

**WARRANT ARTICLE EXPLANATIONS
FILED BY PETITIONERS FOR THE
NOVEMBER 16, 2010 SPECIAL TOWN MEETING**

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

This article is inserted in the Warrant for any Town Meeting when budget amendments for the current fiscal year are required. For FY2011, the warrant article is necessary to balance the budget based on final State Aid figures, re-allocate funds, and make an appropriation for additional classroom capacity.

ARTICLE 4

Committee on Town Organization & Structure's Majority Report

In 1985, upon the recommendation of the Committee on Town Organization & Structure (CTO&S), Town Meeting voted to seek home rule legislation significantly strengthening the role of the chief administrator of the Town. Commonly known as the Brookline Town Administrator legislation, it was passed into law as Chapter 270 of the Acts of 1985. Since that time, only a few relatively minor amendments have been made to the original act. Attached is a copy of the 1985 Act and the 1990 and 1991 amendments.

Given the 25 years that had passed since the enactment of the Town Administrator Act, CTO&S felt that a review of its effectiveness was in order and embarked on a comprehensive study of the legislation and the current duties and responsibilities of the Town Administrator.

That two year study was recently completed and included more than 20 public meetings, a public hearing, and a great deal of valuable input from the Board of Selectmen, Town Administrator, members of board and commissions, department heads, town officials in other communities, and interested citizens.

Overall, the Town Administrator legislation has worked well and has enabled the Town Administrator to provide strong, focused and integrated administrative leadership for the town. The Administrator's responsibilities in formulating the annual financial plan, recommending the capital improvement program, and recommending collective bargaining proposals, have been discharged with results that have been of great benefit to the community. An issue of concern felt by some members of CTO&S was what appeared to be a disconnect between the Town Administrator being the chief administrative official in the town, somewhat akin to a Chief Operating Officer in the private sector, and the lack of appointment authority entrusted to the position. Given that

the Administrator is held accountable for the day to day performance of the Town management team and the delivery of services they provide, it seems only logical that the ultimate authority for the appointment of that team should be vested in him or her.

This article is designed to correct this concern and potential disconnect and further strengthen the Town Administrator's position by giving the incumbent the authority to select, appoint, and dismiss if necessary, the management team that reports to the Administrator and which manages all of those functions for which he/she is responsible and held accountable to the Board of Selectmen. This would further strengthen the role of the Board of Selectmen as the chief policy officers of the town, eliminating one aspect of their administrative duties, the day to day oversight and evaluation of town department heads. Interestingly, virtually all of the Selectmen that we interviewed stated that they did not have adequate insight into the day to day activities of the department heads to effectively and objectively evaluate their performance. The change in hiring and firing authority from the Board of Selectmen to the Town Administrator embodied in this article would be exactly parallel to the relationship that currently exists in the School Department between the Superintendent of Schools and the School management team (Principals, Department Heads, etc.), with the School Committee serving as the Policy Board. Most larger communities in Massachusetts have moved to this system of town governance. In Brookline, the following top level department heads that report directly to the Town Administrator and whose appointment currently resides with the Board of Selectmen would, under this amendment to the Town Administrator Act, be appointed by the Town Administrator:

- Chief of Fire
- Commissioner of Public Works
- Director of Finance
- Chief Information Officer
- Director of Planning & Community Development
- Building Commissioner
- Director of Public Health & Human Services
- Human Resources Director
- Director of Recreation
- Director of Human Relations – Youth Resources
- Director of Council on Aging
- Veterans Services Director

The appointment of Town Counsel would remain with the Board of Selectmen, because, in the opinion of CTO&S, that position acts largely as counsel to the Board, not as a Department Head in the same manner as the others listed above. CTO&S, after much discussion and citizen input, became convinced that the Selectmen also have a special relationship with the Chief of Police. They exercise elected civilian control over that one Department and Chief that have unique powers over citizens of the Town and act as a civilian review board when considering appeals under the citizen complaint policy. For that reason CTO&S felt that the Chief should continue to be appointed by the Board of Selectmen on recommendation of the Town Administrator. The issue of parity with the Fire Chief also was discussed. The unique powers of the Police Department are not paralleled within the Fire Department and in interview, the Fire Chief stated that he had no objection to breaking parity in this particular regard and that he understood the clear differences in powers between the two Departments that might lead to this distinction in

appointing authority. Thus, CTO&S felt that the management concerns outweighed any concerns about parity and we left the appointment of the Fire Chief with the Town Administrator.

Other exemptions contained in the article are the Town Librarian and employees of the Library (because of their relationship to the Library Trustees), the Town Clerk (an elected position) and employees of that office, all employees of the School Department (because of their separate and distinct relationship to the School Committee and Superintendent of Schools). In addition, no civil service employees will be affected by this article. They now comprise 451 out of a total of 730 non-school positions and include police, fire and public works personnel, as well as clerical and custodial employees. Currently, no department heads are under civil service.

The processing of all other town employees' appointments would be handled by the department heads and the Director of Human Resources, with the approval of the Town Administrator. Inasmuch as there are several new pre-employment screening programs that must be adhered to and which have proved valuable in the past, a coordinated, consistent approach across department lines will be assured if the Town Administrator has the authority to approve these appointments.

ATTACHMENTS:

1. Ch. 270 of the Acts of 1985

Chapter 270. AN ACT ESTABLISHING THE POSITION OF TOWN ADMINISTRATOR IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of any general or special

law to the contrary, there shall be a town administrator, hereinafter called the administrator, in the town of Brookline, who shall be appointed by the board of selectmen for a three year term. During the term of appointment, the administrator may only be removed after notice stating the reason for such removal and a public hearing, by a vote of at least three selectmen.

SECTION 2. The administrator shall be the chief administrative officer of the town. Without limiting the foregoing, the administrator shall perform and discharge the following functions and duties:

- (a) daily administration of the town;
- (b) recruitment and recommendations for appointment by the board of selectmen of all department heads, except the librarian, school personnel, treasurer/collector, town clerk, and any department head whose appointment is otherwise provided for by statute;
- (c) supervision, written evaluation and training of all department heads except personnel in the school department;
- (d) coordination of intra- and inter-governmental affairs;
- (e) acting as the administrative spokesperson for the town;
- (f) formulation of the annual financial plan, including detailed projections of all revenues and expenditures;
- (g) recommendations with respect to departmental and non-departmental expenditures, the capital improvement plan submitted by the planning board, the financial impact of warrant articles, and guidelines for collective bargaining;
- (h) approval of payment and expense warrants upon the treasury of the town, under section fifty-six of chapter forty-one of the General Laws;
- (i) recommendations for the removal for just cause, by the board of selectmen, of any department head appointed by the selectmen;
- (j) recommendations concerning collective bargaining proposals for the town, exclusive of the school department;
- (k) performance of such other duties and responsibilities as are delegated to the administrator by the board of selectmen.

SECTION 3. The administrator shall not be responsible for matters which are the responsibility of the school committee.

SECTION 4. The board of selectmen shall implement the administrative organization set forth herein and may delegate any additional administrative function, or any civil service appointment, removal or discharge authority or responsibility to the administrator or, upon the recommendation of the administrator, a department head.

SECTION 5. The town may, through its by-laws, delegate any licensing authority, except the licensing of innholders, lodging houses, common victuallers, food vendors, secondhand motor vehicles, open air parking, liquor sales and theaters and entertainment.

SECTION 6. The administrator shall be subject to the authority and direction of the board of selectmen. He shall render reports to the board of selectmen on a regular basis, including in such reports a summary of current activities, a list of both current and long-range issues and objectives and programs in response thereto, and suggestions concerning the goals and objectives of the community.

SECTION 7. This act shall take effect upon its passage.

Approved September 18, 1985.

2. Ch. 322 of the Acts of 1990

Chapter 322. AN ACT RELATIVE TO THE APPOINTMENT OF DEPARTMENT HEADS IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 270 of the acts of 1985 is hereby amended by striking out clause (b) and inserting in place thereof the following clause:-

(b) recruitment and recommendations for appointment by the board of selectmen of all department heads, except the librarian, the superintendent of schools, the treasurer/collector, the town clerk, and any other department head who is elected or who is appointed by another elected board or commission, provided that in the case of the director of recreation any recommendation must be approved by the park and recreation commission, that in the case of the director of the council on aging any recommendation must be approved by the council on aging and that in the case of the rent control board director any recommendation must be approved by the rent control board.

SECTION 2. Chapter 13 of the acts of 1963 is hereby amended by striking out section 4.

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

Approved December 17, 1990.

3. Ch. 427 of the Acts of 1991

Chapter 427. AN ACT RELATIVE TO THE APPOINTMENT OF DEPARTMENT HEADS IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Clause (b) of section 2 of chapter 270 of the acts of 1985 is hereby amended by inserting after the word "statute", in line 4, the words: -, and in making such recommendations the administrator may in his discretion recommend for appointment as department head single candidates whom the board of selectmen shall either appoint or reject until one is appointed.

