<table>
<thead>
<tr>
<th>ARTICLE NO.</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Appointment of Measurers of Wood and Bark. (Selectmen)</td>
</tr>
<tr>
<td>2.</td>
<td>Approval of Collective Bargaining Agreements. (Human Resources)</td>
</tr>
<tr>
<td>3.</td>
<td>Annual Authorization of Compensating Balance Agreements. (Treasurer/Collector)</td>
</tr>
<tr>
<td>5.</td>
<td>Approval of Unpaid Bills of a Prior Fiscal Year. (Selectmen)</td>
</tr>
<tr>
<td>6.</td>
<td>Acceptance of Legislation to Increase Property Tax Exemptions. (Assessors)</td>
</tr>
<tr>
<td>7.</td>
<td>Approval of Adjustments to Factors Applicable to the Qualification for the Elderly Tax Exemption Permitted by General Laws Chapter 59, Section 5, Clause 41C. (Board of Assessor’s and Council on Aging)</td>
</tr>
<tr>
<td>8.</td>
<td>FY11 Budget Amendments. (Selectmen)</td>
</tr>
<tr>
<td>9.</td>
<td>Annual (FY12) Appropriations Article. (Advisory Committee)</td>
</tr>
<tr>
<td>10.</td>
<td>Amendment to Article 5.6 of the Town’s By-Laws – Preservation Commission and Historic Districts - - creation of the Lawrence Local Historic District. (Preservation Commission)</td>
</tr>
<tr>
<td>11.</td>
<td>Amendment to Article 7.7 of the Town’s By-Laws – Removal of Snow and Ice from Sidewalks -- make the Town responsible for plowing and sanding sidewalks in residential districts. (Petition of Seymour A. Ziskend)</td>
</tr>
<tr>
<td>12.</td>
<td>Amendments to the Zoning By-Law -- establishment of a Cleveland Circle Hotel Overlay District. (Petition of John VanScoyoc)</td>
</tr>
<tr>
<td>13.</td>
<td>Amendment to Article 2 (Definitions) of the Zoning By-Law -- definitions of “hotel” and “limited service hotel”. (Director of Planning and Community Development)</td>
</tr>
<tr>
<td>14.</td>
<td>Amendments to the Zoning By-Law -- relative to the work of the Davis Path Special District Zoning Committee. (Davis Path Special District Zoning Study Committee)</td>
</tr>
</tbody>
</table>
15. Amendment to Section 5.73.1 of the Zoning By-Law – Rear Yards in Business or Industrial Districts -- technical clarification to calculations for rear yards in business/industrial districts neighboring residential districts. (Director of Planning and Community Development)

16. Amendment to Sections 5.45 (Traffic Visibility Across Corners), 5.62 (Fences and Terraces in Side Yards), and 5.74 (Fences and Terraces in Rear Yards) of the Zoning By-Law -- fencing requirements. (Planning Board)

17. Acceptance of the Provisions of General Laws Chapter 138, Section 33B -- allows for the sale of alcoholic beverages by on-premise licensees on Sundays and certain legal holidays between the hours of 10:00 a.m. and 12:00 noon. (Selectmen)

18. Resolution to Honor Michael and Kitty Dukakis. (Petition of Brian Kane)


20. Resolution Against the Use of Robocalls in Political Campaigns. (Petition of Michael A. Burstein)

21. Legislation to Remove Brookline from Norfolk County. (Petition of Frederick Lebow)

22. Vote to Accept a Grant of a Surface Water Drain Easement from the MBTA -- a portion of land at or near Station Street and Pearl Street. (Commissioner of Public Works)

23. Reports of Town Officers and Committees. (Selectmen)
2011 ANNUAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2011 Annual Town Meeting to be held on Tuesday, May, 24, 2011 at 7:00 p.m.

Note: The following pages of this report are numbered consecutively under each article.
ARTICLE 1

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

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

SELECTMEN’S RECOMMENDATION
The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 22, 2011, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE’S RECOMMENDATION
BACKGROUND:
Warrant Article 1 seeks Town Meeting's approval to establish the number of Measurers of Wood and Bark at two and permit the Board of Selectmen to appoint them.

DISCUSSION:
State law (Mass. Gen. Laws ch. 94, §296) requires the Town to “annually choose one or more measurers of wood and bark,” with the Board of Selectmen being able to appoint a person or persons to the position after Town Meeting sets the number of measurers. The positions do not draw a salary, stipend, or other remunerative benefit, and the Town incurs no current financial cost or future OPEB liability for the Measurer(s) of Wood and Bark.

In 2000, Town Meeting directed that the first warrant article of the Annual (Spring) Town Meeting shall be the annual proposal to appoint one or more Measurers of Wood and Bark. The ordering supposedly honors Brookline's colonial beginnings.

Some members of the Advisory Committee opined that this Article is an anachronism,
May 24, 2011 Annual Town Meeting
1-2

has no place on a modern-day warrant, and only serves to distract Town Meeting’s time and attention away from other – and, presumably, more pressing -- concerns (such as, any other binding warrant article).

In support of this proposal, however, the Advisory Committee is aware of an actual instance within recent memory where a Town resident, unhappy about the amount of firewood s/he received, called upon a Measurer of Wood and Bark to address the dispute. (No record indicates the matter’s resolution.)

RECOMMENDATION:
By a vote of 19 in favor and 2 opposed, the Advisory Committee recommends FAVORABLE ACTION on the following vote:

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

XXX
ARTICLE 2

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

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

TOWN of BROOKLINE
Massachusetts

March 22, 2011

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

Re: May 2011, Town Meeting, Article 2, Approval of Collective Bargaining Agreements

1. Local 1358, American Federation of State, County, Municipal Employees, Council 93, AFL-CIO (AFSCME)

Summary: The Town of Brookline and AFSCME, Local 1358 came to an Agreement on March 9, 2011. The Agreement was approved by the Board of Selectmen on March 15, 2011 and ratified by the members of Local 1358 on March 16, 2011 by a vote of 103 (in favor) versus 36 (against).
Description: The contract is a three-year agreement commencing on July 1, 2009 and expiring on June 30, 2012. Under the Agreement, AFSCME agreed to a wage package of:

- Effective July 1, 2009 +0.00%
- Effective July 1, 2010 +1.50%
- Effective July 1, 2011 +1.50%

Effective upon funding, the Town agreed to a one-time ratification bonus of $500 to each full-time employee in the bargaining union (pro-rated for part-time), effective upon funding. The one time incentive payment costs $125,000. The overall cost of the three-year contract is approximately 4% with an ongoing wage increase of 3%.

Under this Agreement, the Town has expanded its ability to perform regular criminal background checks for certain AFSCME employees who have unsupervised contact with vulnerable populations (children, elders and the disabled), and created a new duty to report certain civil or criminal infractions such as loss of a CDL license and suspension of a driver’s license. For new employees, the Town can now mandate direct deposit and has reduced certain personal leave provisions.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/09 - 0%</td>
<td>0</td>
<td>0</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>7/1/10 - 1.5%</td>
<td>186,282</td>
<td>186,282</td>
<td>372,564</td>
<td></td>
</tr>
<tr>
<td>7/1/11 - 1.5%</td>
<td>188,245</td>
<td></td>
<td>188,245</td>
<td>125,000</td>
</tr>
<tr>
<td>$500 One-Time Payment</td>
<td>125,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boot Allowance</td>
<td>2,490</td>
<td></td>
<td>2,490</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL ROLL-OUT COSTS</strong></td>
<td>0</td>
<td>311,282</td>
<td>377,017</td>
<td>688,299</td>
</tr>
</tbody>
</table>

Each 1% = 124,188 124,188 126,051

New Wages - $ = 0 311,282 190,735
New Wages - % = 0.0% 2.5% 1.5% 4.0%

Wages on Base - $ = 0 186,282 190,735
Wages on Base - % = 0.0% 1.5% 1.5% 3.0%
March 31, 2011

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

Re: Approval of Collective Bargaining Agreements

2. Local 1358, AFSCME (Library), Council 93, AFL-CIO

Summary: The Town of Brookline and the Library bargaining unit of AFSCME, Local 1358 came to an Agreement on March 30, 2011.

Description: The contract is a three-year agreement commencing on July 1, 2009 and expiring on June 30, 2012. Under the Agreement, AFSCME agreed to a wage package of:

- Effective July 1, 2009: +0.00%
- Effective July 1, 2010: +1.50%
- Effective July 1, 2011: +1.50%

Effective upon funding, the Town agreed to a one-time ratification bonus of $500 to each full-time employee in the bargaining union (pro-rated for part-time), effective upon funding. The one-time incentive payment costs $17,500. We also addressed the night shift differential that had not been increased since 1995. The overall cost of the three-year contract is approximately 4.2% with an ongoing wage increase of 3.2%.

Under this Agreement, the Town has expanded its ability to perform regular criminal background checks for certain AFSCME employees who have unsupervised contact with vulnerable populations (children, elders, and the disabled), and created a new duty to report incarcerations. For new employees, the Town can now mandate direct deposit and has reduced certain personal leave provisions.
**SELECTMEN’S RECOMMENDATION**

Article 2 asks that Town Meeting approve funding for three-year contracts with two unions: AFSCME and the Librarians. Both contracts are very similar in that base wages increase 3% over the course of the contract (0% in FY10, 1.5% in FY11, and 1.5% in FY12) and include a one-time $500 payment for each member of the union. The 1.5% base wage increase fits within the budgeted Collective Bargaining Reserves for both FY11 and FY12. The average 1% per year increase in salaries fits within the Town’s overall financial planning.

Under the AFSCME agreement, the Town has expanded its ability to perform regular criminal background checks for certain employees who have unsupervised contact with vulnerable populations (children, elders and the disabled), and created a new duty to report certain civil or criminal infractions, such as the loss of a CDL license and suspension of a driver’s license. Under the agreement with the Librarians, the Town has also expanded its ability to perform regular criminal background checks for certain employees who have unsupervised contact with vulnerable populations, and created a new duty to report incarcerations. Lastly, under both agreements, the Town can now mandate direct deposit and has reduced certain personal leave provisions for new employees.

The Selectmen thank the Town’s negotiating team and the unions for reaching an agreement that matches the realities of the current economic climate and does not exacerbate the long-term financial challenges the Town faces. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on March 22, 2011 for the
AFSCME contract and by a vote of 5-0 taken on April 26, 2011 for Library contract, on
the following:

VOTED: To approve and fund by an appropriation, provided for in the FY2011
(Item #21) and FY2012 (Item #21) budgets, for the cost items in the following collective
bargaining agreements that commences on July 1, 2009 and expires on June 30, 2012:

AFSCME Council 93, Local 1358
Local 1358, AFSCME (Libray), Council 93, AFL-CIO

all as set forth in the reports of Sandra DeBow, Director of Human Resources, dated
March 22, 2011 and March 31, 2011, which reports are incorporated herein by reference.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
The Board of Selectmen and Local 1358 American Federation of State County Municipal
Employees Council 93 AFLCIO AFSCME reached an Agreement on March 9, 2011.
The Agreement was approved by the Board of Selectmen on March 15, 2010 and ratified
by the members of Local 1358 on March 16, 2011 by a vote of 103 in favor versus 36
against.

