, improved language, recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX
ARTICLE 12

Amendment Offered by Robert L. Allen, TMM Prec-16

Moved: to amend the vote of the Selectmen (page 12-9) by replacing Section 8.29.2 with the following:

Section 8.29.2 Definitions

Premises means any residence or other private property, place or location, including commercial or business property but excluding premises licensed or regulated by the Massachusetts Alcoholic Beverages Control Commission, pursuant to Section 8.29.6(e).
ARTICLE 13

THIRTEENTH ARTICLE
To see if the Town will amend the General By-Laws as follows:
(bold language is new; strike out language is deletion)

1. Amend Article 2.1 (Town Meetings), Sections 2.1.2 and 2.1.5(B) as follows:

SECTION 2.1.2 OPENING OF THE WARRANT

At least fourteen days prior to the opening of the Warrant for the Annual or a Special Town Meeting, the Board of Selectmen shall post notices of their intention to do so in at least ten places in the Town and shall notify each Town Meeting Member in writing; shall post the opening date and closing date for submission of Articles to said Warrant on the Town's website; shall email the opening and closing date for submission of Articles to said Warrant to the Notification List(s) required under Section 3.21.2; and shall publish notice thereof in a newspaper of general circulation throughout Brookline. Such written notification by the Board of Selectmen shall be made by mail to the Town Meeting Member's address on file with the Town Clerk's office. No such notification shall be necessary where a Special Town Meeting has been called by a citizen's petition.

SECTION 2.1.5 NOTICE OF MEETINGS

(A) Notification. The Board of Selectmen shall cause copies of the Warrant for each Town Meeting to be filed with the Town Clerk, and shall direct the Town Clerk to publicly post such copies of the Warrant on the principal Town Bulletin Board at least fourteen (14) days before the Annual Town Meeting and at least fourteen (14) days before any Special Town Meeting is to convene. Such posting shall be deemed to be the legal notification of such meeting and the legal service of such warrant.

(B) Distribution. The Board of Selectmen shall cause a copy of the articles in the warrant for each Town Meeting to be published in a newspaper of general circulation within the Town, to be posted on the Town website, and to be delivered in hand, or mailed, either separately or as a part of the Combined Reports, to the Moderator and to the representative Town Meeting members, be emailed to the Notification List(s) required under Section 3.21.2, and shall cause the posting of copies of the same in ten public places in the Town, at least seven (7) days before a Special Town Meeting is to convene and at least fifteen (15) days before an Annual Town Meeting is to convene. The requirements provided in this subsection (B) shall not be deemed to be a part of the legal notification of such meeting or the legal service of such warrant.
and the failure to comply with the provisions of this subsection (B) shall not serve to invalidate the proceedings of any Town Meeting.

2. Amend Article 2.2 (Advisory Committee), Section 2.2.5 (General Duties) by adding the following to the end of the section:

   The Town Administrator’s Financial Plan shall be made available on the Town’s Website in accordance with these timelines and an email shall be sent to the Notification List(s) required under Section 3.21.2 that provides notification of the Financial Plan’s availability.

3. Amend Article 2.5 (Reports), Sections 2.5.1 and 2.5.2 as follows:

   SECTION 2.5.1 SPECIAL COMMITTEE REPORTS

   All special committees created by a Town Meeting or the Moderator shall make a report of their findings and recommendations by filing a signed copy thereof with the Town Clerk. Forthwith upon the filing of any such report, the Town Clerk shall cause copies thereof to be delivered or mailed to the Moderator, the Board of Selectmen, and the Advisory Committee, and to every other elected officer, Town Meeting Member and appointed officer who requests a copy of the report emailed to the Notification List(s) required under Section 3.21.2.

   In the absence of a final report, each such committee shall annually, at least thirty (30) days before the start of the Annual Town Meeting, file with the Town Clerk an interim report of its doings, and the Town Clerk shall cause one copy of the same to be printed and mailed out with the combined reports called for in Section 2.5.2 of this Article emailed to the Notification List(s) required under Section 3.21.2.

   SECTION 2.5.2 COMBINED REPORTS

   The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with article, in the combined reports. The Board of Selectmen and the Advisory Committee shall prepare written reports, stating their recommendations and the reasons therefor, for all articles in the Warrant for a Town Meeting. The reports shall be included in the combined reports to be delivered or mailed as follows:

   The Town Clerk Selectmen’s Office shall cause one copy of the post the combined reports on the Town’s website not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting and shall email notice to
the Notification List(s) required under Section 3.21.2 that the combined reports are available, to be delivered or mailed not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting, to the residence of every elected officer, Town Meeting Member and member of the Advisory Committee, and to the residence of every appointed officer, resident, real estate owner and town employee who requested, in writing, a copy of that combined reports. The combined reports shall contain each article in the warrant for such Town Meeting followed by the report of the Board of Selectmen on such article and then the report of the Advisory Committee on such article and every report made, not later than the twenty-second day prior to such Town Meeting and after the twenty-second day prior to the previous Town Meeting, by a Special Committee created by a Town Meeting or the Moderator.

4. Amend Article 3.4 (Town Clerk), Section 3.4.5 as follows:

SECTION 3.4.5 TOWN REPORTS

The Town Clerk Selectmen’s Office shall cause one copy of post the Annual Town Report for each year on the Town’s Website to be delivered or mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, and member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing. Copies of each Annual Town Report shall be kept permanently in the office of the Town Clerk and for at least five years in the Public Library and every Branch thereof, available for inspection by all interested persons.

5. Amend Article 4.2 (Annual Reports), Section 4.2.4 as follows:

SECTION 4.2.4 DISTRIBUTION OF REPORTS

The Town Clerk Selectmen’s Office shall cause one copy of post the Annual Town Report for each year on the Town’s Website to be delivered or mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing.

or act on anything relative thereto.
PETITIONER’S ARTICLE DESCRIPTION
This article is intended to reduce the amount of paper used in the production of certain Town documents (Annual Report, Town Meeting notices and reports, and Financial Plan) by eliminating the requirement that they be mailed. Instead, these documents will be posted on-line and residents will be notified via the “listserv” of their availability. In addition to reducing the amount of paper used, CO emissions will be reduced since no vehicles will be used to mail the documents. The article is another component of the Town’s efforts to reduce its carbon footprint.

SELECTMEN’S RECOMMENDATION
As stated in the Article Description, the purpose of Article 13 as originally proposed was to reduce the amount of paper used in the production of certain Town documents by moving to an electronic distribution system. Spurred on by Brookline 2010 and its challenge to review operations and make them more green, staff made this proposal. While the Board appreciated the effort to reduce the amount of paper used in the production of various town documents, we do not believe that this is the right course to take.

The revised motion before you improves the proposal while maintaining the efforts to reduce the Town’s carbon footprint. As moved, it will allow Town Meeting Members (and others named in the various sections being amended) to request electronic notification that the documents are available on-line rather than get a hard copy mailed to them. They can pick and choose what they want: the Combined Reports for Town Meeting could be mailed while the Financial Plan could be viewed on-line. This “opt-out” proposal is good step toward reducing the amount of paper used in the production of documents and hopefully will, over time, do just that as more and more people become comfortable with reading documents electronically instead of in hard copy. With gadgets such as the iPad and the Kindle, this reality might be closer than we all think.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 27, 2010, on the following motion:

VOTED: That the Town amend the General By-Laws as follows:
(bold language is new; strike out language is deletion)

1. Amend Article 2.1 (Town Meetings), Sections 2.1.2 and 2.1.5(B) as follows:

   SECTION 2.1.2 OPENING OF THE WARRANT

   At least fourteen days prior to the opening of the Warrant for the Annual or a Special Town Meeting, the Board of Selectmen shall post notices of their intention to do so in at least ten places in the Town and shall notify each Town Meeting Member in writing of the opening date and closing date for submission of Articles to said Warrant and shall publish notice thereof in a newspaper of general circulation throughout Brookline. Such written
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notification by the Board of Selectmen shall be made by mail to the Town Meeting Member's address on file with the Town Clerk's office. No such notification shall be necessary where a Special Town Meeting has been called by a citizen's petition.

In lieu of the above mailing requirement, the Board of Selectmen may send the required notice electronically to any Town Meeting Member who so requests.

SECTION 2.1.5 NOTICE OF MEETINGS

(A) Notification. The Board of Selectmen shall cause copies of the Warrant for each Town Meeting to be filed with the Town Clerk, and shall direct the Town Clerk to publicly post such copies of the Warrant on the principal Town Bulletin Board at least fourteen (14) days before the Annual Town Meeting and at least fourteen (14) days before any Special Town Meeting is to convene. Such posting shall be deemed to be the legal notification of such meeting and the legal service of such warrant.

(B) Distribution. The Board of Selectmen shall cause a copy of the articles in the warrant for each Town Meeting to be published in a newspaper of general circulation within the Town, to be posted on the Town website, and to be delivered in hand, or mailed, either separately or as a part of the Combined Reports, to the Moderator and to the representative Town Meeting members, and shall cause the posting of copies of the same in ten public places in the Town, at least seven (7) days before a Special Town Meeting is to convene and at least fifteen (15) days before an Annual Town Meeting is to convene. The requirements provided in this subsection (B) shall not be deemed to be a part of the legal notification of such meeting or the legal service of such warrant and the failure to comply with the provisions of this subsection (B) shall not serve to invalidate the proceedings of any Town Meeting.

In lieu of the above distribution requirement, the Board of Selectmen may, at the request any Town Meeting Member, send the articles in the warrant electronically.

2. Amend Article 2.2 (Advisory Committee), Section 2.2.5 (General Duties) by adding the following to the end of the section:

The Town Administrator’s Financial Plan shall be made available on the Town’s Website in accordance with these timelines and an email shall be sent to the Notification List(s) required under Section 3.21.2 that provides notification of the Financial Plan’s availability.
3. Amend Article 2.5 (Reports), Sections 2.5.1 and 2.5.2 as follows:

SECTION 2.5.1  SPECIAL COMMITTEE REPORTS

All special committees created by a Town Meeting or the Moderator shall make a report of their findings and recommendations by filing a signed copy thereof with the Town Clerk. Forthwith upon the filing of any such report, the Town Clerk shall cause copies thereof to be delivered or mailed to the Moderator, the Board of Selectmen, and the Advisory Committee, and to every other elected officer, Town Meeting Member and appointed officer who requests a copy of the report.

In the absence of a final report, each such committee shall annually, at least thirty (30) days before the start of the Annual Town Meeting, file with the Town Clerk an interim report of its doings, and the Town Clerk shall cause one copy of the same to be printed and mailed out with the combined reports called for in Section 2.5.2 of this Article.

In lieu of the mailing requirement in paragraph 1 above, the Town Clerk may, at the request of any person listed above send the report(s) electronically.

SECTION 2.5.2  COMBINED REPORTS

The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with article, in the combined reports. The Board of Selectmen and the Advisory Committee shall prepare written reports, stating their recommendations and the reasons therefor, for all articles in the Warrant for a Town Meeting. The reports shall be included in the combined reports to be delivered or mailed as follows:

The Town Clerk Board of Selectmen shall cause one copy of the combined reports to be delivered or mailed not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting, to the residence of every elected officer, Town Meeting Member and member of the Advisory Committee, and to the residence of every appointed officer, resident, real estate owner and town employee who requested, in writing, a copy of that combined reports. The combined reports shall contain each article in the warrant for such Town Meeting followed by the report of the Board of Selectmen on such article and then the report of the Advisory Committee on such article and every report made, not later than the twenty-second day prior to such Town Meeting and after the twenty-second day prior to the previous Town Meeting, by a Special Committee created by a Town Meeting or the Moderator.
In lieu of the mailing requirement above, the Board of Selectmen may, at the request of any person listed above send the report(s) electronically.

4. Amend Article 3.4 (Town Clerk), Section 3.4.5 as follows:

SECTION 3.4.5 TOWN REPORTS

The Town Clerk Board of Selectmen shall cause one copy of the Annual Town Report for each year to be delivered or mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, and member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing.

Copies of each Annual Town Report shall be kept permanently in the office of the Town Clerk and for at least five years in the Public Library and every Branch thereof, available for inspection by all interested persons.

In lieu of the mailing requirement in paragraph 1 above, the Board of Selectmen may, at the request of any person listed above send the report electronically.

5. Amend Article 4.2 (Annual Reports), Section 4.2.4 as follows:

SECTION 4.2.4 DISTRIBUTION OF REPORTS

The Town Clerk Board of Selectmen shall cause one copy of the Annual Town Report for each year to be delivered or mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing. In lieu of the preceding mailing requirement, the Board of Selectmen may, at the request of any person listed above send the report(s) electronically.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
This article came as a challenge to help the Town become more “green”, that is, more proactive and energy efficient at the same time. The original article was written to suggest that the Town Warrant, The Town Financial Plan, Special Committee Reports,
Combined Reports, and Town Reports be emailed to Town Meeting Members and others in lieu of mailing via the US Postal Service.

There would be savings potential from printing, paper, and postage expenses as well as fuel and labor costs to move the materials from the Print Shop to the postal facility in South Boston (where large bulk items can be efficiently processed). For example, 140,000 sheets of paper are used in printing up the Town Financial Plan. There are labor and material costs and then the hardcopies are trucked to the Postal facility in South Boston for processing by a Brookline Employee incurring fuel and labor expense in addition to the postage.

Discussions with the Board of Selectmen (BOS) lead to a trial-run in 2009, where individuals could opt-out of getting the Town Financial Plan Budget Book. About 50 people opted out. This resulted in a savings of approximately $3000.00.

Members of the Committee raised questions about:

a) people who may not be computer-literate or computer-oriented and may need or prefer to have a paper copy;

b) being able to download this material to an iPad or Kindle-like device;

c) adding the emailing of notifications from other Departments regarding ZBA Zoning meeting announcements/minutes, liquor license requests, etc.

The Town has a “list-serv” (an electronic mailing list) that the Town currently uses for sending meeting announcements to 5000 to 6000 people. It makes it easy for Town Officials to set-up meetings and publicize them electronically and through the Town Clerk’s office, which will post it through its traditional practices. These methods were used for announcing the Town’s Efficiency Committee Meetings.

The Town of Wellesley has talked about adopting these methods to send their Combined Reports to all of their 25000 citizens.

Boston has reduced their hardcopy production already by adopting these methods. The State Budget Office went from printing 7000 copies of the State Budget, which is much bigger than the Town Financial Plan, to producing only 1000 hardcopies.

The Board of Selectmen made changes to the language in Article 2.1 (Town Meetings), Sections 2.1.2 and 2.1.5 (B) by adding at the end of each section:

“In Lieu of the above mailing requirement, the Board of Selectmen may send the required notice electronically to any Town Meeting member who so requests.”

DISCUSSION:
Discussion about this article included the consideration of the Moderator’s position that Town Meeting Members may not be as well informed without a “hard” physical copy. There was concern by members of the Advisory Committee that Town Meeting Members would not be as able to effectively review the Warrant and Combined Reports without the benefit of paper copies. The requirement to send a hard-copy paper version of these two
publications to all Town Meeting Members would allow them to more effectively review and understand the contents of these publications.

It is common to refer to specific pages in the Combined Reports at Town Meeting. Also, it was noted that references to colored copies of supplementary materials might result in confusion at Town Meeting if some Town Meeting Members had hard copies and others did not.

The methodology to be used to allow Town Meeting Members to opt out of receiving hard copies was brought up. The Assistant Town Administrator suggested that e-mailing Town Meeting Members and asking them which reports and publications they wished to receive electronically may be adequate to get the job done with a minimum cost and effort. If individuals wished to continue to receive a hardcopy, they would not need to do anything.

Other advisory committee members suggested that the advent of new technologies since the printing press such as laptops, the iPad, and other Kindle-like reading devices were tools that Town Meeting Members, Advisory Committee Members, citizens, teachers, students, and others use everyday right now. It was pointed out, however, that the majority of those attending Town Meeting do not bring such devices. Concerns were also voiced around the lack of sufficient power outlets.

There was the opinion that the potential savings to the Town would be meaningful regardless of the amount. The colored supplementary pages are usually available to Town Meeting Members when they check-in and some of the supplements are often mailed to their homes prior to Town Meeting. Allowing individuals to opt out of receiving a hard copy would require less paper, less labor, and be helpful in preserving the environment.

There was a strong feeling that a core requirement for Town Meeting Members is to be aware of the Warrant Articles and, through the Combined Reports, be apprised of the salient issues and positions. It was asserted that assuring all TMM’s have a common reference via hard copies of the Warrant and Combined Reports is a small price to pay in order to facilitate the informed engagement of our democratically elected Town Meeting representatives.

There was a minority opinion that this vote was based on unfounded concerns that Town Meeting Members would not read electronic versions of the Town Warrant and the Combined Reports. Each copy of the Financial Report costs between $50-60 per copy. Households with 2 Town Meeting Members could save the Town 50% per Household on these mailings. Some Advisory Committee Members and Town Meeting Members already download reports and publications and then they recycle the hardcopy versions when they arrive later in the mail. This will have been another missed opportunity to realize some savings to the taxpaying citizens of the Town.

The Advisory Committee voted to amend sections 3.4.5 and 2.1.2. (22 in favor, 0 opposed, 1 abstention) deleting: “In Lieu of the above mailing requirement, the Board of Selectmen may send the required notice electronically to any Town Meeting member
who so requests.” in those 2 sections. This will require the Town to mail the Town Warrant and the Combined Reports to all Town Meeting Members.

RECOMMENDATION:
By a vote of 22-0-1, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the General By-Laws as follows:

1. Amend Article 2.1 (Town Meetings), Section 2.1.2 as follows:

   \textbf{SECTION 2.1.2 OPENING OF THE WARRANT}

   At least fourteen days prior to the opening of the Warrant for the Annual or a Special Town Meeting, the Board of Selectmen shall post notices of their intention to do so in at least ten places in the Town and shall notify each Town Meeting Member in writing of the opening date and closing date for submission of Articles to said Warrant and shall publish notice thereof in a newspaper of general circulation throughout Brookline. Such written notification by the Board of Selectmen shall be made by mail to the Town Meeting Member's address on file with the Town Clerk's office. No such notification shall be necessary where a Special Town Meeting has been called by a citizen's petition.

   \textit{In lieu of the above mailing requirement, the Board of Selectmen may send the required notice electronically to any Town Meeting Member who so requests.}

2. Amend Article 2.2 (Advisory Committee), Section 2.2.5 (General Duties) by adding the following to the end of the section:

   \textbf{The Town Administrator’s Financial Plan shall be made available on the Town’s Website in accordance with these timelines and an email shall be sent to the Notification List(s) required under Section 3.21.2 that provides notification of the Financial Plan’s availability.}

3. Amend Article 2.5 (Reports), Sections 2.5.1 and 2.5.2 as follows:

   \textbf{SECTION 2.5.1 SPECIAL COMMITTEE REPORTS}

   All special committees created by a Town Meeting or the Moderator shall make a report of their findings and recommendations by filing a signed copy thereof with the Town Clerk. Forthwith upon the filing of any such report, the Town Clerk shall cause copies thereof to be delivered or mailed to the
Moderator, the Board of Selectmen, and the Advisory Committee, and to
every other elected officer, Town Meeting Member and appointed officer who
requests a copy of the report.

In the absence of a final report, each such committee shall annually, at least
thirty (30) days before the start of the Annual Town Meeting, file with the
Town Clerk an interim report of its doings, and the Town Clerk shall cause
one copy of the same to be printed and mailed out with the combined reports
called for in Section 2.5.2 of this Article.

**In lieu of the mailing requirement in paragraph 1 above, the Town Clerk
may, at the request of any person listed above send the report(s)
electronically.**

**SECTION 2.5.2 COMBINED REPORTS**

The explanation and relevant data submitted by the petitioners for a petition
article shall be included, together with article, in the combined reports. The
Board of Selectmen and the Advisory Committee shall prepare written
reports, stating their recommendations and the reasons therefor, for all articles
in the Warrant for a Town Meeting. The reports shall be included in the
combined reports to be delivered or mailed as follows:

The **Town Clerk Board of Selectmen** shall cause one copy of the combined
reports to be delivered or mailed not later than the seventh day prior to each
special Town Meeting and not later than the fifteenth day prior to the start of
each Annual Town Meeting, to the residence of every elected officer, Town
Meeting Member and member of the Advisory Committee, and to the
residence of every appointed officer, resident, real estate owner and town
employee who requested, in writing, a copy of that combined reports. The
combined reports shall contain each article in the warrant for such Town
Meeting followed by the report of the Board of Selectmen on such article and
then the report of the Advisory Committee on such article and every report
made, not later than the twenty-second day prior to such Town Meeting and
after the twenty-second day prior to the previous Town Meeting, by a Special
Committee created by a Town Meeting or the Moderator.

4. Amend Article 3.4 (Town Clerk), Section 3.4.5 as follows:

**SECTION 3.4.5 TOWN REPORTS**

The **Town Clerk Board of Selectmen** shall cause one copy of the Annual
Town Report for each year to be delivered or mailed not later than the
fifteenth day prior to the commencement of the Annual Town Meeting, to the
residence of every elected and appointed Town Meeting Member, and
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member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing.

Copies of each Annual Town Report shall be kept permanently in the office of the Town Clerk and for at least five years in the Public Library and every Branch thereof, available for inspection by all interested persons.

In lieu of the mailing requirement in paragraph 1 above, the Board of Selectmen may, at the request of any person listed above send the report electronically.

5. Amend Article 4.2 (Annual Reports), Section 4.2.4 as follows:

SECTION 4.2.4 DISTRIBUTION OF REPORTS

The Town Clerk Board of Selectmen shall cause one copy of the Annual Town Report for each year to be delivered or mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing. In lieu of the preceding mailing requirement, the Board of Selectmen may, at the request of any person listed above send the report(s) electronically.

XXX
ARTICLE 13

Amendment Offered by Frank Farlow, TMM Prec-4

SELECTMEN'S MOTION
Amend the sentence in bold at the very bottom of p. 13-5 by appending the words "on the Website or, upon request, in hard copy at Town Hall."

Explanation: Hard copies of the Financial Plan (or “budget book”) are currently mailed or delivered to TMM's not by bylaw requirement, but only by tradition. For those who make extensive use of the budget book, or use it in places such as Advisory Committee or selectmen's meetings, a hardcopy is clearly preferable. So we'd like the ability of TMM's, at-large AC members and others to obtain a hard copy to be guaranteed by the Town’s bylaws. On the other hand, making hard copies available only on an opt-in basis would save thousands of dollars annually by substantially reducing the number of copies printed and eliminating mailing/delivery costs.

The sentence in bold referred to above states that "an email shall be sent to the Notification List(s) ... that provides notification of the Financial Plan's availability", without explicating whether said availability is online or in hard copy. The sentence can (and should) be clarified, while at the same time providing the opt-in, by simply appending the ten words quoted.

ADVISORY COMMITTEE MOTION
On page 13-10, amend the sentence in bold in paragraph 2 by appending the words "on the Website or, upon request, in hard copy at Town Hall."

Explanation: Same as above.
FOURTEENTH ARTICLE
To see if the Town will amend the Zoning By-Law as follows:

I. With respect to the parcels of land located at 111 Boylston Street, 10-12 Kerrigan Place and the parcel between these addresses owned by the Town of Brookline:
   1. Create a new zoning district designated G-1.0 (DP) to define the zoning of the parcels of land located at 111 Boylston Street, 10-12 Kerrigan Place and the parcel between these addresses owned by the Town of Brookline.

II. With respect to a ZONING MAP CHANGE:
   1. Change the Zoning Map to reflect the new G-1.0 (DP) as described in this Article.

III. With respect to ARTICLE III, ESTABLISHMENT OF ZONING DISTRICTS, SECTION 3.01 – CLASSIFICATION OF DISTRICTS, insert the following new number 8:
   8. G-1.0 (DP) Davis Path (Refer to §5.06, Special District Regulations)

IV. With respect to ARTICLE V - DIMENSIONAL REQUIREMENTS, SECTION 5.01 TABLE OF DIMENSIONAL REQUIREMENTS, add a new line in the Table after G-1.0 for the new district G-1.0 (DP) as follows:

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>LOT SIZE (min. in. sq. ft.)</th>
<th>FLOOR AREA RATIO</th>
<th>PB1</th>
<th>MINIMUM YARD</th>
<th>OPEN SPACE %</th>
</tr>
</thead>
<tbody>
<tr>
<td>G-1.0 (DP)</td>
<td>Any Structure or Principal use (dwelling-footnote 5)</td>
<td>1.0</td>
<td>N/A</td>
<td>40</td>
<td>N/A</td>
</tr>
</tbody>
</table>

V. With respect to ARTICLE V - DIMENSIONAL REQUIREMENTS, SECTION 5.06, SPECIAL DISTRICT REGULATIONS add a new paragraph e. under Special Districts, to read as follows:
   e. Davis Path General Business District G-1.0 (DP)
      1. The Minimum Yard Setback from the property line bordering the MBTA train tracks shall be 30 feet.
      2. No less than 50% of this Minimum Yard Setback shall be devoted to landscaped open space.

PETITIONER’S ARTICLE DESCRIPTION
The intent of this Article is to correct the Town Zoning By-Laws in order to adequately protect the Emerson Garden and historical White Place neighborhoods. It has been
demonstrated that the current G-2.0 zoning is not sufficient protection for the small, residential area. Additionally, Article 1, section 1 of the Zoning By-Laws requires greater protection for the neighborhoods than that afforded by the current G-2.0 zoning.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by Citizen Petition and proposes to change the zoning of the parcels located at 111 Boylston Street, 10-12 Kerrigan Place and the Town-owned parcel between those two lots, by reducing the allowed FAR of 2.0 to 1.0 (and therefore removing the ability to participate in Public Benefit Incentives for additional height or FAR), reducing the allowed height to 40', and creating an overlay district, called G-1.0 (DP), with a minimal dimensional requirement for the yard setback of the building from the MBTA property line of 30 feet, and requiring that 50% of this yard be landscaped open space. In 1993, Town Meeting rezoned these properties from I-1.0 to G-2.0, thus acknowledging that for redevelopment to occur, greater density would need to be allowed. At this time, a shadow study was completed to show that the greater density would have minimal impact on White Place, compared to existing shadows. The 2005-2015 Comprehensive Plan designated this area as an appropriate location for development and an opportunity to enhance the Route 9 corridor streetscape and provide a greater tax base to the Town.

In 2008, the Planning Board gave a favorable recommendation and the Board of Appeals approved special permits for a commercial development for this site. The proposed building was three stories, with a recessed fourth story, and underground parking for 265 cars. The proposed building was setback 20 to 47 feet from the MBTA tracks and was heavily landscaped. An abutter appealed the Board of Appeals approval but subsequently withdrew it when it appeared the development was not going forward. Recently, a requested one year time extension from the developer was withdrawn, meaning that the special permit approvals will expire on April 15, 2010. Any future project would be required to begin anew the review and approval process.

The Planning Board believes that halving the FAR for these sites is not appropriate and would be a disincentive to new development. Rather, design guidelines addressing setbacks, landscaping, building design and number of required parking spaces should be further evaluated to ensure greater protection to the White Place neighborhood. Replacing the dilapidated and vacant Red Cab building with a new development will speed the revitalization of this area and greatly enhance the appearance of Boylston Street.

Therefore, the Planning Board unanimously recommends NO ACTION on Article 14 and that further study of the site be undertaken to evaluate appropriate design guidelines to minimize the impact on White Place while allowing appropriate redevelopment.
SELECTMEN’S RECOMMENDATION

The Board of Selectmen plans on taking a vote on Article 14 at its May 11 meeting. A recommendation will be included in the Supplemental mailing that will be sent out the weekend before Town Meeting.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
This article is being submitted by Citizen Petition and proposes to change the zoning of the parcels located at 111 Boylston Street, 10-12 Kerrigan Place and the Town-owned parcel between those two lots, by reducing the allowed FAR of 2.0 to 1.0 (and therefore removing the ability to participate in Public Benefit Incentives for additional height or FAR), reducing the allowed height to 40’, and creating an overlay district, called G-1.0 (DP), with a minimal dimensional requirement for the yard setback of the building from the MBTA property line of 30 feet, and requiring that 50% of this yard be landscaped open space. In 1993, Town Meeting rezoned these properties from I-1.0 to G-2.0, thus acknowledging that for redevelopment to occur, greater density would need to be allowed. At that time, a shadow study was completed to show that the greater density would have minimal impact on White Place, compared to existing shadows. The 2005-2015 Comprehensive Plan designated this area as an appropriate location for development and an opportunity to enhance the Route 9 corridor streetscape and provide a greater tax base to the Town.