SECTION 2. Said section 2 of said chapter 270 is hereby further amended by striking out clause (k) and inserting in place thereof the following two clauses:-

(k) submission to the board of selectmen and to town meeting of plans to reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, or to establish new departments, commissions, boards and offices, or both, subject to enactment of home rule legislation if otherwise legally required; and

(l) performance of such other duties and responsibilities as are delegated to the administrator by the board of selectmen.

Approved December 29, 1991.

**Committee on Town Organization & Structure's Minority Report
(Michael Robbins & Martin Rosenthal)**

Ben Franklin, when asked in 1787, "Well, Doctor, what have we got-a Republic or a Monarchy?" replied, "*A Republic, if you can keep it.*"¹

Motivated by cherished values of both republican and democratic government, we respectfully dissent from the proposal to greatly increase the power of the Town Administrator in the appointments of department heads, thereby lessening the power and leadership of the selectmen. We do so not from any disapproval of our recently retired Town Administrator, who served Brookline so well; but his successor, whom we greet with much enthusiasm, is less familiar to all of us, and -- with all due respect -- his newness exemplifies some, albeit not all, of our concerns.

We also note that the apparently strong field of successor candidates belies one of the arguments we heard for the proposed change, that without it we'd have a harder time finding an adequate replacement. In fact, without this proposed change, Brookline is obviously considered a prime administrative post, not just because of its excellent compensation and benefits, but also for its wonderful professional and volunteer infrastructure -- including its passionate, engaged, supportive, and yes, frequently outspoken citizenry.

Indeed, and ironically, we believe the majority's proposal would diminish the influence of Brookline's citizenry, and consequently their active participation, in our governance -- a major reason we have prospered as a Town. Further the proposed change seems a significant step closer to a city form of government, with its inevitable tendency towards an all-powerful City Hall that's often controlled by a small insider clique.

We two, of very different political stripes and affiliations, are strong advocates of citizen participation, especially our Town Meeting form of governance, which we believe would be endangered by the proposed change. We already see very low turnout at town elections, maybe the best stimulus for interest and participation in government, often due to a feeling that "my vote doesn't count." The majority's proposal would exacerbate that feeling.

Largely because of similar regard for Brookline's active citizenry, and similar fears, since at least 1942,² Brookline has repeatedly rejected a *Town Manager*, instead always making less revolutionary changes. In 1942, we created an Executive Secretary ("E/S") -- instead of a recommendation by the Public Administration Service of Chicago urging a then-popular Town Manager government. Again in the late '50's, a "blue ribbon" Moderator's Committee, "The Committee Appointed To Study The Question Of The Town Manager Form of Government," rejected such a change, recommending -- and Town Meeting in 1959 then voting -- to substantially broaden the E/S's powers.

¹ From the notes of Dr. James McHenry, MD delegate Constitutional Convention, included in *The Records of the Federal Convention of 1787*, ed. Max Farrand, vol. 3, appendix A, p. 85 (1911, reprinted 1934).

² The source of the historical summary which follows is mostly, July 22, 2001, Town Online, "Richard Leary on the evolution of a government," by Larry Ruttman, "Brookline then and now."

For two decades, those powers increased, further encroaching on the prerogatives of the selectmen, culminating in 1985 with another look at a Town Manager system; but after a report by this Committee, the Town Meeting chose more finely tuned change, giving our E/S a new title, "Town Administrator," with more management powers, later augmented in 1990, but always refusing to drastically limit the ultimate control of the Selectmen.

Our current Town by-law for the Selectmen, is §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.*" The ultimate responsibility should be theirs, not an appointed Administrator. We concede that both the risks -- like the asserted benefits -- of the majority's proposal are intangible and immeasurable. Yet we are convinced that the risks outweigh the benefits from vesting hiring/firing authority in the selectmen, who are more accountable to, and in touch with, not only the citizens --but also, and equally importantly, to the 240 TMM's, who would lose both influence and incentives to get involved.

Nor do we think the *School Superintendent* model from the statewide Education Reform Law is persuasive for the plethora of *non-school* departments, whose ambits and constituencies are broader and more varied than the schools, whose mission and community values are relatively clear-cut. For departments like Public Works, Planning, Park & Rec, HRYR, etc., the missions involve weighing various -- occasionally competing -- community priorities and values. Those department heads must be responsive to democratically elected officials who best know and reflect those values.

We have no illusions that selectmen are either perfect or flawless, any more than appointed administrators. But the selectmen are at least accountable to the people. We do not consider "politics" to be "bad" or a "dirty word"; the political process is a great American asset. What's "bad" is *bad* politics or bad leadership of any kind, at any level, whether by elected or by appointed officials. We are convinced that the majority's proposal would diminish the power of not only the selectmen, but also (derivatively) the 240 TMM's, and consequently the citizens. It's a "good" thing for department heads to care what the selectmen -- and TMM's -- think about choices and operations. The majority's proposal would inevitably diminish that concern among "our"-- i.e. the citizens' -- high-level employees.

ARTICLE 5

This article is submitted by a 7-0 vote of CTOS after 2010's Annual Town Meeting ("ATM") acceded to CTOS' request to study that ATM's (petition) article 10.³ CTOS' revised wording is consistent with the intent of the principal petitioner, but substitutes some recent Town Counsel language for the original language of article 10. The current proposal also adds its last clause to highlight the intent -- consistent with both our traditions and art. 10's earlier intent -- that the selectmen not be involved in day-to-day administration, operations, or management.

Ultimately this proposal, like art. 10's, is based upon three main prongs:

³ For the A/T/M's Combined Reports of Selectmen & Advisory Committee with Supplemental Reports, see http://www.brooklinema.gov/index.php?option=com_docman&task=doc_download&gid=3300&Itemid=654.

- a title can matter in a paramilitary organization, analogous to “Commander-in-Chief”;
- Brookline’s long traditions of both civilian control and these particular titles; and
- the legal underpinnings of selectmen’s broad responsibilities vis-à-vis both Departments.

As to the latter, for Police, see *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*):

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 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.⁴

For the Fire Department, a 1973 Home Rule Law abolished the office of Fire Commissioner, and transferred to the selectmen “all [of its] powers & duties ... , making them “for all purposes whatsoever the lawful successor to the fire commissioner in relation to the direction and control of the fire department,” with the language similar to §97. But, the title was not codified.

CTOS had discussed art. 10 on several occasions last spring, then voting (6-1) to recommend referring it for further study, based partly on desire to debate it at the same T/M as CTOS’ own warrant article then planned for this Fall’s TM -- to amend the Town Administrator law. CTOS had three summer meetings discussing the issues raised in the 2010 Annual Town Meeting about article 10. Ultimately -- and unanimously -- CTOS agrees that the thrust of this article merely codifies but does not change either any longstanding Brookline practices, or any legal responsibilities of the selectmen.

CTOS discussed, and ultimately rejected, two ideas that were suggested in relation to art. 10, (1) attempting to define, specify, and/or enumerate *the selectmen’s authority*, and/or (2) considering either no *titles* or some alternatives. The former was felt to be both a formula for later disputes and virtually impossible to articulate for future boards of selectmen with any degree of specificity while remaining consistent with the current, broad authority under the foregoing laws. As for the titles, CTOS felt that (1) titles are at worst harmless, but might be helpful to emphasize -- to the community, the departments, and the selectmen -- the selectmen’s weighty responsibility over public safety; and (2) there is no need to try for a consensus as to any new titles untested by decades of usage -- and (3) our traditional although unwritten one, “Commissioner”, was (a) the best and easiest vehicle to resolve this matter and (b) not problematic.

⁴ See also, *Chief of Police v. Westford*, 365 Mass. 526, 530-31 (1974) (“... [T]he 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. ...”)

ARTICLE 6

In 2000 the Board of Selectmen appointed the Town Comprehensive Plan Committee composed of 21 representatives of Town boards, commissions, advisory bodies, committees and members of the public to update the previous plan. The Comprehensive Plan 2005-2015 (the “Plan”) is the product of more than two years’ work and an investment of more than \$300,000, about half of which was offset by federal funds.

In adopting the Plan in December 2004, the Board of Selectmen (the “Board”) wrote that it “accepts and supports the Comprehensive Plan as presented to it...including the visions, goals policies and strategies contained within.” The Board also wrote that it “...expects that the Comprehensive Plan will be used to guide planning, development, and capital investment in the Town for the next ten years, ***including the drafting of amendments to the Town Zoning Bylaw.***” (Emphasis added.) The Board “Resolved, that the Department of Planning and Community Development should commence development of an Action Plan for implementation of the Comprehensive Plan...” Finally, the Board strongly recommended “the Planning Board adopt” [the Plan] and it did so in January 2005.