This is a 3 year contract, beginning on July 1, 2009 through June 30, 2012. The
following is a cost summary:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/09 - 0%</td>
<td>0</td>
<td>0</td>
<td></td>
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<td>186,282</td>
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<td></td>
<td>125,000</td>
<td></td>
</tr>
<tr>
<td>Boot Allowance</td>
<td>2,490</td>
<td></td>
<td>2,490</td>
<td></td>
</tr>
<tr>
<td>TOTAL ROLL-OUT COSTS</td>
<td>0</td>
<td>311,282</td>
<td>377,017</td>
<td>688,299</td>
</tr>
</tbody>
</table>

Each 1% = 124,188 124,188 126,051
New Wages - $ = 0 311,282 190,735
New Wages - % = 0.0% 2.5% 1.5% 4.0%
Thus, the increase over the 3 years for wages on the base salary will be 3% and there will be an additional 1% in benefits not on the base salary.

The contract specifies some important changes:

1. One area of change in the contract is the rate of earning of personal days. Currently, employees have 4 personal days per year, and can earn up to 3 additional days by converting unused sick days. Furthermore, once an employee reaches 20 years, he/she gets 2 additional personal days each year thereafter. From now on, any employee hired will get 4 personal days per year, but can earn only 2 additional by converting unused sick leave. Also, in 20th year and thereafter, an employee hired under this contract will get only 1 additional day per year.

2. Currently, the Town can perform a CORI check when an employee is hired. For the future, the Town will be able to perform a CORI check on each employee every 3 years, especially important for bus drivers.

3. From now on, employees will have the affirmative duty to report certain infractions, such as license revocation or suspension, or incarceration.

4. The contract reduces the amount of time allowed to an employee to cash his/her employment check. On July 1, 2011, where the current limit is 30 mins, the time shall be reduced to 15 mins. On Jan 1, 2012, the practice of providing time for check cashing will be completely eliminated.

DISCUSSION:
The Advisory Committee discussed both wages and contract provisions. Sandra DeBow explained that the expansion of the Town’s ability to perform regular criminal background checks (CORI) for certain AFSCME employees who have unsupervised contact with vulnerable populations, such as children, seniors and the disabled, is an important new provision which goes hand-in-hand with the new duty of employees to report certain civil or criminal infractions such as loss of a CDL license and suspension of a driver’s license.

Direct deposit of wage checks is an issue for collective bargaining. The provision regarding check-cashing time is an effort to move all employees to a direct deposit system, which is a more efficient and less costly way of producing checks.

RECOMMENDATION:
The Advisory Committee unanimously FAVORABLE ACTION on this contract and the vote offered by the Selectmen. The Committee was unable to review the contract with the Librarians, which the Selectmen have approved, in time for submitting a recommendation in these Combined Reports. That will be done in the supplemental
mailling. In addition, contracts with other unions have not yet been finalized, but we anticipate that there may be others by the date of Town Meeting.

XXX
ARTICLE 2

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
The Town of Brookline and the Library bargaining unit of AFSCME, Local 1358 came to an Agreement on March 30, 2011. The Board of Selectmen approved the MOA on April 12, 2011, the Trustees of the Library approved it on April 14, 2011 and the Library bargaining unit ratified the Agreement on April 14, 2011, in favor, and 2, against.

This is a 3 year contract, beginning on July 1, 2009 through June 2012. This contract essentially follows the model established in the previously approved AFSCM agreement. It is a three year agreement with the same wage package:

- Effective July 1, 2009 + 0.00%
- Effective July 1, 2010 + 1.50%
- Effective July 1, 2011 + 1.50%

And includes the same one time ratification bonus of $500 to each full time employee in the bargaining unit (pro-rated for part-time). The following is a cost summary:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/09 - 0%</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7/1/10 - 1.5%</td>
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<td>25,346</td>
<td>50,692</td>
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<tr>
<td>7/1/11 - 1.5%</td>
<td>25,726</td>
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<td>25,726</td>
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<tr>
<td>Shift Differential</td>
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<td>2,778</td>
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<td>4,167*</td>
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<td>$500 One-Time Payment</td>
<td>17,500</td>
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<td>17,500</td>
</tr>
<tr>
<td><strong>TOTAL ROLL-OUT COSTS</strong></td>
<td><strong>0</strong></td>
<td><strong>44,235</strong></td>
<td><strong>53,850</strong></td>
<td><strong>98,086</strong></td>
</tr>
</tbody>
</table>

- Each 1% = 16,897 16,897 17,151
- New Wages - $ = 0 44,235 27,115
- New Wages - % = 0.0% 2.6% 1.6% 4.2%
- Wages on Base - $ = 0 26,735 27,115
- Wages on Base - % = 0.0% 1.6% 1.6% 3.2%

*Incr from $9 to $10 in FY11 and to $11 in FY12
The new agreement includes a night shift differential (which has not been increased since 1995) will increase from $9 per night to $10 per night and then to $11 per night effective July 1, 2011.

There is also a new provision that includes a $7 per hour incentive for work on summer Sundays. Presently the library is not open on Sunday in the summer, but the Library Trustees would like the option of having one or more branches open and this provision would allow for that option.

The overall cost of the three year contract is approximately 4.2% with an ongoing wage increase of 3.2% which is slightly higher than the last contract because of the night shift differential and the summer Sunday incentive.

Other provisions include a small change in the language for Bereavement Leave; a modification of the earned “Personal Leave”; an expanded ability to perform criminal background checks; a duty to report incarceration; and a small increase in the per employee amount for job related training.

DISCUSSION:
The Advisory Committee discussed both the wages and contract provisions. Generally, the contract is similar to the larger AFSCME contract. There was some discussion about both the night shift differential and summer Sunday incentive since they increase the overall cost of the contract by approximately 0.2%.

RECOMMENDATION:
The Advisory Committee unanimously voted FAVORABLE ACTION on this contract.
May 20, 2011

To: Board of Selectmen

From: Sandra DeBow, Director
Human Resources Office

Re: May 2011, Town Meeting, Article 2, Approval of Collective Bargaining Agreements

**Brookline Engineers Division Association (BEDA)**

**Summary:** The Town of Brookline and the Brookline Engineering Division Association (BEDA) came to an Agreement on March 20, 2010. The BEDA members ratified the agreement on May 20, 2011 with a unanimous vote in favor of the agreement, 10 to 0.

**Description:** The contract is a three-year agreement commencing on July 1, 2009 and expiring on June 30, 2012. The agreed upon wage package is:

- Effective July 1, 2009 + 0.00%
- Effective July 1, 2010 + 1.50%
- Effective July 1, 2011 + 1.00%
- Effective January 1, 2011 + 0.50%

The agreement also contains the creation of a professional stipend to incentivize individuals to obtain certain Board registrations that are not required by their position but would benefit the Town. The stipend does not increase base wages. **The overall cost of the three-year contract is approximately 3.1% with an ongoing wage increase of 3.4%.**
Under this Agreement, the Town has created a new duty to report certain civil or criminal infractions. The Town can now mandate direct deposit and employees and, for new employees, has reduced certain personal leave provisions.

### Engineers

<table>
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<tr>
<th>ITEM</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>FY13</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/09 - 0%</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>7/1/10 - 1.5%</td>
<td>11,498</td>
<td>11,498</td>
<td></td>
<td>22,996</td>
<td></td>
</tr>
<tr>
<td>7/1/11 - 1%</td>
<td>7,964</td>
<td></td>
<td>7,964</td>
<td>15,928</td>
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<tr>
<td>1/1/12 - 0.5%</td>
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<td>2,011</td>
<td></td>
<td>4,022</td>
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<tr>
<td>Grade Differential</td>
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<td>1,832</td>
<td>3,664</td>
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</tr>
<tr>
<td>Professional Stipend</td>
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<td></td>
<td>1,250</td>
<td>2,500</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL ROLL-OUT COSTS 0 11,498 24,555 2,011 38,064

Each 1% = 7,665 7,665 7,780 7,780
Wages on Base - $ = 0 11,498 13,057 2,011
Wages on Base - % = 0.0% 1.5% 1.7% 0.3% 3.4%

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**TOWN of BROOKLINE**

Massachusetts

HUMAN RESOURCES OFFICE
333 Washington Street
Brookline, MA  02445
(617) 730-2120
www.BrooklineMA.gov

May 20, 2011

To:      Board of Selectmen

From:    Sandra DeBow, Director
Re: May 2011, Town Meeting, Article 2, Approval of Collective Bargaining Agreements

School Traffic Supervisors, Local 1358, American Federation of State, County, Municipal Employees, Council 93, AFL-CIO (AFSCME)

Summary: The Town of Brookline and the School Traffic Supervisors, AFSCME, Local 1358 came to an Agreement on May 17, 2011. The union ratified the contract on May 20, 2011 with a vote of 13 in favor and 0 against.

Description: The contract is a three-year agreement commencing on July 1, 2009 and expiring on June 30, 2012. Under the Agreement, AFSCME agreed to create a new Parking Enforcement position to be placed in the pay plan as a Group 4 employee. The agreed upon wage package is:

<table>
<thead>
<tr>
<th>Group # (Description)</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group 1 (full-time school traffic/parking)</td>
<td>0%</td>
<td>1.5%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Group 2 (part-time school traffic)</td>
<td>0</td>
<td>.5</td>
<td>1.0</td>
</tr>
<tr>
<td>Group 3 (less than FT parking/school traff.)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Group 4 (full-time parking enforcement)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

The agreement also contains a $25 increase in the boot and shoe allowance. As with the other AFSCME bargaining units the Town agreed to a one-time ratification bonus of $500 to each employee in the bargaining union (pro-rated for part-time), effective upon funding. The one time incentive payment costs $8,360. The overall cost of the three-year contract is approximately 3.8% with an ongoing wage increase of 2.4%.

Under this Agreement, the Town has created a new full-time Group 4 position, Parking Control Officer (PCO). PCOs will be on a more flexible schedule than the Group 1 positions allowing those them to be scheduled into the evening and weekend hours without incurring overtime. Further for new employees, the Town can now mandate direct deposit and has reduced certain personal leave provisions.
School Traffic Supervisors

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>TOTAL</th>
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</thead>
<tbody>
<tr>
<td>7/1/09 - 0%</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7/1/10 - 1.5%</td>
<td>5,452</td>
<td>5,452</td>
<td>0</td>
<td>10,905</td>
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<tr>
<td>7/1/11 - 1.5%</td>
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<td>5,534</td>
<td>0</td>
<td>11,068</td>
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<tr>
<td>7/1/10 - 0.5%</td>
<td>662</td>
<td>662</td>
<td>0</td>
<td>1,325</td>
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<tr>
<td>7/1/11 - 1%</td>
<td>1,331</td>
<td>1,331</td>
<td>0</td>
<td>2,662</td>
</tr>
<tr>
<td>Uniform Allowance</td>
<td>935</td>
<td>935</td>
<td>0</td>
<td>1,870</td>
</tr>
<tr>
<td>$500 One-Time Payment</td>
<td>8,360</td>
<td>8,360</td>
<td>0</td>
<td>16,720</td>
</tr>
<tr>
<td>TOTAL ROLL-OUT COSTS</td>
<td>0</td>
<td>14,475</td>
<td>13,915</td>
<td>28,390</td>
</tr>
</tbody>
</table>

Each 1% = 5,818  
New Wages - $ = 0 14,475 7,801  
New Wages - % = 0.0% 2.5% 1.3% 3.8%  
Wages on Base - $ = 0 6,115 7,801  
Wages on Base - % = 0.0% 1.1% 1.3% 2.4%
Re: May 2011, Town Meeting, Article 2, Approval of Collective Bargaining Agreements

Teamsters, Local 25 (E-911 Dispatchers)

Summary: The Town of Brookline and the Teamsters, Local 25 came to an Agreement on May 18, 2011. The Teamsters ratified the contract on May 23, 2011 with a vote of 13 in favor and 3 against.