In 2008, the Planning Board gave a favorable recommendation and the Board of Appeals approved special permits for a commercial development for this site. The proposed building was three stories, with a recessed fourth story, and underground parking for 265 cars. The proposed building was setback 20 to 47 feet from the MBTA tracks and was heavily landscaped. An abutter appealed the Board of Appeals approval but subsequently withdrew it when it appeared the development was not going forward. Recently, a requested one year time extension from the developer was withdrawn, meaning that the special permit approvals will expire on April 15, 2010. Any future project would be required to begin anew the review and approval process.

DISCUSSION:
The Advisory Committee heard a summary of the subcommittee hearing testimony and heard directly from a number of petitioners and a representative of EDAB. The following summarizes that information:

In Support of Article 14, a number of petitioners, including residents of White Place, utilizing software provided by the prior developer of the property, visually outlined the effect
(largely shadow and massing) of the proposed development that had been previously approved.

Petitioners noted that, in their view, the Town now had the opportunity to get development on the parcel “right” since the proponent of the prior permitted project was not seeking an extension to their previously granted permit. The presentation demonstrated that, at the current setback of twenty feet (and a FAR of 2.0), there was significant shadow on the parcel, especially in the winter months. They noted that in addition to the height of the then proposed structure, the current required setback (twenty feet), and the use by the proponent of the pathway (instead of Boylston Street) as frontage made the effects more pronounced. When questioned, petitioners could not demonstrate what the shadow effect of an FAR 1.0 development (as proposed in Article 14) would be.

Petitioners noted that while some have suggested that their proposal may constitute “spot zoning”, actually the zone was created in 1993, and its current zoning (2.0) for this parcel is greater than the allowed FAR of surrounding parcels.

The Planning Department in addressing the article noted that while the surrounding parcels were zoned with FAR 1.0, a number of properties in the area had greater FAR due to their status as non-conforming buildings. The department’s spokesperson did agree that the shadow effect of the prior approved development was an issue.

A member of the Planning Board testified that the Board had recommended “No Action” on the Article, but that the Board had sympathy for the White Place neighborhood given the demonstrated shadow effect. The member also noted that because “above ground” parking did not count against FAR (unlike the zoning in Coolidge Corner where “above ground” parking is included in FAR calculation), the massing situation was heightened. In restating the Planning Board’s position, he noted that the Planning Board believes that halving the FAR for these sites is not appropriate and would be a disincentive to new development. Rather, design guidelines addressing setbacks, landscaping, building design and number of required parking spaces should be further evaluated to ensure greater protection to the White Place neighborhood. Replacing the dilapidated and vacant Red Cab building with a new development will speed the revitalization of this area and greatly enhance the appearance of Boylston Street. The Planning Board felt that further study of the site be undertaken to evaluate appropriate design guidelines to minimize the impact on White Place while allowing appropriate redevelopment.

The property owner testified that her family had owned the parcel since the mid 1970’s, and that she hoped to find a developer who could bring an appropriate economic development to the property that would be of benefit to the Town.

A member of the Economic Development Advisory Board testified that while EDAB had sympathy for the abutters’ points of view, the parcel was an important development opportunity for the Town, and the petitioners’ proposal had the effect of making development on the parcel uneconomical.
There was broad discussion between the petitioners, neighbors, Planning Board and Planning Department representatives, the property owner and the members of the Subcommittee.

A number of Subcommittee members suggested that given neighborhood concerns as demonstrated by the modeling software and surrounding zoning, the Article was warranted. Specific discussion was given to the basic framework of the Town’s zoning, and the importance held in it to a development that was consistent with surrounding neighborhoods and buildings.

Various participants noted that a FAR of 1.0 would not allow (economically) an appropriate use of the parcel.

Others noted that (1) including above ground parking in the FAR calculation, and (2) establishing greater setbacks might resolve the problems presented, but that such changes would be in all likelihood beyond the scope of the article. It was noted that the Planning Department had requested $50,000 to study these various questions, but given the Town’s fiscal constraints, those funds have not been committed, so the studies the Planning Department needed to provide informed advice were not available.

There was then discussion as to whether, given the general view, that there were legitimate issues presented related to setbacks and shadow, and since the current project proponents right to build the development had lapsed, a short term imposition of the petitioners’ zoning proposal (with a clear and definitive sunset provision) might not provide an opportunity for all the stakeholders to achieve consensus. The subcommittee stated that this would be its recommendation.

A representative of EDAB stated that he supported the intent of Article 14 to reduce the proposed building’s shadow impact on the abutting residential neighborhood, but does not support a moratorium because that would freeze development on the parcel and would create uncertainty for developer. He suggested that a 2.0 FAR development could generate an additional $400,000 in property taxes for the town and a moratorium would delay that, and that an FAR below 2.0 would not be financially feasible. Instead, he proposed a new article that would: 1) establish a 40 foot height maximum and a 30 foot rear setback; 2) keep the FAR at 2.0; 3) with Public Benefits allow a height of 55 feet along Boylston Street, and limiting the height of that one story to minimize the shadow impact and required Design Guidelines to minimize the effect on White Place and the Boylston Street Playground.

The EDAB representative presented a drawing which presented a December 21st (noon) shadow model that showed that that smaller and set back additional floor would not produce shadows greater than a FAR 1.0 building. On questioning as to whether the same shadow impact would exist at 9am or 3pm on the same day, the representative stated that he had not done such a study.

RECOMMENDATION:
The modeling of the proposed project at 111 Boylston St which represented a maximum build out at the current zoning had a real impact on committee members and showed that current zoning is too dense for the site given its context. The committee heard a suggestion
that the Planning Board learned lessons from the project which will result in revised design
guidelines for future projects. It also heard that EDAB may have designed a solution but that
given timing, a full shadow study had not occurred. However, even with revised design
guidelines, current zoning will permit the massing which will dwarf the buildings on White
Place and impose shadows that will keep White Place in darkness for a good portion of the
year.

The committee heard sympathy for the abutters from the Planning Department, Planning
Board and from members of EDAB but also heard that it wasn’t possible to get the zoning
“right” without a zoning study and certainly not within the time frame necessary to
implement for this town meeting and not within the confines of the zoning proposal before
us. The committee is therefore proposing an effective development moratorium in this
zoning district until after the 2011 Annual Town Meeting. This will provide the time
necessary for the Planning Department, EDAB and the Planning Board to study what is the
correct FAR, setbacks and parking requirements for the site which allow for an economically
viable project that will be a better fit given the site’s context. The fact that the development
at 111 Boylston St. will not proceed as previously permitted provides us with an opportunity
to really study what lessons are to be learned and get it right.

The vehicle for imposing the moratorium is to accept the petitioners proposed change in the
zoning, under which EDAB has determined that an economically driven development project
is not possible but have it sunset after the Spring 2011 Town Meeting. This should provide
sufficient time for the appropriate study and process to occur to get the zoning right. The
language proposed below takes the petitioner’s proposal and reworks it based on drafting
input from the Planning Department a bit so that it better fits into the zoning bylaw with the
suggested sunset. The substance of the petitioner’s proposal is unchanged.

The Advisory Committee voted 18-1-3 to accept the subcommittee recommendation and
recommended FAVORABLE ACTION on amended Article 14. (Changes to the petitioners’
article are shown in the italicized words in the vote below and the related reorganization is
shown in the markup thereafter):

VOTED: That the Town amend the Zoning By-Law to create a new zoning district
designated G-1.0 (DP) to define the zoning of the parcels of land located at 111 Boylston
Street, 10-12 Kerrigan Place and the parcel between these addresses owned by the Town of
Brookline, by:
1. Amending the map as shown to add a new G-1.0 (DP) district consisting of the properties currently zoned G-2.0 south of the Green Line and north of Boylston Street between (but not including) Davis Path and 99 Boylston Street:

2. To add the following note to the zoning map:

   “G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and it shall be removed from the zoning map and these properties will revert to G-2.0 zoning.”

3. Amend Section 3.01 (Classification of Districts) by adding a new 3.01.2.c.8 as follows:

   “8) G-1.0 (DP) Davis Path (Refer to Sec. 5.06, Special District Regulations) – Note: G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and this section 3.01.2.c.8 shall be removed from the Zoning Bylaw.”

4. Amend Table 5.01 - Table Of Dimensional Requirements by adding a new line after G-1.0 for the new district G-1.0 (DP) as follows:

<table>
<thead>
<tr>
<th>SECTION 5.01 TABLE OF DIMENSIONAL REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISTRICT</td>
</tr>
<tr>
<td>-----------</td>
</tr>
<tr>
<td>G-1.0 (DP)</td>
</tr>
</tbody>
</table>
and the following footnote at the bottom of Table 5.01:

“18. See Section 5.06(4)(e), Special District Regulations. G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and its line shall be removed from Table 5.01”

5. Amend Section 5.06, Special District Regulations by adding a new paragraph 5.06.4.e. as follows:

“e. Davis Path General Business District G-1.0 (DP)

1. The Minimum Yard Setback from the property line bordering the MBTA train tracks shall be 30 feet.

2. No less than 50% of this Minimum Yard Setback shall be devoted to landscaped open space.

3. Note: G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and this section 5.06.4.e. shall be removed from the Zoning Bylaw.”
ARTICLE 14

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

Article 14 is a petitioned article that would downzone several parcels on the north side of Route Nine east of Davis Path. These parcels – 10-12 Kerrigan Place, 111 Boylston Street, and land owned by the Town in between – would be rezoned into a new special district called the “G-1.0 (DP)”, or Davis Path, special district. This rezoning would do the following:

- Reduce the allowed maximum Floor Area Ratio (FAR) from 2.0 to 1.0
- Reduce the allowed maximum height to 40 feet, with no option for an increase with public benefit incentives
- Require a setback of 30 feet from the MBTA tracks on the north side of the district, with an additional requirement that 50% of that area be landscaped.

This rezoning is in response to a proposed development of the area that many neighbors felt was too high and too massive. That proposed development raised concerns about shadow impacts and visual impacts to residents on White Place. While the petitioners acknowledged that a 1.0 FAR may be lower than is necessary to protect the neighborhood, they felt they had a limited time to draft a warrant article and submit it to Town Meeting. The petitioners have stated they are open to a higher allowed Floor Area Ratio as long as they feel shadow and massing impacts addressed.

Following the submission of this initial article, two proposed amendments have been brought forward. One amendment – as recommended by the Advisory Committee – would reformat the article slightly, but also would add a sunset provision. Under this proposed amendment, the parcels would revert to the existing zoning in August, 2011. The idea behind this amendment would be to provide time for a more permanent solution to the issues raised to be developed.

The other amendment – developed by TMM Don Warner, who also serves on the Economic Development Advisory Board – would retain the existing 2.0 Floor Area Ratio, retain the warrant article’s 40’ height limit and 30’ setback from the MBTA tracks, but would also permit an additional 15’ of height with public benefits if set back 64’ from the MBTA tracks and no longer than 194’ in length. This amendment would also mandate the Planning Board to create design guidelines for the district.

While these proposed zoning changes have been debated, the owners of the largest parcel affected by this rezoning – 111 Boylston Street – submitted a Preliminary Subdivision Plan for their parcel. As long as a Definitive Subdivision Plan is submitted in seven months, the existing zoning is frozen on this larger parcel for about eight years.
The Board of Selectmen discussed the original warrant article and the proposed amendments at length. The Board wants to make sure that the White Place neighbors do not bear an unreasonable shadow or massing impact from any development on these parcels. On the other hand, these parcels are some of the largest remaining sites for possible commercial development that might help the Town fund its schools and other services going forward.

Since the petitioners have expressed their support for the Advisory Committee language, the Board did not vote on the original warrant language. However, the Board did take the following votes:

- Don Warner amendment (failed 1-2-1)
  
  DeWitt – No  
  Daly – No  
  Mermell – Yes  
  Benka – abstain  

- Daly amendment (FAR of 1.5) to Advisory Committee vote (failed 2-1-1)
  
  DeWitt – Yes  
  Daly – Yes  
  Mermell – No  
  Benka – abstain  

- Advisory Committee vote (failed 1-2-1)
  
  DeWitt – Yes  
  Daly – No  
  Mermell – No  
  Benka – abstain  

Regardless of what happens with the zoning, the Board feels that there needs to be a thoughtful and detailed study that will resolve the multiple variables affecting appropriate redevelopment of this site. For this reason, the Board voted unanimously to appoint a Davis Path Special District Zoning Study Committee, whose charged is to review and analyze current conditions, zoning and parking requirements, design guidelines, shadow studies, and other land use planning tools such as transit oriented development. The Study Committee is to report back, at or before the November 2011 Town Meeting, with recommendations for zoning amendments to create a Special District under Sec. 5.06 of the Zoning By-Law that would permit appropriate development while mitigating impacts on adjacent neighborhoods and historic districts. The membership is as follows: Selectman, Advisory Committee, Planning Board, Zoning By-Law Committee, EDAB, and four Community Representatives.
Moved: That the Town amend the Zoning By-Law:

1. With respect to the parcels of land located at 111 Boylston Street, 10-12 Kerrigan Place and the parcel between these addresses owned by the Town of Brookline:

   - To create a new zoning district designated G-1.0 (DP) to define the zoning of the parcels of land located at 111 Boylston Street, 10-12 Kerrigan Place and the parcel between these addresses owned by the Town of Brookline.

II. With respect to a ZONING MAP CHANGE:

2. Change the Zoning Map to reflect the new G-1.0 (DP) as described in this Article.

   1. Amending the map as shown to add a new G-2.0 (DP) district consisting of the properties currently zoned G-2.0 south of the Green Line and north of Boylston Street between (but not including) Davis Path and 99 Boylston Street:

III. With respect to ARTICLE III, ESTABLISHMENT OF ZONING DISTRICTS, SECTION 3.01—CLASSIFICATION OF DISTRICTS, insert the following new number 8:
2. Amend Section 3.01 (Classification of Districts) by adding a new 3.01.2.c.8 as follows:

8. G-12.0 (DP) Davis Path (Refer to Sec. 5.06, Special District Regulations)

3. IV. With respect to ARTICLE V - DIMENSIONAL REQUIREMENTS, SECTION 5.01 TABLE OF DIMENSIONAL REQUIREMENTS, add Table Of Dimensional Requirements by adding a new line in the Table after G-12.0 for the new district G-12.0 (DP) as follows:

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>USE</th>
<th>LOT SIZE MINIMUM (sq. ft.)</th>
<th>FLOOR AREA RATIO MAXIMUM</th>
<th>PBI 11 NB ONLY</th>
<th>LOT WIDTH 4 MINIMUM (feet)</th>
<th>HEIGHT 9 MAXIMUM</th>
<th>PBI 11</th>
<th>MINIMUM YARD 3 (feet)</th>
<th>OPEN SPACE (% of gross floor area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>G-12.0 (DP)</td>
<td>Any structure or principal-use (dwelling-footnote 5)</td>
<td>none 4</td>
<td>4:0 2.0</td>
<td>N/A</td>
<td>none</td>
<td>40</td>
<td>N/A</td>
<td>55</td>
<td>none</td>
</tr>
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</tr>
</tbody>
</table>

V. With respect to ARTICLE V - DIMENSIONAL REQUIREMENTS, SECTION 5.06, SPECIAL DISTRICT REGULATIONS add

4. Amend Section 5.06, Special District Regulations by adding a new paragraph e. under Special Districts, to read 5.06.4.e. as follows:

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TO:  Town Meeting Members  
FR:  Economic Development Advisory Board (EDAB) 
RE:  Proposed Warner Amendment to Warrant Article 14 – Red Cab Site Down Zoning

EDAB unanimously recommends favorable action on the amendment offered by Town Meeting and EDAB member Donald Warner, AIA, LEED-AP, for Warrant Article 14.

**Background:** The Red Cab site (AKA 111 Boylston), 10-12 Kerrigan Place, and an adjacent Town-owned parcel comprise a development site of approximately 35,318 SF. The site is currently zoned “G-2”, which was approved by Town Meeting in 1993. At this location, G-2 zoning provides for a maximum Floor Area Ratio (FAR) of 2.0 by right, a maximum building height of 45 feet by right, and up to 60 feet with public benefits. The development company Legatt McCall received a Special Permit for a 70,000 SF 3.5 story medical office building from the ZBA in September 2008. The Special Permit was appealed by local neighbors. Forced by the filing of Article 14 and the potential down zoning of the impacted parcels, the owner of 111 Boylston (the larger parcel east of Kerrigan Place) filed a Preliminary Subdivision Plan to freeze the current zoning.

**Warrant Article 14:** Article 14 proposes to reduce the FAR to a maximum of 1.0, eliminate the height bonuses for public benefits, reduce the maximum building height to 40 feet, and increase the rear (MBTA side) set-back to a minimum of 30 feet. The Advisory Committee has recommended adding a sunset clause which would reinstate the current zoning as of August 2011.

**Warner Amendment:** The amendment proposed by Don Warner would keep the FAR at 2.0, keep the expanded 30-foot setback from the MBTA property, and increase the building set-back for upper floors to 64 feet from the MBTA property, such that the shadow impact on adjacent White Place would be nearly identical to a new building meeting Article 14 standards (see attached graphic). The Warner Amendment also eliminates the sunset clause.

**Rationale:** Several factors are behind EDAB’s endorsement of the Warner Amendment:
• **Existing Conditions:** The Red Cab site is an unattractive and under-utilized property. Given its size and proximity to public transportation, it is one of the very few sites in Brookline able to accommodate significant commercial development. Redevelopment of the site will have positive impacts on adjacent property along the Route 9 corridor, and serve as a key link between Brookline Village and the Cypress Street commercial area.

• **Financial Feasibility:** It is simply not financially feasible to redevelop the site with an FAR restriction of 1.0. An FAR of 1.0 (identical to the existing building) would not provide sufficient rentable square footage to support the cost of the substantial site improvements, a new building and underground parking. Worse yet, under Brookline’s zoning by-law, any FAR below 1.5 would trigger significantly higher parking ratios per square foot—requiring more parking for less building. These restrictions would limit development of the site to a small, one-story, automobile-oriented retail use (such as a Dunkin Donuts or fast-food outlet)—or, more likely, force consideration of alternative development scenarios not limited by market conditions.

• **Alternative Development Scenarios—the Dover Amendment and Chapter 40-B:** Down zoning the site to effectively eliminate a financially feasible market rate development would invite alternative development options, such as a facility owned and occupied by a non-profit hospital or university, or Chapter 40-B affordable housing. Under the Dover Amendment, non-profit institutions are largely exempt from municipal zoning regulations. Eliminating real estate taxes and by-passing local zoning will make the site more attractive to hospitals and universities, especially given its proximity to the LMA. Chapter 40-B affordable housing development also enables the developer to by-pass most local zoning restrictions.

• **Loss of Tax Revenue:** The Leggatt McCall proposal included a long term tax agreement with the Town to provide for real estate tax payments *regardless of the ownership and occupancy*. As a result, development of the site under either the existing zoning or the Warner Amendment provisions would result in an increase in commercial property tax of approximately $400,000 per annum. By contrast, a Dover Amendment development would result in little or no tax revenue. The loss of tax revenue impacts the entire Town, not just one neighborhood.

• **Shadow Impacts:** The issue of shadows on White Place is a legitimate one—but Article 14 is not the only way to address it. Key provisions of the Warner Amendment are the 30’ rear set back from the MBTA property line, the upper-floor set back restriction of 64 feet, and size limitation of the upper-floor. The resulting shadows would be essentially the same as those cast by the smaller building allowed under Article 14. A genuine win-win outcome is available under the Warner Amendment.
• **Land Use Planning in Brookline:** Zoning is a legal tool to implement the Town’s long-term Comprehensive Plan. Using Town Meeting to amend the zoning ordinance in response to a specific project proposal sets a terrible precedent for future development, and it fundamentally undercuts the Town’s planning and permitting process. The Warner Amendment effectively addresses the shadow and massing concerns addressed in Article 14 but maintains the financial viability of the project and its tax benefits for the Town.

In summary, the Warner Amendment provides a fair and sensible compromise between the FAR required for new development and legitimate neighborhood concerns. By way of background, Mr. Warner is a Town Meeting member from Precinct 13 and has been a member of EDAB for 15 years. He is a registered architect with over 30 years experience in the planning and design of commercial buildings, with a specialty in medical facilities. He has been a LEED Accredited Professional since 2005.

We strongly encourage Town Meeting members to approve the Warner Amendment to Article 14.

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ARTICLE 14

Information Provided by M.K. Merelice, Petitioner, and John Bassett, TMM-Prec. 6

1. Timeline and Summary
2. Memo from David Spillane, 1993
3. Design Guidelines, Planning Board, 1994
4. Map of Boylston St. Corridor, Comp. Plan 2005
Article 14 Timeline-Summary

This is a brief explanation of how zoning evolved for the parcels at Kerrigan Place and 111 Boylston Street, an area along Rte 9 known as the Red Cab site. Prepared by M. K. Merelice and John Bassett, May 19, 2010

1989 - The ten-year Comprehensive Plan indicates the town’s need for commercial development, specifying that such development should not trump other town goals that maintain “the Town’s character and quality of life.”

1992 – A zoning amendment is brought to Fall Town Meeting to upzone (from FAR 1.0 to 2.0) this and other Town sites. Action is postponed until there is more public input and a more thorough evaluation of impacts on adjacent neighborhoods.

1993 – August: Consultant David Spillane reports to the-then Brookline Development Committee that the shadow analysis “demonstrates that a rezoning of the Red Cab site to G-2.0 would result in very limited additional shadow on the White Place area.” (Addendum A.)

September: Development Committee in turn reports to the Planning Board that the “impact of shadows on White Place residential area from Red Cab site are no more extensive than current shadows.” Planning Board develops a set of draft Design Guidelines to protect neighborhoods from onerous negative impacts.

November: Original zoning Article is amended to agree with a citizen petition; draft Design Guidelines are in packet to Town Meeting Members. They describe attention to “visual impacts on the Pill Hill Historic District and the White Place National Register District from new development,” and note that the Red Cab site is still under discussion. Town Meeting passes zoning change from I-1.0 to G-2.0.

1994 – June: Planning Board adopts Boylston Street Design Guidelines (Addendum B). Among many other considerations, the Guidelines include a section entitled, “Relationship to Adjacent Residential Neighborhoods.”

2000 – Work on the next Comprehensive Plan includes a Rte. 9 Subcommittee (one of three focused subcommittees).

2005 – In the 2005-2015 Comprehensive Plan, the Red Cab site is identified as a possible site for affordable housing (another focused subcommittee) or for mixed use, such as retail and housing. There is also consideration for providing parking for the old Lincoln School (which at that point is slated for development; Addendum C), see attached map.

2006 – Spring: The first community meeting is held by potential developer, Leggat McCall. The next meeting is set for Fall of 2006 and takes place Fall of 2007.

2008-2009 – A Design Advisory Team is appointed and meets. There is no reference at any time to the Design Guidelines that were adopted in 1994. Neighbors become acquainted with the term “FAR” (floor-area ratio), learning that the FAR is fixed by zoning and that it is a key determinant in the building’s large mass.

A development proposal for a medical office building goes through the hearings and required steps to get a special permit as provided by current zoning. At the time, it is not known that the Leggat McCall development – as allowed by current zoning – does not fulfill the original goals related to scale, design, and shadow impacts which the Town thought it had approved in 1993.
2009 – Town Meeting Members and concerned neighbors conduct walking tours of Route 9 area. They bring concern about potential impacts and the need for proactive (rather than reactive) planning to Planning Director Jeff Levine. $50,000 Cypress Village Zoning Analysis placed in 2009 CIP for 2013.

2010 – When the one-year Special Permit comes due, the developer has a one-time opportunity to renew it for one more year. Neither the developer, nor briefly a new developer (Berenson), proceed with renewing the special permit.

**With no current developer,** neighbors see this as an opportunity to submit a zoning warrant article but have less than 24 hours to meet the deadline. Article 14 is prepared with the knowledge that there is not time to evaluate ideal zoning specifications but that submitting zoning amendments to protect the neighborhood would open the door to review the results of current zoning.

Neighbors have at least five meetings with some members of EDAB (Economic Development Advisory Board) to seek a better solution. It proves more complex than time allows and many details, such as parking requirements and suitable setbacks from the adjacent Boylston Street Playground, cannot be addressed because they do not fall within the scope of the Article. The petitioners welcome the suggestion of the Advisory Committee’s subcommittee that the Article be amended to include a sunset provision, thereby giving the town and the neighborhood a significant incentive to work hard at drafting a beneficial zoning solution while indicating dissatisfaction with what the current zoning produces.

**Re: Addendum A**

**David Spillane’s memo** studies a hypothetical building about as high as the one proposed recently, but with a significantly shorter frontage, staying east of Kerrigan Place. It concludes in part: “Despite these extreme assumptions, the diagrams indicate that very limited additional shadows will result from a building of the size examined.” The petitioners of Article 14 point out that the recent proposal by Leggat McCall would have added much shadow and therefore Mr. Spillane’s conclusion was incorrect.

The petitioners believe Mr. Spillane’s shadow plans were much less accurate than Leggat McCall’s recent studies. They can’t show how high shadows fall on walls. They show no additional shadows on the T tracks, on the back yards of houses on the south side of White Place, on the fronts of houses on the north side, nor on house roofs, which Leggat McCall’s shadow studies showed would happen. Roofs on White Place are important. As elsewhere, people have roof gardens, skylights, and enjoy solar gain in the winter.

It appears the Development Committee, Planning Board, and ultimately Town Meeting were misled by relying in part on Mr. Spillane’s assurances of minimal impacts.

**Re: Addendum B**

**The Boylston Street Design Guidelines** cover Cypress St. to Washington St. and include 111 Boylston St. While they need updating, they include good provisions such as requirements that redevelopment of 111 Boylston St minimize shadows on White Place and that visual impacts on the Pill Hill Historic District and the White Place National Register District be reviewed and approved by the Preservation Commission. The problem is that these Design Guidelines were completely forgotten and/or ignored during the Leggat McCall permitting process. Consequently, petitioners doubt that future design guidelines – without the authority of zoning bylaws – can pass muster with the Zoning Board of Appeals and provide adequate protection for nearby residences.
MEMORANDUM

To: Brookline Development Committee/Boylston Street Task Force
From: David Spillane
Subject: Worst Case Shadow Analysis for a G-2.0 Development at Red Cab Site.
Date: August 10, 1993

The attached pages contain a review of the potential shadow impacts of a new development project on the Red Cab site, assuming zoning is changed to G-2.0.

This analysis demonstrates that a rezoning of the Red Cab site to G-2.0 would result in very limited additional shadow on the White Place area. However, a future building design should be carefully reviewed under Section 5.09 to ensure that all potential concerns are understood and addressed.

The analysis represents a "worst case scenario", as requested by the Task Force at a Development Committee meeting on June 22, 1993. The time of the year examined (December 21) is the worst day of the year for shadows as the sun is at its lowest in the sky and shadows are longest. The potential development on the site is also the "worst case" condition for shadows. It assumes that maximum allowable building heights occur on the entire area of the parcel (in reality this is seldom, if ever, achieved). No attempt has been made to modify the building design to reduce shadows. Therefore the case illustrated represents the worst shadow impact of any building that could potentially be accommodated on the parcel. In reality, as building heights would likely be lower in some parts of the parcel, any possible shadow impacts could be reduced through careful design and design review by the Planning Board under Section 5.09.

Despite these extreme assumptions, the diagrams indicate that very limited additional shadow will result from a building of the size examined. The areas where the shadows would fall are almost entirely already shadowed by existing buildings, mostly residential buildings on the south side of White Place.