Along with the Town’s official Master Plan under Massachusetts General Laws chapter 41, section 81D, the Plan serves as the roadmap for the Town’s future. The intent of these amendments is to begin to make the Zoning By-Law consistent with the Plan and to stimulate fulfillment of the Plan’s visions, goals, policies and strategies so that Brookline’s future is well reasoned and meets our needs.

ARTICLE 7

This proposed amendment would level the playing field for wireless facilities in the Town, whether they are wireless antenna systems or the newer Distributed Antenna Systems (DAS,) by requiring that all such facilities not located on Town-owned property undergo the same zoning review.

Five years ago, Town Meeting amended the Town’s Zoning Bylaw with respect to wireless communications facilities to expedite the development of a Distributed Antenna System for south Brookline. At the time, amending the Zoning Bylaw was a way of encouraging development of what was then a less common solution to providing cellular service in areas without tall buildings, without the use of towers or monopoles.

The south Brookline DAS system has since been completed. However, by making it easier to develop DAS systems than to develop traditional wireless antennas, the earlier amendment had the unforeseen side effect of encouraging DAS systems Town-wide. This effect is caused by the fact that, as currently written, the Zoning Bylaw requires more review of wireless antennas than of DAS systems on public utility poles. In addition, in the past two years, DAS systems have become much more common. There are now two active efforts to develop Town-wide DAS systems.

While DAS systems are not necessarily bad for the Town, there is no reason why the Zoning Bylaw should provide them with preferential treatment Town-wide over wireless antennas. DAS systems have visual and audio impacts on neighbors that could be minimized and/or mitigated as part of a zoning review process, much as the Town minimizes the impacts of wireless antennas through the zoning review process. This zoning amendment would provide the Town with ways of achieving these goals.

ARTICLE 8

This amendment is being submitted by the Planning Board, because of several advantages in allowing projecting signs as one of the options for identifying commercial uses. Projecting signs are an attractive way to identify shops for pedestrians who cannot see a flat façade sign until they are directly in front of it. Many cities and towns across the country encourage projecting signs, especially in historic districts. At Fall 2003 Town Meeting, an amendment allowing projecting banner signs made of fabric was approved. Originally, this amendment was going to include projecting signs of non-pliable materials, however, it was decided to take an incremental approach and start first with allowing banners.

The attached proposed language for a zoning amendment would allow projecting signs constructed of wood, a composite of wood and plastic, metal, glass or another substantial material, subject to the sign and façade review and approval process of the Brookline Planning Board. The proposed amendment builds upon the existing language that allows fabric banners to project from buildings. Projecting signs would have a more restrictive sign area size allowance than freestanding signs, would have to maintain an 8' clearance above the ground, and could not be internally illuminated. The Planning Board would have the discretion to regulate how many projecting signs, if any, could be installed on a building façade. Other existing requirements in Section 7 of the Zoning Bylaw would apply as well. If the language were to be adopted, additional details regarding design and placement of projecting signs could be added to the Planning Board Sign and Façade Guidelines.

ARTICLE 9

This article is being submitted by the Department of Planning & Community Development in order to meet one of the five criteria to qualify as a “Green Community” under the Green Communities Act (GCA) and qualify it for state grants under GCA programs. It would create a new Special District under Section 5.06 of the Zoning Bylaw that would allow ground-mounted solar panels to be located on the site of the Department of Public Works’ Singletree Hill Reservoir site in Chestnut Hill.

In order to qualify as a Green Community, the Town needs to meet five criteria:

1. Provide for the as-of-right siting of renewable or alternative energy generating facilities, renewable or alternative energy research and development (R&D) facilities, or renewable or alternative energy manufacturing facilities in designated locations,
2. Adopt an expedited application and permitting process under which these energy facilities may be sited within the municipality and which shall not exceed 1 year from the date of initial application to the date of final approval,
3. Establish an energy use baseline inventory for municipal buildings, vehicles, street and traffic lighting, and put in place a comprehensive program designed to reduce this baseline by 20 percent within 5 years of initial participation in the program,
4. Purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable, and
5. Require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to minimize, to the extent

feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies.

The Town received a grant from the state last year to develop a strategy for meeting these criteria. It has made significant progress on criteria #2-5. This warrant article would allow the Town to meet criterion #1, which can be met by allowing a ground-mounted solar energy array facility of at least 250 MW, requiring at least one acre. This proposed overlay district is over 2 acres in size and should provide adequate space for a facility that is sited in a sensitive way and is feasible.

This site is an attractive one to explore for solar energy use. It is the highest point in the Town. Part of the site is located on the top of an old structure, where it is flat and receives significant sunlight. That location is far enough off the ground that it would not be visible from neighboring areas. Any utility connections for such a facility would be located either on the Route Nine side of the site or underground. If the Town were to construct a solar array on this site it would help offset Town reliance on oil and gas, potentially saving the Town money on energy, and also help reduce the Town's carbon footprint.

It is important to note that this zone change would not obligate the Town to actually locate a facility on the site. Since it is a Town-owned site, that decision would ultimately rest with the Town. There would be significant Town control over whether such a facility was ultimately constructed. For example, if a renewable energy facility required a capital outlay, it would have to be placed on the Capital Improvement Program (CIP) and require a vote of Town Meeting. If a state or federal grant were received for such a facility, accepting the grant would be subject to a vote of the Board of Selectmen.

This site is currently designated as part of the Town's water supply system. This zoning change would not affect that designation.

ARTICLE 10

This article seeks to lower the minimum number of off-street parking spaces required for new residential development. Residential parking requirements are applied whenever new dwelling units are created, including new construction or conversions of an existing building.

It is the ultimate goal of this article to set residential parking requirements that reflect, support and protect Brookline's patterns of land use, travel behavior and vehicle ownership. The need to correct our current residential parking requirements became apparent after detailed analysis revealed that 1) our current multi-family residential parking requirements are too high, requiring more parking than residents need; and 2) requiring too much parking brings with it serious negative consequences.

This article also includes proposed amendments for: Use #22, which governs the by-right amount of parking a property owner can provide for off-site residents, and Uses #54 and 55 which govern accessory parking. These proposed changes are necessary to make all components of our Zoning By-law related to residential parking consistent with the new proposed parking requirements, and to allow for easier shared parking arrangements where large parking lots exist.

Selectmen's Parking Committee:

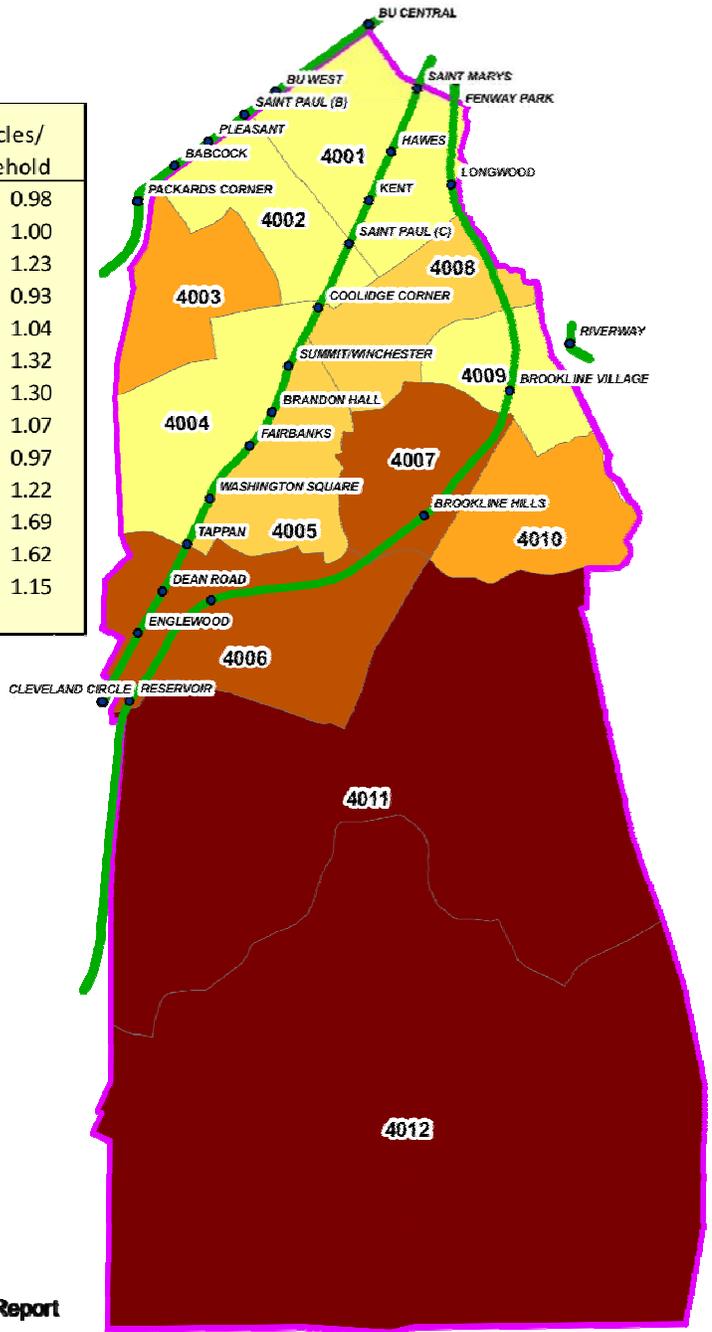
The Selectmen's Parking Committee was convened in August, 2008 and charged with conducting a comprehensive review of policies and regulations related to parking in Brookline. The Regulatory Sub-Committee, of which the petitioner was a member, sought to investigate whether or not the off-street parking requirements in Brookline's Zoning By-law were appropriately matched to existing conditions and whether or not they supported or harmed our ability to achieve other Town-wide policy goals.