Description: The contract is a one-year agreement commencing on July 1, 2011 and expiring on June 30, 2012. Entering this one year agreement puts the Dispatcher Union in line with other Town union contracts. During Fiscal Year 2012, the Dispatcher wages will increase by 1.5%.

As with the other bargaining units the Town agreed to a one-time ratification bonus of $500 to each employee in the bargaining union, effective upon funding. The cost of the one-year contract is approximately 2.8% with an ongoing wage increase of 1.6%.

Under this Agreement, the Town created a new Training Officer Assignment, allowing the Police Chief to assign ongoing training as needed. The training assignment pay only applies when the senior dispatcher is actually assigned to and performing the training. To further lower its personnel cost the Town created a new 6-month probationary period pay rate. Upon completion of the probationary period, the new dispatcher is adjusted to the first step. For new employees, the Town has reduced certain personal leave provisions.

Dispatchers

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY12</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/11 - 1.5%</td>
<td>9,949</td>
<td>9,949</td>
</tr>
<tr>
<td>Uniform Allowance</td>
<td>750</td>
<td>750</td>
</tr>
<tr>
<td>Cleaning Allowance</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>$500 One-Time Payment</td>
<td>7,500</td>
<td>7,500</td>
</tr>
<tr>
<td><strong>TOTAL ROLL-OUT COSTS</strong></td>
<td><strong>18,349</strong></td>
<td><strong>18,349</strong></td>
</tr>
</tbody>
</table>

Each 1% = 6,633
New Wages - $ = 18,349
New Wages - % = 2.8% 2.8%

Wages on Base - $ = 10,849
Wages on Base - % = 1.6% 1.6%

NOTE: last contract went through FY11

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BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

On Tuesday night, Town Meeting approved funding for two contracts. We are now recommending three more contracts for funding: Brookline Engineers Division Association (BEDA), School Traffic Supervisors (Local 1358, AFSCME, Council 93, AFL-CIO), and the E-911 Dispatchers (Teamsters, Local 25). All three contracts fit within the Collective Bargaining Reserve approved as part of the FY11 and FY12 budgets and are in line with the Town’s long range financial plan. A brief summary of each follows. HR Director DeBow’s memos (see above) breakout the costs of each contract.

• **Brookline Engineers Division Association (BEDA)**
The basic financial terms of the three-year contract (FY10 – FY12) are as follows:

<table>
<thead>
<tr>
<th></th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective July 1, 2009</td>
<td>0%</td>
<td>1.5%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Effective July 1, 2010</td>
<td>1.50%</td>
<td>1.00%</td>
<td>0.50%</td>
</tr>
<tr>
<td>Effective January 1, 2011</td>
<td>+ 0.00%</td>
<td>+ 1.00%</td>
<td>+ 0.50%</td>
</tr>
</tbody>
</table>

The agreement also contains the creation of a professional stipend to incentivize individuals to obtain certain Board registrations that are not required by their position but would benefit the Town.

The overall cost of the three-year contract is approximately 3.1% with an ongoing wage increase of 3.4%.

• **School Traffic Supervisors (Local 1358, AFSCME, Council 93, AFL-CIO)**
The basic financial terms of the three-year contract (FY10 – FY12) are as follows:

<table>
<thead>
<tr>
<th>Group # (Description)</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group 1 (9 full-time employees who do both school crossing and parking enforcement)</td>
<td>0%</td>
<td>1.5%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Group 2 (20 part-time school crossing guards)</td>
<td>0%</td>
<td>0.5%</td>
<td>1.0%</td>
</tr>
<tr>
<td>Group 3 (less than full-time employees who do both school crossing and parking enforcement - none currently in this group)</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Group 4 (2 full-time employees who do parking enforcement only)</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>
The agreement also contains a $25 increase in the boot and shoe allowance. As with the other AFSCME bargaining units the Town agreed to a one-time ratification bonus of $500 to each employee in the bargaining union (pro-rated for part-time), effective upon funding. The one time incentive payment costs $8,360. The overall cost of the three-year contract is approximately 3.8% with an ongoing wage increase of 2.4%.

- **E-911 Dispatchers (Teamsters, Local 25)**

  This is a one-year agreement, which was done in order to put the union in line with other Town union contracts in terms of expiration date. In FY12, wages will increase by 1.5%. As with the other bargaining units the Town agreed to a one-time ratification bonus of $500 to each employee in the bargaining union, effective upon funding. The cost of the one-year contract is approximately 2.8% with an ongoing wage increase of 1.6%.

The Selectmen thank the Town’s negotiating team and the unions for reaching an agreement that matches the realities of the current economic climate and does not exacerbate the long-term financial challenges the Town faces. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 24, 2011, on the following:

**VOTED:** To approve and fund by an appropriation, provided for in the FY2011 (Item #21) and FY2012 (Item #21) budgets, for the cost items in the following collective bargaining agreements that commences on July 1, 2009 and expires on June 30, 2012:

- Brookline Engineers Division Association (BEDA)
- School Traffic Supervisors, Local 1358, AFSCME, Council 93, AFL-CIO

all as set forth in the reports of Sandra DeBow, Director of Human Resources, dated May 20, 2011, which reports are incorporated herein by reference.

**VOTED:** To approve and fund by an appropriation, provided for in the FY2012 (Item #21) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2011 and expires on June 30, 2012:

- Teamsters, Local 25

all as set forth in the report of Sandra DeBow, Director of Human Resources, dated May 20, 2011, which report is incorporated herein by reference.
ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

1. **Collective Bargaining Agreement with Local 1358 AFSCME**
   On Tuesday, May 23, 2011, Town Meeting voted favorable action on this agreement.

2. **Collective Bargaining Agreement with Library bargaining unit of Local 1358 AFSCME**
   On Tuesday, May 23, 2011, Town Meeting voted favorable action on this agreement.

3. **Collective Bargaining Agreement with Brookline Engineering Division Association (BEDA)**

**BACKGROUND:**
The Town and the Brookline Engineering Division Association (BEDA) came to an Agreement on March 20 2010. The BEDA members ratified the agreement on May 20, 2011 with a unanimous vote in favor of the agreement, 10 to 0.

This is a 3 year contract, beginning on July 1, 2009 through June 30, 2012. The following is a cost summary:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>FY13</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/09 - 0%</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7/1/10 - 1.5%</td>
<td>0</td>
<td>11,498</td>
<td>11,498</td>
<td>22,996</td>
<td></td>
</tr>
<tr>
<td>7/1/11 - 1%</td>
<td>7,964</td>
<td></td>
<td></td>
<td>7,964</td>
<td></td>
</tr>
<tr>
<td>1/1/12 - 0.5%</td>
<td>2,011</td>
<td></td>
<td></td>
<td>4,022</td>
<td></td>
</tr>
<tr>
<td>Grade Differential</td>
<td>1,832</td>
<td></td>
<td></td>
<td>1,832</td>
<td></td>
</tr>
<tr>
<td>Professional Stipend</td>
<td>1,250</td>
<td></td>
<td></td>
<td>1,250</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL ROLL-OUT COSTS</strong></td>
<td></td>
<td>11,498</td>
<td>24,555</td>
<td>2,011</td>
<td>38,064</td>
</tr>
<tr>
<td>Each 1% =</td>
<td></td>
<td>7,665</td>
<td>7,665</td>
<td>7,780</td>
<td>7,780</td>
</tr>
<tr>
<td>New Wages - $ =</td>
<td>0</td>
<td>11,498</td>
<td>13,057</td>
<td>2,011</td>
<td></td>
</tr>
<tr>
<td>New Wages - % =</td>
<td>0.0%</td>
<td>1.5%</td>
<td>1.7%</td>
<td>0.3%</td>
<td>3.4%</td>
</tr>
<tr>
<td>Wages on Base - $ =</td>
<td>0</td>
<td>11,498</td>
<td>13,057</td>
<td>2,011</td>
<td></td>
</tr>
<tr>
<td>Wages on Base - % =</td>
<td>0.0%</td>
<td>1.5%</td>
<td>1.7%</td>
<td>0.3%</td>
<td>3.4%</td>
</tr>
</tbody>
</table>

> get to 7% differential
> $250 for 1 employee (E1)
> 2 employees $500 (PE)
The overall wage package is very similar to the AFSCME contracts that we have already considered. However, in the last year of the contract, the wage increase is split so that 1% is applied on 7/1/11 and .5% is applied on 1/1/12. That brings the total cost in the 3 years of this contract to 3.1% on the base since ½ of the full year cost of the .5% increase will be paid for in FY 13 after the contract term is completed. Going forward, the ongoing wage increase is 3.4%.

The agreement also contains certain professional stipends. In Brookline, an Engineer In Training (EIT) certificate is desirable but not mandatory for Grade 3 engineers. Similarly, a Professional Engineering (PE) certificate is desirable but not mandatory for Grade 4 engineers. The creation of professional stipends is designed to incentivize individuals to obtain these Engineering Board registrations that are not required by their positions but would benefit the Town. The stipends do not increase base wages.

As in the AFSCME agreements that we have already discussed, the Town has created a new duty to report certain civil or criminal infractions. In addition, the Town can now mandate direct deposit for all employees in the Engineering Division and, for new employees, has reduced certain personal leave provisions as discussed for prior contracts.

DISCUSSION:
Commissioner Andrew Pappastergion of DPW and Peter Ditto, Director of Engineering/Transportation explained that the Engineering Division of the Town is much smaller now at 13 personnel, down from 22 personnel several years ago. This is primarily due to development and increased use of technology in CADD /survey equipment but also a change in attitude toward professional hours, rather than strict adherence to the clock.

We also heard that, when the Engineering Dept doesn’t have the person power in the division to complete a service, the Director has utilized the services of the Norfolk County engineers. (As a town in Norfolk County, Brookline is entitled to engineering services at no additional cost beyond the financial assessment we provide to the County.) Recently, the Norfolk County engineers completed 2 projects for the Town, one on Harvard St and the other in South Brookline.

RECOMMENDATION:
The Advisory Committee voted 19 in favor, 0 opposed, and 1 abstention to recommend favorable action on this collective bargaining agreement with the Brookline Engineering Division Association (BEDA).

