

WARRANT

THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF BROOKLINE
ANNUAL TOWN MEETING

Norfolk, ss

To Any Constable of the Town of Brookline

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to NOTIFY and WARN the Inhabitants of the TOWN OF BROOKLINE, qualified to vote at elections to meet at the High School Auditorium in said Brookline on TUESDAY, the TWENTY-FIFTH day of MAY, 2010 at 7:00 o'clock in the evening for the Annual Town Meeting at which time and place the following articles are to be acted upon and determined by the representative town meeting:

ARTICLE 1

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.

ARTICLE 2

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.

ARTICLE 3

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.

ARTICLE 4

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.

ARTICLE 5

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.

ARTICLE 6

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.

ARTICLE 7

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.

ARTICLE 8

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.

ARTICLE 9

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.

ARTICLE 10

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.

ARTICLE 11

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.

ARTICLE 12

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:

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.

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.

(a) **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.

ARTICLE 13

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** of 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.

ARTICLE 14

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:
 - 2. 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:

SECTION 5.01 TABLE OF DIMENSIONAL REQUIREMENTS							PBI ¹¹		MINIMUM YARD ³ (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI ¹¹ NB ONLY	LOT WIDTH MINIMUM (feet)	HEIGHT ⁹ MAXIMUM	S	NB	Front ^{1,6}	Side 2	Rear	Landsc.	Useable ¹³
G-1.0 (DP)	Any Structure or Principal use (dwelling-footnote 5)	None ⁴	1.0	N/A	None	40	N/A	N/A	None	None	10+L/10	See §5.06	None

- 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.

ARTICLE 15

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.

ARTICLE 16

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 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.

Or act on anything relative thereto.

ARTICLE 17

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 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.

ARTICLE 18

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.

ARTICLE 19

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 to protect migrating birds.

Or act on anything relative thereto.

ARTICLE 20

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.

ARTICLE 21

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.

ARTICLE 22

Reports of Town Officers and Committees

AND YOU ARE DIRECTED TO SERVE THIS WARRANT IN ACCORDANCE WITH THE BY-LAWS OF THE TOWN OF BROOKLINE.

HEREOF FAIL NOT, and make due return of this WARRANT, with your doings thereon, to the Selectmen at least FOURTEEN DAYS before the day of said meeting.

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this _____ day of March, 2010.

BOARD OF SELECTMEN