The Selectmen's Parking Committee met over a period of 18 months publishing their Final Report in August 2010. The report includes a recommendation to lower multi-family residential parking requirements (pg. 26), based on extensive research done by Committee members and Planning staff. The Committee's report and presentation of all of the research findings are available at the Planning Department's Parking Committee downloads page. A few key findings are:

- Average town wide vehicle ownership is 1.15 per household.
- Excluding Chestnut Hill and South Brookline, the average vehicle ownership is 1.08 per household.
- Multi-Family areas (including 2 and 3 family homes) have vehicle ownership values ranging from .56 to 1.41 per household.
- Only 4-person+ households living in census tract 4011 (Chestnut Hill) average 2 or more vehicles per household.
- 20% of Brookline households own no car. Values range from 3% in South Brookline to 34% in census tract 4004 (Driscoll School).
- Field surveys reveal an average 25% vacancy in multi-family parking lots.
- These same counts correspond to an average of .98 vehicles per dwelling unit.
- 45% of Brookline's working population who commute does so without a car.
- A significant proportion (in many cases greater than 50%) of an average household's other (non-commute) daily travel is achieved without a car.

Vehicles Owned per Household Analysis

Census Tract	Area	Vehicles/ Household
4001	St. Mary's	0.98
4002	Coolidge Corner	1.00
4003	Devotion (CC/JFK)	1.23
4004	Corey Hill	0.93
4005	Washington Square	1.04
4006	Fisher Hill	1.32
4007	Cypress/Washington	1.30
4008	Brookline Village (North)	1.07
4009	Brookline Village (South)	0.97
4010	High Street Hill/The Point	1.22
4011	Chestnut Hill	1.69
4012	South Brookline	1.62
Town Average		1.15



Brookline Zoning by Census Tract

Census Tract	Area	Vehicles/ Household
4001	St. Mary's	0.98
4002	Coolidge Corner	1.00
4003	Devotion (CC/JFK)	1.23
4004	Corey Hill	0.93
4005	Washington Square	1.04
4006	Fisher Hill	1.32
4007	Cypress/Washington	1.30
4008	Brookline Village (North)	1.07
4009	Brookline Village (South)	0.97
4010	High Street Hill/The Point	1.22
4011	Chestnut Hill	1.69
4012	South Brookline	1.62
Town Average		1.15



Zoning

- Commercial
- Multi-family
- Single-Family
- Two/Three-Family

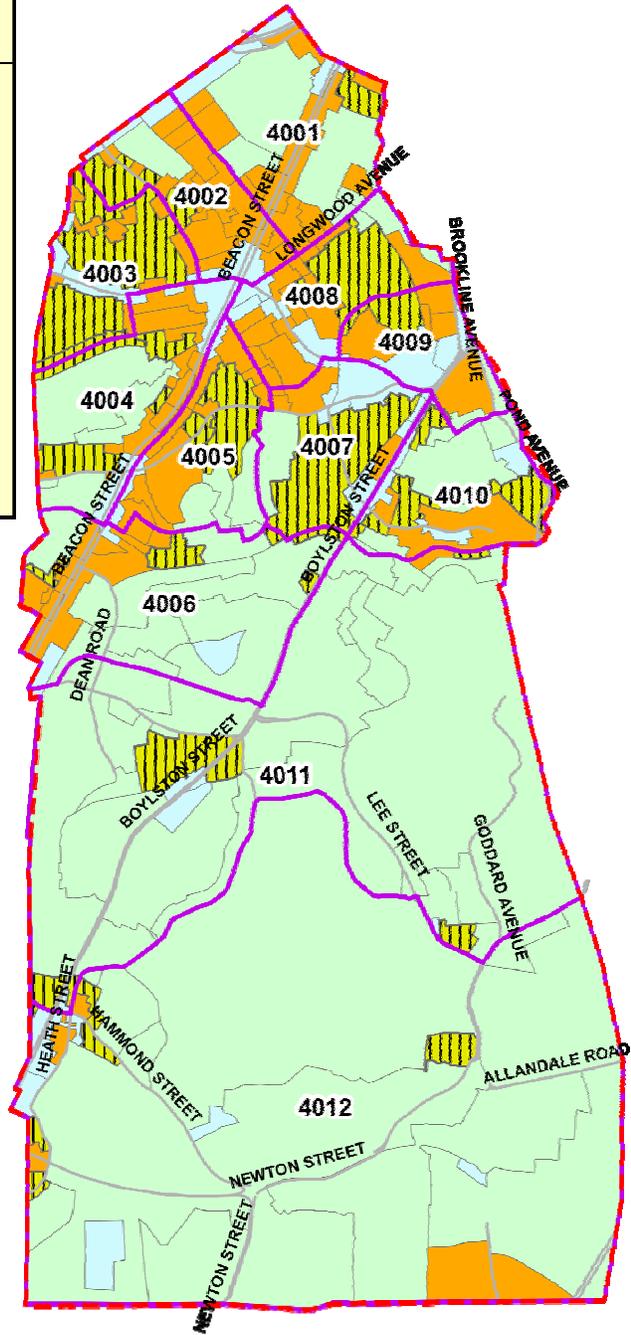
- Town Boundary
- Census Tract



1 inch equals 0.5 miles

Data Sources: Brookline GIS,
U.S. Census 2000, Parking Committee Report

Created August, 2010



As the above statistics and maps illustrate, Brookline's multi-family residential population, living primarily in North Brookline near transit, are enjoying the benefits of living close to desirable destinations and take advantage of having access to a variety of possible travel modes. The ability to live comfortably with fewer private automobiles provides significant savings, helping to offset the high cost of housing in Brookline. The average cost of owning and operating a vehicle is approximately \$7,000 - \$8,000 which can translate into an additional \$100,000 + in mortgage purchase price. 3,000 Brookline residents are members of Zipcar, reflecting their desire to reduce the burden of car ownership.

Where Did the Proposed Rates Come From?

The proposed rates derive principally from Brookline-specific vehicle ownership data. The 2000 Census was the primary source, with additional reasonableness checks in the form of field survey data, MassGIS Registry of Motor Vehicle geocoded data, examples of parking utilization at existing Brookline buildings, Institute of Transportation Engineers data and data on recently built housing projects in the Boston region. When considering the application of a fractional parking requirement, like 1.3 spaces per unit, it helps to remember that we are working with averages and to visualize a group of households, with every third one owning two vehicles and the other two owning one each. When calculating the required parking for a number of units, a remaining value of .5 or more would be rounded up to 1.

2 parking spaces per dwelling unit for **single-family** dwellings exceeds the average vehicle per household values of 1.87, 1.89 and 1.97 for Census Block groups encompassing areas which are exclusively single-family homes. (4011-1 and 4011-2 in South Brookline and 4006-3 on Fisher Hill.)