4. Collective Bargaining Agreement with Teamsters, Local 25 (E-911 Dispatchers)

BACKGROUND:
The Town and the Teamsters, Local 25 Dispatchers came to an Agreement on May 18, 2011. The Teamsters ratified the contract on May 23, 2011 with a vote of 13 in favor and 3 against.
This is a one-year agreement commencing on July 1, 2011 and expiring on June 30, 2012. Entering this one year agreement puts the Dispatcher Union in line with other Town union contracts. During Fiscal Year 2012, the Dispatcher wages will increase by 1.5%, as the following cost summary shows:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY12</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/11 - 1.5%</td>
<td>9,949</td>
<td>9,949</td>
</tr>
<tr>
<td>Uniform Allowance</td>
<td>750</td>
<td>750</td>
</tr>
<tr>
<td>Cleaning Allowance</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>$500 One-Time Payment</td>
<td>7,500</td>
<td>7,500</td>
</tr>
<tr>
<td><strong>TOTAL ROLL-OUT COSTS</strong></td>
<td>18,349</td>
<td>18,349</td>
</tr>
</tbody>
</table>

| Each 1% =                     | 6,633 |
| New Wages - $ =               | 18,349|
| New Wages - % =               | 2.8%  |
| Wages on Base - $ =           | 10,849|
| Wages on Base - % =           | 1.6%  |

It is important to note that the prior 3 year contract contained a 0% wage increase. The other monetary provision, in addition to the wage increase in this one year contract, is a one-time ratification bonus of $500 to each employee in the bargaining unit, effective upon funding. Thus, the cost of the one-year contract is approximately 2.8% with an ongoing wage increase of 1.6%.

In this agreement, the Chief of Police will have the ability to assign ongoing training as needed; the agreement calls for a new Training Officer Assignment. The training assignment pay (a $1.00 per hour increase) only applies when the senior dispatcher is actually assigned to and performing the training. The Town also created a new 6 month probationary period pay rate, which applies to newly hired dispatchers. Upon completion of the probationary period, the new dispatcher is bumped up to the first step. This will be a cost savings to the Town.

As in other contracts, the Town has reduced certain personal leave provisions for new employees.

**DISCUSSION:**
This agreement brings the Town important flexibility in the assignment of training. The Police Chief can now assign a senior dispatcher to train new hires as needed, may
increase or decrease the hours of training in a more flexible manner. In addition, the Town wanted to bring the Dispatchers contract period in sync with other Town unions.

RECOMMENDATION:
The Advisory Committee voted 19 in favor, 0 opposed and 1 abstention to recommend favorable action on this collective bargaining agreement with the Teamsters, Local 25 (E-911 Dispatchers).

5. Collective Bargaining Agreement with School Traffic Supervisors, Local 1358, (AFSCME)

BACKGROUND:
The Town and the School Traffic Supervisors, AFSCME, Local 1358 came to an Agreement on May 17, 2011. The union ratified the contract on May 20, 2011 unanimously with a vote of 13 in favor and 0 against.

This is a 3 year contract, beginning on July 1, 2009 thru June 30, 2012. The following is a cost summary:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/09 - 0%</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7/1/10 - 1.5%</td>
<td>5,452</td>
<td>5,452</td>
<td>10,905</td>
<td></td>
</tr>
<tr>
<td>7/1/11 - 1.5%</td>
<td>5,534</td>
<td>5,534</td>
<td>11,068</td>
<td></td>
</tr>
<tr>
<td>7/1/10 - 0.5%</td>
<td>662</td>
<td>662</td>
<td>1,325</td>
<td></td>
</tr>
<tr>
<td>7/1/11 - 1%</td>
<td>1,331</td>
<td>1,331</td>
<td>2,662</td>
<td></td>
</tr>
<tr>
<td>Uniform Allowance</td>
<td>935</td>
<td></td>
<td>935</td>
<td></td>
</tr>
<tr>
<td>$500 One-Time Payment</td>
<td>8,360</td>
<td></td>
<td>8,360</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL ROLL-OUT COSTS** | 0 | 14,475 | 13,915 | 28,390 |

Each 1% = 5,818 5,818 5,905

New Wages - $ = 0 14,475 7,801

New Wages - % = 0.0% 2.5% 1.3% 3.8%

Wages on Base - $ = 0 6,115 7,801

Wages on Base - % = 0.0% 1.1% 1.3% 2.4%

The overall cost is 3.8% with a cost going forward of 2.4%. In addition to the wage increase, the agreement also contains a $25 increase in the boot and shoe allowance. As with the other AFSCME bargaining units the Town agreed to a one-time ratification
bonus of $500 to each employee in the bargaining union (pro-rated for part-time), effective upon funding.

This bargaining unit now has a 4th group within it. The Police Chief wanted to create another group with full-time employees who only perform parking ticket enforcement. Thus, there is now a new full-time Group 4 position, Parking Control Officer (PCO). PCOs will be on a more flexible schedule than the Group 1 positions allowing them to be scheduled into the evening and weekend hours without incurring overtime. The groups are now as follows:

1. The employees in Group #1 perform both school crossing and parking ticket enforcement functions, are full-time and work the hours from 7:30 until 4:30.
2. The employees in Group #2 are part-time, work 10 hours per week with no benefits and only perform school crossing duties.
3. The employees in Group #3 work more than 20 hours per week but less than full time, and perform both school crossing and ticketing functions.
4. The employees in newly created Group #4 will work full-time, only perform parking ticket enforcement and will have flexible schedules so that they can be scheduled to work into the evening hours and on weekends.

The wage increase is spread out among the groups as follows:

<table>
<thead>
<tr>
<th>Group # (Description)</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group 1 (full-time school traffic/parking)</td>
<td>0%</td>
<td>1.5%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Group 2 (part-time school traffic)</td>
<td>0%</td>
<td>.5</td>
<td>1.0</td>
</tr>
<tr>
<td>Group 3 (less than FT parking/school traff.)</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Group 4 (full-time parking enforcement)</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

In addition to the monetary provisions, for new employees, the Town can now mandate direct deposit and has reduced certain personal leave provisions.

DISCUSSION:
Since the Group #4 position is newly created, this contract focused wage increases for Group #1 and Group #2 employees. The new Parking Control Officer will bring needed parking enforcement to the evening and weekend hours where we have been weak. Thus, revenue from parking tickets should increase as our enforcement gets broader.

RECOMMENDATION:
The Advisory Committee voted 19 in favor, 0 opposed, and 3 abstentions to recommend favorable action on the collective bargaining agreement with the School Traffic Supervisors, Local 1358, (AFSCME).
ARTICLE 3

THIRD ARTICLE
To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2012 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

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

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

Funds have been included in the Treasurer’s FY2012 budget to pay for these services directly. This authorization, however, will give the Treasurer the flexibility to enter into such agreements if it should be in the best interest of the Town.

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on March 22, 2011, on the following vote:

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2012 in accordance with General Laws Chapter 44, Section 53F.
ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Warrant Article 3 seeks Town Meeting’s approval to, in relevant part, “authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2012” pursuant to Mass. Gen. Laws ch. 44, §53F.

Since 1985, state law has permitted the cities and towns to enter into a compensating balance agreement with a bank permitting the municipality to receive banking services without paying bank charges; in exchange, the municipality would agree to maintain a specified level of deposits and forego interest.1

State law prohibits the Town’s treasurer from entering into a compensating balance agreement without authorization from Town Meeting.2 Specifically, Town Meeting must first vote to permit the arrangement and note the duration of the permitted arrangement. Thereafter, the Treasurer can solicit the would-be banking provider after complying with a public tender process. Before the agreement can become effective, the Board of Selectmen must approve it.

Reflecting the recent confluence of sustained low interest rates and the trend of increased banking fees, the Town, for the first time in the tenure of Mr. Cirillo, used the annually-voted authority to actually enter into a compensating balance arrangement during this fiscal year.

1 Quoting from a Massachusetts Department of Revenue 2004 release on this topic (“Guidelines Relating to the Maintenance of Compensating Balance Agreements by Municipalities and Districts”), compensating balance agreements are intended to accomplish the following ends:

   To promote the productive and efficient use of municipal funds; [t]o ensure that the process by which banking services are procured by a municipality is open to public scrutiny; [t]o introduce an appropriate degree of accountability to the use of compensating balance arrangements[,] and [t]o establish a process by which the use and cost-effectiveness of compensating balance agreements can be readily evaluated.

2 Mass. General Laws ch. 44, §53F provides in relevant part:

   [A] treasurer … of a … town … is authorized to enter into written agreements for a period not to exceed three years, with banking institutions having their principal offices in the commonwealth, pursuant to which such treasurer or collector agrees to maintain on deposit in said institutions specified amounts of the funds of the municipality in return for said institutions providing banking services …. [N]o such agreement shall be effective unless and until the town meeting has authorized its treasurer … to enter into such agreements … during the fiscal year in which such agreement takes effect and such agreement has been approved by the selectmen of such town.
DISCUSSION:
In his discussions with the Advisory Committee, Mr. Cirillo reiterated his long-standing predisposition against compensating balance arrangements. Prior to the current fiscal year, he supported the annual Town Meeting reauthorization so the Town could more effectively “shop” Brookline’s to competing banks—ultimately deeming it more advantageous to place Town funds in interest-bearing accounts while simultaneously negotiating service fees with those banks seeking the Town’s business.

Historically, interest income had generally been sufficient to cover the majority of the Town’s banking fees; however, the current low interest rates have made it such that this is no longer the case (with the result that the Town has been seeing an increasing level of bank service charges). Until this fiscal year, the increased amount of funds the Town would have to “park” in one account in exchange for no-fee banking under a compensating balance arrangement was deemed too large to justify such an arrangement.

In the past few months, however, the Town actually entered into a compensating balance arrangement with a local bank after several financial institutions actively competed for the Town’s treasury business. Separately, the Town has also shifted monies in and out of banks to maximize returns on its holdings.

Mr. Cirillo stated that the Town would revisit the merits of entering into compensating balance arrangements as market conditions warranted. Nonetheless, he supported the Warrant Article as it provided a helpful tool to enhance the Town’s return on its cash holdings and reduce its banking costs.

In addition to providing a valuable fiscal management tool and also enhancing the competition for the Town’s banking business, Town Meeting’s favorable action on this Warrant Article – merely approving the right to enter into compensating balance arrangements -- will obviate the Town’s need to prepare and file a fairly elaborate and time-consuming report to the Massachusetts Department of Revenue. (There are, however, other reporting obligations if the Town actually enters into one or more compensating balance arrangements.)

RECOMMENDATION:
By a vote of 21 in favor and none opposed, the Advisory Committee unanimously recommends FAVORABLE ACTION on the voted offered by the Selectmen.
ARTICLE 4

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

1) Special Appropriation Closeouts

2) Rescind the bond authorization for assessment and corrective action associated with the Newton Street Landfill, authorized under Article 8, Section 13, Item 56 of the 2009 Annual Town Meeting, in the amount of $3,275,000.

PETITIONER’S ARTICLE DESCRIPTION
Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a warrant article showing the status of all special appropriations. This article also includes rescinding the unused portion of a prior bond authorization related to the Newton St. Landfill project.