The attached diagrams indicate the following:

A-1 Existing Shadows 12:00 Noon December 21
A-2 Existing Shadows 2:00 PM December 21
B-1 Shadows cast by G-2.0 Development 12:00 Noon December 21
B-2 Shadows cast by G-2.0 Development 2:00 PM December 21
C-1 New shadows due to Development 12:00 Noon December 21
C-2 New shadows due to Development 2:00 PM December 21

Note 1: Diagrams are based on the following assumptions for December 21: 1) 12:00 noon: sun altitude, 27 degrees; azimuth, due south 2) 2:00pm: sun altitude, 21 degrees; azimuth, 30 degrees W of south.
Note 2: Times noted are solar time. In Brookline during December, solar noon (the time when the sun is at its highest) occurs approximately 17 minutes before noon local time (11:43AM).
BOYLSTON STREET DESIGN GUIDELINES
(Cypress Street to Washington Street)

The following guidelines supplement the standards outlined in the Zoning By-Law under Section 5.09(4), Community and Environmental Impact and Design Standards.

Relationship to Adjacent Residential Neighborhoods:

- Landscape screening shall be provided and maintained by the developer between new commercial development and adjacent residential uses.

- Buildings shall not exceed three stories (45') within 50' of an adjacent residential property line.

- All above grade buildings shall be set back a minimum of 20' from the rear property line.

- Any new building on Red Cab property shall be designed so as to minimize the effect of shadows on residential properties on White Place by locating the highest mass toward the Boylston Street frontage. Reductions in shadows on White Place residences shall be considered a public benefit in conjunction with any request for building height above 45 feet proposed for the Boylston Street frontage. Substantial additional shadows on adjacent residences shall be unacceptable.

- At the rear of the existing Volkswagen dealership, where the commercial lot is surrounded on three sides by residential uses, every effort shall be made to minimize the height of any future building on this portion of the lot. Heights shall not exceed 25' in this area. If building heights above 45 ft. are proposed for the Boylston Street frontage of the property under the public benefit incentive provision of the Zoning By-law, these shall only be granted on condition that building heights at the rear of the property do not exceed 25'.

- Facades facing residential neighborhoods shall be sensitive to the character of nearby houses; for example, large expanses of blank wall shall be avoided, when appropriate, and building materials shall include masonry, wood, and/or other materials which respect the character of nearby residential buildings.

- Special attention shall be given to any visual impacts on the Pill Hill Historic District and the White Place National Register District from new development. Where public benefit incentives are required for increased height or floor area, design review by the Preservation Commission related to visual impacts on these historic districts shall be part of the approval process.

- Shadow and wind impacts shall be evaluated through appropriate studies and minimized and shall not unreasonably affect adjacent properties.
Parking:

- Parking impacts on nearby residential streets shall be minimized.
- Parking should be accommodated behind buildings away from the street edge but should minimize any impacts on abutting residences.
- Landscape the edges of any parking areas facing a public street.

Site Vehicular Access:

- Minimize any increase in traffic on nearby residential streets.
- Access to new commercial development shall not be provided from streets such as Walnut Street or any other predominantly residential streets.
- Minimize access from Cypress Street and Cameron Street. As much as possible, access shall be from Boylston Street and Boylston Place.
- Nonresidential properties that abut Cameron Street but are accessible from Boylston Street and/or Boylston Place shall have no curb cut on Cameron Street.
- Nonresidential properties that are accessible only from Cameron Street shall have no increase in the number of curb cuts on Cameron Street.
- The existing Volkswagen property shall have no curb cut on East Milton Road.

Boylston Street Frontage:

Height:

- Maximum height of five stories (70') at the Boylston Street frontage (in many instances provisions of the Zoning By-Law with regard to buffers and setback requirements result in lower allowable building heights).
- Minimum building heights of three stories in G-2.0 districts shall be encouraged, except in circumstances where it isn't warranted.
Street Level Uses and Design

- Locate active retail and office uses along the frontage of buildings facing Boylston Street and Cypress Street; each separately leased ground floor space should be directly accessible from the sidewalk.

- Provide generous transparent glazed storefront type windows along the building façade in a manner consistent with existing attractive retail businesses in the immediate area.

Front Yard Setbacks:

- Use of a 20’ setback is encouraged along parts of the Boylston Street frontage to permit the creation of an enhanced pedestrian environment along the street for new development between the Lincoln School and Cypress Street on the south side of the street, and between Smythe Street and Cypress Street on the north side of the street.

- For property with frontage on Cypress Street, the setback from Cypress Street should be considered in the context of and transition to other buildings on Cypress Street, both on the same side of the street and on the opposite side. A canyon affect shall be avoided. As required in Section 5.32(b)(2), any additional height above that permitted by right shall be set back from the street lot line one-half the width of the street right-of-way, up to a maximum of 50 feet.

- Street trees and an expanded and improved sidewalk area should be accommodated within the setback area. The setback area shall not be used to provide off-street parking.

Side Yard Setbacks:

- Where a side lot line abuts an S, SC, T, or M district, the side yard requirement of the applicable district shall apply. (See Section 5.64 of the Zoning By-Law.)

Rear Yard Setbacks:

- Where a rear lot line in an L, G, or I District abuts an S, SC, T, or M District, the rear yard requirements as specified in Section 5.00 shall be increased by 10 feet, but need be no greater than 20 feet. (See Section 5.73 of the Zoning By-Law.)

Streetscape Character:

- Enhance the character of the pedestrian environment.
- Provide additional large street trees along Boylston Street; where front yard setbacks are provided, trees shall be accommodated in the setback area.

- Provide other streetscape improvements such as expanded sidewalk areas, benches, lighting, improved sidewalk materials, etc. as deemed appropriate by the Town.

**Facade and Sign Character:**

- Use masonry and other materials which respect the character of older adjacent neighborhood buildings, adjoining historic districts, and Brookline Village.
Gateway East: Brookline Village/Cypress Street
Vision Plan

Work with state to create a comprehensive Route 9 improvement plan

Continue to refine area design guidelines adopted by the Brookline Planning Board

Create Cypress Village
(Brighton Road to Smyley Street)
- Redevelop key parcels near Cypress Street
- Encourage mixed-use development with a residential focus
- Include substantial affordable housing
- Promote shared parking – enhance existing retail
- Widen sidewalks and enhance streetscape
- Improve pedestrian crossings of Route 9
- Eliminate cut-through traffic on Brighton Road
- Establish transit oriented development district overlay

Create a safe and attractive pedestrian environment; incorporate compatible infill development
(Faythe Street to High Street)
- Continue to support mixed-use infill development
- Consider removal or modification of median to change street character, reduce speeds
- Widen sidewalks where possible/include bumpouts
- Include new pedestrian-oriented lighting
- Add street trees
- Retain on-street parking
- Expand off-street parking to serve Lincoln School
- Establish core vehicles in any future development/redevelopment
- Additional Site for affordable housing and/or mixed-use

Redefine Brookline’s Gateway
(High Street to Emerald Necklace)
- Extend the Emerald Necklace to High Street
- Work with state to explore alternative long-term roadway options
- Encourage additional development to increase critical mass
- Promote mixed-use with office/retail/restaurant focus, incorporate other public amenities/uses
- Incorporate active uses at street level
- Create wide, attractive sidewalk along Route 9
- Locate taller buildings along Route 9, stepping down to Village
- Enhance Pearl Street character - improve station environment
- Remove Route 9 pedestrian bridge and provide improved on-grade pedestrian crossings
- Establish transit oriented development district overlay
ARTICLE 15

FIFTEENTH ARTICLE
To see if the Town will amend Section 6.04, paragraph 14, of the Zoning By-law to read as follows:

§6.04.14 – DESIGN OF ALL OFF-STREET PARKING FACILITIES

14. No more than 40% of the width, or twenty-four feet, whichever is less, of the façade of a building facing a way or within 45 degrees of parallel to a way, may be devoted to the entrance of a garage, carport, or covered parking area. The measurement of a garage, carport or covered parking area facing the street shall be the width of the garage doors or the pass-through area for the vehicles. The foregoing limitation shall not apply to a garage, carport or covered parking area located behind the plane of the rear wall of the principal building, as long as other dimensional requirements in the Zoning By-Law are met. For lots with more than one frontage on a way, a garage, carport, or covered parking area may be located facing the way that has the least visual and/or safety impact on the street, if a location in the side yard is not practicable, subject to the determination of the Building Commissioner. The Board of Appeals by special permit may waive the requirements in this paragraph, if it finds that a garage, carport, or covered parking area, accessed by or facing a side or rear yard on a lot is not feasible or would result in substantially less landscaped or usable open space on the lot.

or act on anything thereto.

PETITIONER’S ARTICLE DESCRIPTION
The Planning Board, with the support of the Planning and Community Development Department and the Building Commissioner, are submitting a warrant article to clarify the interpretation of a zoning amendment related to the design of off-street parking, Section 6.04.14. The proposed revisions make this regulation clearer and more consistent with the original intent and with the wording of other sections of the Zoning By-Law. In 2006, Section 6.04.14 of the By-Law was submitted by the Moderator’s Committee on Floor Area Ratio in response to the negative impact on the streetscape of a recently built house. The predominant feature of the house is a garage across the entire width of the dwelling facing the street. To prevent future development of “snout houses”, the Committee recommended a warrant article that limited the width of garages and parking areas facing the street, in relation to the façade of the structure, to 40% or 24’, whichever is less.

While applying this provision to various actual cases for new or renovated residences, the Building Commissioner, the Planning and Community Development Department, and the Planning Board found that the interpretation of this section was unclear and also had some unintended consequences, such as restricting the width of parking courts for back-out space
when the entrance of a garage is turned sideways, and prohibiting circular driveways. Therefore, the Planning Board is suggesting several changes to make the language clearer, allow some flexibility in cases where a house has more than one street frontage, and provide a special permit in certain circumstances.

The following is a summary of the changes: only covered parking areas are subject to the restriction; the measurement of the garage, carport or covered parking area is the width of the doors or entry; for lots with more than one street frontage, the Building Commissioner may make a determination that one of the street frontages may be used because no other design is safe or feasible; and a special permit, rather than the variance presently required, is available if certain criteria are met, including lack of feasible alternatives or the loss of a significant amount of open space in order to comply with this section.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Planning Board, with the support of the Zoning By-law Committee. This section of the By-Law, Section 6.04.14, was passed in 2006 at the suggestion of the Moderator’s Committee on Floor Area Ratio to prevent any more “snout nosed” dwellings from being built, after several were constructed in North Brookline.

This section has now been applied to several cases and some design related issues have arisen in its interpretation. This warrant article attempts to alleviate those issues by providing clarification and allowing some flexibility in its application through a special permit. In cases where it is not feasible to have a garage in the rear of a property or when it would result in significantly less open green space on a lot, a special permit could be granted by the Board of Appeals. This amendment also clarifies that the regulation does not apply to outdoor parking areas, which are already regulated through front yard setback requirements, as well as provides an alternative process for lots which have more than one street frontage.

The Planning Board favors reformatting the original amendment into more than one paragraph in order to make it clearer.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 15 with the following revisions to its formatting.

ARTICLE ____

To see if the Town will amend Section 6.04, paragraph 14, of the Zoning By-law to read as follows:

§6.04.14 – DESIGN OF ALL OFF-STREET PARKING FACILITIES

14. No more than 40% of the width, or twenty-four feet, whichever is less, of the façade of a building facing a way or within 45 degrees of parallel to a way, may be devoted to the entrance of a garage, carport, or covered parking area. The measurement of a
May 25, 2010 Annual Town Meeting
15-3

garage, carport or covered parking area facing the street shall be the width of the
garage doors or the pass-through area for the vehicles.

a. The foregoing limitation shall not apply to a garage, carport or covered parking
area located behind the plane of the rear wall of the principal building, as long as
other dimensional requirements in the Zoning By-Law are met.

b. For lots with more than one frontage on a way, a garage, carport, or covered
parking area may be located facing the way that has the least visual and/or safety
impact on the street, if a location in the side yard is not practicable, subject to the
determination of the Building Commissioner.

c. The Board of Appeals by special permit may waive the requirements in Sec.
6.04.14, if it finds that a garage, carport, or covered parking area, accessed by or
facing a side or rear yard on a lot is not feasible or would result in substantially
less landscaped or usable open space on the lot.

or act on anything thereto.

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Town of Brookline
Massachusetts

Memorandum

DATE: MAY 5, 2010
TO: ADVISORY SUBCOM. ON PLANNING AND REGULATION ADVISORY
COMMITTEE
FROM: POLLY SELKOE, ASST. DIR. OF REG. PLANNING
RE: ART. 15 (GARAGE WIDTH)

At its April 29th meeting, the Planning Board considered various proposed revisions to Article 15
related to how the width of a garage facing a street should be measured. The Planning Board did
not suggest any changes from the original wording of the amendment, which was originally
submitted by them. After carefully weighing concerns raised by the Building Commissioner about the interpretation of the prior amendment’s language they do not support any revisions at this time.

SELECTMEN’S RECOMMENDATION

The Board of Selectmen plans on taking a vote on Article 15 at its May 11 meeting. A recommendation will be included in the Supplemental mailing that will be sent out the weekend before Town Meeting.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
The Planning Board, with the support of the Planning and Community Development Department and the Building Commissioner, submitted this warrant article to clarify the interpretation of a zoning amendment, adopted by Town Meeting in 2006, relating to the design of residential off-street parking, Section 6.04.14. The proposed revisions were intended to make this regulation clearer and more consistent with the original intent and with the wording of other sections of the Zoning By-Law.

In 2006, Section 6.04.14 of the By-Law was submitted by the Moderator’s Committee on Floor Area Ratio in response to the negative impact on the streetscape of a recently built house. The predominant feature of the house is a garage across the entire width of the dwelling facing the street, a design that some have referred to as a “snout nose” house. To prevent future development of such “snout nose” houses, the Committee had recommended a warrant article that would limit the width of garages and parking areas facing the street, in relation to the total width of the street-facing façade of the structure, to 40% of the façade's width or 24 feet, whichever is less.

In the course of applying this provision to various actual cases for new or renovated residences, the Building Commissioner, the Planning and Community Development Department, and the Planning Board found that the interpretation of this section was unclear and that it also had some unintended consequences, such as restricting the width of parking courts for back-out space when the entrance of a garage is turned sideways, and prohibiting circular driveways. In the current Article 15, the Planning Board is suggesting several changes intended to make the language clearer, to allow some flexibility in cases where a house has more than one street frontage (e.g., a corner lot), and to provide a special permit in certain circumstances.

DISCUSSION:
As originally submitted, the Warrant Article proposed the following changes:
- only covered parking areas including garages and carports are subject to the restriction;
• the measurement of the garage, carport or covered parking area is the combined total width of the individual garage doors or entry;

• for lots with frontage on more than one street (e.g., corner lots), the Building Commissioner may make a determination that one of the street frontages may be used because no other design is safe or feasible; and a special permit, rather than the variance (as presently required) is available if certain criteria are met, including lack of feasible alternatives or the loss of a significant amount of open space in order to comply with this section.

While the stated intent of the proposed changes is to limit the portion of the front façade of a house that can be devoted to a garage or carport, the Advisory Committee received comments suggesting that the proposed basis for measurement -- the combined total width of the individual garage doors or entry – could have the unintended consequence of allowing a larger portion of the front façade to be used as a garage than the proposed limitation had sought to achieve. For example, as drafted it could allow up to three (3) 8-foot doors with separators, but the width(s) of the separators would not count in the measurement. This condition is illustrated in Figure 1 below. In this example, three (3) 8-foot wide doors are shown with two (2) 2-foot separators, for a total width of 28 feet. However, under the by-law as presented, only the widths of the three doors – 24 feet in this example – would be counted, and two 2-foot separators would not be included in the measurement. As presented, the by-law would allow this arrangement.

![Figure 1: Measurement per WA 15 as proposed](image-url)
To overcome this result, the Advisory Committee adopted an amendment to the original language that would base the measurement upon the total distance from the inside left edge of the left garage door, carport or covered parking area entry to the inside right edge of the right garage door, carport or covered parking area entry. In the illustration shown in Figure 2 below, two 8-foot doors with a 2-foot separator would be measured as 18 feet (8+2+8). However, the example illustrated in Figure 1, where the total measurement is 28 feet, would not be allowed. The maximum width could still not exceed 24 feet or 40% of the width of the street-facing façade.

RECOMMENDATION:
By a vote of 19–0–1, the Advisory Committee recommends FAVORABLE ACTION on the following motion, as amended:

VOTED: That the Town amend Section 6.04, paragraph 14, of the Zoning By-law to read as follows:

§6.04.14 – DESIGN OF ALL OFF-STREET PARKING FACILITIES

14. No more than 40% of the width, or twenty-four feet, whichever is less, of the façade of a building facing a way or within 45 degrees of parallel to a way, may be devoted
to the entrance of a garage, carport, or covered parking area. The measurement of such entrance shall be the distance between the inside edge furthest to the left of the leftmost vehicular opening and the inside edge furthest to the right of the rightmost vehicular opening to the garage(s), carport(s) or covered parking area(s), which measurement shall include any distance between the vehicular openings.

a. The foregoing limitation shall not apply to a garage, carport or covered parking area located behind the plane of the rear wall of the principal building, as long as other dimensional requirements in the Zoning By-Law are met.

b. For lots with more than one frontage on a way, a garage, carport, or covered parking area may be located facing the way that has the least visual and/or safety impact on the street, if a location in the side yard is not practicable, subject to the determination of the Building Commissioner.

c. The Board of Appeals by special permit may waive the requirements in Sec. 6.04.14, but only to the extent necessary, if it finds that a garage, carport, or covered parking area, accessed by or facing a side or rear yard on a lot is not feasible or would result in substantially less landscaped or usable open space on the lot.

XXX
ARTICLE 15

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

Article 15 would modify Section 6.04.14 of the Zoning By-Law, which currently provides:

14. No more than 40% of the width, or twenty-four feet, whichever is less, of the façade of a building facing a way or within 45 degrees of parallel to a way may be devoted to parking or other vehicular use, including garage or drive-through space. The forgoing limitation shall not apply to a detached garage that is entirely set back behind the entire façade facing the way of the principal building. The Planning Board may allow the foregoing limitation to be exceeded with respect to side facades on corner lots provided that the overall visual and other impact of the vehicular use would be less than locating the vehicular use on the front façade as of right, and may also allow the foregoing limitation to be exceeded upon reports from the Commissioner of Public Works and the Director of Transportation that modification of the limitation is necessary for safe vehicular use and the determination of the Planning Board that no other feasible design would permit safe vehicular use while reducing the visual and other impact of such use. In addition to complying with the other provisions of this by-law, including §6.04, paragraph 4, the surfaced area of parking and entrance and exit drives shall not exceed the width allowable pursuant to this section, and all remaining space between the building and the street shall be landscaped open space as defined in § 2.15, paragraph 2.

Section 6.04.14 was approved in 2006 at the recommendation of the Moderator’s Committee on Zoning in an effort to address the increasing number of buildings where garage doors, pass-throughs providing access to parking, and other vehicular uses dominated the front facades of structures. The clearest examples were so-called “snout nose” houses in North Brookline. Other examples were three- and four-car garages taking up much of the front façade of houses in larger-lot districts, and commercial buildings dominated by ground-floor parking. Thus, Section 6.04.14 limited the portion of the front façade of a building “devoted to parking or other vehicular use, including garage or drive-through space,” to 24 feet or 40% of the façade, whichever was less.

In Article 15, the Planning Board, with the assistance of the Planning and Community Development Department and the support of the Zoning By-Law Committee, proposes to amend Section 6.04.14 in order to address two issues: (1) the measurement methodology issue; and (2) the variance issue.

First, measurement based on the space “devoted to parking or other vehicular use” has proven difficult for the Building Commissioner to administer. The language, strictly
read, would apply where a side of a garage faced the street even if the garage doors faced the side lot line as intended by Section 6.04.14, because the space behind the front façade would technically be “devoted to parking” even if the garage doors were hidden from the street. Wisely, the Building Commissioner has interpreted Section 6.04.14 to allow such garages, but notes that an abutter could challenge his interpretation in the future. In addition, the Building Commissioner has pointed out that Section 6.04.14 could theoretically be “gamed” by a developer putting a one-foot-deep “storage area” behind a front façade, with garage space behind that, so that the space immediately behind the front façade was not literally “devoted to parking.”

Article 15 as originally proposed sought to simplify the measurement methodology by measuring only the width of the garage doors or pass-through area for vehicles. However, because many standard garage doors are eight feet in width, the change in methodology as originally proposed by the Planning Board would have allowed a three-car garage at the front of a house, something that the Moderator’s Committee had sought to avoid. As a result, the Advisory Committee’s Subcommittee on Regulation and Planning, the Advisory Committee, and the Selectmen revised the measurement methodology in order to capture any distance between garage doors, by measuring the entrance space from the leftmost edge of the left door to the rightmost edge of the right door. While this definition would, theoretically, allow a three-car garage with a 15-foot door, an 8-foot door, and one foot between the doors, such a configuration seems unlikely. The Building Commissioner believes that the measurement methodology as proposed in the Advisory Committee’s motion would effectively act as a limitation to two-car garages and would be more easily applied than the current definition.

Second, the Planning Board has found that the current Section 6.04.14 has forced applicants to seek a variance where the underlying intent of the section is not being violated, for example, an otherwise appropriate circular driveway wider than 24 feet from outside edge to outside edge. The revision offered by the Planning Board would allow the Board of Appeals to relax the requirements of Section 6.04.14 by special permit, rather than a variance, if it found that a garage or parking area accessed from a side or rear yard was not feasible or would result in substantially less landscaped or usable open space on a lot. The granting of a special permit in such situations is not mandatory; rather, the revision simply allows a special permit to be granted in the discretion of the Board of Appeals (“may waive the requirements”). Moreover, the Advisory Committee’s Subcommittee on Regulation and Planning, the Advisory Committee and the Board of Selectmen have sought to limit the grant of special permits by inserting language that the requirements of Section 6.04.14 may be waived “only to the extent necessary.” It is intended that the additional flexibility granted by the special permit process not result in the reincarnation of “snout-nosed” houses, three- or four-car garages overwhelming front facades, or commercial buildings whose front façades are dominated by vehicular uses but will be used only where absolutely necessary to permit vehicular access, without deviating from the character of buildings in a neighborhood.

The Board, by a 5-0 vote taken on May 11, 2010, recommends FAVORABLE ACTION on the vote offered by the Advisory Committee.
ARTICLE 16

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

AN ACT BANNING TEXTING WHILE DRIVING IN THE TOWN OF BROOKLINE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1.
Notwithstanding section 13 of chapter 90 of the General Laws, or any other general or special law to the contrary, a person operating a moving motor vehicle in the Town of Brookline who, by means of a mobile telephone or an electronic wireless communications device, other than a voice-activated global positioning or navigation system, sends, reads, or writes a text message of any kind, including but not limited to Short Message Service (SMS) messages, electronic mail, or sending text via the World Wide Web or similar communications protocols, shall be guilty of a civil automobile law violation as defined in M.G.L. c. 90C, s. 1. As used in this act, a mobile telephone means an electronic wireless device that has an internal feature or function for wireless communications that shall include, but is not limited to, talking or listening to another person on the telephone, text messaging, or sending or receiving any electronic text or message to or from other electronic communication devices or services.

Section 2.
Violations of section 1 of this act shall be punished by a fine of one hundred ($100) dollars for the first offense, two hundred ($200) dollars for a second offense, and three hundred ($300) dollars for subsequent offenses committed during any twelve-month period. The fines imposed pursuant to this act shall be divided as follows: seventy-five (75%) percent of the fines shall be paid over to the treasury of the Town of Brookline; and twenty-five (25%) percent of the fines shall be paid over to the treasurer of the commonwealth to be deposited in the highway fund.

Section 3.
Any law enforcement officer with jurisdiction in the Town of Brookline is authorized to enforce the provisions of this act. Said law enforcement officer may stop the motor vehicle and issue a citation to the operator, but only if the officer observes the violation, as defined in section one, or has reasonable grounds to believe that a violation of section one has been committed, is being committed or is about to be committed. Notwithstanding the provisions of this act, all other administrative enforcement and appeal procedures that apply to chapter 90, section 13 of the General Laws shall apply to this act.

Section 4.
The provisions of this act shall take effect upon its passage.
Or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

The growth of so-called “mobile” telecommunications devices such as cellular telephones, personal digital assistants (“PDAs”), laptop computers, and similar handheld battery-operated appliances has revolutionized the manner in which individuals communicate with one another and obtain and share information on virtually any subject imaginable. However, the “mobility” feature characteristic of these devices makes it possible for them to be used in a moving automobile or other motor vehicle, often by the driver. Such use may distract the driver’s attention from the road, increasing the risk of accident and injury, to the driver, passengers, and to innocent victims. The problem of such “distracted driving” has become particularly acute with the introduction several years ago of so-called “text messaging” or “texting,” requiring that the user enter letters or other characters on the mobile device keyboard to spell out words or other message elements, including the identification of the message recipient.

A recent study by the Virginia Tech Transportation Institute, reported in the *New York Times* on July 28, 2009, found that when the drivers texted, their collision risk was 23 times greater than when not texting. The study also measured the time drivers took their eyes from the road to send or receive texts, and found that, in the moments before a crash or near crash, drivers typically spent nearly five seconds looking at their devices — enough time at typical highway speeds to cover more than the length of a football field.

A January 7, 2010 *New York Times* article (see below) reports the imminent introduction of many additional mobile communications and “infotainment” devices to be installed on automobile dashboards:

“To the dismay of safety advocates already worried about driver distraction, automakers and high-tech companies have found a new place to put sophisticated Internet-connected computers: the front seat. Technology giants like Intel and Google are turning their attention from the desktop to the dashboard, hoping to bring the power of the PC to the car. They see vast opportunity for profit in working with automakers to create the next generation of irresistible devices. This week at the [Las Vegas] Consumer Electronics Show, the neon-drenched annual trade show here, these companies are demonstrating the breadth of their ambitions, like 10-inch screens above the gearshift showing high-definition videos, 3-D maps and Web pages.”

Texting, surfing the World Wide Web, sending or receiving e-mails, or similar activities while operating a moving vehicle on a public roadway is comparable in terms of driver impairment to operating under the influence of an alcoholic beverage, yet is currently not subject to any specific legal restrictions or penalties. The Boston City Council in December 2009 voted to submit a Home Rule Petition to the State Legislature permitting it to impose
fines for texting while driving within the City of Boston. Brookline should have a comparable capability, but one that also recognizes the forthcoming expansion of the scope of driver-distracting communications devices.

January 7, 2010

DRIVEN TO DISTRACTION

Despite Risks, Internet Creeps Onto Car Dashboards

By ASHLEE VANCE and MATT RICHTEL

LAS VEGAS — To the dismay of safety advocates already worried about driver distraction, automakers and high-tech companies have found a new place to put sophisticated Internet-connected computers: the front seat.

Technology giants like Intel and Google are turning their attention from the desktop to the dashboard, hoping to bring the power of the PC to the car. They see vast opportunity for profit in working with automakers to create the next generation of irresistible devices.

This week at the Consumer Electronics Show, the neon-drenched annual trade show here, these companies are demonstrating the breadth of their ambitions, like 10-inch screens above the gearshift showing high-definition videos, 3-D maps and Web pages.

The first wave of these “infotainment systems,” as the tech and car industries call them, will hit the market this year. While built-in navigation features were once costly options, the new systems are likely to be standard equipment in a wide range of cars before long. They prevent drivers from watching video and using some other functions while the car is moving, but they can still pull up content as varied as restaurant reviews and the covers of music albums with the tap of a finger.

Safety advocates say the companies behind these technologies are tone-deaf to mounting research showing the risks of distracted driving — and to a growing national debate about the use of mobile devices in cars and how to avoid the thousands of wrecks and injuries this distraction causes each year.

“This is irresponsible at best and pernicious at worst,” Nicholas A. Ashford, a professor of technology and policy at the Massachusetts Institute of Technology, said of the new efforts to marry cars and computers. “Unfortunately and sadly, it is a continuation of the pursuit of profit over safety — for both drivers and pedestrians.”

One system on the way this fall from Audi lets drivers pull up information as they drive. Heading to Madison Square Garden for a basketball game? Pop down the touch pad, finger-scribble the word “Knicks” and get a Wikipedia entry on the arena, photos and reviews of nearby restaurants, and animations of the ways to get there.