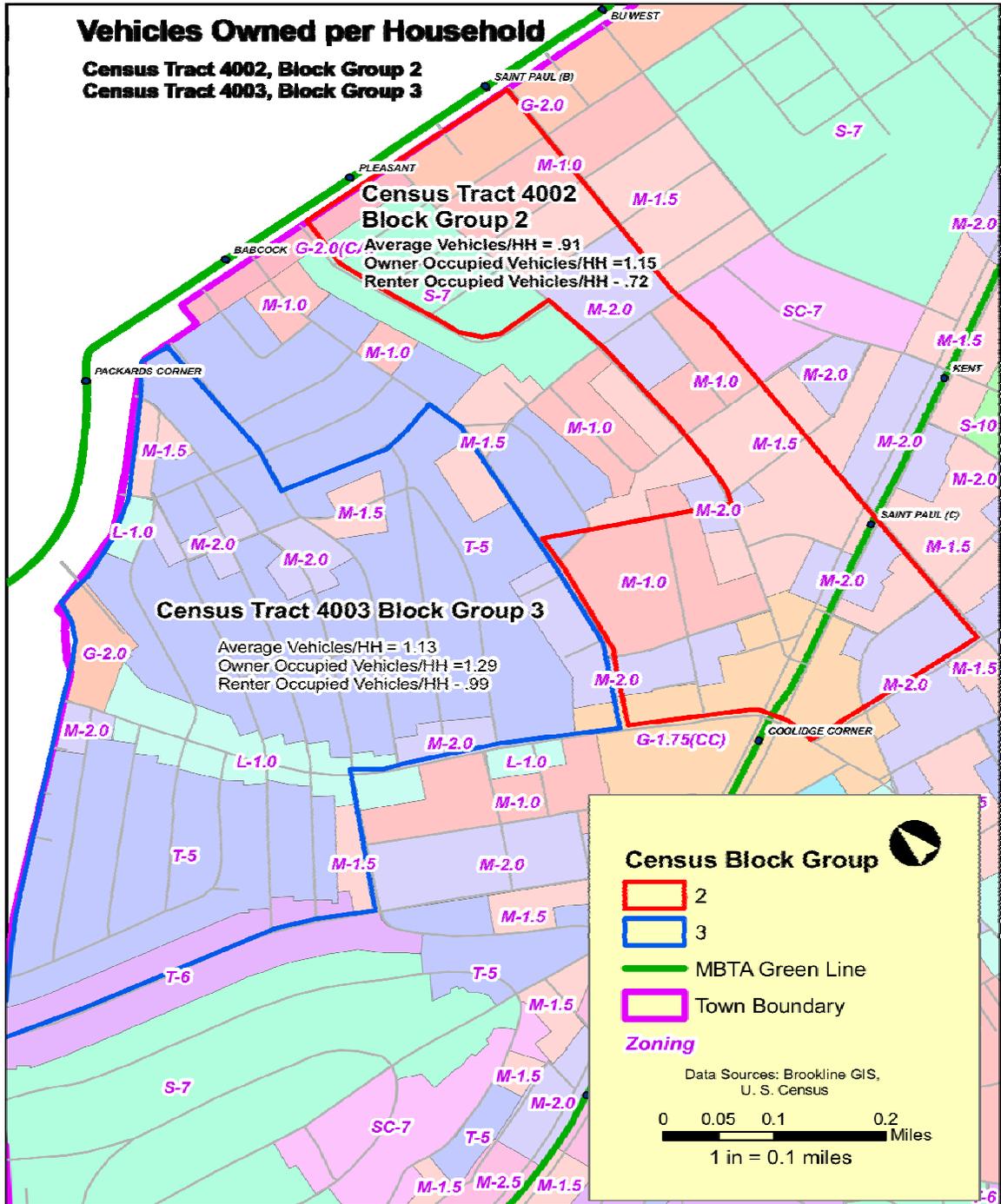
0.8 parking spaces per **multi-family studio and one bedroom** dwelling units exceeds the average vehicle ownership value of 0.73 per household in Census Tract 4004 Block Group 1 and 0.79 in Census Tract 4001 Block Group 2. These Block Groups are useful examples because they contain a significant % of studio and 1-bedroom units (48% and 51% respectively). It's important to note that the remaining 50% or so of the units in these Block Groups have 2 or more bedrooms and are contributing to the average. Therefore, the 0.8 rate contains a significant cushion.

1.2 parking spaces per **multi-family two bedroom** dwelling units is higher than known multi-family parking utilization data from existing buildings throughout Brookline. As can be seen on the Census Block Group map below, Census Tract 4002, Block Group 2 which is almost entirely multi-family housing, the average owner-occupied household vehicle ownership value is 1.15. By referencing the owner-occupied average, (which is on average 56% higher than the renter vehicle ownership per household value), we are setting the requirement rate to exceed existing conditions.

1.4 parking spaces per **multi-family three bedroom** dwelling units exceeds known vehicle ownership per household values of 1.31 and 1.39 in Census Block groups that have both an average unit size close to 3 and a high % of multi-family housing units. Census Tract 4007 Block Group 3's average dwelling unit size is 2.85 bedrooms and 39% of the dwellings are 3 bedroom units. It's important to note that 26% of the units in this Block Group have 4 or more bedrooms, and only 60% of the dwellings in the Census Tract as a whole are multi-family. Therefore the average number of vehicles per

household value of 1.39 as applied to multi-family units represents a significant over estimate. Similarly, Census Tract 4010, Block Group 1, with a vehicle ownership per household of 1.31 has an average unit size of 2.85 bedrooms with 38% of the units being 3-bedroom units. 23% of the dwellings in this Block Group are 4+ bedrooms in size and multi-family dwellings comprise 62% of the households in this tract as a whole.

1.3 parking spaces per unit for **two and three family** dwellings realizes the goal of *requiring* just one space for each individual unit, and yet, when combined a two family building will be required to provide 3 spaces, a three family 4 spaces. By overlaying Census Block Group geography (the smallest gradation possible) over our current zoning and land use data, it was possible for some areas to isolate vehicle ownership statistics for a particular housing type (such as two-family T-5 or multi-family M zones). This allowed verification of a direct correlation between the proposed requirements and known vehicle ownership values, as in the case of Census Tract 4003 block group 3 illustrated below, which is primarily an area zoned for two-family residential. The average auto ownership in this Block Group is 1.29 vehicles per household for owner-occupied homes.



Resetting the Parking Footprint with Lower Minimums, An Example: 70 Sewall:

Even though parking represents a significant expense, standard municipal planning codes and developer's pro forma rarely question parking rules of thumb that are often applied uniformly to suburban and transit rich urban settings alike. It is our responsibility to define parking expectations as "lower than suburban parking requirements". This makes our need and desire for context-sensitive parking clear to developers.

Parking is often a major point of contention as new development projects are reviewed. A recently approved multi-family housing project, 70 Sewall, perfectly illustrates the need to lower our multi-family parking requirements. Had they been lower, the starting point at which the parking debate began on this project would have been lower.

70 Sewall is a historically significant Queen Anne Victorian house, designed by a famous architect, Julius Schweinfurth. The Town's Planning staff encouraged the developer to seek a development solution that would retain the existing historically significant structure. The resulting 7-unit proposal called for moving the house forward on the lot and building a very large addition on the rear, the footprint of which (approx. 3,500 sq. ft.) was determined by the amount of space required for 13 marginally adequate parking spaces (already a slight decrease from current parking requirements, achieving a 1.9 space per unit ratio). The project proponent stated that he wanted to stay as close to the parking requirements as possible.

As a result, the addition was so large that there was at one pinch point, only 36" of setback in the rear, with many close abutters. There were literally only 3' to 5' of side yard setback and most of the larger trees on the site would be lost. From the beginning of design review, it was noted by the Design Advisory Team that with less parking the units could still be generously sized and more reasonable set backs achieved. The Planning Board stated clearly that they would support a special permit for less parking. Statistics were cited supporting the workability of less parking, and yet the developer was reluctant to seek a change. It was not until the Planning Board was on the verge of denying the application, (which would have resulted in the demolition of the historic house, replacing it with a much less interesting "box") that the project proponents agreed to less parking and therefore a smaller building footprint. The resulting parking ratio is 1.43 parking spaces per unit, and many feel the project could still have been greatly improved through additional reduction. The building has 5 3-bedroom units and 2 2-bedroom units.

History of Parking Requirements in Brookline

Brookline must have been one of the first communities in the country to adopt an off-street parking requirement. Our 1922 Zoning By-Law required multi-family residential properties to provide 1 off-street parking space for every unit, "In order to lessen congestion in the streets". In 1962 a parking requirement of 1 for single-family districts and 0.8 to 1.2 for multi-family areas was adopted. A 1977 change raised the rates to 2 for single-family and 1.0 to 1.3 (the higher rate applying to areas with 0.5 – 1.0 FAR) spaces per dwelling for multi-family.

A big change was made in 1987 when the parking requirements were raised to 1.6/1.8 per dwelling unit in 0.5 – 1.0 FAR areas, and 1.5/1.7 in 1.5 – 2.5 FAR areas. The higher value applies when the unit has more than 2 bedrooms. Separate provision of visitor spaces (10%) was also added at this time. A residential mail-back parking survey was

performed by the Planning Department prior to the proposed change. The survey results reported that the overall mean vehicle to household ratio was 1.1. Studio and 1-bedroom households reported a value of 0.9 vehicles per household, two bedroom units, 1.3 vehicles per household and three bedroom units, 1.6. The total respondent sample size was 731, (only 83 of those being 3 bedroom units). Despite these findings the Planning Department recommended higher rates to “account for future growth, the need for visitor parking and the increased parking demand generated by larger units”.