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

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

Part two of the article asks Town Meeting to rescind the $3.275 million bond authorization approved in 2009 for assessment and corrective action associated with the Newton Street Landfill. As part of the on-going effort to close and cap the Town's landfills and develop a recreational field, state-mandated assessment and corrective actions were required on properties surrounding the landfill. These actions related to the removal of historically deposited ash-laden soils. In FY04 and FY05, a total of $3 million was approved to undertake all actions required on certain properties along Newton St., Nelson Drive, and Hammond Pond Parkway. In FY07, $2 million was approved for, in
part, similar actions on properties along the other side of the landfill. In FY09, $2.975 million was approved and in FY10 $4.275 million was approved for expenses associated with the removal of certain soils and property restoration. All of these actions ensured on-going compliance with Department of Environmental Protection's Solid Waste Management regulations, 310 CMR 19.000, and Massachusetts Contingency Plan, 310 CMR 40.000, for properties along Martha's Lane, Kensington Circle, and Arlington Road. A summary of these appropriations is shown below:

<table>
<thead>
<tr>
<th>FY</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>1,000,000</td>
</tr>
<tr>
<td>2005</td>
<td>2,000,000</td>
</tr>
<tr>
<td>2006</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>1,410,000</td>
</tr>
<tr>
<td>2009</td>
<td>2,975,000</td>
</tr>
<tr>
<td>2010</td>
<td>4,275,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>11,660,000</td>
</tr>
</tbody>
</table>

At the November, 2009 Fall Town Meeting, Town Meeting rescinded $1 million of the original $4.275 million bond authorization because the Town received $1 million grant from the state through the Environmental Bond Bill. The remaining $3.275 million bond authorization can now be rescinded due to the fact that the work is nearly complete and it came in well under budget. A combination of a good bid climate and a conservative cost estimate from the Town’s consultant, CDM, has resulted in the project coming in $3.275 million below the original $9.2 million ($2 million in FY07 + $2.975 million in FY09 + $4.275 million in FY10) cost estimate. This is great news for the Town and the Selectmen want to thank the Department of Public Works for their management of this project. Approving this rescission removes the amount of authorized but unissued debt from the books of the Town.

The Selectmen recommend NO ACTION on part 1 of the article and FAVORABLE ACTION on part 2 of the article, both by a vote of 5-0 taken on March 22, 2011.

VOTED: That the remaining $3,275,000 Bond Authorization for assessment and corrective action associated with the Newton Street Landfill, authorized under Article 8, Section 13, Item 56 of the 2009 Annual Town Meeting, be reduced and rescinded.

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ADVISORY COMMITTEE’S RECOMMENDATION

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

Accordingly, Warrant Article 4 seeks Town Meeting’s approval to “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.”

DISCUSSION:
There are two elements to this annual warrant article.

First, the Town’s Finance Department annually generates a list of closed out accounts -- typically, funds and grants relating to completed projects. The list is attached to the Combined Reports of the Board of Selectmen and the Advisory Committee for information purposes only, and Town Meeting need not and does not approve either the attached list or the referenced actions.

Town Meeting’s approval is, however, required to rescind any prior bond authorization.

Accordingly, the Town’s financial management provided the Advisory Committee with an update regarding an extant $3,275,000 bond authorization relating to the former Newton Street landfill and related required corrective actions and settling legal claims brought by certain abutters. While the bonding was authorized by Town Meeting, the Town, in fact, never issued any related debt because the costs to remediate the site were less than anticipated, the claims were settled for less than was expected, and the state provided a grant to pay part of these costs.

The Advisory Committee received information about the benefits of formally rescinding the bond authorization. Responding to a question raised, the Advisory Committee learned that the municipal debt rating agencies do not, however, have concerns about authorized but unissued debt so the proposed rescission should not affect the Town’s debt rating.