A notice that pops up when the Audi system is turned on reads: “Please only use the online services when traffic conditions allow you to do so safely.”
The technology and car companies say that safety remains a priority. They note that they are building in or working on technology like voice commands and screens that can simultaneously show a map to the driver and a movie to a front-seat passenger, as in the new Jaguar XJ.

“We are trying to make that driving experience one that is very engaging,” said Jim Buczkowski, the director of global electrical and electronics systems engineering at Ford. “We also want to make sure it is safer and safer. It is part of what our DNA will be going forward.”

Ford’s new MyFord system lets the driver adjust temperature settings or call a friend while the car is in motion, while its built-in Web browser works only when the car is parked. Audi says it will similarly restrict access to complex and potentially distracting functions. But in general, drivers will bear much of the responsibility for limiting their use of these devices.

Computer chips and other components improve every year while dropping in cost, allowing carmakers to introduce more sophisticated devices. Harman, based in Stamford, Conn., and a maker of such systems for cars, has created a pair of high-end multimedia systems due out this year that use full-fledged PC chips from Intel and Nvidia. Such chips once consumed too much electricity to be used in cars.

“We have always looked at the PC market with envy,” said Sachin Lawande, the chief technology officer at Harman, which works with Audi, BMW, Mercedes, Toyota and others. “They’ve always had these great chips we could not use, but now that’s changing.”

A complex new dashboard console from Ford, which it plans to unveil Thursday, brings the car firmly into the land of electronic gadgets. The 4.2-inch color screen to the left of the speedometer displays information about the car, like the fuel level, while a companion screen on the right shows things like the name of a cellphone caller or the title of the digital song file being played. An eight-inch touch screen tops the central console, displaying things like control panels and, when the car is not moving, Web pages.

The system has Wi-Fi capability, two U.S.B. ports and a place to plug in a keyboard — in short, many of the features of a standard PC.

The automakers’ efforts are backed by companies that make chips for PCs and that want to see their processors slotted into the 70 million cars sold worldwide each year.

“Cars are going to become probably the most immersive consumer electronics device we have,” said Michael Rayfield, a general manager at Nvidia, a chip company that on Thursday plans to announce a deal with Audi. “In 2010, you will sit in these things, and it will be a totally different experience.”

The giants of the industry contend they are giving consumers what they want — and the things that smartphones and the Internet have trained them to expect.
“Customers are expecting more and more, especially business people who expect to find in the car what they find in their smartphone,” said Mathias Halliger, the chief engineer for Audi’s multimedia interface systems. “We should give them the same or a better experience.”

The muscle of the computer industry adds powerful new backing to efforts by carmakers to introduce new technologies as a source of profit. Once they promoted advanced stereos, but now navigation and integrated phone systems are the hot items.

“Carmakers assume, as most consumers do, that most cars are alike in terms of line quality and safety, and all the old attributes,” Art Spinella, an auto industry analyst with CNW Research, said. “Now the way to distinguish yourself is through higher tech.”

“But they’re totally ignoring one of the key issues of the future of driving, which is distracted driving.”

Awareness of that issue is growing. Even in 2003, when fewer people were multitasking in cars, researchers at Harvard estimated that motorists talking on cellphones caused 2,600 fatal accidents and 570,000 accidents involving injuries a year.

Charlie Klauer, a researcher at the Virginia Tech Transportation Institute, says motorists face a much greater crash risk when looking at a screen, even if it is just a simple GPS map. She says the overall danger for drivers will rise as screens deliver additional streams of data.

The longer a motorist looks away from the road, “the risk of crash or near crash goes up exponentially — not a linear increase, but exponentially,” Ms. Klauer said. “So when you start introducing things like e-mail, Internet access, restaurant options or anything like that, the risk goes up.”

Regulators worry about the developments, too. Ray LaHood, the transportation secretary, said the companies involved were on the wrong track.

“The idea they’re going to load automobiles up with all kinds of ways to be distracted — that’s not the direction we’re going, and I will speak out against it,” he said.

The companies contend that they are creating helpful systems that display crucial information. And they are quick to point out that more computing power could mean better safety technology as well, like sensors that try to predict dangerous driving situations.

Ford and Audi say they extensively tested and tweaked their systems to cut down on the amount of time that drivers spend looking at screens. Brad Stertz, a spokesman for Audi of America, said that this testing was voluntary.

“Because a lot of this is so new, there’s not a ton of regulatory testing that’s required, like would be required with crash testing,” Mr. Stertz said. He added that the company was also hoping to avoid legal troubles, saying, “It could be a legal issue if someone gets into a car accident and the cops blame the car company for a system that’s too elaborate.”
Darrin Shewchuk, a spokesman for Harman, said his company was working on safety technology like voice systems for listening to and composing e-mail messages. But he said that “generally speaking, the safety testing is really the responsibility of the automakers.”

Ashlee Vance reported from Las Vegas, and Matt Richtel from San Francisco.

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SELECTMEN’S RECOMMENDATION

Article 16 is a petitioned article that asks Town Meeting to empower the Selectmen to file a Home Rule Petition with the State Legislature to allow Brookline to make texting while driving in town a civil law violation. Fines could be imposed $100 for the first offense, $200 dollars for a second offense, and $300 for subsequent offenses within a year.

Frustration over stalled legislation at the state level has prompted cities and towns to submit similar legislation as a way to send a message about traffic safety that resonates across the state. The Board did question whether or not GPS devices or cell phone use should be included in the ban. This warrant article just addresses text messaging, which has been shown to be significantly more dangerous than other driving distractions. The City of Boston passed similar legislation this past winter and New Bedford passed a ban this past April. The Board recognizes that texting while driving is dangerous behavior, as evidenced by widespread research. The Board hopes that this warrant article will encourage our legislators to enact state-wide legislation to address this issue.

The Board thanks the petitioner for bringing attention to this important public safety issue and recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 27, 2010, on the vote offered by the Advisory Committee.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Article 16 is a Home Rule Petition to the General Court to allow us to ban texting while operating a moving vehicle in Brookline. Drivers would not be allowed to use a mobile telephone or electronic wireless communication device, other than a voice-activated global positioning or navigation system, to send, read or write text messages, electronic mail, or texting via the World Wide Web. A mobile phone is defined in M.G.L.c.90C, s.1 as an electronic wireless device with capability for wireless communications including “talking or listening to another person on the telephone, text messaging, or sending or receiving any electronic text or message to or from other electronic communication devices or services.”
If enacted, this would constitute a civil automobile law violation punishable by a fine of $100.00 for the first offense, $200.00 for the second offense and $300.00 for subsequent offenses during any 12-month period. 75% of fines collected will go to the Town of Brookline and 25% to the MA Highway Fund.

Brookline police officers may stop a vehicle and issue a citation only if the officer observes the violation or has reasonable grounds to believe a violation has been or is about to be committed.

In Dec., 2009, the Boston City Council submitted a Home Rule Petition to the State Legislature allowing it to impose fines for texting while driving within the City of Boston. Boston’s version only specified text messaging and did not address other events such as web surfing or email.

In the MA Legislature, House Bill No. 4475 and Senate No. 2290 also address this issue. The House version refers to communication only between mobile electronic devices, not fixed devices such as laptops, PDAs, etc., on car dashes. The Senate bill does include fixed devices. Both versions, however, contain specific requirements for drivers under the age of 18 and those over the age of 75, the latter of which could possibly derail the legislation. (For example, physician groups are opposed to this inclusion because of the liability involved in certifying seniors for driving.) As of this writing, both bills are in a Conference Committee on Beacon Hill.

DISCUSSION:
The petitioner is concerned that the rapid growth and proliferation of “mobile” telecommunication devices such as cell phones, PDAs, laptop computers and similar handheld appliances have changed the ways in which people communicate with each other. They are now allowed to be used in MA by drivers in moving vehicles. Many of these electronic devices being built into new cars will further distract drivers and raise the risk of accidents. They include an In-Dash DVD Player and a “My Ford” Dash display with entertainment options, Wi-Fi, 2 USB ports and a keyboard port, many of the features of a standard P.C. Ford’s new console will include a 4.2-inch screen left of the speedometer which displays car info and another screen on the right displaying the name of a cellphone caller, and the title of a digital song file playing. Over these will be an 8-inch touch screen displaying control panels and, when the car is stationary, web pages. Computer chip technology is improving and becoming less costly, thereby enabling the production of more sophisticated applications. The new Jaguar XJ will have voice commands and screens that simultaneously show a map to the driver and a movie to a front seat passenger.

Concern was also expressed about the safety of police cruisers and other emergency vehicles with their laptops, siren controls and radios.

A January, 2010, NEW YORK TIMES article reports on these many new mobile devices being installed on auto dashboards. While they may bring great profits to large electronics, computer chip and auto companies, a majority of the Advisory Committee agrees with safety
experts that introduction of these communication and “infotainment” devices will further distract drivers and result in more accidents.

In July, 2009, the NEW YORK TIMES reported on a study concluding that when drivers texted, their collision rate was 23 times greater than when they were not texting. (Drivers spent nearly 5 seconds looking at their devices, enough time at typical highway speed to cover the length of a football field.)

The petitioner believes that this is a “window of opportunity” that could close in 2011 when more advanced devices appear in autos. He would like to see Brookline send a message via this ordinance to discourage automakers and large hi-tech companies from building them into cars while pursuing profit over safety. Perhaps the State Legislature could then be persuaded to say that cars cannot be sold in MA with these built-in driver distractions. He also believes that his Article remedies defects in the pending State bills but stated that if satisfactory State legislation is passed, he will withdraw Article 16.

While all agreed about the importance of the safety issues involved, a minority of the Advisory Committee believes that this Article would be inefficient, as it would have to travel through Town Meeting, the State Legislature’s Home Rule Petition process and the Attorney General’s office while utilizing considerable human resources and other costs such as for explanatory signs. They reminded us that the MA Attorney General had previously rejected Brookline’s proposed car cell phone ban. It was noted that there are people who read a newspaper, eat, or put on lipstick while traveling over 60 mph, but legislating against stupidity is difficult. However, there are stupidities against which we legislate – drunk driving for example. Several opponents felt that the State Legislature is the proper venue to consider this issue as it would be difficult to explain nuances in 351 different municipal texting-ban ordinances.

A majority of the Advisory Committee, however, agrees with the petitioner that we have to start someplace and that this issue should be addressed before more drivers, passengers and innocent bystanders are killed or injured. They believe that we are not all wired for multi-tasking or in control of our reaction times and refer to studies proving that “inattention blindness” is four times worse for drunk driving and eight times worse for texting while driving.

RECOMMENDATION:
By a vote of 12-6-2, the Advisory Committee recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT BANNING TEXTING WHILE DRIVING IN THE TOWN OF BROOKLINE
Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1.
Notwithstanding section 13 of chapter 90 of the General Laws, or any other general or special law to the contrary, a person operating a moving motor vehicle in the Town of Brookline who, by means of a mobile telephone or an electronic wireless communications device, other than a voice-activated global positioning or navigation system, sends, reads, or writes a text message of any kind, including but not limited to Short Message Service (SMS) messages, electronic mail, or sending text via the World Wide Web or similar communications protocols, shall be guilty of a civil automobile law violation as defined in M.G.L. c. 90C, s. 1. As used in this act, a mobile telephone means an electronic wireless device that has an internal feature or function for wireless communications that shall include, but is not limited to, talking or listening to another person on the telephone, text messaging, or sending or receiving any electronic text or message to or from other electronic communication devices or services.

Section 2.
Violations of section I of this act shall be punished by a fine of one hundred ($100) dollars for the first offense, two hundred ($200) dollars for a second offense, and three hundred ($300) dollars for subsequent offenses committed during any twelve-month period. The fines imposed pursuant to this act shall be divided as follows: seventy-five (75%) percent of the fines shall be paid over to the treasury of the Town of Brookline; and twenty-five (25%) percent of the fines shall be paid over to the treasurer of the commonwealth to be deposited in the highway fund.

Section 3.
Any law enforcement officer with jurisdiction in the Town of Brookline is authorized to enforce the provisions of this act. Said law enforcement officer may stop the motor vehicle and issue a citation to the operator, but only if the officer observes the violation, as defined in section one, or has reasonable grounds to believe that a violation of section one has been committed, is being committed or is about to be committed. Notwithstanding the provisions of this act, all other administrative enforcement and appeal procedures that apply to chapter 90, section 13 of the General Laws shall apply to this act.

Section 4.
The provisions of this act shall take effect upon its passage.
SEVENTEENTH ARTICLE
To see if the Town will adopt the following Resolution:

Official Annual Town-wide Commemoration of Dr. Rev. Martin Luther King, Jr. Day

SUMMARY
To see if Town Meeting will authorize the Board of Selectmen to sponsor and fund the organization, and provide logistical support, including use of Town facilities, for an Official Annual Town-Wide Commemoration of Martin Luther King, Jr. Day event(s). That, as part of the commemoration, there be an Annual Progress Report on Diversity efforts engaged in by the Public Schools, Police, Fire, Recreation, DPW, and all other Town Departments, Commissions and Boards.

WHEREAS: In years past the Martin Luther King Day celebrations were organized by different groups who were aware of the significance of Dr. King’s message of racial equality and social justice for all Brookline residents. Among those groups were the Brookline Human Relations-Youth Resources Commission and the Dr. Rev. Martin Luther King, Jr. Community Celebration Committee.

WHEREAS: This year, 2010, the commemoration almost did not happen, and would not have occurred had it not been for a small group of private citizens; most Brookline residents and Town officials were not even aware of the small event held at the Brookline Public Library.

WHEREAS: The Dr. Rev. M.L.K. Jr. Celebration should go beyond a passive remembrance of his legacy. Acknowledging that Dr. King's message and dream are still alive today, the Town should offer a report on the diversity progress of its different departments. A presentation of awards in recognition of employees, students, teachers and residents known for their work on social, civil rights issues would also be in order. The effect would be a tangible acknowledgment/validation of the stories learned in school; the individual and social responsibility that it takes to move forward in terms of equality for all who pass through and are part of this town; and that Brookline embraces racial, ethnic, religious diversity.

WHEREAS: Other cities and Towns in the greater Boston area such as Cambridge, Boston, Newton, Needham, Natick, Hopkinton, etc., host town-wide annual Dr. Rev. Martin Luther King, Jr., Day events.

WHEREAS: We should honor Rev. Dr. Martin Luther King, Jr., for his work toward racial equality and economic justice for all people, for his commitment to nonviolence, and for his stand against war and militarism. “An individual has not started living fully until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all
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17-2

humanity…Our lives begin to end the day we become silent about things that matter…Life’s most persistent and urgent questions is: What are you doing for others?” Dr. Martin Luther King Jr.

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen to:

Establish an Annual Town-wide Commemoration of Dr. Rev. Martin Luther King, Jr. event(s) to be held preferable on the third Sunday or Monday of January each year.

Establish guidelines that will ensure that a steering committee is comprised of representatives from all segments of the community.

Establish an Annual Progress Report on Diversity that will be presented each year during the celebration ceremonies.

Create an opportunity for all Brookline residents to join together in the spirit of Dr. King’s legacy to help shape and improve the Town through community service and a commitment to social and racial justice.

Ensure that the Town’s celebration recognizes local residents, businesses, organizations and those who focus their efforts in making the Town of Brookline a better place for all citizens to live. This may be through efforts in helping youth, economically disadvantaged, disabled, the elderly or the overall community as a whole.

, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
To see if Town Meeting will authorize the Board of Selectmen to sponsor and fund the organization, and provide logistical support, including use of Town facilities, for an Official Annual Town-Wide Commemoration of Martin Luther King, Jr. Day event(s). That, as part of the commemoration, there be an Annual Progress Report on Diversity efforts engaged in by the Public Schools, Police, Fire, Recreation, DPW, and all other Town Departments, Commissions and Boards.

MOTION TO BE OFFERED BY THE PETITIONER

Official Annual Town-Wide Commemoration of Rev. Dr. Martin Luther King, Jr. Day

Moved that the Town adopt the following resolution:

WHEREAS: In years past the Martin Luther King, Jr. Day celebrations were organized by different groups who were aware of the significance of Dr. King’s message of racial equality
and social justice for all Brookline residents. Among those groups were the Brookline Human Relations-Youth Resources Commission and the Dr. Martin Luther King, Jr. Community Celebration Committee; and

WHEREAS: This year, 2010, there was no Town-wide commemoration; and

WHEREAS: The Martin Luther King, Jr. Day celebration should go beyond a passive remembrance of his legacy by acknowledging that Dr. King's message and dream are still alive today. The celebration should demonstrate the efforts to realize his goals that continue in Brookline; further, the celebration should show that Brookline values the individual and social responsibility that it takes to move forward in terms of equality for all who pass through and are part of the town; and that Brookline embraces racial, ethnic, religious, sexual orientation and gender diversity; and

WHEREAS: We should honor Dr. King for his work toward racial equality and economic justice for all people, for his commitment to nonviolence, and for his stand against war and militarism; and

WHEREAS: We should be inspired by the following statement of Dr. King: “An individual has not started living fully until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity…Our lives begin to end the day we become silent about things that matter…Life’s most persistent and urgent question is: What are you doing for others?”; and

WHEREAS: An annual Martin Luther King, Jr. Day celebration will create an opportunity for all Brookline residents to join together in the spirit of Dr. King’s legacy to help shape and improve the Town through community service and a commitment to social and racial justice;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen to:

1. Establish an annual town-wide commemoration of Martin Luther King, Jr. Day with event(s) to be held preferably on the third Sunday or Monday of January each year; and

2. Establish a racially and ethnically diverse Martin Luther King Celebration Committee including representatives from all segments of the community such as schools, non-profit organizations, and businesses

   • to establish guidelines for the celebration and to plan the annual celebration on a continuing basis

   • to advise the Board of Selectmen and Human Relations-Youth Resources Commission with any recommendations on goals to further the Town’s
commitment to diversity, inclusion, and opportunity including making people from all racial, ethnic, religious and other backgrounds welcome, and providing equal opportunity for all.

- to examine ways to understand the extent to which Brookline has made progress toward realizing the vision of Dr. King by preparing and making available to the public, an annual report based on, but not necessarily limited by, the Town’s diversity reports and data collected on its departments, any appropriate reports the School Department may have on the diversity, inclusion and achievements of its employees or students, and any other reports showing compliance with applicable equal opportunity laws and laws prohibiting discrimination

- to establish a process to identify and recognize as part of the celebration individuals or organizations that have made outstanding contributions to the town’s efforts to achieve diversity and who have otherwise furthered the legacy of Dr. King

3. Assist the Martin Luther King Celebration Committee in identifying and obtaining funding and other resources from public and private sources to support the celebration. The committee, in carrying out its responsibilities, will concern itself with the resources needed for the celebration including the use of Town facilities, sources and uses of funding, other forms of logistical support, and publicity for the event(s).

PETITIONER’S DESCRIPTION

The goal of this resolution is to “go beyond a passive remembrance” of Dr. King's legacy. It asks Town Meeting to:

- celebrate and acknowledge that Dr. King’s message and work are still in progress in Brookline;

- show the quality and values of our town and its government;

It authorizes the Board of Selectmen to establish an Annual Town-wide Commemoration of Dr. Martin Luther King, Jr. Day; establish a diverse Martin Luther King Celebration Committee; provide logistical support, including use of Town facilities, and assist the Committee in obtaining funding and other resources from private and public sources.

It calls for the Committee to examine the extent to which our community has embraced Dr. King’s vision by offering an annual report and making recommendations to the Board of Selectmen and the Human Relations-Youth Resources Commission on goals to further the town’s commitment to diversity, inclusion and opportunity.
SELECTMEN’S RECOMMENDATION

The Board of Selectmen plans on taking a vote on Article 17 at its May 11 meeting. A recommendation will be included in the Supplemental mailing that will be sent out the weekend before Town Meeting.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
From 1989 through 2004, Brookline’s Human Relations-Youth Resources Commission sponsored an annual Martin Luther King commemoration. From the outset, the celebrations involved extensive participation of the Brookline public schools. In 2005, the Commission ceased organizing the commemoration when the Human Relations Department’s lost the part-time staff member who was responsible for organizing special events. The Commission also lost the grant support which had been critical in helping to cover costs associated with the commemoration. The Brookline public schools have continued to offer activities for students commemorating Dr. King. Since 2006, Arthur Conquest as a private citizen has organized Martin Luther King commemoration events which have been open to the public. Mr. Conquest sought to use Town facilities for these events. A 2010 event organized by Mr. Conquest and held in the Main Brookline Public Library was not well publicized. In 2010, some residents complained about the absence of a public commemoration. In response to the complaints, a committee working under the leadership of Selectman Jesse Mermell is planning a Martin Luther King celebration to take place in 2011.

Proposed Action. The motion is a resolution asking the Board of Selectmen to take a series of steps to assure that the Town of Brookline offers one or more events each January to commemorate the contributions of Dr. King and to demonstrate continuing commitment to the principles which he espoused. Specifically, the motion proposes that the Board of Selectmen:

- Appoint a racially-and-ethnically diverse committee to plan the annual celebration with representation from various segments of the community including education, business, and non-profit organizations to plan the annual commemoration;
- Encourage the committee to make recommendations to the Board of Selectmen and the Human Relations commission to further the Town’s commitment to diversity, inclusion, and opportunity for a variety of vulnerable groups;
- Encourage the committee to examine the extent to which the Brookline community embraces the vision of Dr. King;
- Encourage the committee to honor individuals and organizations for their accomplishments in achieving diversity objectives; and
- Assist the steering committee in obtaining the resources needed for the commemoration.
DISCUSSION:
Because Brookline residents place great value on the contributions of Dr. King and demonstrate continuing commitment to the issues for which he advocated, the Town of Brookline has good reason to organize one or more commemorative public events each year in January around the time of the national holiday that honors Dr. King. The resolution is most important as a statement by Town Meeting that it wants an annual public commemoration. If Town Meeting votes favorable action, the Board of Selectmen will have a mandate from Town Meeting to take steps to assure that Brookline has an annual public commemoration of the work of Dr. King. The Board of Selectmen can organize a public commemoration without a specific mandate from Town Meeting. Nevertheless, the vote of Town Meeting will provide the Board of Selectmen with guidance on the extent of effort that should be devoted to the commemoration. The motion encourages the creation of a permanent committee to organize the commemoration. It encourages the committee to work cooperatively with the Human Relations Commission.

The Advisory Committee devoted extensive attention to language proposed by the petitioner concerning the extent to which the proposed committee should concern itself with the extent to which Brookline has made progress in eliminating various disparities with which Dr. King was concerned. The language proposed that the committee pay particular attention to the racial, ethnic, and gender characteristics of those employed by the Town. The Human Relations department currently collects data on these characteristics and reports the data to the federal government. The data could be made available to the public by being posted on the Town’s web site. A number of Advisory Committee members objected to the language for various reasons:

- The committee will have enough to do in organizing the celebration without undertaking a critical examination of the extent to which disparities have been eliminated
- Attention to shortcomings in Brookline’s achievements in addressing disparities might take away from the celebratory aspects of the commemoration
- Attention to the characteristics of the Town’s workforce is seen to be too narrow; any assessment should be much broader
- The suggestion that there may be disparity issues in the composition of the Town’s workforce is potentially divisive; no evidence was presented by the petitioner that there is reason to be concerned. (The pertinent data is collected by the Town but has not been made available to the public.)
- Assessment of Brookline’s performance in achieving equal opportunity objectives is challenging because of the complexity of the barriers, the limited information that is available, and the difficulties in interpreting data.

While critics did not necessarily agree with one another on the reasons for their displeasure with the Petitioner’s language, they did agree that the language was problematic. By a wide margin (15-4-1) the Advisory Committee eliminated language that was proposed by the Human Services subcommittee that identified some of the topics that the celebration committee would be encouraged to consider. The Advisory Committee settled on more general language with leaves open the possibility that the celebration committee will include
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a critical examination of Brookline’s accomplishments but leaves the focus and scope entirely to the discretion of the committee.

Resources are an issue for the Town in organizing public celebrations. Contemporary fiscal pressures make it particularly important for the Town to be careful about taking on financial commitments of all kinds that may not be affordable in the long run. The Town’s current annual celebrations (Flag Day and First Light) depend heavily upon volunteer effort and private financing. Both events benefit from some support by Town employees as part of their regular duties. Events commemorating Dr. King can be offered at modest cost if they make use of public facilities and are publicized using the Town’s web communications. The celebration committee and the Board of Selectmen will have reason to make extensive use of volunteers and to seek private funds to cover costs.

RECOMMENDATION:
By a vote of 19 in favor and 1 opposing, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

Official Annual Town-Wide Commemoration of Dr. Martin Luther King, Jr. Day

WHEREAS: In years past the Martin Luther King, Jr. Day celebrations were organized by different groups who were aware of the significance of Dr. King’s message of racial equality and social justice for all Brookline residents. Among those groups were the Brookline Human Relations-Youth Resources Commission and the Dr. Martin Luther King, Jr. Community Celebration Committee; and

WHEREAS: This year, 2010, there was no official Town-wide commemoration; and

WHEREAS: The Martin Luther King, Jr. Day celebration should go beyond a passive remembrance of his legacy by acknowledging that Dr. King's message and dream are still alive today. The celebration should demonstrate the efforts to realize his goals that continue in Brookline; further, the celebration should show that Brookline values the individual and social responsibility that it takes to move forward in terms of equality for all who pass through and are part of this town; and that Brookline embraces racial, ethnic, religious, sexual orientation and gender diversity; and

WHEREAS: We should honor Dr. King for his work toward racial equality and economic justice for all people, for his commitment to nonviolence, and for his stand against war and militarism; and

WHEREAS: We should be inspired by the following statement of Dr. King: “An individual has not started living fully until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity…Our lives begin to end the day we become
silent about things that matter…Life’s most persistent and urgent question is: What are you doing for others?"; and

WHEREAS: An annual Martin Luther King, Jr. Day celebration will create an opportunity for all Brookline residents to join together in the spirit of Dr. King’s legacy to help shape and improve the Town through community service and a commitment to social and racial justice;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen to:

1. Establish an annual town-wide commemoration of Martin Luther King, Jr. Day with event(s) to be held preferably on the third Sunday or Monday of January each year; and

2. Establish a racially and ethnically diverse Martin Luther King Day Celebration Committee including representatives from all segments of the community such as schools, non-profit organizations, and businesses

• to establish guidelines for the celebration and to plan the annual celebration on a continuing basis

• to advise the Board of Selectmen and Human Relations-Youth Resources Commission with any recommendations on goals to further the Town’s commitment to diversity, inclusion, and opportunity including making people from all racial, ethnic, religious and other backgrounds welcome, and providing equal opportunity for all.

• to examine ways to understand the extent to which the Brookline community embraces the vision of Dr. King.

• to establish a process to identify and recognize as part of the celebration individuals or organizations that have made outstanding contributions to the town’s efforts to achieve diversity and who have otherwise furthered the legacy of Dr. King

3. Assist the MLK Day Celebration Committee in identifying and obtaining funding and other resources from public and private sources to support the celebration. The committee will concern itself with the resources needed for the celebration including the use of Town facilities, sources and uses of funding, other forms of logistical support, and publicity for the event(s).
ARTICLE 17

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

Article 17 is a proposed resolution that calls for an official annual commemoration of Dr. Martin Luther King, Jr. Day. The Board’s fundamental concern with the motion moved by the petitioner was that the committee being suggested would have the dual roles of planning for a MLK Day celebration and of preparing, publishing and evaluating diversity reports. These are two completely different missions that an event planning committee would likely be overwhelmed in attempting to carry out. While reviewing the article with the petitioner at its public meetings, the Board suggested to the petitioner that these two functions be separated, and the resolution the Selectmen are offering does just that. It calls for the Board to establish a committee responsible for the annual celebration of MLK Day and, separately, for the Board to annually “examine ways to understand the extent to which Brookline has made progress toward realizing the vision of Dr. King”.

On April 27, 2010, the Board established a committee for the January 17, 2011 celebration of the 25th anniversary of the first national observance of the MLK holiday. The Board has charged this committee with planning and executing a celebration in honor of MLK Day in 2011., As far as the annual progress report is concerned, the Town’s Human Resources Office is well positioned to work with Town and School departments who collect data for reporting requirements and to pull together all of this information into a unified report that will help inform the Board and the citizenry at large of the efforts Brookline is taking to fulfill its obligations for providing the employment and other opportunities that are so much a part of the legacy of Dr. Martin Luther King, Jr.