2000 Parking Requirement Increase:

Fall 2000 Town Meeting voted to raise residential parking requirements again. All dwelling units are now required to have a minimum of 2, and sometimes 2.3 off-street parking spaces. Having ten years worth of experience enforcing the new higher requirements has given staff, volunteer boards, citizens and Town Meeting Members a significant record of experience with in which to assess the impacts of this change.

Brookline Parking Requirements: Past, Present and Proposed

Land Use	1922	1962	1977	1987	2000	Proposed
Single-Family Residential (S)	N/A	1	2	2	2	2
Two & Three Family (T) (F)	1	1.0 - 1.2	1.3	1.6/1.8*	2/2.3*	1.3
Multi-Family Studio & 1 brm	1	0.8 - 1.0	1.0 - 1.2	1.5/1.7*	2	0.8
Multi-Family Two Bedroom +	1	0.8 - 1.0	1.0 - 1.2	1.5/1.7*	2/2.3*	1.2/1.4*

*The higher rate applies to
d.u. with more than 2 bedrms

Despite opposition from the Selectmen, Advisory Committee and Planning Board, Town Meeting passed the warrant article. The rationale for this change was based on several fundamental assumptions, which were: 1) That there was a shortage of overnight residential parking especially in the denser, multi-family housing areas of Brookline, 2) That new housing developments were being built with an insufficient amount of parking (current parking rates were therefore too low) and that occupants of those buildings were arriving with additional vehicles that needed to be parked off-site, thereby competing with current residents in a tight rental parking market and driving up price and reducing availability. And 3) That by increasing the parking requirement for new buildings adequate on-site parking would be provided and any additional excess parking would be added to the rental parking market, thus easing the shortage and relieving the upward pressure on prices.

Secondarily to these primary arguments, proponents cited 1) increasing auto ownership statistics, and 2) a loss of overnight parking spaces due to new development replacing existing surface parking lots.

Research done by the Parking Committee did not confirm the assumptions cited by the proponents of the 2000 rate increase. Instead, we found that:

- 1) Field surveys of multi-family parking lots revealed an average 25% vacancy. Significant vacancies exist for town owned overnight rental parking. (No shortage of parking).
- 2) The increase in rental parking rates is consistent with cost of living increases over time. (Increased demand from additional vehicles brought by occupants of buildings with deficient parking is not necessarily driving prices up). Property owners continue to advertise existing and new parking areas for rent to off-site residents, indicating a surplus in parking supply.
- 3) Many new buildings with excess parking do not allow off-site residents to rent and may not be located near enough to potential renters of that parking. (Excess parking in new buildings would not alleviate perceived parking shortage).
- 4) Total Vehicle ownership has in fact declined slightly town-wide between 1998 and 2008. Registry of Motor Vehicles town-wide total: 1998 = 33,330, 2008 = 32,897. (Vehicle ownership has not increased while Zipcar usage has).

Consistent Vehicle Ownership in Brookline Over Time:

There has actually been a remarkable consistency in the average number of vehicles per household owned in Brookline. The 1990 Census revealed an average of 1.14 vehicles per household in Brookline. The historical record of special permit change requests at Dexter Park reveal a consistent history of parking utilization at that building ranging from 0.9 (a request was made in 1977 to reduce their parking requirement from 1.2 spaces per unit to 0.9) to today's 0.7 spaces per unit. As noted earlier, the survey in 1987 found a mean value of 1.1 vehicles per multi-family dwelling unit. The recent parking utilization study done as part of the preliminary site analysis at Hancock Village revealed a parking demand of 1.1 per dwelling unit. If anything, this data suggests that today's vehicle per household ownership rate has remained relatively consistent over the last 20 years.

Examples of Existing Buildings:

It's always helpful when considering abstract concepts like numerical parking requirements, to look at a few real world examples. To that end, we'll consider some existing buildings, representing a range of building types, locations and eras to get a sense of their functionality and the potential impacts of various parking requirements.

Existing Building	Yr. Built	Unit Mix	Existing Parking Spaces	Used Parking Spaces	Current Parking Required	Proposed Parking Required	Parking Notes
30 Dean Road Condo	1984	2-bd: 11 3-bd: 3 Total: 14	19 (1.4 sp/ unit)	18 (1.3 sp/ per unit)	29 (2.1 sp/ unit)	17 (1.2 sp/ unit)	Building has extra available parking. Building

							integrates well w/surrounding streetscape.
125/135 Pleasant (Amory House) Condo	1975	studio: 2 1-bd: 62 2-bd: 62 3-bd: 1 4-bd: 2 Total: 129	140 (1.1 sp/unit)	132 (1.0 sp/unit)	259 (2.0 sp/unit)	130 (1.0 sp/unit)	Majority of parking is underground. Off-site residents are not allowed to rent here.
175 Freeman (Dexter Park) Apts.	1968	1-bd: 76 2-bd: 262 3-bd: 71 Total: 409	396 (0.97 sp/unit)	315 (0.77 sp/unit)	839 (2.05 sp/unit)	475 (1.16 sp/unit)	Special Permit recently sought to rent 35 spaces to off-site residents; 28 were granted.
Hancock Village Apts.	1946	1-bd: 246 2-bd: 255 3-bd: 229 Total: 730	1022 (1.4 sp/unit)	803 (1.1 sp/unit)	1,529 (2.09 sp/unit)	949 (1.3 sp/unit)	Open Green Space a key feature of existing site. Transportation amenities include bus stop, shuttle bus and Zipcars.

Note: The number of used parking spaces is from owners, property managers.

As can be seen from these existing building examples, a variety of multi-family housing types, built in different eras and locations all function comfortably, (most have an excess of parking available), at rates that match the proposed parking requirements in this article. Currently required amounts of parking would significantly over build on-site parking for each of these examples.

How will Lower Parking Requirements Affect Development?

Brookline’s Zoning By-law regulates the size of a building or buildings allowed on a piece of property through one principal mechanism, the Floor Area Ratio (FAR). This ratio is the result of dividing the square footage of usable built floor area by the square footage of the lot. For an M 1.5 zone, (which stands for Multi-Family with a FAR of 1.5), a 10,000 sq. ft. lot, would equate to a maximum allowable building of 15,000 sq. ft. $15,000/10,000 = 1.5$.

Residential developers base their project pro forma on the assumption that they will be able to build to the maximum allowable FAR because it represents the valuable space being sold for \$400 – 600 per square foot. This fact does not change if the required amount of parking rises or falls. What does change are the spatial parameters within which the building must be designed. Each parking space requires approx. 330 sq. ft. not including the driveway. In addition, our Zoning By-law contains other standards to be met, such as minimum set back from the street, side yard requirements, open space requirements etc.

By requiring an excessive level of residential off-street parking we are creating an inherent conflict between these three elements: the allowable FAR, the setback requirements, and the space necessary for the required parking. What's left is a physically improbable puzzle to be solved, which is especially problematic in the case of our multi-family and two- and three- family neighborhoods. Here, lots are small, homes are close together and the basic structural fabric of the neighborhood is one of small, walkable blocks that assure easy access to parks, shops, transit, etc.

Because these conflicting requirements are in our zoning ordinance, the Planning Board and Zoning Board of Appeals often find themselves in the position of granting Special Permits allowing violations of our ordinance's basic protections, such as side yard requirements, rear yard set backs and minimum open space mandates, in order to accommodate a building that allows the permissible FAR and achieves the high-level parking requirement. What gets sacrificed are some of the fundamental protections our Zoning By-law is meant to uphold.

In fact, the higher parking requirements create pressure to demolish existing structures and build over-sized buildings in order to both accommodate the high parking count and recoup the additional cost of providing that parking. These tortured design responses lead to disruptive structures that either dedicate the first floor to excess parking, (thereby adding an extra floor to the building) or force the building of expensive underground parking garages with massive concrete retaining walls and ramps that are an eye sore and pedestrian hazard.

Lowering our parking requirements will improve the quality of the development that does occur, allowing for more neighborhood-compatible building, with less bulk, less loss of open space, fewer negative impacts to the streetscape and pedestrian experience, while still providing for adequate on-site parking.

What's Wrong with Too Much Parking?

Requiring excessive amounts of multi-family residential parking has unintended negative impacts for our economy, urban fabric and community livability. What may seem like "free" parking is of course not free at all: its cost is instead passed onto residents and property owners. The new buyer or renovating property owner has little choice but to purchase the excess parking, whether or not they need it.

The negative externalities of excessive residential parking requirements are borne by the entire community, both motorist and non-motorist alike. By requiring excessive levels of off-street residential parking we:

- **Waste Money, Resources and Opportunities:** Requiring developers to build parking instead of investing in other higher value amenities, which could add greater benefit to the community.
- **Decrease Housing Diversity:** High parking requirements encourage large, luxury units and discourage smaller, more affordable housing. The cost of extra parking must be recouped in the selling price of the unit, and the diversity of housing types available is decreased.