RECOMMENDATION:
The Advisory Committee, by a vote of 21 in favor and none opposed, unanimously recommends FAVORABLE ACTION on the Selectmen’s vote to rescind the prior bond authorization and NO ACTION as to the closed-out accounts.
<table>
<thead>
<tr>
<th>Account Number</th>
<th>Account Name</th>
<th>Revised Budget</th>
<th>YTD Expended</th>
<th>Open Encumbrances</th>
<th>Available Balance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>K016</td>
<td>IT HARDWARE-SOFTWARE (MUNIS)</td>
<td>23,676</td>
<td>5,500</td>
<td>13,853</td>
<td>4,324</td>
<td>On-going implementation of MUNIS (financial system)</td>
</tr>
<tr>
<td>K017</td>
<td>FURNITURE-EQUIPMENT</td>
<td>8,012</td>
<td>2,933</td>
<td>1,363</td>
<td>3,717</td>
<td>On-going furniture upgrades</td>
</tr>
<tr>
<td>K018</td>
<td>SCHOOL FURNITURE UPGRADES</td>
<td>25,000</td>
<td>25,000</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total Finance</strong></td>
<td><strong>56,688</strong></td>
<td><strong>33,433</strong></td>
<td><strong>15,216</strong></td>
<td><strong>8,040</strong></td>
<td></td>
</tr>
<tr>
<td>K003</td>
<td>STREETS/CIVIC SPACE</td>
<td>137,811</td>
<td>109,753</td>
<td>10,616</td>
<td>17,442</td>
<td>Any unspent balance to be closed out on 6/30/11.</td>
</tr>
<tr>
<td>K004</td>
<td>GATEWAY EAST PROJECT</td>
<td>37,520</td>
<td>0</td>
<td>37,520</td>
<td>0</td>
<td>Being used to complete the 25% and 75% design submissions to MassDOT</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total Planning</strong></td>
<td><strong>175,332</strong></td>
<td><strong>109,753</strong></td>
<td><strong>48,136</strong></td>
<td><strong>17,442</strong></td>
<td></td>
</tr>
<tr>
<td>K016</td>
<td>IT HARDWARE-SOFTWARE</td>
<td>344,650</td>
<td>238,249</td>
<td>45,981</td>
<td>60,420</td>
<td>On-going projects</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total Information Technology</strong></td>
<td><strong>344,650</strong></td>
<td><strong>238,249</strong></td>
<td><strong>45,981</strong></td>
<td><strong>60,420</strong></td>
<td></td>
</tr>
<tr>
<td>K008</td>
<td>BULLET PROOF VESTS</td>
<td>38,612</td>
<td>924</td>
<td>0</td>
<td>37,688</td>
<td>Purchasing approx $30,000 by 6/30/11; remaining by 6/30/12</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total Police</strong></td>
<td><strong>38,612</strong></td>
<td><strong>924</strong></td>
<td>0</td>
<td>37,688</td>
<td></td>
</tr>
<tr>
<td>K001</td>
<td>FIRE RESCUE TRUCK</td>
<td>150,000</td>
<td>98,713</td>
<td>37,427</td>
<td>13,860</td>
<td>Any unexpended balance as of 6/30/11 will be closed out</td>
</tr>
<tr>
<td>K005</td>
<td>PURCHASE FIRE ENGINE</td>
<td>1,665</td>
<td>1,665</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total Fire</strong></td>
<td><strong>151,665</strong></td>
<td><strong>100,378</strong></td>
<td><strong>37,427</strong></td>
<td><strong>13,860</strong></td>
<td></td>
</tr>
<tr>
<td>K002</td>
<td>ENERGY CONSERVATION</td>
<td>107,376</td>
<td>102,739</td>
<td>2,455</td>
<td>2,182</td>
<td>To be completed Sept, 2011</td>
</tr>
<tr>
<td>K010</td>
<td>ENERGY MANAGEMENT SYSTEMS</td>
<td>9,305</td>
<td>5,909</td>
<td>0</td>
<td>3,396</td>
<td>To be completed Sept, 2011</td>
</tr>
<tr>
<td>K012</td>
<td>PORTABLE CLASSROOMS</td>
<td>57,258</td>
<td>51,775</td>
<td>5,483</td>
<td>0</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K022</td>
<td>TOWN-SCH SECURITY-LIFE SAFETY</td>
<td>112,386</td>
<td>98,511</td>
<td>7,812</td>
<td>6,063</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K024</td>
<td>PUTTERHAM LIB HVAC UPGRADE</td>
<td>2,350</td>
<td>2,350</td>
<td>0</td>
<td>0</td>
<td>Punch List work being completed</td>
</tr>
<tr>
<td>K025</td>
<td>MUNICIPAL POOL REHAB</td>
<td>13,581</td>
<td>13,581</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>K029</td>
<td>M C GARAGE/PARKS FAC FEAS STUD</td>
<td>40,000</td>
<td>0</td>
<td>0</td>
<td>40,000</td>
<td>Study underway</td>
</tr>
<tr>
<td>K033</td>
<td>ASPEROS REMOVAL</td>
<td>55,000</td>
<td>41,542</td>
<td>3,750</td>
<td>9,708</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K035</td>
<td>FIRE STATION STUDY</td>
<td>11,810</td>
<td>11,810</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>K036</td>
<td>LINCOLN SCHOOL</td>
<td>100,000</td>
<td>0</td>
<td>0</td>
<td>100,000</td>
<td>Consultant to be hired Sept, 2011</td>
</tr>
<tr>
<td>K037</td>
<td>MAIN LIBRARY RENOVATIONS</td>
<td>147,113</td>
<td>115,159</td>
<td>0</td>
<td>31,955</td>
<td>On-going</td>
</tr>
<tr>
<td>K038</td>
<td>PIERCE SCHOOL RENOVATIONS</td>
<td>78,282</td>
<td>500</td>
<td>25,000</td>
<td>52,782</td>
<td>Design is underway</td>
</tr>
<tr>
<td>K040</td>
<td>PUTTERHAM LIBRARY</td>
<td>137,522</td>
<td>136,610</td>
<td>0</td>
<td>913</td>
<td>Punch List work being completed</td>
</tr>
<tr>
<td>K041</td>
<td>RUNKLE SCHOOL - FEAS/SCH DESIGN</td>
<td>137,522</td>
<td>136,610</td>
<td>0</td>
<td>913</td>
<td>Punch List work being completed</td>
</tr>
<tr>
<td>K042</td>
<td>CLASSROOM CAPACITY EXPANSION</td>
<td>882,631</td>
<td>353,580</td>
<td>72,936</td>
<td>456,115</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K044</td>
<td>RUNKLE-DEVOTION STUDY</td>
<td>100,000</td>
<td>0</td>
<td>0</td>
<td>100,000</td>
<td>Scope Study for Devotion School underway</td>
</tr>
<tr>
<td>K045</td>
<td>TOWN HALL RENOVATIONS</td>
<td>206,613</td>
<td>109,615</td>
<td>76,250</td>
<td>100,749</td>
<td>On-going projects to be completed Jan, 2012</td>
</tr>
<tr>
<td>K046</td>
<td>TOWN HALL/MAIN LIB GARAGE IMPR</td>
<td>85,512</td>
<td>27,767</td>
<td>0</td>
<td>827,360</td>
<td>To be used for phases 2 and 3 of the project</td>
</tr>
<tr>
<td>K047</td>
<td>TOWN/N/SCH FACILITY ROOF REPAIR</td>
<td>693,812</td>
<td>145,336</td>
<td>45,000</td>
<td>503,475</td>
<td>Plans &amp; specs to be developed. Work to start July, 2011.</td>
</tr>
<tr>
<td>K050</td>
<td>ADA RENOVATIONS</td>
<td>57,932</td>
<td>35,135</td>
<td>7,899</td>
<td>14,898</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K075</td>
<td>HEATH SCH FEASIBILITY AND DESIGN</td>
<td>300,000</td>
<td>193,713</td>
<td>45,621</td>
<td>60,666</td>
<td>Design phase underway</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total Building</strong></td>
<td><strong>4,052,933</strong></td>
<td><strong>1,447,840</strong></td>
<td><strong>294,831</strong></td>
<td><strong>2,310,262</strong></td>
<td></td>
</tr>
<tr>
<td>K019</td>
<td>LINCOLN SCH/KENNARD HOUSE</td>
<td>250,000</td>
<td>0</td>
<td>0</td>
<td>250,000</td>
<td>Design underway; Summer construction</td>
</tr>
<tr>
<td>K031</td>
<td>PARKING LOTS REHABILITATION</td>
<td>120,000</td>
<td>97,459</td>
<td>0</td>
<td>22,541</td>
<td>Balance to be combined with FY13 funds</td>
</tr>
<tr>
<td>K039</td>
<td>NEWTON ST GUARD RAIL</td>
<td>35,000</td>
<td>0</td>
<td>0</td>
<td>35,000</td>
<td>Summer construction</td>
</tr>
<tr>
<td>K048</td>
<td>TRANSFER STATION REHABILI</td>
<td>300</td>
<td>300</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>K049</td>
<td>PARK IMPROVEMENTS</td>
<td>39,408</td>
<td>38,000</td>
<td>1,408</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>K051</td>
<td>TREE MANAGEMENT</td>
<td>188,070</td>
<td>73,985</td>
<td>74,378</td>
<td>39,808</td>
<td>In Progress</td>
</tr>
<tr>
<td>Account Number</td>
<td>Account Name</td>
<td>Revised Budget</td>
<td>YTD Expended</td>
<td>Open Encumbrances</td>
<td>Available Balance</td>
<td>Comment</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------</td>
<td>----------------</td>
<td>--------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>K052</td>
<td>BICYCLE ACCESS IMPROVEMENTS</td>
<td>25,000</td>
<td>0</td>
<td>0</td>
<td>25,000</td>
<td>Start work when MWRA sewer work completed (2013)</td>
</tr>
<tr>
<td>K053</td>
<td>PAVEMENT OF FIRE TRAINING AREA</td>
<td>30,000</td>
<td>0</td>
<td>0</td>
<td>30,000</td>
<td>Summer construction</td>
</tr>
<tr>
<td>K054</td>
<td>STREET LIGHTING REPLACEMENT</td>
<td>162,959</td>
<td>14,916</td>
<td>18,889</td>
<td>129,153</td>
<td>Spring/Summer construction</td>
</tr>
<tr>
<td>K055</td>
<td>CARLETON STREET FOOTBRIDGE</td>
<td>87,235</td>
<td>1,800</td>
<td>0</td>
<td>85,435</td>
<td>In progress - 25% design submitted for TIP funding</td>
</tr>
<tr>
<td>K056</td>
<td>SIDEWALK IMPROVEMENTS</td>
<td>311,007</td>
<td>34,732</td>
<td>29,100</td>
<td>247,175</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K057</td>
<td>CHESTNUT ST DRAIN/WILLOW POND</td>
<td>45,365</td>
<td>600</td>
<td>130</td>
<td>44,635</td>
<td>Waiting for Muddy River project to remove sediments</td>
</tr>
<tr>
<td>K058</td>
<td>STREET REHABILITATION</td>
<td>3,806,043</td>
<td>1,024,305</td>
<td>580,935</td>
<td>2,200,803</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K059</td>
<td>COOLIDGE CORNER LIB DRIVeway</td>
<td>4,000</td>
<td>21,557</td>
<td>1,753</td>
<td>16,690</td>
<td>Final closeout this summer</td>
</tr>
<tr>
<td>K060</td>
<td>NEWTON ST LANDFILL SITE IMP</td>
<td>982,007</td>
<td>455,722</td>
<td>112,386</td>
<td>415,047</td>
<td></td>
</tr>
<tr>
<td>K061</td>
<td>AMORY FIELD IMPROVEMENTS</td>
<td>851</td>
<td>0</td>
<td>0</td>
<td>851</td>
<td>Any unspent balance to close out 6/30/11</td>
</tr>
<tr>
<td>K062</td>
<td>DANE PARK</td>
<td>29,151</td>
<td>0</td>
<td>0</td>
<td>29,151</td>
<td>To be used for wayfinding/interpretive signage</td>
</tr>
<tr>
<td>K063</td>
<td>LONGWOOD MALL</td>
<td>86,369</td>
<td>0</td>
<td>0</td>
<td>86,369</td>
<td>Waiting for Muddy River Restoration Project to commence</td>
</tr>
<tr>
<td>K064</td>
<td>PLAYGROUND,FENCE,FIELD, EQUIP</td>
<td>413,698</td>
<td>178,900</td>
<td>179,559</td>
<td>55,238</td>
<td>On-going</td>
</tr>
<tr>
<td>K065</td>
<td>PATHWAY RECONSTRUCTION</td>
<td>197,094</td>
<td>0</td>
<td>83,826</td>
<td>113,268</td>
<td>Summer construction</td>
</tr>
<tr>
<td>K066</td>
<td>OLMLSTED PARK IMPROVEMENTS</td>
<td>38,268</td>
<td>0</td>
<td>0</td>
<td>38,268</td>
<td>In progress</td>
</tr>
<tr>
<td>K067</td>
<td>LARZ ANDERSON PARK</td>
<td>5,328</td>
<td>5,328</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>K068</td>
<td>LOST POND CONSERVATION AR</td>
<td>48,997</td>
<td>0</td>
<td>0</td>
<td>48,997</td>
<td>To be used for trails and signage</td>
</tr>
<tr>
<td>K069</td>
<td>TOWN-N-SCHOOL GROUNDS REHAB</td>
<td>230,392</td>
<td>76,795</td>
<td>109,112</td>
<td>44,485</td>
<td>On-going</td>
</tr>
<tr>
<td>K070</td>
<td>AMORY PARK</td>
<td>16,664</td>
<td>12,062</td>
<td>0</td>
<td>4,602</td>
<td>Any unspent balance to close out 6/30/11</td>
</tr>
<tr>
<td>K071</td>
<td>FIELD IMP-DOWNES &amp; LANDFILL</td>
<td>1,794</td>
<td>0</td>
<td>1,500</td>
<td>294</td>
<td>Any unspent balance to close out 6/30/11</td>
</tr>
<tr>
<td>K072</td>
<td>HEMLOCK TREE ASSESS/REMOV</td>
<td>10,222</td>
<td>0</td>
<td>838</td>
<td>7,384</td>
<td>On-going; continue monitoring and treating as necessary</td>
</tr>
<tr>
<td>K073</td>
<td>MUD RIVER REMEDIATION</td>
<td>1,395,331</td>
<td>0</td>
<td>1,395,331</td>
<td>0</td>
<td>In progress</td>
</tr>
<tr>
<td>K074</td>
<td>PARK LIGHTING UPGRADE</td>
<td>96,071</td>
<td>0</td>
<td>26,735</td>
<td>93,395</td>
<td>On-going; used to evaluate and make lighting upgrades annually</td>
</tr>
<tr>
<td>K076</td>
<td>WINTHROP SQ/MINOT ROSE GARDEN</td>
<td>400,000</td>
<td>282,577</td>
<td>51,380</td>
<td>66,403</td>
<td>In progress</td>
</tr>
<tr>
<td>K077</td>
<td>TRAFFIC CALMING</td>
<td>164,413</td>
<td>71,791</td>
<td>15,623</td>
<td>77,000</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K078</td>
<td>HORACE JAMES CIR TRAFFIC IMP</td>
<td>149,959</td>
<td>0</td>
<td>0</td>
<td>149,959</td>
<td>Waiting on comments from DCR</td>
</tr>
<tr>
<td>K079</td>
<td>MOD TRAF SIG-FIRE STATION 6</td>
<td>53,730</td>
<td>0</td>
<td>10,700</td>
<td>43,030</td>
<td>Bidding Spring 2011</td>
</tr>
<tr>
<td>K080</td>
<td>MOUNTFORT ST TRAFFIC SIGNAL</td>
<td>122,238</td>
<td>0</td>
<td>16,738</td>
<td>105,500</td>
<td>Bidding Spring 2011</td>
</tr>
<tr>
<td>K081</td>
<td>NEWTON ST/W ROXBURY PKWY TRAF</td>
<td>147,900</td>
<td>0</td>
<td>147,900</td>
<td>0</td>
<td>25% Design; 100% by Fall</td>
</tr>
<tr>
<td>K082</td>
<td>PEDESTRIAN ACCESS IMPROVEMENTS</td>
<td>45,000</td>
<td>0</td>
<td>45,000</td>
<td>0</td>
<td>Project underway</td>
</tr>
<tr>
<td>K083</td>
<td>WASH ST/SCHOOL ST/CYPRESS TRAF</td>
<td>103,000</td>
<td>0</td>
<td>103,000</td>
<td>0</td>
<td>100% Summer construction</td>
</tr>
<tr>
<td>K084</td>
<td>WATER METER REPLACEMENT</td>
<td>144,433</td>
<td>104,484</td>
<td>0</td>
<td>39,949</td>
<td>On-going project for large meter replacement</td>
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<td>PARKING METERS</td>
<td>1,430,756</td>
<td>1,376,094</td>
<td>36,400</td>
<td>18,261</td>
<td>Meters being rolled out</td>
</tr>
<tr>
<td>K086</td>
<td>LANDFILL SETTLEMENTS</td>
<td>433,110</td>
<td>0</td>
<td>0</td>
<td>433,110</td>
<td>To be completed Spring/Summer</td>
</tr>
<tr>
<td></td>
<td><strong>Sub-Total DPW</strong></td>
<td><strong>12,004,682</strong></td>
<td><strong>3,986,006</strong></td>
<td><strong>1,373,973</strong></td>
<td><strong>6,644,704</strong></td>
<td></td>
</tr>
<tr>
<td>K001</td>
<td>LIBRARY SELF CHECK OUT UNITS</td>
<td>20,540</td>
<td>0</td>
<td>0</td>
<td>20,540</td>
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</tr>
<tr>
<td>K002</td>
<td>PUTTENHAM LIB FURNISHINGS</td>
<td>5,150</td>
<td>3,596</td>
<td>0</td>
<td>1,554</td>
<td>Any unspent balance as of 6/30/11 will be closed out</td>
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<tr>
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<td>RFID RADIO FREQ IDENT SYSTEM</td>
<td>244,099</td>
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<td>96,151</td>
<td>To be spent prior to June 30, 2012</td>
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<td><strong>Sub-Total Library</strong></td>
<td><strong>269,782</strong></td>
<td><strong>167,827</strong></td>
<td><strong>4,250</strong></td>
<td><strong>97,705</strong></td>
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<td><strong>GRAND TOTAL</strong></td>
<td><strong>17,094,344</strong></td>
<td><strong>6,084,410</strong></td>
<td><strong>1,819,814</strong></td>
<td><strong>9,190,121</strong></td>
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<td>Project Description</td>
<td>Revised Budget</td>
<td>YTD Expended</td>
<td>YTD Encumbered</td>
<td>Available</td>
<td>Status</td>
<td></td>
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<tr>
<td>-------------------------------------------</td>
<td>----------------</td>
<td>--------------</td>
<td>----------------</td>
<td>-----------</td>
<td>---------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>C141 DRISCOLL SCHOOL HVAC EQUIP</td>
<td>12,030</td>
<td>8,950</td>
<td>413</td>
<td>2,667</td>
<td>To be completed this summer</td>
<td></td>
</tr>
<tr>
<td>C142 PUTTERHAM MEADOWS GOLF/CLUBHSE</td>
<td>1,341,009</td>
<td>24,892</td>
<td>8,223</td>
<td>1,307,948</td>
<td>Will be used for drainage project over next couple years</td>
<td></td>
</tr>
<tr>
<td>C146 DRISCOLL SCHOOL IMPROVEMENTS</td>
<td>2,729</td>
<td>2,729</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
<td></td>
</tr>
<tr>
<td>C149 DRISCOLL SCHOOL IMPROVEMENTS</td>
<td>343</td>
<td>343</td>
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<td>0</td>
<td>Complete</td>
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<tr>
<td>C154 TOWN HALL RENOVATIONS</td>
<td>2,720</td>
<td>980</td>
<td>1,740</td>
<td>0</td>
<td>Any unexpended balance on 6/30/11 will be closed out</td>
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<tr>
<td>C156 EVELYN KIRANE AQ CTR IMP</td>
<td>4,613</td>
<td>4,613</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
<td></td>
</tr>
<tr>
<td>C157 NEWTON ST LANDFILL</td>
<td>15,292</td>
<td>6,768</td>
<td>400</td>
<td>8,124</td>
<td>Any remaining balance will be recommended for re-appropriation at a future Town Meeting</td>
<td></td>
</tr>
<tr>
<td>C162 BHS RENOVATIONS</td>
<td>79,480</td>
<td>76,447</td>
<td>0</td>
<td>3,033</td>
<td>Any unexpended balance on 6/30/11 will be closed out</td>
<td></td>
</tr>
<tr>
<td>C164 TOWN HALL/MAIN LIB GARAGE</td>
<td>1,164,965</td>
<td>452,295</td>
<td>85,611</td>
<td>627,059</td>
<td>To be used for phase 2 of the project</td>
<td></td>
</tr>
<tr>
<td>C165 RUNKLE SCHOOL REN/ADD</td>
<td>28,270,250</td>
<td>2,009,634</td>
<td>20,202,738</td>
<td>6,057,877</td>
<td>Project underway</td>
<td></td>
</tr>
<tr>
<td>C167 FY11 TOWN HALL/LIB GARAGE</td>
<td>950,000</td>
<td>0</td>
<td>0</td>
<td>950,000</td>
<td>To be used for phases 2 and 3 of the project</td>
<td></td>
</tr>
<tr>
<td>BUILDING CAPITAL</td>
<td>31,843,432</td>
<td>2,587,651</td>
<td>20,299,125</td>
<td>8,956,708</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C144 WASTEWATER SYSTEM IMPROVEMENTS</td>
<td>211,719</td>
<td>33,483</td>
<td>175,086</td>
<td>3,150</td>
<td>To be used in combination with C158</td>
<td></td>
</tr>
<tr>
<td>C150 MUDDY RIVER RESTORATION</td>
<td>745,000</td>
<td>0</td>
<td>0</td>
<td>745,000</td>
<td>Project underway</td>
<td></td>
</tr>
<tr>
<td>C152 STORM DRAIN IMPROVEMENTS</td>
<td>31,651</td>
<td>27,100</td>
<td>0</td>
<td>4,551</td>
<td>On-going illicit connection investigation</td>
<td></td>
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<tr>
<td>C153 WATER METER REPLACEMENT</td>
<td>1,126</td>
<td>1,126</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
<td></td>
</tr>
<tr>
<td>C157 NEWTON ST LANDFILL</td>
<td>38,265</td>
<td>0</td>
<td>0</td>
<td>38,265</td>
<td>In process of closing out contract</td>
<td></td>
</tr>
<tr>
<td>C158 WASTEWATER SYSTEM IMP</td>
<td>5,066,179</td>
<td>150,149</td>
<td>25,467</td>
<td>4,890,563</td>
<td>On-going projects</td>
<td></td>
</tr>
<tr>
<td>C160 RESERVOIR AT FISHER HILL</td>
<td>1,850,000</td>
<td>800,277</td>
<td>9,700</td>
<td>1,040,233</td>
<td>Project underway</td>
<td></td>
</tr>
<tr>
<td>C163 NEWTON ST LANDFILL</td>
<td>3,275,000</td>
<td>0</td>
<td>0</td>
<td>3,275,000</td>
<td>Bond authorization being rescinded</td>
<td></td>
</tr>
<tr>
<td>C166 CARLTON ST FOOTBRIDGE RESTORAT</td>
<td>1,400,000</td>
<td>0</td>
<td>0</td>
<td>1,400,000</td>
<td>25% design submitted for TIP funding</td>
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<tr>
<td>DPW CAPITAL</td>
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<td>210,253</td>
<td>11,396,552</td>
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<td>TOTAL</td>
<td>44,462,373</td>
<td>3,599,786</td>
<td>20,509,378</td>
<td>20,353,260</td>
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</tr>
</tbody>
</table>
ARTICLE 5