The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on May 18, 2010, on the following amended resolution:

VOTED: That the Town adopt the following resolution:

Official Annual Town-Wide Commemoration of Dr. Martin Luther King, Jr. Day

WHEREAS: In years past the Martin Luther King, Jr. Day celebrations were organized by different groups who were aware of the significance of Dr. King’s message of racial equality and social justice for all Brookline residents. Among those groups were the Brookline Human Relations-Youth Resources Commission and the Dr. Martin Luther King, Jr. Community Celebration Committee; and

WHEREAS: This year, 2010, there was no official Town-wide commemoration; and

WHEREAS: The Martin Luther King, Jr. Day celebration should go beyond a passive remembrance of his legacy by acknowledging that Dr. King's message and dream are still
alive today. The celebration should demonstrate the efforts to realize his goals that continue in Brookline; further, the celebration should show that Brookline values the individual and social responsibility that it takes to move forward in terms of equality for all who pass through and are part of this town; and that Brookline embraces racial, ethnic, religious, sexual orientation and gender diversity; and

**WHEREAS:** We should honor Dr. King for his work toward racial equality and economic justice for all people, for his commitment to nonviolence, and for his stand against war and militarism; and

**WHEREAS:** We should be inspired by the following statement of Dr. King: “An individual has not started living fully until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity…Our lives begin to end the day we become silent about things that matter…Life’s most persistent and urgent question is: What are you doing for others?” ; and

**WHEREAS:** An annual Martin Luther King, Jr. Day celebration will create an opportunity for all Brookline residents to join together in the spirit of Dr. King’s legacy to help shape and improve the Town through community service and a commitment to social and racial justice;

**NOW, THEREFORE, BE IT RESOLVED THAT:** Town Meeting urges the Board of Selectmen to:

1. Establish an annual town-wide commemoration of Martin Luther King, Jr. Day with event(s) to be held preferably on the third Sunday or Monday of January each year; and

2. Establish a racially and ethnically diverse Martin Luther King Day Celebration Committee including representatives from all segments of the community such as schools, non-profit organizations, and businesses

- to establish guidelines for the celebration and to plan the annual celebration on a continuing basis

- to advise the Board of Selectmen and Human Relations-Youth Resources Commission with any recommendations on goals to further the Town’s commitment to diversity, inclusion, and opportunity including making people from all racial, ethnic, religious and other backgrounds welcome, and providing equal opportunity for all.

- to establish a process to identify and recognize as part of the celebration individuals or organizations that have made outstanding contributions to the town’s efforts to achieve diversity and who have otherwise furthered the legacy of Dr. King
3. Examine ways to understand the extent to which Brookline has made progress toward realizing the vision of Dr. King by preparing and making available to the public, an annual report based on, but not necessarily limited by, the Town’s diversity reports and data collected on its departments, any appropriate reports the School Department may have on the diversity, inclusion and achievements of its employees or students, and any other reports showing compliance with applicable equal opportunity laws and laws prohibiting discrimination.

4. Assist the MLK Day Celebration Committee in identifying and obtaining funding and other resources from public and private sources to support the celebration. The committee, in carrying out its responsibilities, will concern itself with the resources needed for the celebration including the use of Town facilities, sources and uses of funding, other forms of logistical support, and publicity for the event(s).

**ROLL CALL VOTE:**
Favorable Action
DeWitt
Daly
Mermell
Benka

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**ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION**

The Advisory Committee voted at its May 20 meeting to reconsider its recommendation on Article 17. The Committee now recommends Favorable Action on the motion under Article 17 proposed by the Board of Selectmen. The Advisory Committee vote was 18 in favor, 2 opposed, and none abstaining.

XXX
ARTICLE 18

EIGHTEENTH ARTICLE
To see if the Town will adopt the following Resolution:

Resolution Seeking to Facilitate the Participation of the Town of Brookline in the Regional Bicycle Sharing Network.

WHEREAS: Brookline is an urban and suburban community with limited space to park and drive cars; and

WHEREAS: Through resolutions and planning, Brookline residents have demonstrated a serious commitment to creating opportunities to diminish our communal carbon footprint; and

WHEREAS: Brookline encourages its residents to walk, bike, or ride the MBTA in order to minimize space devoted to cars; and

WHEREAS: Because of a lack of opportunity for exercise in our regular routines, our society suffers from increasing obesity and the associated medical conditions; and

WHEREAS: Riding a bicycle is a useful form of exercise that can offset some of our sedentary ills and should be encouraged where feasible; and

WHEREAS: Brookline has begun to make bicycle riding more accessible to residents through dedicated bicycle lanes; and

WHEREAS: Every person who chooses to bicycle rather than drive reduces congestion on the roadways for everyone, including drivers; and

WHEREAS: Other cities in Europe and North America have established bicycle sharing programs which run well and increase use of bicycles as a mode of transport; and

WHEREAS: The Metropolitan Area Planning Council has arranged a concession with the non-profit company that operates the successful Montreal bicycle sharing program so that a metropolitan bicycle sharing program can be established here;

NOW, THEREFORE BE IT RESOLVED that the Town Meeting urges that the Selectmen:

A. establish a committee tasked to determine the mechanism by which Brookline could join in the regional bicycle sharing program; and

B. prepare for review by the November, 2010 Town Meeting such legislation as may be necessary to participate in the regional bicycle sharing program;

, or act on anything relative thereto.
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PETITIONER’S ARTICLE DESCRIPTION
In March 2009 the Metropolitan Area Planning Council issued a region-wide Request for Proposals (RFP) for the Greater Boston area. In August, Public Bike System of Montreal (BIXI) was selected as the preferred vendor to implement the Metro Boston bike share system. The Cities of Boston, Cambridge, and Somerville and the Town of Brookline were listed in the RFP as possible locations for bicycle sharing, along with several of the Universities located in these municipalities.

The City of Boston is leading the effort to implement the first phase of the system. Initial roll out of the bike share program will include a minimum of 85 stations and 1,000 bicycles within Boston. The system would expand as usage and revenue increases. Boston is currently negotiating the terms of the contract with Public Bike System. The Cities of Somerville and Cambridge have also expressed interest in the bike share program and currently are going through the initial political process to start planning for the system.

MAPC contacted the Town of Brookline recently and asked if the Town would be interested in exploring the possibility of joining in this proposed regional bicycle sharing system. The concept is attractive. However, there remain a number of questions as to how such a program would work in the unique circumstances of Brookline. This warrant article would offer support to the Board of Selectmen in creating a committee that would look into issues such as:

- Financing of the program
- Relationship of the Brookline portion of such a program to the regional program
- Possible locations for bicycle sharing stations
- Zoning and other regulatory issues
- How to minimize possible impacts of a program on surrounding neighborhoods

The committee would bring a set of recommendations back to the Board of Selectmen and Town Meeting prior to the Fall 2010 Town Meeting. If the committee recommends moving forward with a bicycle sharing program, warrant articles that might have to be advanced to implement a bicycle sharing program could be submitted at that time.

SELECTMEN’S RECOMMENDATION
Article 18 is a proposed resolution requesting that the Selectmen establish a committee tasked to determine the suitability of a bicycle sharing program. The concept of bike sharing is simple: a number of bicycles are made available for shared use by individuals who do not own any of the bicycles. The public policy rationale for implementing bike sharing systems include enhancing intermodal transportation, reducing the carbon footprint of commuting, and enabling residents to become healthier through exercise.

Bike sharing programs can be found in cities all over the world. In the mid-1990’s, community bicycle programs began in the United States. More recently, governmental entities have become involved in implementing such programs in cities, including...
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Washington D.C., Denver, and Buffalo. Other large cities investigating bike share programs include New York City, San Francisco, Chicago, Philadelphia, and Los Angeles. In Massachusetts, the Metropolitan Area Planning Council (MAPC) issued a region-wide Request for Proposals (RFP) for the Greater Boston area in March, 2009. MAPC selected Public Bike System of Montreal (BIXI) in August as the preferred vendor to implement the Metro Boston bike share system and Boston is leading the effort to implement the first phase of the system.

Brookline is interested in possibly joining this regional bike share, but does have some concerns, including financing of the program, possible locations for bicycle sharing stations, zoning issues, and impacts on surrounding neighborhoods. The proposal to establish a committee that would be charged with exploring this option is the proper course of action to take, as bike sharing networks hold great promise as a way to diminish our communal carbon footprint and encourage additional exercise. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 27, 2010, on the amended version offered by the Advisory Committee.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Warrant Article 18 is a resolution regarding the Metropolitan Area Planning Council’s (MAPC) proposed regional bicycle sharing network that would include Brookline. Bicycle sharing programs are well developed in major cities outside the United States (such as Paris, Montreal and London). Within the United States, Washington, D.C. is the farthest along among metropolitan areas in developing a program. Bicycle sharing is similar to car sharing. A provider of bike sharing services provides bicycles, docks (parking places for bicycles), and a system through which members rent bicycles on a short-term basis. The provider takes responsibility for maintaining bicycles, operating a system to minimize theft, and assuring that an adequate supply of bicycles is continuously available at each docking station. Users may return bikes to any docking station. Users are encouraged to ride bicycles from one docking station to another instead of “parking” bicycles elsewhere when trips are interrupted.

The Public Bike System Company (BIXI) and Alta Planning + Design responded to a request for proposals issued by MAPC in 2009 and were chosen by the MAPC as the company to implement Boston’s Bike Sharing Program. The partners are seeking to introduce a bike sharing program in the Boston area. The partners intend to use the BIXI system which was introduced in Montreal in 2009. The City of Boston is already committed to participating with a launch of 2,500 BIXI bikes at 290 locations, in July of 2010. The MAPC identified and proposed the Cities and Towns of Cambridge, Arlington, Somerville, and Brookline as potential participants in a regional bicycle network.

BIXI representatives expect that most users will be Boston-area residents. BIXI anticipates that many will borrow bicycles to extend trips that begin with use of an automobile or public transportation. Many one-way trips are also anticipated.
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The BIXI system is intended exclusively for persons 18 years of age and older.

BIXI is proposing a seasonal program. Bicycles and docking stations would be removed in the winter.

BIXI suggests that they can deliver to Boston and the Municipalities joining BIXI Boston a turnkey system with no costs or start-up fees to Boston or the Municipalities. BIXI is proposing a 50%-50% revenue-sharing model of all net profits, if any exists, however, BIXI is requesting that Boston and other participating municipalities collectively cover any net losses. BIXI has insurance to protect itself in case it encounters liability issues.

If the system is introduced in Brookline, the Town will have its own program; however, the Brookline program would be linked to the other programs in the greater Boston region.

To be determined is the number of docking stations and bicycles that would be placed in Brookline when a program is introduced. One estimate was for 200 BIXI bikes, 300 BIXI Docks at 28 locations in Brookline. Presumably, docking stations would be located at transportation hubs such as commercial areas, T stops, and major bus stops. Most docking stations would probably be located in parking lots. Some might be in existing on-street parking places. Some might be on sidewalks.

A number of potential negatives have been identified. These include:

- Possible liability for the Town in case of accidental injury or death
- Safety issues for riders since the bike sharing provider would not offer helmets
- The possibility of visual clutter associated with docking stations
- Potentially unattractive advertising on bicycles and docking stations
- Competition with cars and pedestrians for attractive locations for docking stations
- Expanded need for improvements in safe and courteous use operation of bicycles.

Proposed Resolution

Town Meeting is being asked to support the creation of a Selectmen’s Committee to analyze the potential of joining the regional bike sharing network. The article further asks the Committee to propose articles for a future town meeting towards implementation of a bike sharing system in Brookline if the Committee determines that Brookline would benefit from participating in the system.

DISCUSSION:

Bicycle sharing is attractive for a number of reasons linked to contemporary environmental and health themes. Systems that facilitate use of bicycles offer possibilities for saving energy by reducing use of automobiles. Bicycling is also attractive as a form of exercise. The system could be particularly beneficial if it expanded options for north-south transportation in Brookline where public transportation options are limited.

Although the program is attractive in concept, important questions need to be addressed before the Town commits itself to participation. Potential financial responsibilities for start-
up costs and coverage of potential operating losses require particular attention. The Committee will be expected to address the financial issues and all of the other implementation issues identified above. The Committee will benefit from being able to draw upon Boston’s experiences as it introduces the program this summer.

No information is available now on whether adoption of a bicycle-sharing program would require any zoning changes. The Committee will be expected to identify potential zoning issues. If the Committee recommends participation in the program and anticipates zoning issues, the Committee will be expected to propose any zoning changes that may be necessary.

**RECOMMENDATION:**
The Advisory Committee, by a vote of 15-1-4, recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following Resolution:

**Resolution Seeking to Consider the Participation of the Town of Brookline in the Regional Bicycle Sharing Network.**

WHEREAS: Brookline is an urban and suburban community with limited space to park and drive cars; and

WHEREAS: Through resolutions and planning, Brookline residents have demonstrated a serious commitment to creating opportunities to diminish our communal carbon footprint; and

WHEREAS: Brookline encourages its residents to walk, bike, or ride the MBTA in order to minimize space devoted to cars; and

WHEREAS: Because of a lack of opportunity for exercise in our regular routines, our society suffers from increasing obesity and the associated medical conditions; and

WHEREAS: Riding a bicycle is a useful form of exercise that can offset some of our sedentary ills and should be encouraged where feasible; and

WHEREAS: Brookline has begun to make bicycle riding more accessible to residents through dedicated bicycle lanes; and

WHEREAS: Every person who chooses to bicycle rather than drive reduces congestion on the roadways for everyone, including drivers; and

WHEREAS: Other cities in Europe and North America have established bicycle sharing programs which run well and increase use of bicycles as a mode of transport; and

WHEREAS: The Metropolitan Area Planning Council has arranged a concession with the non-profit company that operates the successful Montreal bicycle sharing program so that a metropolitan bicycle sharing program can be established here;
NOW, THEREFORE BE IT RESOLVED that the Town Meeting urges that the Selectmen:

A. establish a committee tasked to examine the suitability of a bicycle sharing program for Brookline and determine the mechanism by which Brookline could join in the regional bicycle sharing program; and

B. prepare for review by Town Meeting a report with recommendations on the desirability of establishing a program and possible legislation as may be necessary to participate in the regional bicycle sharing program;

XXX
ARTICLE 19

NINETEENTH ARTICLE
To see if the Town will adopt the following resolution:

A RESOLUTION TO PROTECT BIRDS BY SUPPORTING THE USE OF BIRD-SAFE BUILDING DESIGNS AND ENCOURAGING BUILDING OWNERS TO REDUCE LIGHTING DURING THE SPRING AND FALL MIGRATORY BIRD SEASONS

WHEREAS, it is estimated that a typical skyscraper kills between 200 and 1,000 birds per year from collisions;

WHEREAS, it is estimated that a typical non-skyscraper building kills between 1 and 10 birds per year from collisions;

WHEREAS, many cities have recognized the importance in protecting birds by adopting and/or following design guidelines that reduce collisions;

WHEREAS, migratory birds are keenly susceptible to the risks posed by buildings in their path of flight because they are not familiar with an urban setting;

WHEREAS, we want to maintain birds in Brookline;

WHEREAS, we want to eliminate as many bird fatalities as possible;

WHEREAS, we can control light at night that confuses birds;

WHEREAS, the purpose of this resolution is to save birds and inform architects, landscape designers, home and building owners the problem and some direction finding solutions to solve it;

NOW, THEREFORE, be it resolved that the Town of Brookline supports the protection of birds by encouraging contractors, designers, architects, home and building owners to use bird-safe building design techniques that create visual signals, minimize glare and reflections and other hazards in or around buildings in order to protect birds.

And be it further resolved that building owners are encouraged to turn off or dim all lighting between 11 p.m. and 5 a.m. during the Spring (late March to end of May) and Fall (Mid-August to Thanksgiving) migration bird seasons in order protect migrating birds.

Or act on anything relative thereto.
PETITIONER’S ARTICLE DESCRIPTION
There are millions of birds killed annually due to collisions with buildings, walls and lights or injured from becoming trapped in buildings, niches and courtyards and other recessed areas. There are two very good websites that describe this issue.

New York City Audubon
http://www.nycaudubon.org/home/BSBGuidelines.shtml

Bird-Friendly Development Guidelines
http://www.toronto.ca/lightsout/guidelines.htm

SELECTMEN’S RECOMMENDATION
Article 19 is a proposed resolution that encourages the consideration of birds when designing building projects and when lighting buildings at night. Birds are an important part of our environment and bird collision is a serious problem that kills millions of birds every year. The Board is appreciative of the efforts of the petitioner to educate the public on ways to mitigate this problem. Implementing green design elements in building projects can include bird safe design techniques that minimize glare and create visual markers that indicate the building is a solid object to be avoided. The petitioner mentioned that the green tint on the newly replaced window at Town Hall has been helpful in reducing bird collisions. Another way to reduce bird deaths is to reduce light pollution, especially during migration season. Efforts such as “Lights out Toronto” and “Lights out NY” encourage building owners to dim their lights to save birds’ lives. Promoting bird-friendly practices helps make the environment a safer and healthier place for both human and bird populations.

The Board is supportive of the effort to educate the public on the benefit that dimming lights and smart building design can have for the bird population. The Board also wants to highlight that what is being proposed will not increase the cost of Town projects. In fact, some of the measures incorporated into Town Hall reflect the measures highlighted by the petitioner. The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 27, 2010, on the resolution offered by the Advisory Committee.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Article 19 is a proposed resolution that supports and encourages the use of safe buildings and designs to safeguard the flight of migratory birds. This is informational as opposed to legislative.
One hundred million to one billion birds die each year due to collisions with human-built structures across North America alone. The reflective and transparent characteristics of glass that make windows invisible killers. Birds see the tree reflected in a window, or the plant behind the window, not the glass itself. To stop these collisions one must make glass visible to birds.

Birds also frequently suffer from bright artificial lights, which can daze them and cause them to collide into buildings. Bright lights can temporarily blind birds, and they can cause them far more severe consequences as a result of the temporary blindness, which can lead to death. Birds migrating at night are strongly attracted to sources of artificial light, particularly during periods of inclement weather. Approaching the lights of tall buildings or other brightly lit structures, they become vulnerable to collisions with the structures themselves. If collision is avoided, birds are still at risk of death or injury. Once inside a beam of light, birds are reluctant to fly out of the lighted area into the dark, and often continue to flap around in the beam of light until they drop to the ground with exhaustion. Outdoor lighting which faces downward instead of up aimlessly into the sky, is the best choice when lighting outdoor areas, in order to protect birds.

DISCUSSION:
The petitioner brought this warrant article to this year’s Town Meeting to raise awareness about the effects of lighting on bird migration.

He would like to see materials available in the building department so designers may have access to the information. He would also like to see that materials are available to the Planning Board and Planning Department.

Safe design and lighting have been incorporated into planning and projects in other cities and Brookline can benefit from a heightened awareness of the issues.

RECOMMENDATION:
By a vote of 20-0-0, the Advisory Committee unanimously recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town adopt the following resolution:

A RESOLUTION TO PROTECT BIRDS BY SUPPORTING THE USE OF BIRD SAFE BUILDING DESIGNS AND ENCOURAGING BUILDING OWNERS TO REDUCE LIGHTING DURING THE SPRING AND FALL MIGRATORY BIRD SEASONS

WHEREAS, it is estimated that a typical skyscraper kills between 200 and 1,000 birds per year from collisions;

WHEREAS, it is estimated that a typical non-skyscraper building kills between 1 and 10 birds per year from collisions;

WHEREAS, many cities have recognized the importance in protecting birds by adopting and/or following design guidelines that reduce collisions;
WHEREAS, migratory birds are keenly susceptible to the risks posed by buildings in their path of flight because they are not familiar with an urban setting;

WHEREAS, we want to maintain birds in Brookline;

WHEREAS, we want to eliminate as many bird fatalities as possible;

WHEREAS, we can help to control the light at night that confuses birds;

WHEREAS, the purpose of this resolution is to save birds and to educate and inform architects, landscape designers, home and building owners as to the problem and to offer some direction to finding solutions to solve it;

NOW, THEREFORE, be it resolved that the Town of Brookline supports the protection of birds by encouraging contractors, designers, architects, home and building owners to use bird-safe building design techniques that create visual signals, minimize glare and reflections and other hazards in or around buildings in order to protect birds.

And be it further resolved that the town of Brookline encourages building owners and residents to adjust exterior lighting where possible to shine down or to dim all lighting between 11 p.m. and 5 a.m. during the Spring (late March to end of May) and Fall (Mid-August to Thanksgiving) migration bird seasons in order protect migrating birds.
ARTICLE 20

TWENTIETH ARTICLE
To see if the Town will approve the name of the Larz Anderson Skating Rink as the “Jack Kirrane Ice Skating Rink at Larz Anderson Park”, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
At a series of meetings between the Parks and Recreation Commission and the Naming Committee the proposal to name the skating rink at Larz Anderson Park has been under review. Naming the rink after Jack Kirrane was recommended by Selectman Ken Goldstein who thought it was an appropriate site to honor the contributions of Jack Kirrane.

The name Jack Kirrane has become synonymous with hockey in Brookline. Jack Kirrane is best know for his gold medal winning performance as captain of the 1960 US Olympic hockey team. Sports Illustrated has ranked the victory of that team, underdogs against more experienced Russian and Canadian teams, as “The Number 2 Greatest Moment in US Winter Olympic History”. During media coverage of the recent 2010 Winter Olympic Hockey memories of both the 1980 “Miracle on Ice” and the fiftieth anniversary of the 1960 “Miracle at Squaw Valley” were often venerated. In addition to his many hockey achievements, Jack is a Korean War veteran and a former Brookline Firefighter. Jack continued to serve the Town by mentoring youth through Brookline Hockey and Brookline High School programs.

In addition, the Park and Recreation Commission will honor Jack’s brothers, Eddie and Billy for their many contributions to youth hockey and recreation in Brookline. Their stories and lifetime achievements along with Jack’s, will be made available on a plaque at the site.

SELECTMEN’S RECOMMENDATION
Article 20 is a proposal to rename the skating rink at Larz Anderson in honor of Jack Kirrane. One can not think of hockey in Brookline without thinking about the Kirrane name and the memorable moment when Brookline’s own Jack Kirrane brought home the gold as captain of the 1960 US Olympic hockey team. Jack is a life-long resident of the Town and has inspired many, both young and old, with his athletic ability and with his service to youth hockey in Brookline. Jack serves as of an example of someone who has made an outstanding contribution of time and service to our community. The Board was pleased to see that Jack’s brothers will also be recognized for their contributions with a plaque at the site. They agreed with Park and Recreation Commissioner John Bain that this honor was long overdue.
May 25, 2010 Annual Town Meeting
20-2

The Selectmen unanimously agree with the Park and Recreation Commission’s recommendation that Jack Kirrane’s accomplishments be recognized and memorialized and recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 13, 2010, on the following vote:

VOTED: To approve the name of the Larz Anderson Skating Rink as the “Jack Kirrane Ice Skating Rink at Larz Anderson Park”

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
The Park and Recreation Commission recommended unanimously that the skating rink at Larz Anderson Park be named the Jack Kirrane Skating Rink at Larz Anderson Park.

John (Jack) Kirrane graduated from Brookline High in 1947, and was part of the 1948 Olympic Hockey team, which came in fourth. He turned down an invitation to participate on the 1956 Olympic team because of personal obligations but took a leave of absence from his job as a Brookline firefighter to participate in the 1960 Olympics, where he was one of the oldest players on the team. It was his fearless defensive play and his team leadership that led to two unexpected victories—over Canada and Russia—and won the Gold Medal for the U.S. When he came home after the games, he was met at the Boston airport by a Brookline fire truck.

He resumed his job in the Brookline fire department (where he remained until his retirement in 1993), and served on the 1963 U.S. National Team. For his outstanding achievements, he was inducted into the U.S. Hockey Hall of Fame in 1967 and the Massachusetts Hockey Hall of Fame in 1994.

Jack was a dedicated participant in Brookline Youth Hockey and the High School hockey program as a volunteer coach and mentor, but his efforts in behalf of hockey in Brookline were not restricted to coaching and mentoring: during one season when the Town could not afford to paint and maintain hockey lines at Larz Anderson, Jack obtained donated materials and painted and maintained the lines himself.

DISCUSSION:
Since naming opportunities in the Town are limited, the Naming Committee discussed whether the fact that the Brookline swimming pool (the Evelyn Kirrane Aquatics Center) is named for Jack’s sister should prevent naming a second facility after another family member, but voted unanimously that Jack’s achievements and contribution to the Town merited such action.
The Advisory Committee agreed that naming the skating rink in his honor is the Town’s recognition not only of Jack Kirrane’s extraordinary personal accomplishments but of his service as a volunteer coach and mentor for generations of Brookline’s young people.

RECOMMENDATION:
The Advisory Committee voted unanimously (18-0-0) to recommend favorable action on the vote offered by the Selectmen.
**May 25, 2010 Annual Town Meeting**

21-1

**ARTICLE 21**

**TWENTY-FIRST ARTICLE**

To see if the Town will vote to authorize the Selectmen to relocate a sewer and surface water drain easement in land of Glenland Road, LLC and to accept, on behalf of the Town, a proper deed of release for an easement for the said purposes. The easement is as shown on a plan by SFC Engineering Partnership Inc. dated XXXX, 2010 and labeled “Proposed 25’ Wide Sewer/Surface Water Easement - Area = 6,194 S.F. +/- “and more particularly described as follows:

Beginning at a point on the easterly line of Hammond Pond Parkway 9.73’ southerly of the intersection with the Newton/Brookline Town Line. Thence running through land of Glenland Road, LLC by the following courses:

- S 86-14-29 E Ninety Four and 10/100 feet (94.10’)
- S 37-21-31 E One Hundred Five and 36/100 feet (105.36’)
- S 13-57-23 W Fifty Five and 16/100 feet (55.16’)
- S 48-41-27 E One and 14/100’ (1.14’)
- S 42-39-14 W Twenty Five and 00/100 feet (25.00’)
- N 48-41-27 W Fifteen and 77/100 feet (15.77’)
- N 13-57-23 E Fifty Eight and 37/100 feet (58.37’)
- N 37-21-31 W Eighty One and 99/100 feet (81.99’)
- N 86-15-29 W Eighty Three and 59/100 feet
- N 06-01-26 E Twenty Five and 02/100 feet (25.02’) Along Hammond Pond Parkway to the Point of Beginning.

or act on anything relative thereto.

**PETITIONER’S ARTICLE DESCRIPTION**

No 317, 321, 327 Hammond Pond Parkway, 36 and 30 Glenland Road (contiguous lots) are all under one ownership. The existing sewer and drain easement encumbers the lots at 317, 321 and 327 Hammond Pond Parkway and inhibits the redevelopment of these lots for residential purposes. With respect to this existing easement, in the 2006 Special Town Meeting Article 24, it was voted: “That the Town vote to extinguish, abandon or otherwise release all or a portion of a sewer and surface water drain easement on a date and to the extent to be determined by the Board of Selectman.” The developer is now at the point where he is ready to move forward with the construction of the project, however, before doing so the existing Town owned sewer and drain utilities must be relocated. The developer submitted a plan to the DPW Engineering/Transportation Division showing the proposed location and design of the new utilities. The plan was reviewed, modified and subsequently approved by the Division. Based on this approved plan, the developer prepared the above stated easement plan for Town Meeting approval.
On an historical note, this section of sewer and drain pipe has been a maintenance problem for the DPW for years. Periodically, the Water and Sewer Division must flush out the debris and free the line. The pipes are very flat which lends itself to having solids build up in the line resulting in blockages. With these new and larger pipes being installed at the developer’s expense, these problems should be alleviated.

SELECTMEN’S RECOMMENDATION

Article 21 asks Town Meeting to authorize the Board of Selectmen to relocate a sewer and surface water drain easement located on Hammond Pond Parkway and Glenland Road. This issue was before Town Meeting in November, 2006, when the Board was given the authority to “extinguish, abandon or otherwise release all or a portion of a sewer and surface water drain easement on a date and to the extent to be determined by the Board of Selectman.” The developer is now ready to proceed with construction of the project, but before doing so, the existing Town-owned sewer and drain utilities must be relocated. The developer submitted a plan to the Engineering/Transportation Division of the Department of Public Works showing the proposed location and design of the new utilities. The plan was modified and subsequently approved by the Division. Based on the approved plan, the developer prepared the easement plan for Town Meeting approval.