- **Degrade Building Design:** Accommodating excess parking has led to poorly designed buildings, with the parking being the primary focus. Buildings often have excess bulk, height and pavement, with the first floor of the building and most of the remaining lot being consumed by parking.
- **Threaten Historic Structures:** Existing historic structures are more likely to be demolished because our high parking requirements make conversion or expansion impossible within spatial limitations.
- **Lose Green and Open Space:** Excess parking often requires the sacrifice of our limited front, side and/or rear yard space, necessitating special permit waivers of our own zoning protections.
- **Increase Impervious Surfaces:** Paved surfaces increase the amount of polluted run-off and storm-water flows, adding to flood dangers and pollution threats.
- **Incentivize Auto Use to the Exclusion of Alternatives:** Mandated provision of extra parking spaces acts as an incentive to additional car ownership and use, shifting individuals who would otherwise choose to use alternative transportation modes and reduce car ownership.
- **Increase Traffic Congestion:** Extra parking brings additional traffic to our already over-burdened roadway infrastructure, increasing delay, frustration, pollution and anxiety.
- **Degrade our Neighborhood Streetscapes:** Over-sized buildings, large garage frontages, additional curb-cuts and driveways, surface parking lots, underground garage ramps and loss of street trees disrupt the existing rhythm of our neighborhood streetscapes. As the pedestrian experience deteriorates, more will choose to drive, thereby increasing the degradation of the walker's and bicyclist's experience and increasing traffic congestion.
- **Negate Location-Efficient Savings:** Many choose to live in Brookline precisely because of the good transit access and close proximity available. While housing costs are high, these are somewhat off set by the ability for households to save on transportation costs. Requiring excess parking negates this advantage by adding the cost of excess parking to new housing.

Brookline's historic streetcar suburb development pattern affords its residents the choice of non-automobile dependent accessibility, making Brookline a highly desirable place to live. Requiring excessive amounts of multi-family residential parking has unintended negative impacts on our community's viability. It is in our best interest to more closely align our community's current transportation choices and parking policies by setting our parking requirements to match known vehicle ownership and use patterns.

ARTICLE 11

This change in the by-laws would require that the Combined Reports contain a roll-call showing the votes of each member of the Advisory Committee or other Town board or committee, in addition to the roll-call vote already included by the Board of Selectmen.

One important function of the Combined Reports is to provide useful information to inform Town Meeting about each article in the Warrant. The vote of each member of the Advisory Committee or other Town board or committee provides additional information for each Town Meeting Member. For some Articles, this may prove useful.

For example, upon seeing that an Advisory Committee member voted contrary to what a Town Meeting Member may have expected, he or she may wish to contact that member to discuss the Article further. Likewise, a Town Meeting Member might choose to contact a Transportation Board member or Planning Board member to better understand which nuances in the issue weighed heavily in that member's vote.

This will not be burdensome: the recently revised Massachusetts Open Meeting Law now requires that the minutes of all public bodies require all votes to be recorded. This by-law would merely require that those votes -- already being recorded and a part of the public record -- are also included in the Combined Reports.

This proposed change in the by-laws would further improve transparency by making the roll-call vote information easier for Town Meeting Members to obtain while adding little or no burden in the process. In recent years, the Town of Brookline has progressed toward more transparency in the town government process, including the inclusion of Board of Selectmen votes and Advisory Committee vote totals in the Combined Reports, a reduction of the required number of Town Meeting Members supporting a recorded vote, and the formation of the Brookline Recorded Vote Coalition. This change in the by-laws would further increase transparency and help Town Meeting to make the best decision possible on each Article in the Warrant.

ARTICLE 12

Without this as a law we are encouraging “Child Endangerment.” It has come to my attention by observing while driving in vehicles “Child Endangerment.” The sheer negligence of adults transporting a baby or child in a basket, mounted on the handle bars of a bicycle, seated on the rear carrier of a bicycle; a tandem carrying two young children in a basket, being pulled by a bicyclist on a main street; a bicyclist driving down a one way street with a child mounted on the rear carrier of the bike. A bicyclist endangering a child on his shoulders while riding on a street. How about witnessing these things at night some weaving in and out of busy traffic. The wisdom of these adults must be that helmets are the overall safety protection for children or babies riding as passengers on a bicycle. Under State Law children riding in a motor vehicle must be seated in the rear of the motor vehicle, in a state approved baby seat. This law applies to a steel motor vehicle that weighs a ton or more built to safeguard its passengers. What law safeguards children, babies or adults riding as passengers on bikes”

HELMETS?

ARTICLE 13

The Wetlands Protection Bylaw, adopted by Town Meeting in 2006, extends and adapts the principles of wetlands protection established under state law in the Massachusetts Wetlands Protection Act. “Isolated land subject to flooding”, or ILSF, is a type of wetland resource area protected by the Act. In the 2006 warrant article that led to the bylaw, proponents defined “isolated land subject to flooding” (paragraph 8.27.e), but inadvertently excluded it from the list of Resource Areas (paragraph 8.27.i.) Inclusion of

ILSF in the paragraph would have made it subject to protection under the Bylaw, as it is under the state Act. This warrant article would correct the omission and make the Bylaw more consistent with state law.

ARTICLE 14

Legal permanent residents (LPRs, a.k.a. Green Card Holders, or Permanent Resident Aliens) have been and continue to be materially affected by the results of elections of Town officials, tax overrides, debt exclusions, and other vote outcomes pertaining only to life in Brookline. Because anti-immigrant sentiment has increased recently due to debates and fears concerning *illegal* immigration, the Petitioner offers local voting rights as a way to celebrate and encourage the civic engagement of local immigrants in Brookline life. These legal, permanent residents should have an equal voice in local decisions of import to them and their families.

Some will argue that voting is a privilege of U.S. citizenship. On the contrary, while federal and state elections (including state ballot questions) *are* restricted to U.S. citizens 18 years of age and older, the U.S. constitution is mute on state-level voting rights, leaving those decisions up to individual localities. Until the 1920s, most states in the U.S. *allowed* some non-citizen local voting.

Legal Permanent Residents are working members of our community, often homeowners or business owners, who are subject to local property and other municipal taxes without concomitant representation in government. Taxation without representation is unconstitutional in the U.S. Local voting rights acknowledge LPRs' status as legal, tax-paying residents and encourage these legal immigrants to become more involved in civic life as they pursue full citizenship and the expansive rights and protections that come with it.

Some will say that granting local voting rights reduces the incentive to pursue U.S. citizenship. But there is no evidence of this. The great majority of green card holders intend to become US citizens and areas that allow local voting have not seen a reduced rate of application for naturalization. On the other hand, the cumbersome naturalization process *has* become a barrier to full citizenship. In recent years, the US Customs and Immigration Services has had a two-year backlog of naturalization applications; such delays increased after September 11, 2001 because of new security measures.

Five municipalities in the state of Maryland have extended the rights to vote for local offices to non-citizens. The city of Chicago allows non-citizen voting in school board elections; New York City had the same non-citizen rights until NY eliminated local school boards a few years ago. This November, Portland, Maine will consider the question as a ballot initiative.

In Massachusetts, the cities of Boston, Cambridge, Chelsea, Somerville, Newton and the Town of Amherst have debated and/or passed home-rule petitions to grant legal resident non-citizens the right to vote on various local questions. While the General Court has not acted, to date, on any such petitions filed, the addition of Brookline to this list only increases the likelihood that the State Legislature will finally respond to this expression of local voice in support of our legal immigrants.

Notes and References:

MA General Laws: Chapter 51: Section 1. Qualifications of voters
[Text of section as amended by 2008, 369, Sec. 2 effective November 5, 2008.]

Section 1. Every citizen eighteen years of age or older, not being a person under guardianship or incarcerated in a correctional facility due to a felony conviction, and not being temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who is a resident in the city or town where he claims the right to vote at the time he registers, and who has complied with the requirements of this chapter, may have his name entered on the list of voters in such city or town, and may vote therein in any such election, or except insofar as restricted in any town in which a representative town meeting form of government has been established, in any meeting held for the transaction of town affairs. Notwithstanding any special law to the contrary, every such citizen who resides within the boundaries of any district, as defined in section one A of chapter forty-one, may vote for district officers and in any district meeting thereof, and no other person may so vote. A person otherwise qualified to vote for national or state officers shall not, by reason of a change of residence within the commonwealth, be disqualified from voting for such national or state officers in the city or town from which he has removed his residence until the expiration of 6 months from such removal.