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

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

SELECTMEN’S RECOMMENDATION
State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year’s appropriations without the specific approval of Town Meeting. As of the writing of this Recommendation, there are no unpaid bills from a previous fiscal year. Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on April 26, 2011, on Article 5.

ADVISORY COMMITTEE’S RECOMMENDATION
BACKGROUND:
Under Mass. Gen. Laws ch. 44, §64, the Town cannot pay any unpaid bills for goods purchased by it or services rendered to it until and Town Meeting has approved the specific appropriation by a four-fifths (4/5ths) vote. Town Meeting warrants therefore customarily include a “placeholder” article so that Town Meeting can consider and approve such obligations and permit the Town to pay for them.

Accordingly, Warrant Article 5 to be considered at the May 2012 Town Meeting seeks Town Meeting’s approval to “authorize the payment of one or more of the bills of the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore (sic), and appropriate from available funds, a sum or sums of money therefore (sic), or act on anything relative thereto.”
<table>
<thead>
<tr>
<th>Account Number</th>
<th>Account Name</th>
<th>Revised Budget</th>
<th>YTD Expended</th>
<th>Open Encumbrances</th>
<th>Available Balance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>K052</td>
<td>BICYCLE ACCESS IMPROVEMENTS</td>
<td>25,000</td>
<td>0</td>
<td>0</td>
<td>25,000</td>
<td>Start work when MWRA sewer work completed (2013)</td>
</tr>
<tr>
<td>K053</td>
<td>PAVEMENT OF FIRE TRAINING AREA</td>
<td>30,000</td>
<td>0</td>
<td>0</td>
<td>30,000</td>
<td>Summer construction</td>
</tr>
<tr>
<td>K054</td>
<td>STREET LIGHTING REPLACEMENT</td>
<td>162,959</td>
<td>14,916</td>
<td>18,889</td>
<td>129,153</td>
<td>Spring/Summer construction</td>
</tr>
<tr>
<td>K055</td>
<td>CARLETON STREET FOOTBRIDGE</td>
<td>87,235</td>
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<td>0</td>
<td>85,435</td>
<td>In progress - 25% design submitted for TIP funding</td>
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<tr>
<td>K056</td>
<td>SIDEWALK IMPROVEMENTS</td>
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<td>34,732</td>
<td>29,100</td>
<td>247,175</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K057</td>
<td>CHESTNUT ST DRAIN/WILLOW POND</td>
<td>45,365</td>
<td>600</td>
<td>130</td>
<td>44,635</td>
<td>Waiting for Muddy River project to remove sediments</td>
</tr>
<tr>
<td>K058</td>
<td>STREET REHABILITATION</td>
<td>3,806,043</td>
<td>1,024,305</td>
<td>580,935</td>
<td>2,200,803</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K059</td>
<td>COOLIDGE CORNER LIB DRIVEWAY</td>
<td>40,000</td>
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<td>16,690</td>
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<tr>
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<td>NEWTON ST LANDFILL SITE IMP</td>
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<td>455,722</td>
<td>112,38</td>
<td>415,047</td>
<td>Final closeout this summer</td>
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<tr>
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<td>AMORY FIELD IMPROVEMENTS</td>
<td>851</td>
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<td>0</td>
<td>851</td>
<td>Any unspent balance to close out 6/30/11</td>
</tr>
<tr>
<td>K062</td>
<td>DANE PARK</td>
<td>29,151</td>
<td>0</td>
<td>0</td>
<td>29,151</td>
<td>To be used for wayfinding/interpretive signage</td>
</tr>
<tr>
<td>K063</td>
<td>LONGWOOD MALL</td>
<td>2,521</td>
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<td>919</td>
<td>1,602</td>
<td>Any unspent balance to close out 6/30/11</td>
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<tr>
<td>K064</td>
<td>RIVERWAY PARK IMPROVEMENT</td>
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<td>0</td>
<td>86,369</td>
<td>Waiting for Muddy River Restoration Project to commence</td>
</tr>
<tr>
<td>K065</td>
<td>PLAYGROUND, FENCE, FIELD, EQUIP</td>
<td>413,698</td>
<td>178,900</td>
<td>179,559</td>
<td>55,238</td>
<td>On-going</td>
</tr>
<tr>
<td>K066</td>
<td>PATHWAY RECONSTRUCTION</td>
<td>197,094</td>
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<td>83,826</td>
<td>113,268</td>
<td>Summer construction</td>
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<tr>
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<td>OLMSTED PARK IMPROVEMENTS</td>
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<td>38,268</td>
<td>In progress</td>
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<tr>
<td>K068</td>
<td>FIELDS IMP-DOWNES &amp; LANDFILL</td>
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<td>5,328</td>
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<tr>
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<td>115,000</td>
<td>115,000</td>
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<td>0</td>
<td>In progress</td>
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<tr>
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<td>AMORY PARK</td>
<td>16,664</td>
<td>12,062</td>
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<td>4,602</td>
<td>Any unspent balance to close out 6/30/11</td>
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<tr>
<td>K071</td>
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<td>0</td>
<td>1,500</td>
<td>294</td>
<td>Any unspent balance to close out 6/30/11</td>
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<tr>
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<td>3,596</td>
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<td>1,554</td>
<td>Any unspent balance as of 6/30/11 will be closed out</td>
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<tr>
<td>K075</td>
<td>MOD TRAF SIG-FIRE STATION 6</td>
<td>53,730</td>
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<td>10,700</td>
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<tr>
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<td>NEWTON ST/W Roxbury PKWY TRAF</td>
<td>147,900</td>
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<td>147,900</td>
<td>0</td>
<td>25% Design; 100% by Fall</td>
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<tr>
<td>K078</td>
<td>PEDESTRIAN ACCESS IMPROVEMENTS</td>
<td>45,000</td>
<td>0</td>
<td>45,000</td>
<td>0</td>
<td>Project underway</td>
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<tr>
<td>K079</td>
<td>WASH ST/SCHOOL ST/CYPRESS TRAF</td>
<td>103,900</td>
<td>0</td>
<td>0</td>
<td>103,900</td>
<td>Summer construction</td>
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<tr>
<td>K080</td>
<td>PARK LIGHTING UPGRADE</td>
<td>96,071</td>
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<td>WINTHROP SQ/MINOT ROSE GARDEN</td>
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<tr>
<td>K082</td>
<td>TRAFFIC CALMING</td>
<td>164,413</td>
<td>71,791</td>
<td>15,623</td>
<td>77,000</td>
<td>On-going projects</td>
</tr>
<tr>
<td>K083</td>
<td>HORACE JAMES CIR TRAFFIC IMP</td>
<td>149,959</td>
<td>0</td>
<td>0</td>
<td>149,959</td>
<td>Waiting on comments from DCR</td>
</tr>
<tr>
<td>K084</td>
<td>MUSEUM TRAF SIG-FIRE STATION 6</td>
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<td>10,700</td>
<td>43,030</td>
<td>Bidding Spring 2011</td>
</tr>
<tr>
<td>K085</td>
<td>MOUNTFORD ST TRAFFIC SIGNAL</td>
<td>122,238</td>
<td>0</td>
<td>16,738</td>
<td>105,500</td>
<td>Bidding Spring 2011</td>
</tr>
<tr>
<td>K086</td>
<td>NEWTON ST/W Roxbury PKWY TRAF</td>
<td>147,900</td>
<td>0</td>
<td>147,900</td>
<td>0</td>
<td>25% Design; 100% by Fall</td>
</tr>
<tr>
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<td>0</td>
<td>45,000</td>
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<td>Project underway</td>
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<tr>
<td>K088</td>
<td>WASH ST/SCHOOL ST/CYPRESS TRAF</td>
<td>103,900</td>
<td>0</td>
<td>0</td>
<td>103,900</td>
<td>Summer construction</td>
</tr>
<tr>
<td>K089</td>
<td>PARKING METERS</td>
<td>1,430,756</td>
<td>1,376,094</td>
<td>36,400</td>
<td>18,261</td>
<td>Meters being rolled out</td>
</tr>
<tr>
<td>K090</td>
<td>LANDFILL SETTLEMENTS</td>
<td>433,110</td>
<td>0</td>
<td>0</td>
<td>433,110</td>
<td>To be completed Spring/Summer</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td><strong>DPW</strong></td>
<td><strong>12,004,682</strong></td>
<td><strong>3,986,006</strong></td>
<td><strong>1,373,973</strong></td>
<td><strong>6,644,704</strong></td>
<td></td>
</tr>
<tr>
<td>K001</td>
<td>LIBRARY SELF CHECK OUT UNITS</td>
<td>20,540</td>
<td>20,540</td>
<td>0</td>
<td>0</td>
<td>Complete</td>
</tr>
<tr>
<td>K006</td>
<td>PUTTERHAM LIB FURNISHINGS</td>
<td>5,150</td>
<td>3,596</td>
<td>0</td>
<td>1,554</td>
<td>Any unspent balance as of 6/30/11 will be closed out</td>
</tr>
<tr>
<td>K015</td>
<td>RFID RADIO FREQ IDENT SYSTEM</td>
<td>244,099</td>
<td>143,691</td>
<td>4,250</td>
<td>96,151</td>
<td>To be spent prior to June 30, 2012</td>
</tr>
<tr>
<td><strong>Sub-Total Library</strong></td>
<td></td>
<td><strong>269,782</strong></td>
<td><strong>167,827</strong></td>
<td><strong>4,250</strong></td>
<td><strong>97,705</strong></td>
<td></td>
</tr>
</tbody>
</table>