As noted in the Petitioner’s Article Description, for years this section of sewer and drain pipe has been a maintenance problem for the DPW. The pipes are very flat which lends itself to having solids build up in the line resulting in blockages. As a result, the Water and Sewer Division must periodically flush out the debris and free the line. With these new and larger pipes being installed at the developer’s expense, these problems should be alleviated. The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 27, 2010, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE’S RECOMMENDATION

Background:
At the November 2006 Town Meeting, Article 24 was adopted. Article 24 approved the abandonment or extinguishment of a portion of or all of an easement of a 25 foot sewer and a surface water drainage line crossing a parcel of land at 317, 321 & 327 Hammond Pond Parkway and 36 and 39 Glenland Road (off of Heath Street).

Article 21 of the 2010 Annual Town Meeting is to approve the adoption of the replacement easement for the previous easement extinguished by the November 2006 Town Meeting vote. The Town’s Engineering Department and Legal Staff and the property owner Glenland Road, LLC have worked to complete the relocation of a new sewer easement of 25 foot width and
consisting of 6,194 square feet on the same property. All costs involved in relocating and constructing new surface water drains and sewer lines are to be borne by the property owner, Glenland Road, LLC.

Discussion:
The current sewer and surface water drain lines are a maintenance issue for the Town. Due to the condition of the sewer pipe, which has multiple cracks, the line fills with sand and silt. Periodically, the Water and Sewer Division must flush out the debris and clear the line. A new and larger line, to be installed by the owner on the relocated easement, would solve the problems encountered with respect to the condition of the sewer line. This area of Hammond Pond Parkway has been subjected to flooding in past years due to the condition of the sewer line. The reconstruction of the sewer line should alleviate the maintenance issue.

The Advisory Committee is aware of the pending development plans to build condominiums on this property. The finalization of the swap of easements is a benefit to the Town and to the property owner.

The Advisory Committee by a voted 19 - 0 recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town vote to authorize the Selectmen to relocate a sewer and surface water drain easement in land of Glenland Road, LLC and to accept, on behalf of the Town, a proper deed of release for an easement for the said purposes. The easement is as shown on a plan by SFC Engineering Partnership Inc. dated January 12, 2010 labeled “Proposed 25’ Wide Sewer/Surface Water Easement - Area = 6,194 S.F. +/- “and more particularly described as follows:

Beginning at a point on the easterly line of Hammond Pond Parkway 9.73’ southerly of the intersection with the Newton/Brookline Town Line. Thence running through land of Glenland Road, LLC by the following courses:

S 86-14-29 E  Ninety Four and 10/100 feet (94.10’)
S 37-21-31 E  One Hundred Five and 36/100 feet (105.36’)
S 13-57-23 W  Fifty Five and 16/100 feet (55.16’)
S 48-41-27 E  One and 14/100’ (1.14’)
S 42-39-14 W  Twenty Five and 00/100 feet (25.00’)
N 48-41-27 W  Fifteen and 77/100 feet (15.77’)
N 13-57-23 E  Fifty Eight and 37/100 feet (58.37’)
N 37-21-31 W  Eighty One and 99/100 feet (81.99’)
N 86-14-29 W  Eighty Three and 59/100 feet
N 06-01-26 E  Twenty Five and 02/100 feet (25.02’) Along Hammond Pond Parkway to the Point of Beginning.

XXX
ARTICLE 22

TWENTY-SECOND ARTICLE
Reports of Town Officers and Committees
I. BACKGROUND

In November, 2008, the Chief of Police proposed to the Board of Selectmen that the Town of Brookline participate in the Critical Infrastructure Monitoring System (“CIMS”), a proposed project of the Metro Boston Homeland Security’s Urban Areas Security Initiative (“UASI”). The Town of Brookline has participated in UASI since 2003. The Department of Homeland Security provided grant funding through UASI for the CIMS initiative to purchase video cameras to monitor evacuation routes in the nine (9) UASI cities and towns within the Greater Boston Area - Boston, Everett, Chelsea, Revere, Winthrop, Cambridge, Somerville, Quincy, and Brookline.

The Selectmen took the proposal under consideration and on January 13, 2009 voted to approve a trial period for use of video cameras. The Selectmen adopted a formal policy concerning the use of the cameras, Special Order 2009-01, Brookline Police Department Critical Infrastructure Monitoring System (CIMS). See Attachment A. In addition to the monitoring of evacuation routes, the purposes of the cameras were defined to include:

- The CIMS program may also be used to deter criminal activity and public disorder, reduce fear of crime, identify criminal activity and suspects, identify and gather possible evidence for use in criminal and civil court actions, document police actions, safeguard citizen and police officer rights, aid in Amber alerts or in the search for lost / missing children or elderly people, assist emergency services personnel when responding to incidents, assist with the monitoring of traffic conditions, otherwise assist town officials with the provision of municipal services in order to enhance overall municipal efficiency, and assist with the training of Department personnel.

Brookline was the only community of the nine (9) that drafted a policy and held public hearings in advance of implementation. The Policy was adopted by the Board of Selectmen, who also voted to appoint an “independent body” to “oversee the trial and evaluation” of the cameras. This Committee’s charge was:

- 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:

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1 The Department of Homeland Security (“DHS”) designated Metro Boston a high threat urban area in July 2003. Since that time, DHS has funded several regional initiatives based on grant applications submitted by the Metro Boston UASI Region. These grants have provided Brookline with over a million dollars in funding to various town departments, including the DPW, Fire, Building and the Brookline Police Department, for such projects as the Emergency Operations Center, training programs, equipment, and communications.

2 Minutes of the Board of Selectmen, January 13, 2009
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.

II. THE CAMERAS

Twelve cameras were installed at various locations along Route 9 and Beacon St., at Brookline Ave. and Aspinwall Ave, at the fire station on Washington St., and at Longwood and St. Paul Sts. See Attachment B. The cameras became operational on April 7, 2009. On February 1, 2010, one camera which was located within the City of Boston lines was turned over to the City of Boston. Initially, cameras were operational 24 hours a day, seven days a week. In May of 2009, Town Meeting voted a resolution to urge the Selectmen to discontinue use of the cameras; the matter was then slated for final determination by the Board of Selectmen. However, on August 18, 2009, the cameras assisted in the identification and apprehension of suspects in a kidnapping/rape in Coolidge Corner with the result that debate reopened. In response to the Town Meeting vote, the Chief of Police then offered a compromise plan that involved turning off and covering the cameras between the times of 6:01 AM and 9:59 PM and turning on and uncovering the cameras between the hours of 10 PM to 6 AM. The Selectman voted to adopt this compromise plan, which went into effect on January 25, 2010. See Attachment A, Special Order 2010-04.

The cameras are Bosch Autodome 300 cameras. See Exhibit C. They are stationary. Sound functionality is disabled. They pan and tilt 360 degrees, and have a 28x zoom capability. The cameras have a resolution of 768x494 pixels, while the Brookline FirstView system is recording at a resolution of 352x288 pixels. The members of the Committee have viewed both actual real time operation and archived footage prior to deletion of archived footage. The resolution of the present cameras in default position was not sufficient in any demonstration to permit either facial or license plate identification. The view, when at the default zoom level can be frozen and enlarged, but faces and license plates were not discernible.

The cameras are typically at default position because they are in a fixed position and passively monitored. Active monitoring must comply with the provisions of the Policy, that is, to log in with the permission of the Chief and provide email notification to external monitors. When the monitoring is in active mode, it is possible to zoom in on individuals. There is no retained footage of this type, and the Committee was therefore unable to view it and determine whether faces were recognizable under these circumstances. There is no face recognition software currently installed, and there are no plans to do so in the near future.
The cameras are connected via a microwave network, which links all cameras from the nine participating Metro-Boston UASI communities. This allows anyone from any other participating community, at the Chief's discretion, to view (though in accordance with the Policy not control) a camera. The wireless network is based on a symmetric-key encryption system. The key is manually configured within both the camera/microwave unit and the receiving unit. The Brookline Police Department (BPD) camera server stores the video footage and is the point of contact between the cameras and anyone who has a login. Those provided with such an account include some officers within the BPD, as well as anyone who, at the Chief’s discretion, has a need to view footage. Each login can be configured with individual permissions. For instance, there is read-only access which allows the account holder to view camera footage without the ability to control the camera. There is also an access level for accounts that allow the user to control the cameras. Video footage is stored as thirty-minute segments for fourteen days. At the conclusion of the fourteen day period, the footage is overwritten, unless it is saved as evidence in accordance with the Policy.

Camera feeds are on display in the lobby of the Brookline Police Department and in the first floor Dispatch Room and in the Commanding Officers Room of Police Headquarters, both of which are secure locations.

Before the addition of the CIMS stationary cameras, and continuing to date, the Brookline Police have used mobile video cameras on an as needed basis in certain areas that have experienced a rash of crime, such as car break-ins in a particular neighborhood. The use of these cameras was not part of the Committee’s charge and has not been monitored by the Committee.

III. THE COMMITTEE’S PROCESS

A. Meetings

The Committee has met as a whole on 13 occasions. All meetings were publicly noticed, and at least one member of the public was present at each meeting. 3

One meeting was devoted to a briefing by the Constitution Project, a Washington group aiming to balance civil liberties concerns with law enforcement. 4 After the first three meetings, several subcommittees were formed and met to formulate measures of cost, effectiveness, and impacts on civil liberties.

B. The Assessment Protocol

The Committee was specifically charged with developing an assessment protocol to measure effectiveness and impact on civil liberties. The Subcommittees developed a matrix to attempt measurement of the effectiveness of the cameras. However, these efforts to formalize

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3 All Committee minutes are available at [http://www.brooklinema.gov/index.php?option=com_content&view=article&id=872&Itemid=1164](http://www.brooklinema.gov/index.php?option=com_content&view=article&id=872&Itemid=1164)

measurement of both effectiveness and privacy were impeded by several factors described below.

First, there is a finite number of actual incidents of camera usage. As noted below, the cameras have provided useful information with respect to traffic monitoring, public events, and law enforcement. As of Friday, April 23, 2010, seventy nine (79) of ninety nine (99) requests for footage from law enforcement provided useful information. See Attachment D.

Second, there is no data against which to compare the effectiveness of the cameras in any one of the categories. Putting anecdotal evidence aside, one cannot measure whether crowd control has improved as a result of the cameras when there is no hard data on traffic management, injuries, or response times from the period prior to the cameras’ installation. One cannot measure the “effectiveness” of a camera in aiding an investigation, when there is no comparable data regarding the cost of similar investigations without cameras in the past, and each criminal case is unique. Other communities, such as San Francisco, have attempted to actually quantify effectiveness, but this effort was predicated on a complex and costly study conducted by an independent professional consulting group.

A third measure of possible effectiveness involves the ability of the cameras to deter crime. Because of the nature of current Brookline crime patterns, the cameras are primarily utilized as a tool of investigation, rather than as a deterrent - that is cameras used to directly observe crimes in progress or cameras used as a tool for signaling police presence in a known area of high crime activity. Unlike some communities, where cameras have been viewed as a deterrent to street crime, the Brookline Police Department reports that most of the reported crime in Brookline is not street crime and occurs out of view of the cameras. Therefore, the cameras have been used primarily during investigations to determine whether particular cars or people were present at or near a crime scene. In addition, a majority of the arrests in Brookline are of people who do not live in the town, but people who come into or pass through the town. Tracking automobiles along major thoroughfares has assisted in investigating crime.

In the other communities that developed assessment protocols, significant resources were spent on trying to measure deterrence, that is determining whether the presence of the cameras prevented crime, caused crime to relocate, or did not affect crime. Here, the Brookline Police acknowledge that most crime occurs out of sight of these cameras and that a multitude of factors could be the cause of Brookline’s current reduction in its crime statistics. Therefore, the types of complex and costly assessment protocols developed by other cities such as San Francisco to track deterrence or prevention were not relevant or helpful here, and were not pursued by the Committee.

5 The number seventy nine (79) is derived by totaling the columns “Footage Assisted Law Enforcement” in Exhibit D, and factoring out the FOIA requests.

6 A copy of the San Francisco report may be found at http://www.citris-uc.org/files/CITRIS%20SF%20CSC%20Study%20Final%20Dec%202008.pdf.

For all of these reasons, the Committee decided to rely on a review of specific instances of camera use during the trial period. The BPD has reported every incident of a request for footage and dispositional status of each related investigation and has maintained a spreadsheet of all requests for camera footage. See Attachment D.

C. The Cost Issue

Despite extensive discussion, both the Cost Subcommittee and the whole Committee had concerns that a true and accurate measure of the financial cost or benefit of camera operation was not an achievable goal without a professional longitudinal study. Members of the public in attendance at Committee and Subcommittee meetings have suggested estimating the past and future personnel costs by multiplying an average police wage by the total police person-hours associated with camera operation. The Cost Subcommittee chose not to do this because those police personnel would have performed other duties, at the same person-hour cost, in the absence of the cameras; the cameras are in this context a tool, such as fingerprints, DNA, or other tools of law enforcement. The members of the Committee recommended in their Interim Report that cost analysis of this sort be referred to the Finance Committee, if the Selectman were inclined to pursue the incremental financial cost/benefit question further in the context of the overall police budget. The cost discussion was also complicated by the lack of data on personnel or other related costs of police investigations and the case-specific nature of police investigation. There were indications that the presence of the cameras may have resulted in cost savings, but actually proving or quantifying savings was likewise thwarted by a lack of data as to how much time and personnel it would have otherwise taken to investigate such a case in the absence of cameras.

The only quantifiable specific cost items were $150,000 for hardware, $15,000 for maintenance, and $31,000 for conversion to the nighttime-only program. Since these costs were all funded by grants, there was no increase to the police budget. Ongoing maintenance costs of the existing program are paid for by UASI.

III. CAMERA USAGE

A. Effectiveness For Emergency Preparedness And Law Enforcement:

The Brookline Police Department has provided data related to the identified purposes set forth in the charge from the Selectman. The data presented below are current as of April 23, 2010.

Evacuations: There have been no emergency evacuations during the study period.

Amber Alerts: There have been no Amber (child abduction) Alerts. There was one missing person report which resulted in activating the cameras for approximately six minutes.

Crowd Events: The cameras aided law enforcement in officer deployment and crowd management for six large events: the Boston Marathon (twice), the Walk for Hunger, the Avon Walk, the Brookline Bike Rodeo and the Walk for Haiti.

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7 The citizens’ groups have also requested information concerning the other personnel costs associated with the cameras, including the time spent by town counsel and police department personnel creating and reviewing the policy and in various hearings and meetings.
Law Enforcement: Footage has been requested and examined in 99 instances. The cameras have yielded useful information in 79 of 99 requests by law enforcement, or 79.8% of law enforcement requests. The following is a breakdown of instances when the footage has been viewed, and the number of instances in which it has provided useful information. This breakdown tracks requests for footage. In some cases, there was more than one request arising out of a single incident. The more detailed analysis prepared by the Department is attached as Attachment D.

<table>
<thead>
<tr>
<th>Type of Incident</th>
<th>Requests</th>
<th>Requests Where Information Was Useful to LE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amber Alerts*/Missing Persons**</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Evacuation*</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Crowd Events**</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Motor Vehicle (including Hit and Run, OUI and Leaving the Scene of MV crash)</td>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>Traffic Flow/ Management</td>
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<td>29</td>
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<tr>
<td>Law Enforcement/ Other Crime</td>
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<td>35</td>
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<td>Aggravated Assault</td>
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<td>1</td>
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<td>B&amp;E/Burglary</td>
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<tr>
<td>Malicious Damage</td>
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<td>Motor Vehicle Pursuit</td>
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</tr>
<tr>
<td>Motor Vehicle Theft</td>
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<tr>
<td>Other Larcenies</td>
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<td>3</td>
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<tr>
<td>Bank Robbery Surveillance</td>
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<td>11</td>
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<tr>
<td>Armed Robbery (armed, bank)</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>Sexual Assault</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Internal Investigations/Citizen Complaints</td>
<td>3</td>
<td>1</td>
</tr>
</tbody>
</table>

TOTAL 99 79

* No events of this type occurred.
** Denotes active monitoring. Cameras were activated for a missing person report but no request for footage was made.

The cameras have aided in the apprehension of suspects in several high-visibility cases, including a kidnapping/rape, assault with attempt to murder (a Boston PD case), armed robbery, and breaking and entering. The cameras have provided evidence of erratic operation in several cases of motorists operating under the influence. On three occasions, the cameras have produced exculpatory evidence clearing a suspect. The cameras have aided police in establishing the falsehood of a particular reported offense. This avoided wasting investigative resources and prevented false accusations of innocent individuals. The cameras have aided in clearing an officer of unsafe operation after a cruiser accident. The cameras have aided in the investigation of seven traffic accidents during which drivers asserted conditions (e.g. a green light) that were demonstrated to be false. This enabled the BPD to issue citations to at-fault motorists while sparing victimized drivers insurance surcharges.
B. Specific Examples Of Use Of Camera Feeds And Footage

The following are illustrative examples of the use of the cameras in a variety of circumstances.

Criminal Investigations

- There was a reported abduction and rape in Coolidge Corner in which the victim exited a cab and accessed an ATM to pay the cab driver. A camera showed that truck pulled up near the cab, traveled north on Harvard St. then reversed direction on Harvard St. twice at the time the abduction is alleged to have occurred. The victim reported being abducted by two men in a red truck. The BPD footage showed the front of the truck and an off-color side door with dents. Using this footage, the BPD went to auto dealerships and repairmen, consulted truck salesmen, and determined the likely make, year, and model of the truck. The BPD released the footage, the make, year and model of the truck to the media. The BPD then consulted the Boston Police and the Registry and to narrow the field of possible suspects and vehicles. The BPD also visited local merchants and obtained camera footage showing what appeared to be the same truck at the time the victim reported being dropped off back on Harvard St. With this description, they visited (15) fifteen separate parked trucks with the victim, who identified a truck which was similar to her abductors’. The police arrested the alleged perpetrator and impounded the truck with the permission of its owner. The BPD then obtained a warrant to search the truck, based on the investigation, which included the camera footage.

- Brookline Police provided footage of two men driving to and leaving from a Beacon St. location to Boston Police, who were investigating a double stabbing. This camera has since been transferred to the City of Boston.

- A resident reported that he had been robbed a knifepoint by two men. The alleged victim’s statement contained numerous discrepancies and a review of the footage showed no robbery. The resident then acknowledged fabricating the report in order to avoid a debt.

- The Department actively monitored cameras in Coolidge Corner in order to identify alleged pickpockets in the area. In another theft case, video footage assisted in establishing that a suspect’s car was in the area of the theft. An arrest was made.

- Video footage documented a suspect smashing a car window and stealing a GPS.

Traffic Monitoring

- The cameras were used to do traffic counts. This took the place of counts conducted by Town personnel.
- The cameras were also used to track and analyze traffic and pedestrian flow in Coolidge Corner

Traffic Accidents

- The cameras assisted the BPD in determining who was at fault in a traffic accident where right of way was at issue. One of the drivers did not speak English as a first language and gave an incorrect description of events that would have placed him/her at fault improperly.

2) Impact On Civil Liberties/Privacy

As noted above, this aspect of the Committee’s charge has proved difficult to measure or quantify. For some members of the community, it is clear that the very presence and operation of these cameras by law enforcement is cause for concern and is perceived by those citizens as a real, substantial invasion of privacy.

Privacy concerns may arise in three contexts: 1) monitoring and viewing of citizens by the government, 2) requests for copies of footage by other governmental entities and private citizens, and 3) abuse of the cameras.

Monitoring

Certain communities actively monitor the cameras as a method of crime prevention. The Brookline CIMS program does not usually rely on active monitoring for crime prevention, except in those circumstances where there has been a spate of crimes in particular areas (such as pick pocketing in a commercial area). Screens are available for public viewing of live footage, but the monitoring is largely passive. With the exception of public events, evacuation, or Amber Alerts, real time or archived footage is viewed in response to a reported criminal event or traffic incident only. The image resolution is such that faces are not identifiable in most instances, thus precluding monitoring of individuals when the cameras are in default position. Sound recording functions are disabled.

Two members of the committee have noted that these eleven (11) cameras arrived in the context of a very significant number of pre-existing cameras, most of which are operated privately by commercial entities and property owners. The eleven (11) cameras that are the subject of this review are the only publicly or privately owned video cameras that, pursuant to BPD policy, are on public display, where any citizen can see in real time exactly what the police can see except during an ongoing investigation. The BPD does use mobile cameras on an as needed basis for particular investigations. The Library employs security cameras, and the MBTA uses cameras on the Green Line cars.

Public Disclosure

While some model policies/statutes would preclude the disclosure of footage, the Massachusetts Public Records Law treats this footage as a public record. There are no limitations on what can be done with a public record once it is disclosed.

Abuse
One concern of civil liberties advocates is that the footage may be requested by the federal government, state government, or local law enforcement agencies for an improper purpose or without adequate safeguards, or that those in charge of the cameras would have the ability to use them for purposes not approved by the Policy.

At its second meeting, the Committee participated in a conference call with the Constitution Project. The representative of the Constitution Project commended the town for adopting a policy in advance which included clear specific lines of authority, a clear statement of permissible uses, training, data retention, transparency, and privacy (no sound, hooded cameras). However, she cautioned that the Policy lacked definition with respect to linkage with other jurisdictions; currently the Policy provides no written criteria for the Chief to follow concerning cooperation with requests from other jurisdictions or the federal government. Nor is there any requirement that other law enforcement agencies have a policy concerning the use or retention of Brookline’s video footage. However, since the footage is subject to disclosure as public information under state law, any entity, public or private, need only make a public record request, and there are no limits on federal, state or private use or dissemination of the footage.

The Chief has noted that cooperation and information sharing among law enforcement agencies is common. On occasion, such as the recent opening of the new abortion clinic, the agencies cooperate in advance on matters of security. When certain federal agencies are involved, security clearances are required. On other occasions, such as a pursuit, the request and response are instantaneous.

With respect to the trial period, certain events can be noted:

- There were no requests under public record laws that the Committee considered inappropriate; on the contrary, the civilian requests were from respected advocates of civil liberties presumably seeking their own perspective on the functioning of the cameras.
- The images from the cameras have been utilized by the media on three occasions.
- There have been no specific allegations that police have abused the camera system nor have there been any incidents of abuse of the camera system by police personnel.
- The daytime use of the Coolidge Corner camera may have taped the activity of individuals exercising their First Amendment rights. The change in hours of camera operation attempts to address this issue. Nevertheless, cameras can be turned on in accordance with the Policy even during the daytime. The cameras will be covered with a contrasting color covers which are intended to permit citizens to check whether the cameras are on.
- There has been no suggestion of any use of the cameras in violation of principles of equal protection during the trial period.
- As of April 23, 2010, there have been no requests for footage from a federal agency. Data has been shared with the Boston Police Department on three occasions: one
request for archival footage of a stabbing in Cleveland Circle, and two instances where Brookline gave Boston the live view (but not control) of the cameras during the Boston Marathon.

IV. IMPACT OF LIMITING HOURS

Since January 25, 2010, when the cameras were limited to evening hours, and April 23, 2010 there have been fifteen events where events occurred during the daytime hours and no footage was available.

<table>
<thead>
<tr>
<th>Type of Incident</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motor Vehicle (including Hit and Run, OUI and Leaving the Scene)</td>
<td>7</td>
</tr>
<tr>
<td>Law Enforcement/Other Crime</td>
<td>8</td>
</tr>
<tr>
<td>TOTAL</td>
<td>15</td>
</tr>
</tbody>
</table>

The cameras were activated for Crowd Events, such as the Marathon. Under the Policy, the cameras could be activated during an Amber Alert or Evacuation, but neither occurred.

V. CONCLUSION

This constitutes the Committee’s final report. It is intended to provide factual data, to the extent possible, in order to inform the members of Town Meeting and the Board of Selectmen as to the use of the cameras during the trial period, and to permit an informed debate as to the future of the cameras.

Attachments:Due to the format and length of attachments the following can be found at the Camera Oversight Committee web site


A. Special Orders 2009-01 and 2010-04
B. Map of Locations
C. Camera Specifications
D. BPD Spreadsheet of Incidents (Redacted to Comply With Public Records Law)
E. Log of Cases Occurring While Cameras are Off
F. Log of Situcom Overrides of the CIMS Cameras
G. Analysis of CIMS Camera Reviewed/Retained Footage

Hard Copies of the report will also be made available in the Selectmen’s Office, 6th floor Town Hall.
ATTACHMENT A

Special Orders 2009-01 and 2010-04
Special Order 2009-1

Subject: Brookline Police Department Critical Infrastructure Monitoring System ("CIMS")
Date: January 14, 2009

I. PURPOSES / OVERVIEW

The Brookline Police Department ("Department") shall, deploy, operate, and maintain a fixed video camera monitoring system within the jurisdiction of the Town of Brookline to monitor major thoroughfares and evacuation routes that are deemed critical infrastructure (hereinafter, the system is referred to as "CIMS"), as part of the Critical Infrastructure Monitoring System of the Metro-Boston Homeland Security Region ("MBHSR"). The purpose of the CIMS program is to enhance the management of emergency situations, detect and deter terrorism, and otherwise protect the health, safety and welfare of those who live and work in, visit, and transact business with the Town.

The CIMS program may also be used to deter criminal activity and public disorder, reduce fear of crime, identify criminal activity and suspects, identify and gather possible evidence for use in criminal and civil court actions, document police actions, safeguard citizen and police officer rights, aid in Amber alerts or in the search for lost / missing children or elderly people, assist emergency services personnel when responding to incidents, assist with the monitoring of traffic conditions, otherwise assist town officials with the provision of municipal services in order to enhance overall municipal efficiency, and assist with the training of Department personnel.

The Brookline CMS shall not be used to replace current policing techniques.

II. DEFINITIONS

"Archival footage" shall mean CIMS images captured in the past.

"Automatic tracking" shall mean the ability to follow a specific individual or his or her vehicle with technology operating independently of immediate or direct human control, regardless of whether his or her identity is known, so as to create a seamless record of his or her activity during a specific period.
"Automatic identification" shall mean the ability to ascertain or confirm the identity, using biometric or other digital technologies, of an individual whose image is captured on footage, whether in real time or otherwise.

"Department personnel" shall include persons holding the position of Public Safety Dispatcher with the Town of Brookline.

"Evidence Policy" shall mean the Brookline Police Department Policy: Handling and Processing of Evidence and Property.

"Footage" shall mean any images recorded by the Brookline CIMS.


"Normal operations view" shall mean the normal view of a camera as determined by the Department Chief and described in Attachment A.

"Observation" or to "observe" shall mean real-time viewing, and simultaneous recording, of live camera images.

"Operate" shall mean using the pan, tilt, or zoom functions of a camera.

"Pan, tilt, and zoom" shall mean manipulating a camera to view areas outside the original image frame or measurably increase the resolution of the images rendered.

"Recording" shall mean images that are preserved and stored by the Brookline CIMS.

"Sworn Department personnel" shall mean the Department Chief, Superintendent, Captains, Lieutenants, Sergeants, Detectives, and Patrol Officers.

III. OPERATION AND MANAGEMENT:

A. BROOKLINE CIMS COMPONENTS, CAPABILITIES, AND FUNCTIONS

1. CIMS Cameras

The CIMS cameras, as part of the Metro-Boston Homeland Security Region’s Critical Infrastructure Monitoring System, shall be deployed for an indefinite period of time, as provided in the vote of the Board of Selectmen on January 13, 2009, and any subsequent votes, to monitor the Town's major thoroughfares and evacuation routes. CIMS cameras are part of the MBHSR CIMS program comprised of similar systems operated and maintained by the nine (9) municipalities within the MBHSR (in addition to Brookline, these are Boston, Cambridge, Chelsea, Everett, Quincy, Revere, Somerville, and Winthrop). When authorized to do so by a municipality, the various other municipalities within the MBHSR will have the ability to view images produced by the CIMS cameras of the municipality that has authorized and granted such access.