ARTICLE 15

The intent of this legislation is to make certain corrections to Chapter 51 of the Acts of 2010 (“Chapter 51”), which amended chapter 317 of the Acts of 1974 (the “Transportation Board Act”) to authorize the Town to sell taxi licenses pursuant to the November 2008 Special Town Meeting’s approval of Article 21 (the warrant article proposing such). Several of the proposed corrections are necessitated by the Legislature’s passage on December 18, 2008 -- following the November 2008 Special Town Meeting -- of chapter 398 of the acts of 2008, which amended the Transportation Board Act to add a third paragraph to Section 4 regarding valet parking. As a result, Chapter 51 requires certain amendments reflecting new paragraph number references in Section 4 and adding references to Chapter 398 of the Acts of 2008 as the most recent legislative action applicable to the Transportation Board Act, where appropriate. In addition, a scrivener’s error to the final language of Chapter 51 inadvertently deleted a sentence pertaining to the Transportation Board Act’s appeal procedure.⁵ The Board of Selectmen seek to correct these and several additional minor scrivener’s errors found in the final language of chapter 51 (*e.g.*, the use of the word “Department,” instead of “Division,” following the word “Transportation;” omission of a reference to section 1 of chapter 487 of the acts of 1996 in Section 1 to reflect this act as the most recent legislative action applicable to that section of the Transportation Board Act).

ARTICLE 16

On July 29, 2010 the Town of Brookline was notified that the Fisher Hill Reservoir Park Project was selected by the Executive Office of Energy and Environmental Affairs to receive up to \$500,000 in federal Land and Water Conservation Fund grant assistance. Acceptance of the grant requires that the property remain open to the public and prohibits any other use other than recreation and appropriate outdoor recreation, in perpetuity. Conservation of the property to non-recreation use requires the Park and Recreation

⁵ The inadvertently stricken sentence stated: “Upon the filing of a petition with the board by not less than 20 registered voters of the town seeking the adoption, alteration or repeal of any rule or regulation under this section, the board shall hold an evening public hearing on that petition within 30 days after the petition has been filed.”

Commission to abide by Article 97 of the Articles of Amendment to the State Constitution, as well as the federal Land and Water Conservation Fund Project Agreement. In addition, the LWCF program requires that the converted land be replaced with other property of equal or greater monetary value and recreational use, all at the Town's expense. In addition, the property must be open to the general public (not residents only) for appropriate recreational use and must be protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to recreation use in accordance with M.G.L. Chapter 45, Section 3 or 14.

The vote for an additional \$500,000 for the total project is essential since this is a reimbursement grant program. The additional \$500,000 will be fully reimbursed once the contracts have been executed and the initial improvements completed.

ARTICLE 17

On November 18, 2009 Town Meeting voted unanimously as follows:

VOTED: That the Town authorize and empower the Board of Selectmen to purchase and take title on behalf of the Town, for a minimum amount of \$1.00, or a greater amount not to exceed \$800,000, the land and building thereon owned by the Commonwealth of Massachusetts and known as the State-owned Fisher Hill Reservoir, containing approximately 432,512 square feet and shown as Lot 1 in Block 256 of the Assessors' Atlas; and to accept as part of such conveyance a conservation restriction of approximately 420,512 square feet and preservation restriction of approximately 1296 square feet on the portion(s) of said land as generally shown in a plan attached hereto and incorporated herein as Exhibit A; and to use said land exclusively for active and passive recreation and/or to further conservation and open space uses consistent with Chapter 218 of the Acts of 2000; and upon such other terms and conditions as the Board of Selectmen shall consider proper and in the best interests of the town.

This vote allowed the Town to begin the process toward purchasing the State-owned Fisher Hill Reservoir Site. However, the Special Act referred to in the 2009 vote is incorrect. Chapter 20 of the Acts of 2008 is the proper citation to the legislation that authorizes the transfer of the property and the general terms of the transfer, including its use for active and passive recreation purposes.

ARTICLE 18

In 2003 the Town's consultant prepared a contract for the installation of a storm drain in the Brookline Village area. This contract was intended to remove the stormwater from the sanitary sewer in this area thereby eliminating/reducing surcharging of the sanitary sewer during storm events. Because of the topography of the area, the proposed storm drain needed to cross the MBTA right of way at the Brookline Village station in order to tie into the existing Pearl Street drain. The Town secured a license from the MBTA on September 18, 2003 to install a 42" concrete drain and, as part of the occupancy agreement, the Town was required to pay an annual rent fee of \$2,530.62. The Town subsequently requested that the MBTA grant a permanent utility easement to the Town and waive any rental payments after September 18, 2004 with the understanding that the Town will prepare the easement plan, suitable for recording at the Registry of Deeds, and pay \$10,000.00 in exchange for the easement.

ARTICLE 19

The warrant article asks the Board of Selectmen and Moderator to schedule the 2011 Town Meeting so that Town Meeting occurs on non-consecutive nights (such as Monday and Wednesday, or Tuesday and Thursday). There has been many comments on this issue in various contexts (TMM listserv, annual debrief meeting with the Moderator, informal conversations) and it seemed the most appropriate forum for a structured discussion would be to introduce a warrant article.

The current Town Meeting schedule, meeting for consecutive evenings, has some advantages and some disadvantages.

The advantages are:

- Consolidation of meetings in the calendar is easier for some to schedule
- It is easier for Town Meeting Members who travel for business to participate

The disadvantages are:

- The current schedule may discourage participation by a broader and more representative group of citizens. In particular, working parents of children appear under-represented by the current schedule.
- Senior citizens find it more difficult to participate.
- The current schedule does not allow time inbetween meetings for Town Meeting Members to caucus or negotiate informally between sessions.

By scheduling the 2011 Annual Town Meeting on a non-consecutive night schedule, Town Meeting Members, the Board of Selectmen and the Moderator will be able to gather data on the relative merits of each schedule and determine what schedule best supports the participatory democracy spirit of Town Meeting.

ARTICLE 20

There are many traffic light intersections throughout the Town at which there are signs that do not permit a right turn on red (“RTOR”). At many of these intersections, a prohibition on making a RTOR is not justified from a safety or traffic efficiency perspective, with the result, in many cases, of idling cars that are polluting the air and needlessly wasting fossil fuel.

The RTOR originated in a 1970s federal law that was intended to reduce fuel consumption due to cars idling at intersections. It was passed in response to the 1973 oil crisis as a way of reducing our dependence on foreign oil – still a worthy goal. It restricted federal funds to any state that did not legally permit a RTOR, but provided that localities could choose to erect signs at any intersection prohibiting such a turn. At that time, many towns and communities throughout the Commonwealth, without any study, uniformly put up such signs at all traffic light intersections, thereby retaining the status quo. Many of these towns and cities are now removing these signs principally due to environmental concerns. Brookline is long overdue in taking such action.

These resolutions seek to focus the attention of the Transportation Board on taking action that will have a very substantial environmental benefit, with respect to pollution and

significantly reducing the fossil footprint of the Town, as well as improving traffic efficiency throughout the Town.

ARTICLE 21

- Calves are separated from their mothers 1-4 days after birth, and are soon put into individual crates measuring roughly 25" x 65". Due to the confining nature of the crates, there is only space to stand or lie down uncomfortably.
- The calves remain in these crates for 12 to 23 days until they are transported to slaughter, by which time their close confinement makes it difficult (if not impossible) for them to walk.
- The tender consistency for which veal is known is due to (and dependent upon) this upbringing, which prevents calf muscle development.
- Calves are fed a milk-replacement diet containing limited nutrients and especially lacking of iron.
- The calves are fed this liquid diet for the entirety of their lives.
- The pale-colored meat demanded upon by consumers is due to the anemia that results from this diet.
- Instead of the 4-10 small meals that calves will ingest through natural suckling, veal calves in factory farms will generally ingest two larger meals. In combination with the 100%-liquid-diet, infection, and stress, this imbalanced meal schedule leads to ulcers in 87% of calves.
- Because of the rapid separation of mother and calf post-birth, many calves will receive insufficient colostrum (the antibody-rich first milk from the mother), or none at all. Lacking necessary antibodies, the calves are more susceptible to hazardous bacteria and viruses, which then have the potential to be passed on to consumers through the calves' meat.
- The American Veal Association passed a resolution calling for the end of veal crate use in the industry by 2017, thereby acknowledging that veal crates are cruel but still leaving seven more years of crate-raised, domestic veal in the market.
- In Massachusetts, there is a precedent for recognizing the cruelty of veal calf confinement. House Bill 815 was filed in 2009 and aims to ban, among other forms of confinement, usage of veal crates in the Massachusetts veal industry. Comparable to the law enacted in California in 2008 (and in seven other states in previous years), HB 815 has not yet passed. It should be noted that even if passed, this legislation would have no impact on veal imported from other states or countries.
- Brookline's Town Meeting input in what food proprietors should or should not do is not a new phenomenon. Most notably, in 2007, the Town Meeting overwhelmingly approved (194-11) a ban on trans-fat in restaurants and schools.
- There are few proprietors in Brookline who continue to supply veal. Therefore, while this resolution is highly important in raising awareness about the issue and encouraging responsible consumption practices among Brookline residents, the impact on small businesses will be small.

ARTICLE 22

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