In Brookline, the Chief of Police shall have exclusive authority to authorize other municipalities within the MBHSR to view, on an ongoing or time-limited basis and in real time only, images produced by the Brookline CIMS cameras.
Other municipalities within the MBHSR may request a copy of archival footage produced by the Brookline CIMS cameras pursuant to the procedures set forth in Sections IV(D)(1) and (3) of this Policy.

2. **24/7 Monitoring and Response** The Brookline CIMS shall be passively monitored (i.e., no personnel shall be assigned specifically to observe video monitor screens) twenty-four (24) hours a day, seven (7) days a week ("24/7"), for traffic coordination, traffic offenses, crime detection and observation, evidence of crime or criminal activity, and for those other purposes set forth in Section I. Monitors shall be located in the Dispatch Area, in the office of the Commanding Officer, and at the front desk of the Public Safety Building. Monitoring may also be conducted within the Detective Division, at the Brookline Emergency Operations Center, or where deemed necessary consistent with the purposes of the CIMS set forth in Section I above. Department personnel monitoring the Brookline CIMS shall dispatch resources as needed.

3. **Installation and Recording** CIMS cameras shall transmit signals 24/7 to a Digital Video Recorder ("DVR"), which shall be maintained in a secure environment. All of the images from a recording device for a particular 24-hour period, beginning at 12:00 a.m. and ending at 11:59:59 p.m., shall be referred to as the "Daily Recording." The Daily Recording shall be stored in such a manner that the particular images can be identified by camera location and by the date and time recorded.

4. **Camera Capabilities** Cameras deployed as part of the Brookline CIMS shall have pan-tilt-zoom ("PTZ") capability. The Department shall not utilize automatic identification or automatic tracking technologies in conjunction with the Brookline CIMS.

5. **Privacy enhancement capabilities** The CIMS camera network comes with "shrouding" software technology that will allow the Administrator to block out certain areas (e.g., any interiors of buildings visible through windows) from viewing and recording. This technology will be used as necessary to protect the privacy rights of individuals consistent with Section III (D)(1) below.

6. **System Security** The CIMS network is not a WIFI mesh network, and it does not use 802.11 wireless formats. It consists of a point-to-point wireless network that uses licensed and unlicensed spectrums that are not common for public consumption. The system uses a proprietary Motorola security application that handles the wireless application. Each camera transmitter is equipped with a secure software key and security algorithm. These features, along with other proprietary security applications that are part of the system's wireless security, protect the system from access by unauthorized persons.
7. Camera Inventory / Log  The Department’s Technology Division shall create and maintain a camera inventory of all cameras placed into service as part of the CIMS using the Larimore Property Tracking System ("Camera Log"). The Technology Division shall document in this System the date each camera is placed into service and, if applicable, discontinued, its location and the persons, places or activities being monitored, its specifications, the dates of inspection, the dates each is out of service for maintenance and/or repair, and the dates and nature of any service or repairs.

8. Monthly Visual Inspection  The Department’s Emergency Management Coordinator or his / her designee shall conduct a visual inspection of all cameras on a monthly basis. Such person shall document in the Camera Log the visual condition of each camera and lighting in the area of the camera observed during each such inspection.

9. No Sound Recordings  The Brookline CIMS shall not monitor or record sound unless appropriate court orders are obtained.

B. CAMERA OPERATION / VIEWING OF CIMS RECORDINGS

1. CIMS Camera Locations and Normal Views  The Department Chief shall determine locations and normal operations views of CIMS cameras to maximize the degree of satisfaction of the stated goals of the Brookline CIMS set forth in Section I. CIMS camera locations and normal operations views may be changed as situations require by written permission of the Chief. CIMS camera locations and normal operations views are described in Attachment A to this Policy. The Town of Brookline shall post and maintain at CIMS camera locations signage that is clearly visible indicating the presence of a camera.

2. Operation Access Code / Certification  In order to operate any CIMS camera, it shall be necessary to enter an Operation Access Code. All sworn Department personnel and Public Safety Dispatchers shall receive an Operation Access Code from the Technology Division. Operation Access Codes may be changed periodically. Operation Access Codes shall be in addition to Department-issued User Names and Passwords.

3. Certification / Training  Sworn Department personnel and Public Safety Dispatchers shall not receive an Operation Access Code prior to:

   a. signing a certification (in the form set forth in Attachment B to this Special Order) that they have received a copy of and have read this Special Order; and
b. receiving training regarding this Policy (with a focus on Impermissible Uses (Section III(D)) and the ethical issues involved in video camera monitoring activities, and on all facets of operating the Brookline CIMS, including, but not limited to, logging on, operating cameras, and retrieving archival footage.

4. Authority to Operate / Return to Normal Operations Views Sworn Department personnel of the rank of Sergeant or higher and Public Safety Dispatchers are authorized to operate a CIMS camera. Such personnel may operate a camera within their discretion, for the purposes enumerated in Section I above, and at their own instigation or at the request of Patrol Officers, a federal or state agency or another municipality, and/or emergency management personnel. Patrol Officers may operate a camera with authorization of a member of the Department of the rank of Sergeant or higher. All operators must return cameras to the normal operations view when not otherwise directed.

5. Viewing of Archival Footage Department personnel, with the approval of a member of the rank of Sergeant and above, are authorized to view archival footage from the Brookline CIMS.

C. MANAGEMENT
1. Department Chief
   a. Generally The Brookline Police Department, by and through its Chief, is solely responsible for the day-to-day operation and management of the Brookline CIMS and for all tasks ancillary to its operation and management.

   b. Delegation The Chief shall assign Department personnel to operate and manage the Brookline CIMS on a day-to-day basis, including, but not limited to, monitoring camera feeds, managing access to the system, managing the inventory control of hardware, reproducing and distributing electronic media (e.g., CD/DVDs), ensuring the chain of custody of recordings and reproductions of footage for evidentiary purposes in civil and criminal court actions, and archiving recordings in accordance with this Policy, the provisions of the Department’s Evidence Policy, and as provided in the vote of the Board of Selectmen on January 13, 2009, and any subsequent votes. The Chief or his / her designee may assign civilian personnel (both from within and without the Department) to perform any function or duty related to the operation and management of the Brookline CIMS, including, but not limited to, inventory, service and maintenance work on the system.
c. **Enforcement** The Chief shall ensure that the Brookline CIMS is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations of it by Department personnel.

2. **Commanding Officer / Supervisor**

a. **Generally** The Commanding Officer shall be directly responsible for the operation and management of the Brookline CIMS during his/her shift.

b. **Inspection** At the commencement of a patrol shift, a member of the Department of the rank of Sergeant or higher shall inspect the Brookline CIMS available in the Dispatch area and in the office of the Commanding Officer to ensure that each camera is functioning properly and that camera sight lines afford maximum viewing to carry out the purposes of the CIMS, as enumerated in Section I.

c. **Reporting of Significant Incidents** Prior to the conclusion of a patrol shift in which a significant incident has occurred (e.g., an assault, an arrest, an accident, etc.), a member of the Department of the rank of Sergeant or higher shall request reproduction of CIMS footage of the incident (as detailed further in Section IV (D)(1) below) by submitting a completed Video Request Form to the Technology Division. Such person submitting such completed Request form shall send a copy of it to the appropriate division or personnel for follow-up (Detectives, Traffic, etc).

3. **Audit** In order to maintain a high degree of integrity over the Brookline CIMS, an audit shall be completed on a semi-annual basis. This audit shall determine the Department's adherence to this Special Order and the procedures it establishes, as well as the maintenance and completeness of CIMS records. This audit shall be conducted by the Department's Office of Professional Responsibility. At the completion of this audit, a full report on the outcome shall be forwarded to the Department's Chief.

D. **IMPERMISSIBLE USES**

Anyone who engages in an impermissible use of the Brookline CIMS may be subject to:

a. criminal prosecution,
b. civil liability, and/or
c. administrative sanctions, including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.
It is a violation of this Policy for the Brookline CIMS to be used to observe or record footage of areas or people in the following manners and for the following purposes:

1. **Invasion of Privacy** Except pursuant to a court order, it is a violation of this Policy to observe, or record footage of, locations except those that are in public view from a vantage point that is accessible to the general public and where there is no reasonable expectation of privacy. Areas in which there is a reasonable expectation of privacy include the interior of private premises such as a home.

2. **Harassment / Intimidation** It is a violation of this Policy to use the Brookline CIMS to harass and/or intimidate any individual or group.

3. **Use / Observation Based on a Protected Characteristic** It is a violation of this Policy to use the Brookline CIMS to observe individuals solely because of their race, gender, ethnicity, sexual orientation, disability or other classification protected by law.

4. **Personal Use** It is a violation of this Policy to use the CIMS for any personal purpose.

5. **First Amendment Rights** It is a violation of this Policy to use the Brookline CIMS for the purpose of infringing upon First Amendment rights.

**IV. REQUESTS FOR REPRODUCTION**

A. **Authority to Request / Permissible Requests** Sworn Department personnel of the rank of Sergeant and higher are authorized to make a request to the Technology Division for a reproduction of a CIMS recording. Requests for reproduction may be made only for legitimate law enforcement purposes, as part of normal procedures for investigations and the handling of evidence or in furtherance of the purposes underlying the Brookline CIMS described in Section I above.

B. **Prompt Request** All requests to reproduce a CIMS recording shall be made promptly and in any event as soon as possible to ensure that needed data is not over-written. Requests for reproduction of footage of significant incidents (e.g., an assault, an arrest, an accident, etc.) shall be made prior to the conclusion of the patrol shift during which the incident occurred.

C. **Reproduction Responsibility / Evidence** The Department’s Technology Division shall be responsible for making reproductions of CIMS recordings. It shall make two copies of any reproduction. One copy shall be logged into the evidence system following the Department’s Evidence Policy and shall be maintained in a manner consistent with the Evidence Policy and with maintaining the chain of custody for evidentiary materials. The second copy shall be reproduced to the requesting party utilizing the procedure described in Section IV (D) below. The Technology Division shall document all requests for copies of CIMS recordings in the Camera Log.
D. Reproduction Request Procedures

1. **Authorized Department Requests (see Section IV (A) above):**
   By submitting a completed Video Request Form (available in the Technology Information folder on the “in-house” email system) to the Technology Division (cc to the appropriate Department Division (e.g., Detective, Traffic) or personnel for follow-up). Department personnel of the rank of Captain or higher may authorize disclosure of a copy of CIMS footage to any federal, state, or municipal law enforcement agency in connection with an open investigation.

2. **Court-Related Requests (e.g., Prosecutors, Defense Attorneys, Judges):**
   By submitting a completed Video Request Form to the appropriate Department court liaison (for the applicable court), who shall forward a copy to the Technology Division. The Technology Division shall send a copy of the requested reproduction to the court liaison, who shall send it to the requesting party.

3. **Others (subpoena or public records requests by federal or state agencies, other municipalities, private individuals, or others):**
   Except in connection with an open investigation as set forth in Section IV(D)(1) above, by submitting a completed Video Request Form to the Department’s Records Division, which Division shall process it in accordance with the Massachusetts Public Records Law and the Department’s public records procedures, with responsibility for the reproduction falling to the Technology Division. As part of the public records review process with regard to any request for reproduction made under this Section IV (D)(3), Department personnel shall consult, as appropriate, with the Technology Division (who shall consult the Camera Log), any other relevant Department personnel, and Town Counsel to determine whether the requested footage or any portion of it is exempt from the Massachusetts Public Records Law.

V. **RETENTION**

The CIMS camera network includes video DVR server with a RAID 5 configuration, and video data is striped across four (4) hard drives. It has a thirty-day cycle that automatically overwrites the oldest day and it does not include any server for backing up data. Accordingly, unless otherwise required by the Evidence Policy, by court order, or by law, Brookline CIMS recordings shall be retained for a period of fourteen (14) days and shall then be automatically over-written.

All reproductions of footage within the custody of the Department shall be maintained in a secure environment and shall be destroyed at the conclusion of the retention period specified above.
VI. COMPLAINT PROCEDURE

A. **External Complaints** Complaints other than from Department personnel relating to the Brookline CIMS shall be handled in accordance with the Brookline Police Department’s Citizen’s Complaint Policy and Procedure.

B. **Internal Complaints** Any complaint from Department personnel relating to the Brookline CIMS shall be forwarded to the Office of Professional Responsibility and the Chief of Police.

VI. DISSEMINATION OF INFORMATION ABOUT THE BROOKLINE CIMS AND HANDLING OF INQUIRIES

A. **Policy Dissemination** This Policy shall be posted on the website for the Town of Brookline (www.townofbrooklinemass.com) and a copy shall be provided upon request consistent with the Department’s public record request procedures.

B. **Inquiries**

1. **General inquiries** In order to alleviate any and all confusion concerning the Brookline CIMS, when the Department receives inquiries from the general public concerning the operational status of the Brookline CIMS, or generally whether the CIMS made a recording and what it may have recorded, the following procedure shall be followed: the telephone call or walk-in shall be transferred or directed to the Commanding Officer (or Patrol Supervisor, in his/her absence), who shall courteously and respectfully inform the inquiring party, in substance, of the following:

   “The Brookline Police Department’s Critical Infrastructure Camera Monitoring System is fully operational at designated, strategic locations throughout the Town of Brookline. Depending upon the vantage point of the specific camera in question at a given time period, an image may have been captured and be available for dissemination.”

2. **Specific Recording / Footage Requests** If the telephone caller or walk-in has a specific request (date and time) for a recording in a designated area, a Video Request Form shall be either e-mailed to the person (as an attachment) or made available for pick up by the person at the Records Bureau and/or Front Desk.

Chief Daniel C. O’Leary

Page 9 of 11
**CIMS CAMERA LOCATIONS AND NORMAL OPERATIONS VIEWS**

<table>
<thead>
<tr>
<th>Camera Location</th>
<th>Normal Operations View</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brookline Ave &amp; Aspinwall Ave</td>
<td>North – Facing Boston Hospital District</td>
</tr>
<tr>
<td>Beacon St &amp; Carlton St</td>
<td>Eastbound Beacon St</td>
</tr>
<tr>
<td>Beacon St &amp; St Paul St</td>
<td>Eastbound Beacon St</td>
</tr>
<tr>
<td>Beacon St &amp; Harvard St</td>
<td>Eastbound Beacon St</td>
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<td>B.F.D. Station 1 (140 Washington St)</td>
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</tr>
<tr>
<td>Longwood &amp; St Paul St</td>
<td>East on Longwood Ave</td>
</tr>
</tbody>
</table>
CERTIFICATION UNDER BROOKLINE POLICE DEPARTMENT SPECIAL ORDER 2009-1

(Re: BROOKLINE POLICE DEPARTMENT CRITICAL INFRASTRUCTURE CAMERA MONITORING SYSTEM ("CIMS"))

I, _____________________________, certify that I have received a copy of and have read Special Order 2009-1, dated January 14, 2009, regarding the Brookline Police Department Critical Infrastructure Camera Monitoring System ("CIMS").

_____________________________  Date: ______________________
(Name)

_____________________________
(Signature)

_____________________________
(Title)
Special Order 2010-4

Subject: Brookline Police Department Critical Infrastructure Monitoring System (“CIMS”)
Date: January 25, 2010

I. PURPOSES / OVERVIEW

The Brookline Police Department (“Department”) shall deploy, operate, and maintain a fixed video camera monitoring system within the jurisdiction of the Town of Brookline to monitor major thoroughfares and evacuation routes that are deemed critical infrastructure, as part of the Critical Infrastructure Monitoring System (hereinafter, the system is referred to as “CIMS”) of the Metro-Boston Homeland Security Region (“MBHSR”). The purpose of the CIMS program is to enhance the management of emergency situations, detect and deter terrorism, and otherwise protect the health, safety and welfare of those who live and work in, visit, and transact business within the Town.

The CIMS program may also be used to deter criminal activity and public disorder, reduce fear of crime, identify criminal activity and suspects, identify and gather possible evidence for use in criminal and civil court actions, document police actions, safeguard citizen and police officer rights, aid in Amber alerts or in the search for lost / missing children or elderly people, assist emergency services personnel when responding to incidents, assist with the monitoring of traffic conditions, otherwise assist town officials with the provision of municipal services in order to enhance overall municipal efficiency, and assist with the training of Department personnel.

The Brookline CIMS shall not be used to replace current policing techniques. It is to be used to supplement proven policing techniques and assist in the delivery of public safety and municipal services.

II. DEFINITIONS

“Archival footage” shall mean CIMS images captured in the past.

“Automatic tracking” shall mean the ability to follow a specific individual or his or her vehicle with technology operating independently of immediate or direct human control, regardless of whether his or her identity is known, so as to create a seamless record of his or her activity during a specific period.
“Automatic identification” shall mean the ability to ascertain or confirm the identity, using biometric or other digital technologies, of an individual whose image is captured on footage, whether in real time or otherwise.

“Department personnel” shall include persons holding the position of Public Safety Dispatcher with the Town of Brookline.

“Evidence Policy” shall mean the Brookline Police Department Policy: Handling and Processing of Evidence and Property.

“Footage” shall mean any images recorded by the Brookline CIMS.


“Normal operations view” shall mean the normal view of a camera as determined by the Chief of Police and described in Attachment A. These shall be the views seen between the hours of 10:00 p.m. and 6:00 a.m. and at all other hours that the cameras are on. Changes may be made in these views as permitted under this policy.

“Observation” or to “observe” shall mean real-time viewing, and simultaneous recording, of live camera images.

“Operate” shall mean using the pan, tilt, or zoom functions of a camera.

“Pan, tilt, and zoom” shall mean manipulating a camera to view areas outside the original image frame or measurably increase the resolution of the images rendered.

“Recording” shall mean images that are preserved and stored by the Brookline CIMS.

“Specific event recording” shall mean activation of the cameras in accordance with this policy as a result of a specific event which is planned for in advance, such as the Boston Marathon. This definition also includes the activation of cameras for unplanned events, such as an evacuation or a bank robbery in progress, which will assist in achieving the purposes set out in section 1 of this policy.

“Sworn Department personnel” shall mean the Department Chief, Superintendent, Captains, Lieutenants, Sergeants, Detectives and Patrol Officers.

III. OPERATION AND MANAGEMENT:

A. BROOKLINE CIMS COMPONENTS, CAPABILITIES, AND FUNCTIONS

1. **CIMS Cameras**  The CIMS cameras, as part of the Metro-Boston Homeland Security Region’s Critical Infrastructure Monitoring System, shall be deployed for an indefinite period of time, as provided in the vote of the Board of Selectmen on January 13, 2009, and any subsequent votes, to monitor the Town’s major thoroughfares and evacuation routes. CIMS cameras are part of the MBHSR CIMS program comprised of similar systems operated and maintained by the nine (9) municipalities within the MBHSR (in addition to Brookline, these are Boston, Cambridge, Chelsea, Everett, Quincy, Revere, Somerville, and Winthrop). When
authorized to do so by a municipality, the various other municipalities within the MBHSR will have the ability to view images produced by the CIMS cameras of the municipality that has authorized and granted such access.

In Brookline, the Chief of Police shall have exclusive authority to authorize other municipalities within the MBHSR to view, on an ongoing or time-limited basis and in real time only, images produced by the Brookline CIMS cameras.

Other municipalities within the MBHSR may request a copy of archival footage produced by the Brookline CIMS cameras pursuant to the procedures set forth in Sections IV(D)(1) and (3) of this Policy.

2. **Monitoring and Response**  The Brookline CIMS shall be passively monitored (i.e., no personnel shall be assigned specifically to observe video monitor screens) under normal operating conditions between the hours of 10:00 p.m. and 6:00 a.m. each day. There may also be times when, in accordance with this policy, the camera/s could be activated for specific event recording. The purposes for the operation of the camera system are set forth in section 1. Monitors shall be located in the Dispatch Area, in the office of the Commanding Officer, and at the front desk of the Public Safety Building. Monitoring may also be conducted within the Detective Division, at the Brookline Emergency Operations Center, or where deemed necessary consistent with the purposes of the CIMS set forth in Section I above. Department personnel monitoring the Brookline CIMS shall dispatch resources as needed.

3. **Installation and Recording**  CIMS cameras shall transmit signals when operating to a Digital Video Recorder (“DVR”), which shall be maintained in a secure environment. The cameras will be covered with a privacy-ensuring cap (once available) during all times except between the hours of 10:00 p.m. and 6:00 a.m. daily. These privacy-ensuring caps shall be opened and the cameras activated between the hours of 10 p.m. and 6 a.m. as well as other times as authorized under this policy. The opening and closing of the privacy-ensuring caps will be controlled by a computer program which will activate automatically during the 10:00 p.m. to 6:00 a.m. time frame and can be manually activated for specific event recording and in accordance with this policy. All of the images from a recording device for a particular 24-hour period, beginning at 12:00 a.m. and ending at 11:59:59 p.m., shall be referred to as the “Daily Recording.” The Daily Recording shall be stored in such a manner that the particular images can be identified by camera location and by the date and time recorded.

4. **Camera Capabilities**  Cameras deployed as part of the Brookline CIMS shall have pan-tilt-zoom (“PTZ”) capability. The Department shall not
utilize automatic identification or automatic tracking technologies in conjunction with the Brookline CIMS.

5. **Privacy enhancement capabilities** The CIMS camera network comes with “shrouding” software technology that will allow the Administrator to block out certain areas (e.g., any interiors of buildings visible through windows) from viewing and recording. This technology will be used as necessary to protect the privacy rights of individuals consistent with Section III (D)(1) below. Furthermore, all cameras shall be equipped with a privacy-ensuring cap (once available) that will cover the cameras to prevent viewing/recording at times when not authorized by this policy.

6. **System Security** The CIMS network consists of a point-to-point wireless network that uses licensed and unlicensed spectrums that are not common for public consumption. The system uses a proprietary Motorola security application that handles the wireless application. Each camera transmitter is equipped with a secure software key and security algorithm. These features, along with other proprietary security applications that are part of the system’s wireless security, protect the system from access by unauthorized persons.

7. **Camera Inventory / Log** The Department’s Technology Division shall create and maintain a camera inventory of all cameras placed into service as part of the CIMS using the Larimore Property Tracking System (“Camera Log”). The Technology Division shall document in this System the date each camera is placed into service and, if applicable, discontinued, its location and the persons, places or activities being monitored, its specifications, the dates of inspection, the dates each is out of service for maintenance and/or repair, and the dates and nature of any service or repairs.

8. **Monthly Visual Inspection** The Department’s Technology Division shall conduct a visual inspection of all cameras on a monthly basis. Such person shall document in the Department's Property System the visual condition of each camera and lighting in the area of the camera observed during each such inspection.

9. **No Sound Recordings** The Brookline CIMS shall not monitor or record sound unless appropriate court orders are obtained.
B. **CAMERA OPERATION / VIEWING OF CIMS RECORDINGS**

1. **CIMS Camera Locations and Normal Views** The Department Chief shall determine locations and normal operations views of CIMS cameras to maximize the degree of satisfaction of the stated goals of the Brookline CIMS set forth in Section I. CIMS camera locations and normal operations views may be changed as situations require by written permission of the Chief. CIMS camera locations and normal operations views are described in Attachment A to this Policy. The Town of Brookline shall post and maintain at CIMS camera locations signage that is clearly visible indicating the presence of a camera.

2. **Operation Access Code / Certification** In order to operate any CIMS camera, it shall be necessary to enter an Operation Access Code. All sworn Department personnel and Public Safety Dispatchers shall receive an Operation Access Code from the Technology Division. Operation Access Codes may be changed periodically. Operation Access Codes shall be in addition to Department-issued User Names and Passwords.

3. **Certification / Training** Sworn Department personnel and Public Safety Dispatchers shall not receive an Operation Access Code prior to:
   a. signing a certification (in the form set forth in Attachment B to this Special Order) that they have received a copy of and have read this Special Order; and
   b. receiving training regarding this Policy (with a focus on Impermissible Uses (Section III(D)) and the ethical issues involved in video camera monitoring activities, and on all facets of operating the Brookline CIMS, including, but not limited to, logging on, operating cameras, and retrieving archival footage.

4. **Authority to Operate / Return to Normal Operations Views** Sworn Department personnel of the rank of Sergeant or higher and Public Safety Dispatchers are authorized to operate a CIMS camera. Such personnel may operate a camera within their discretion, for the purposes enumerated in Section I above, and at their own instigation or at the request of Patrol Officers, a federal or state agency or another municipality, and/or emergency management personnel. Patrol Officers may operate a camera with authorization of a member of the Department of the rank of Sergeant or higher. All operators must return cameras to the normal operations view when not otherwise directed.
5. **Viewing of Archival Footage**  Department personnel, with the approval of a member of the rank of Sergeant and above, are authorized to view archival footage from the Brookline CIMS.

C. **MANAGEMENT**

1. **Department Chief**
   
   a. **Generally** The Brookline Police Department, by and through its Chief, is solely responsible for the day-to-day operation and management of the Brookline CIMS and for all tasks ancillary to its operation and management.

   b. **Delegation** The Chief shall assign Department personnel to operate and manage the Brookline CIMS on a day-to-day basis, including, but not limited to, monitoring camera feeds, managing access to the system, managing the inventory control of hardware, reproducing and distributing electronic media (e.g., CD/DVDs), ensuring the chain of custody of recordings and reproductions of footage for evidentiary purposes in civil and criminal court actions, and archiving recordings in accordance with this Policy, the provisions of the Department's Evidence Policy, and as provided in the vote of the Board of Selectmen on January 13, 2009, and any subsequent votes. The Chief or his / her designee may assign civilian personnel (both from within and without the Department) to perform any function or duty related to the operation and management of the Brookline CIMS, including, but not limited to, inventory, service and maintenance work on the system.

   c. **Enforcement** The Chief shall ensure that the Brookline CIMS is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations of it by Department personnel.

2. **Commanding Officer / Supervisor**

   a. **Generally** The Commanding Officer shall be directly responsible for the operation and management of the Brookline CIMS during his/her shift.

   b. **Inspection** At the commencement of a patrol shift, a member of the Department, of the rank of Sergeant or higher, shall inspect the Brookline CIMS available in the Dispatch area and in the office of the Commanding Officer to ensure that the CIMS cameras are operational in accordance with this policy. If the CIMS cameras
are operating under the conditions set forth in this policy then these officers are to ensure that each camera is functioning properly and that camera sight lines afford maximum viewing to carry out the purposes of the CIMS, as enumerated in Section I.

c. Reporting of Significant Incidents Prior to the conclusion of a patrol shift in which a significant incident has occurred (e.g., an assault, an arrest, an accident, etc.), a member of the Department of the rank of Sergeant or higher shall request reproduction of CIMS footage of the incident (as detailed further in Section IV (D)(1) below) by submitting a completed Video Request Form to the Technology Division. Such person submitting such completed Request form shall send a copy of it to the appropriate division or personnel for follow-up (Detectives, Traffic, etc).

3. Audit In order to maintain a high degree of integrity over the Brookline CIMS, an audit shall be completed on a semi-annual basis. This audit shall determine the Department’s adherence to this Special Order and the procedures it establishes, as well as the maintenance and completeness of CIMS records. This audit shall be conducted by the Department's Office of Professional Responsibility. At the completion of this audit, a full report on the outcome shall be forwarded to the Department's Chief.

D. IMPERMISSIBLE USES

Anyone who engages in an impermissible use of the Brookline CIMS may be subject to:

a. criminal prosecution,
b. civil liability, and/or
c. administrative sanctions, including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

It is a violation of this Policy for the Brookline CIMS to be used to observe or record footage of areas or people in the following manners and for the following purposes:

1. Invasion of Privacy Except pursuant to a court order, it is a violation of this Policy to observe, or record footage of, locations except those that are in public view from a vantage point that is accessible to the general public and where there is no reasonable expectation of privacy. Areas in which there is a reasonable expectation of privacy include the interior of private premises such as a home.

2. Harassment / Intimidation It is a violation of this Policy to use the Brookline CIMS to harass and/or intimidate any individual or group.
3. **Use / Observation Based on a Protected Characteristic**  It is a violation of this Policy to use the Brookline CIMS to observe individuals solely because of their race, gender, ethnicity, sexual orientation, disability or other classification protected by law.

4. **Personal Use**  It is a violation of this Policy to use the CIMS for any personal purpose.

5. **First Amendment Rights**  It is a violation of this Policy to use the Brookline CIMS for the purpose of infringing upon First Amendment rights.

IV. **REQUESTS FOR REPRODUCTION**

A. **Authority to Request / Permissible Requests**  Sworn Department personnel of the rank of Sergeant and higher are authorized to make a request to the Technology Division for a reproduction of a CIMS recording. Requests for reproduction may be made only for legitimate law enforcement purposes, as part of normal procedures for investigations and the handling of evidence or in furtherance of the purposes underlying the Brookline CIMS described in Section I above.

B. **Prompt Request**  All requests to reproduce a CIMS recording shall be made promptly and in any event as soon as possible to ensure that needed data is not over-written. Requests for reproduction of footage of significant incidents (e.g., an assault, an arrest, an accident, etc.) shall be made prior to the conclusion of the patrol shift during which the incident occurred.

C. **Reproduction Responsibility / Evidence**  The Department’s Technology Division shall be responsible for making reproductions of CIMS recordings. It shall make two copies of any reproduction. One copy shall be logged into the evidence system following the Department’s Evidence Policy and shall be maintained in a manner consistent with the Evidence Policy and with maintaining the chain of custody for evidentiary materials. The second copy shall be reproduced to the requesting party utilizing the procedure described in Section IV (D) below. The Technology Division shall document all requests for copies of CIMS recordings in the Camera Log.

D. **Reproduction Request Procedures**

1. **Authorized Department Requests (see Section IV (A) above):**
   By submitting a completed Video Request Form (available in the Technology Information folder on the “in-house” email system) to the Technology Division (cc to the appropriate Department Division (e.g., Detective, Traffic) or personnel for follow-up). Department personnel of the rank of Captain or higher may authorize disclosure of a copy of CIMS footage to any federal, state, or municipal law enforcement agency in connection with an open investigation.
2. **Court-Related Requests (e.g., Prosecutors, Defense Attorneys, Judges):**

By submitting a completed Video Request Form to the appropriate Department court liaison (for the applicable court), who shall forward a copy to the Technology Division. The Technology Division shall send a copy of the requested reproduction to the court liaison, who shall send it to the requesting party.

3. **Others (subpoena or public records requests by federal or state agencies, other municipalities, private individuals, or others):**

Except in connection with an open investigation as set forth in Section IV(D)(1) above, by submitting a completed Video Request Form to the Department’s Records Division, which Division shall process it in accordance with the Massachusetts Public Records Law and the Department’s public records procedures, with responsibility for the reproduction falling to the Technology Division. As part of the public records review process with regard to any request for reproduction made under this Section IV (D)(3), Department personnel shall consult, as appropriate, with the Technology Division (who shall consult the Camera Log), any other relevant Department personnel, and Town Counsel to determine whether the requested footage or any portion of it is exempt from the Massachusetts Public Records Law.

V. **RETENTION**

The CIMS camera network includes video DVR server with a RAID 5 configuration, and video data is striped across four (4) hard drives. It has a thirty-day cycle that automatically overwrites the oldest day and it does not include any server for backing up data. Accordingly, unless otherwise required by the Evidence Policy, by court order, or by law, Brookline CIMS recordings shall be retained for a period of fourteen (14) days and shall then be automatically overwritten.

All reproductions of footage within the custody of the Department shall be maintained in a secure environment and shall be destroyed at the conclusion of the retention period specified above.

VI. **COMPLAINT PROCEDURE**

A. **External Complaints** Complaints other than from Department personnel relating to the Brookline CIMS shall be handled in accordance with the Brookline Police Department’s Citizen’s Complaint Policy and Procedure.
B. **Internal Complaints** Any complaint from Department personnel relating to the Brookline CIMS shall be forwarded to the Office of Professional Responsibility and the Chief of Police.

VI. **DISSEMINATION OF INFORMATION ABOUT THE BROOKLINE CIMS AND HANDLING OF INQUIRIES**

A. **Policy Dissemination** This Policy shall be posted on the website for the Town of Brookline (www.brooklinema.gov) and a copy shall be provided upon request consistent with the Department’s public record request procedures.

B. **Inquiries**

1. **General inquiries** In order to alleviate any and all confusion concerning the Brookline CIMS, when the Department receives inquiries from the general public concerning the operational status of the Brookline CIMS, or generally whether the CIMS made a recording and what it may have recorded, the following procedure shall be followed: the telephone call or walk-in shall be transferred or directed to the Commanding Officer (or Patrol Supervisor, in his/her absence), who shall courteously and respectfully inform the inquiring party, in substance, of the following:

   “The Brookline Police Department’s Critical Infrastructure Camera Monitoring System is fully operational at designated, strategic locations throughout the Town of Brookline. Depending upon the vantage point of the specific camera in question at a given time period, an image may have been captured and be available for dissemination.”

2. **Specific Recording / Footage Requests** If the telephone caller or walk-in has a specific request (date and time) for a recording in a designated area, a Video Request Form shall be either e-mailed to the person (as an attachment) or made available for pick up by the person at the Records Bureau and/or Front Desk.

Daniel C. O’Leary
Chief of Police

Supersedes Special Order 2009-1
CIMS CAMERA LOCATIONS AND NORMAL OPERATIONS VIEWS

<table>
<thead>
<tr>
<th>Camera Location</th>
<th>Normal Operations View</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brookline Ave &amp; Aspinwall Ave</td>
<td>South – Facing Brook House</td>
</tr>
<tr>
<td>Beacon St &amp; Carlton St</td>
<td>Eastbound Beacon St</td>
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<td>Beacon St &amp; St Paul St</td>
<td>Eastbound Beacon St</td>
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<tr>
<td>Beacon St &amp; Harvard St</td>
<td>Eastbound Beacon St</td>
</tr>
<tr>
<td>Beacon St &amp; Washington St</td>
<td>Southbound Washington St</td>
</tr>
<tr>
<td>Boylston St &amp; Hammond St</td>
<td>Eastbound Boylston St</td>
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<tr>
<td>Boylston St &amp; Chestnut Hill Ave</td>
<td>Westbound Boylston St</td>
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<tr>
<td>Boylston St &amp; Sumner St</td>
<td>Eastbound Boylston St</td>
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<tr>
<td>Boylston St &amp; Cypress St</td>
<td>Westbound Boylston St</td>
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<tr>
<td>B.F.D.Station 1(140 Washington St)</td>
<td>Northbound Washington St</td>
</tr>
<tr>
<td>Longwood &amp; St Paul St</td>
<td>South St. Paul Street</td>
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</tbody>
</table>
CERTIFICATION UNDER BROOKLINE POLICE DEPARTMENT SPECIAL ORDER 2010-4
(Re: BROOKLINE POLICE DEPARTMENT CRITICAL INFRASTRUCTURE CAMERA
MONITORING SYSTEM ("CIMS"))

I, ________________________________, certify that I have received a copy of
and have read Special Order 2010-4, dated January 25, 2010, regarding the Brookline Police
Department Critical Infrastructure Camera Monitoring System ("CIMS").

______________________________________  Date:___________________
(Name)

______________________________________
(Signature)

______________________________________
(Title)
ATTACHMENT B

Map of Locations
CIMS
Camera Locations

Legend
△ CIMS Cameras

Camera Locations
- Brookline Ave & Aspinwall Ave
- Beacon St & Carlton St
- Beacon St & St Paul St
- Beacon St & Harvard St
- Beacon St & Washington St
- Boylston St & Hammond St
- Boylston St & Chestnut Hill Ave
- Boylston St & Sumner St
- Boylston St & Cypress St
- 140 Washington St (BFD Fire Station)
- Longwood Ave & St Paul St
ATTACHMENT C

Camera Specifications
Introduction

Bosch’s AutoDome modular camera system is a revolutionary new concept in dome cameras. More than just a series of cameras, it’s a dome platform built around a system of intelligent, interchangeable modules that allow you to update camera functionality quickly and cost-effectively. Using common components lets you install a basic camera system today and migrate to a more advanced version tomorrow – without having to replace the entire dome, thus protecting your initial investment.

Interchangeable modules

The entire AutoDome system is based on five interchangeable modules: the CPU, camera, housing, communications, and power supply. Simply swap one of AutoDome’s interchangeable modules and quickly upgrade from analog to IP, color to day/night, or add motion detection. Never before have you had the ability to adapt a security system to your changing needs this quickly or inexpensively.

By using the same housing components, all installations have a consistent look, and observers have no idea which type of camera (if any) is watching over them. This unique, modular design also gives you the flexibility to move cameras between different housings when special coverage is needed, or as site plan requirements change. For example, an 18x PTZ camera over a specific area could easily be “hot-swapped” to a 26x day/night without removing the power.

300 Series highlights

The AutoDome 300 Series includes support for both 18x and 26x day/night PTZ cameras, and several advanced features – including an alarm management “rules” engine and privacy masking.

The AutoDome 300 Series supports a variety of standard and optional video and data transmission methods, including Bilinx (over coax and UTP), fiber, and even TCP/IP over Ethernet. Remote control, configuration, and firmware updates can also be performed over these cables, offering you unparalleled control of your cameras. Cable compensation provides extended coaxial and UTP distance runs while preventing the image quality degradation caused by signal losses from long cable lengths.
ATTACHMENT D

BPD Spreadsheet of Incidents
(Redacted to Comply With Public Records Law)
There are 107 entries in this report. The spreadsheet reports the month, time, location and type of incident involved, as well as a summary of the cases and who the retained footage was turned over to if it was turned over. Also, please see the columns under “Footage Assisted Law Enforcement” for a breakdown of how the footage was useful to law enforcement, if it was a FOIA (Freedom of Information Act) request or if it was not useful for law enforcement. Below are the color codes which have been used in this report.

<table>
<thead>
<tr>
<th>Color codes:</th>
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<tbody>
<tr>
<td>Involved use of WiFi Cameras</td>
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**Footage Assisted Law Enforcement**

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<thead>
<tr>
<th>#</th>
<th>Month</th>
<th>Time of Incident</th>
<th>Location</th>
<th>Type of Incident</th>
<th>Summary of Case</th>
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<tbody>
<tr>
<td>79</td>
<td>Jan</td>
<td>1049 to 1530hrs</td>
<td>Route 9/Hammond St</td>
<td>MV crash</td>
<td>MV crash on Route 9. The video shows the driver went through a solid red light on Rt 9 heading East and crashed into a MV that had green light traveling North onto Hammond Street.</td>
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<tr>
<td>80</td>
<td>Jan</td>
<td>1050 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
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<tr>
<td>81</td>
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<td>83</td>
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<td>Traffic Monitoring of Coolidge Corner</td>
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<td>85</td>
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<td>86</td>
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<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>87</td>
<td>Jan</td>
<td>1057 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td>Study of Coolidge Corner traffic pattern</td>
</tr>
<tr>
<td>88</td>
<td>Jan</td>
<td>1058 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td></td>
</tr>
<tr>
<td>89</td>
<td>Jan</td>
<td>1059 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td></td>
</tr>
<tr>
<td>90</td>
<td>Jan</td>
<td>1060 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td></td>
</tr>
<tr>
<td>91</td>
<td>Jan</td>
<td>1061 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td></td>
</tr>
<tr>
<td>92</td>
<td>Jan</td>
<td>1062 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td></td>
</tr>
<tr>
<td>93</td>
<td>Jan</td>
<td>1063 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td></td>
</tr>
<tr>
<td>94</td>
<td>Jan</td>
<td>1064 to 1530hrs</td>
<td>Beacon St/Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td></td>
</tr>
<tr>
<td>95</td>
<td>Jan</td>
<td>1065 to 1530hrs</td>
<td>St-Paul St/Longwood Ave</td>
<td>FOIA/MV crash</td>
<td>MV crash at Aspinwall &amp; St Paul, question on direction this vehicle came from due to a language barrier. The car took left from Longwood onto St Paul, showing the other operator did not yield at crash location</td>
</tr>
<tr>
<td>96</td>
<td>Jan</td>
<td>1066 to 1530hrs</td>
<td>All for 6 separate days</td>
<td>FOIA</td>
<td>Request for a total of 91 separate video files from 12 separate photos</td>
</tr>
<tr>
<td>97</td>
<td>Feb</td>
<td>0446hrs</td>
<td>Beacon St/St Paul St</td>
<td>Motor vehicle Pursuit/Larceny Over/Failure to Stop</td>
<td>Area was under special attention due to series of tire thefts. MV was stopped pulling out of driveway, then took off. Pursuit of MV called off at Park Drive. SP later arrested</td>
</tr>
<tr>
<td>98</td>
<td>Mar</td>
<td>0222hrs</td>
<td>Beacon St/Carlton St/St-Paul-Harvard</td>
<td>OUIL - Hit and Run MV Crash</td>
<td>Vehicle was speeding and weaving between lanes and vehicles in traffic while fleeing crash scene. Subject stopped and arrested at Beacon St/Fairbanks St.</td>
</tr>
<tr>
<td>99</td>
<td>Mar</td>
<td>0233hrs</td>
<td>822 Boylston St</td>
<td>MV Pursuit Assault &amp; Battery w/ a Dangerous Weapon x 2 on police officers w/ vehicle</td>
<td>Started with MV stop at 822 Boylston Street. MV fled on Reservoir Rd, to Lee Street, Warren Street, High Street, Rte 5, Huntington and up Parker Hill Ave. Pursuit terminated. Never caught on camera.</td>
</tr>
<tr>
<td>100</td>
<td>Mar</td>
<td>0830-1530 hrs</td>
<td>All Cameras</td>
<td>Grammar School Walk for Haiti</td>
<td>Planned event</td>
</tr>
<tr>
<td>101</td>
<td>Mar</td>
<td>0152hrs</td>
<td>Beacon St/Carlton St</td>
<td>OUIL arrest</td>
<td>MV was found on the outbound island on Beacon Street, just after Carlton Street. There was major front end damage and the driver was passed out. MV was not captured on video so we could determine the likely directions from which the MV traveled (from Carlton St, taking a left onto Beacon or Beacon Street, west).</td>
</tr>
<tr>
<td>102</td>
<td>Apr</td>
<td>0445hrs</td>
<td>Beacon St/Washington St</td>
<td>Internal investigation</td>
<td>Investigation by the BPD Department of Professional Responsibility.</td>
</tr>
<tr>
<td>103</td>
<td>Apr</td>
<td>2205hrs</td>
<td>33 Pond Ave (WIFI Camera and CIMS Cameras)</td>
<td>B &amp; E of Motor Vehicle</td>
<td>Car break on Pond Ave, where a series of car breaks have been happening and direct patrols have been assigned. Brookhouse Security reports the break and a description of three suspects on bikes. The suspects are stopped and arrests made. WIFI video captured the three suspects riding bikes on Pond Ave. The CIMS camera at Beacon St/Carlton St would have been consulted if they were operational earlier in the night re: potentially linked car break on IVy Street. See #13 on &quot;Cases Occurring While Cameras are Off&quot; sheet.</td>
</tr>
</tbody>
</table>
## CIMS Log Footage Requests

<table>
<thead>
<tr>
<th>#</th>
<th>Month</th>
<th>Time of Incident</th>
<th>Location</th>
<th>Type of Incident</th>
<th>Summary of Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>104</td>
<td>Apr</td>
<td>0200hrs</td>
<td>Beacon St/ Harvard St (MBTA tracks)</td>
<td>OUIL</td>
<td>MV takes a left at the intersection of Beacon St/Harvard St (a posted “no left turn” intersection). The MV drives east on the MBTA tracks and gets hung up. Video captures MV traveling south on Harvard and taking the left at the intersection onto the MBTA tracks. X X Evidence</td>
</tr>
<tr>
<td>105</td>
<td>Apr</td>
<td>1000hrs</td>
<td>Beacon St/ Harvard St</td>
<td>Traffic Monitoring of Coolidge Corner</td>
<td>Traffic study of Coolidge Corner with new lane shifts. On 24 x 7 between April 12 - 26th (on-going). To evaluate the new lane shifts and impact on traffic flow, gridlock, etc. X</td>
</tr>
<tr>
<td>106</td>
<td>Apr</td>
<td>0700 to 1700hrs</td>
<td>All Beacon St Cameras</td>
<td>Boston Marathon</td>
<td>Cameras used throughout the Boston Marathon to monitor safety on the race route. Cameras monitored throughout the day to ensure road closures at appropriate times, monitor a fire truck crossing the intersection of Harvard St/Beacon St, watch for surge of spectators along the race route, monitor the lead runners/chairs coming into our jurisdiction and report to the Web EOC the location of lead runners and end of race traffic on the route. X No Video</td>
</tr>
<tr>
<td>107</td>
<td>Apr</td>
<td>1500hrs</td>
<td>Tappan St - WIFI Camera</td>
<td>Robbery</td>
<td>Victim is robbed by unknown suspect on a bicycle. Video captures the suspect stalking his victim along Beacon St. The initial report was questioned by detectives and it was determined the victim was not being truthful as to the location because he had skipped school to see a friend. Case was going to be unfounded and then the victim told a new version which was confirmed by the video capturing both parties at 1731 Beacon Street. X X Evidence</td>
</tr>
</tbody>
</table>

**Color codes:**
- MV = Motor Vehicle
- SP = Suspect
- B & E = Breaking & Entering
- OUIL = Operating Under the Influence of Liquor
- FOIA = Freedom of Information Act
- PD = Police Department
- PO = Police Officer
ATTACHMENT E

Log of Cases Occurring While Cameras are Off
<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Incident Type</th>
<th>Location</th>
<th>Case or Event#</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/12/2010</td>
<td>0645 hrs</td>
<td>MV Crash w/Injury</td>
<td>Beacon St &amp; Washington St</td>
<td>2010-755</td>
<td>Cited operator stated MV accelerated on its own</td>
</tr>
<tr>
<td>2/13/2010</td>
<td>2045 hrs</td>
<td>MV Crash - Leaving Scene</td>
<td>Beacon St &amp; Washington St</td>
<td>2010-779</td>
<td>Hit &amp; Run - Property Damage</td>
</tr>
<tr>
<td>2/14/2010</td>
<td>2112 hrs</td>
<td>MV Crash - Hit&amp;Run-OUIL</td>
<td>Beacon St &amp; St Paul</td>
<td>2010-794</td>
<td>Hit &amp; Run at Beacon &amp; St Paul. Arrested for OUIL at Beacon St/Winchester. Would have viewed Beacon St/St Paul &amp; Beacon St/Harvard St cameras</td>
</tr>
<tr>
<td>2/17/2010</td>
<td>0849 hrs</td>
<td>Stolen Car - found crashed</td>
<td>Route 9 &amp; ChestnutHill Ave &amp; Warr</td>
<td>2010-842</td>
<td>Stolen MV found by Lojack hit. Car crashed and abandoned at 280 Warren St. Police were actively searching for vehicle using Lojack. Stolen out of Watertown at 0830hrs.</td>
</tr>
<tr>
<td>3/11/2010</td>
<td>1425 hrs</td>
<td>MV Crash - Leaving Scene</td>
<td>Route 9 &amp; High St</td>
<td>2010-1643 E#</td>
<td>MV struck another MV and then fled on Route 9.</td>
</tr>
<tr>
<td>3/17/2010</td>
<td>1549 hrs</td>
<td>Assault &amp; Battery</td>
<td>Route 9 &amp; Cypress St</td>
<td>2010-1383</td>
<td>Determined through investigation that the assault was made up by reporting party.</td>
</tr>
<tr>
<td>3/18/2010</td>
<td>1836 hrs</td>
<td>Kidnapping - Investigation</td>
<td>1329 Beacon St</td>
<td>2010-1419</td>
<td>Subject was being led out if store by a male - store video caught her being pulled out the door by unknown male</td>
</tr>
<tr>
<td>4/2/2010</td>
<td>2048 hrs</td>
<td>MV Crash - Hit and Run</td>
<td>155 Harvard St</td>
<td>2010-1712</td>
<td>MV fled north on Harvard St towards Coolidge Corner</td>
</tr>
<tr>
<td>4/2/2010</td>
<td>2125 hrs</td>
<td>Armed Robbery w/Knife</td>
<td>599 Brookline Ave</td>
<td>2010-1717</td>
<td>Robbery by knife in the playground in rear of 599 Brookline Ave. The SP fled to Riverway on foot</td>
</tr>
<tr>
<td>4/5/2010</td>
<td>0824 hrs</td>
<td>MV Crash w/Bicycle</td>
<td>Hammond St &amp; Rt.9</td>
<td>2010-1759</td>
<td>Bicyclist hit by MV</td>
</tr>
<tr>
<td>4/5/2010</td>
<td>1710 hrs</td>
<td>MV Crash - Pedestrian</td>
<td>Longwood Ave &amp; St Paul St</td>
<td>2010-1774</td>
<td>Pedestrian hit by MV. Pedestrian was found lying in the middle of the street, being treated by Armstrong Ambulance. Driver stated person ran in front of MV.</td>
</tr>
<tr>
<td>4/6/2010</td>
<td>1846 hrs</td>
<td>B &amp; E &amp; L of MV</td>
<td>Carlton St/Beacon St (Ivy St)</td>
<td>2010-1810</td>
<td>MV broken into. Detectives believe related to C#2010-1800 from Pond Ave arrest, wanted to check video to see if suspects where the same suspects using bikes during Pond Ave case.</td>
</tr>
<tr>
<td>4/7/2010</td>
<td>1530 hrs</td>
<td>Bank Robbery - w/Firearm</td>
<td>All cameras activated</td>
<td>2010-1840</td>
<td>487 Harvard St. A Bank Robbery with gun shown and vehicle recovered.</td>
</tr>
<tr>
<td>4/15/2010</td>
<td>1820 hrs</td>
<td>A &amp; B - Road Rage</td>
<td>Cypress St/Boylston St</td>
<td>2010-1976</td>
<td>Two people summoned for mutual assault and battery resulting from a MV altercation.</td>
</tr>
</tbody>
</table>
ATTACHMENT F

Log of Situcom Overrides of the CIMS Cameras
<table>
<thead>
<tr>
<th>Date</th>
<th>Time: Start/End</th>
<th>Incident</th>
<th>Case or Event #?</th>
<th>Initiated By</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/24/2010</td>
<td>1430/1515hrs</td>
<td>Suspect in MV breaks.</td>
<td></td>
<td>Boston PD via BAPERN Dispatch</td>
<td>Boston reported wanted vehicle was heading towards Coolidge Corner. SP was wanted for MV breaks at Herb Chambers. SP's MV not located</td>
</tr>
<tr>
<td>2/1/2010</td>
<td>1015/1020hrs</td>
<td>Remove Situcon software</td>
<td></td>
<td>NO Scott Wilder</td>
<td>Camera being moved to Boston PD for ownership. Situcon software removal was the reason of notification.</td>
</tr>
<tr>
<td>2/9/2010</td>
<td>1923/1929hrs</td>
<td>Missing 10 yr old (from the Newton PD)</td>
<td>E-2010-9508</td>
<td>Scott Wilder</td>
<td>Newton notified BPD that a 10 yr old bi-polar child was missing. They had info he could be in Coolidge Corner area &amp; provided discription. Newton then reported the Coolidge Corner info was not correct. Cameras were then set back to default.</td>
</tr>
<tr>
<td>2/16/2010</td>
<td>0944/1155hrs</td>
<td>Camera system check</td>
<td></td>
<td>No Smiths Detection</td>
<td>Checked camera resolution setting. Addressed Beacon St/St Paul camera switching to black and while in the evening.</td>
</tr>
<tr>
<td>2/22/2010</td>
<td>900hrs</td>
<td>Traffic monitoring</td>
<td></td>
<td>No Scott Wilder</td>
<td>Beacon and Harvard St camera active 24x7 for traffic analysis</td>
</tr>
<tr>
<td>3/10/2010</td>
<td>1300/1600hrs</td>
<td>System Upgrade and backup server install</td>
<td></td>
<td>No Scott Wilder</td>
<td>Tested upgrade to SituCon software and back up server install.</td>
</tr>
<tr>
<td>3/18/2010</td>
<td>0830/1530hrs</td>
<td>Grammer School Walk for Haiti</td>
<td></td>
<td>No Scott Wilder</td>
<td>Planned event</td>
</tr>
<tr>
<td>3/22/2010</td>
<td>1935/1958hrs</td>
<td>Hit &amp; Run MVA-fled west on Beacon</td>
<td>E2010-19143</td>
<td>Dispatch1</td>
<td>Hit and run MV crash. Suspect vehicle fled outbound on Beacon St.</td>
</tr>
<tr>
<td>4/1/2010</td>
<td>1328/1350hrs</td>
<td>Attempted suicide on roof at 1029 Beacon</td>
<td>2010-1680</td>
<td>Scott Wilder</td>
<td>The camera at Beacon St/Carlton St was activated at 1328hrs for a subject on the roof at 1029 Beacon Street threatening to jump. The subject was talked talked out of this action and agreed to go to the hospital.</td>
</tr>
<tr>
<td>4/19/2010</td>
<td>0700/1445hrs</td>
<td>Boston Marathon</td>
<td></td>
<td>NA Scott Wilder</td>
<td>Marathon</td>
</tr>
</tbody>
</table>

Brookline Police Department
Prepared by PO Scott Wilder
Data as of 4/26/2010
ATTACHMENT G

Analysis of CIMS Camera Reviewed/Retained Footage
CIMS Camera Reviewed/
Retained Footage Analysis

Daniel C. O’Leary
Chief of Police
Chair of the Emergency Management Team
Revised through 4/23/2010
Since the inception of the CIMS program, there have been 107 requests to retain/review footage:

- 93 were requests for incidents/specific footage
  - Criminal investigations, motor vehicle crashes, internal investigations, traffic flow analysis
  - Covering 51 specific incidents/crimes.
- 6 were for pre-planned managed events
- 8 were Freedom of Information Act (FOIA) requests
There have been 99 requests by police to retain/review footage (incidents/events)

- In 79 of these requests (80%), we yielded footage that assisted law enforcement.
  - Some ways in which the footage was helpful: leading to arrests, aiding in criminal investigations, assisting in managing an event and conducting analysis of traffic flow patterns.

- In 20 of the requests (20%), the footage did not prove to have evidentiary value.
  - 7 of these 20 requests were in the first two months of the pilot program.

- If looking at only number of individual incidents (not actual requests for footage of which there could be multiple for one situation), 41 (or 70%) had footage which assisted law enforcement and 17 (or 30%) did not.
Footage Turned Over To:

- Of the total 107 requests (Police and FOIA):
  - Traffic (Chief/Captain/Investigator) – 31
  - Detective Division/Evidence Officer – 28
  - Citizen/Victim – 5
  - Media – 3
  - Suffolk County District Attorney – 2
  - Office of Professional Responsibility - 1
  - Video Was Not Made/Turned Over – 41

In four incidents, footage was provided to two sources (such as Evidence & victim).
Types of Incidents Where Footage was Retained/Reviewed

- Armed Robbery – 3
- Bank Robbery - 4
- Rape – 3
- Burglary – 6
- Sexual Assault – 3
- Double Stabbing – 1
- Car Break - 7
- Larceny – 4
- Citizen Complaint – 1
- Internal Investigation – 2
- Pick pocketing – 1
- MV Crash – 7
- Malicious Damage – 1
- OUI – 7
- FOIA - 8
- Managing Events – 6
- Traffic Flow – 29
- MV Theft – 1
- MV Pursuit – 2
- Bank Robbery Surveillance - 11

Some incidents resulted in multiple requests, each request counted.
Ways Footage Assisted

- Assisted in Investigation – 45
- Prosecution – 16
- Events – 6
- Exonerating Suspects – 3
- Disproving Crimes – 1
- Traffic Analysis – 29
- FOIAs – 8
- Did not assist - 20

Some incidents assisted in multiple ways, each way in which it assisted is counted.
24hrs vs. Limited Hours

- The cameras ran on a 24hr a day basis from February 2009-January 2010.
  - During that time, there was an average of 8.6 requests per month to retain/review footage.

- On January 25, 2010, the cameras began a limited operation from 10pm – 6am daily.
  - During this time, there have been 10 requests for retained/reviewed footage, an average of 3.3 requests per month.
  - There were 15 incidents since Jan 25th that occurred during the daytime hours that the cameras were off which would have resulted in a request for footage to be retained/reviewed.
  - With these additional 15 incidents, the request average would be 8.3 per month.