**GRAND TOTAL**: 17,094,344, 6,084,410, 1,819,814, 9,190,121
DISCUSSION:
The Advisory Committee learned recently that there may be one unpaid NSTAR bill that somehow did not get processed through the accounts payable system. The Finance Department’s review of the relevant facts is ongoing.

Because it has not yet received the relevant facts of regarding the possibly unpaid bill, the Advisory Committee cannot make a substantive recommendation about paying the bill. It is possible that the matter could be considered by relevant subcommittee and the full Advisory Committee just prior to the Annual Town Meeting.

RECOMMENDATION:
By a vote of 21 in favor and none opposed, the Advisory Committee recommends NO ACTION on Warrant Article 5.
ARTICLE 6

SIXTH ARTICLE
To see if the Town will elect to establish an additional property tax exemption for fiscal year 2012 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
This article provides for an increase of up to 100% in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2012 is approximately $55,000 and is funded from the tax abatement overlay reserve account.

SELECTMEN’S RECOMMENDATION
This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY89. The estimated cost is approximately $55,000 and is funded from the tax abatement overlay account. The law allows the Town to increase the exemption by up to 100% as indicated on the following schedule:

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

The Selectmen recommend FAVORABLE ACTION, by a vote of 5-0 taken on April 5, 2011, on the following vote:
May 25, 2010 Annual Town Meeting
6-2

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2012 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Warrant Article 6 would allow the Town to continue its current practice of increasing state mandated property tax exemptions for several classes of taxpayers by “establish(ing) an additional property tax exemption for fiscal year 2012 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.”

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

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

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

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

DISCUSSION:
The proposed doubling of the statutory exemptions require annual re-authorization. Since 1988, Town Meeting has voted to double the statutory exemptions. Notwithstanding the Town’s fiscal shortfalls and future projected structural deficits, there seems a consensus for doubling the statutory exemptions to assist many needy residents.

Gary McCabe, the Town’s Chief Assessor, estimates that the proposed doubling of the exemptions will cost the Town approx. $55,000 in FY 2012; by contrast, the exemptions cost the Town approx. $57,000 and $66,500 in FY 2011 and FY 2010, respectively. The downward trend reflects the exemption amounts’ being constant while the number of eligible taxpayers has declined because of deaths and other demographic trends. The costs are debited to a budgeted-for reserve in the abatement overlay account.

Mr. McCabe also states that there is, despite ongoing efforts, a continuing public misunderstanding of this program. Apparently, some would-be participants believe that the Town somehow obtains a lien on the senior citizen’s property or the exemptions are part of the wholly-separate deferral program.

Responding to questions from the Advisory Committee, Mr. McCabe discussed efforts his department has made to publicize and explain the exemptions. He indicated that information about the exemptions has been and will continue to be included with property tax bill mailings, and that his office will continue to meet with involved constituencies at various meetings and events. As it’s done in prior years, the Advisory Committee also noted with appreciation the efforts the Town Assessor’s office has made to publicize this program.

RECOMMENDATION:
By a vote of 21 in favor and none opposed, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.
SEVENTH ARTICLE
To see if the town will approve adjustments to the factors applicable to the qualification for the Elderly Tax Exemption provided for and as permitted in General Laws Chapter 59, section 5, clause 41C as follows:

1. To reduce the requisite age of eligibility from 70 years of age to 65 years of age;
2. To increase the income limit described as the preceding year’s gross receipts from all sources from $13,000 to $20,000 for single taxpayers;
3. To increase the asset limit described as the whole estate real and personal, from $28,000 to $40,000 for single taxpayers;
4. To increase the income limit described as the preceding year’s combined gross receipts with his/her spouse from $15,000 to $30,000 for married taxpayers;
5. To increase the asset limit described as the whole estate real and personal, from $30,000 to $55,000 for married taxpayers; and
6. To exclude from the computation of the whole estate that real property occupied as his/her/their domicile except for any portion of said property which produces income and exceeds three dwelling units.

Or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
The clause 41 real estate tax exemption is a Legislative response to the need of certain senior property owners for assistance with their tax obligations. It set out original eligibility requirements for the exemption. Over time as property values and income levels rose, however, it became more difficult for persons to satisfy these requirements. Therefore, the Legislature made alternative exemptions (Clauses 41B & 41C) available for cities or towns to accept by town meeting or city council vote. Each alternative has different eligibility requirements. If a town has accepted Clause 41B or 41C the Clause most recently accepted establishes eligibility rules. Within the language of 41C, which Brookline adopted, there is now an option to adjust the eligibility thresholds as proposed above by the Board of Assessors and Council on Aging. A survey of neighboring communities (see chart below) has found that all have adopted the less restrictive factors. Based on the very small current number of taxpayers in the clause 41C program, we believe the town should adopt the lower age and higher income and assets tests.

Elderly Exemption (Clause 41C) Comparison

<table>
<thead>
<tr>
<th>Community</th>
<th>Age</th>
<th>Single</th>
<th>Married</th>
<th>FY11 #’s</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brookline</td>
<td>70</td>
<td>20,725</td>
<td>35,684</td>
<td>25,353</td>
</tr>
</tbody>
</table>

*Income*
Once established by Town Meeting, the income and assets limits are adjusted annually by cost of living factors issued by the Department of Revenue.

SELECTMEN’S RECOMMENDATION

Article 7 was filed jointly by the Board of Assessors and the Council on Aging as part of an effort to assist those elderly taxpayers who are in need of property tax relief. State law includes the so-called “clause 41” exemption, which was adopted by the Legislature to aid certain senior property owners in need of assistance with their tax obligations. Over time, as property values and income levels rose, it became more difficult for these senior property owners to satisfy the criteria required to take advantage of the property tax exemption. As a result, the Legislature enacted alternative exemptions (so-called “clause 41B” and “clause 41C” exemptions), each of which has different eligibility requirements.

Brookline adopted the Clause 41C exemption, which has the following as eligibility requirements:

- must be 70 years old
- income, described as the preceding year’s gross receipts from all sources, cannot exceed $13,000 for single taxpayers and $15,000 for married taxpayers (since FY04, these limits have been increased by a Cost of Living Adjustment, or COLA, as determined by the Department of Revenue; the current amounts are $16,567 and $19,116)
- the asset limit, described as the whole estate real and personal, cannot exceed $28,000 for single taxpayers and $30,000 for married taxpayers (since FY04, these limits have been increased by a Cost of Living Adjustment, or

<table>
<thead>
<tr>
<th>Town</th>
<th>Age</th>
<th>Income Limit</th>
<th>Asset Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boston</td>
<td>65</td>
<td>24,158</td>
<td>40,000</td>
</tr>
<tr>
<td>Cambridge</td>
<td>65</td>
<td>27,219</td>
<td>46,122</td>
</tr>
<tr>
<td>Newton</td>
<td>65</td>
<td>24,158</td>
<td>40,000</td>
</tr>
<tr>
<td>Waltham</td>
<td>65</td>
<td>30,640</td>
<td>43,600</td>
</tr>
<tr>
<td>Watertown</td>
<td>65</td>
<td>29,306</td>
<td>40,000</td>
</tr>
<tr>
<td>Wellesley</td>
<td>65</td>
<td>24,650</td>
<td>49,301</td>
</tr>
</tbody>
</table>

*Income criteria includes allowance for SSI (applied to all):

<table>
<thead>
<tr>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
<td>$4,158</td>
</tr>
<tr>
<td>Married</td>
<td>$6,237</td>
</tr>
</tbody>
</table>
May 24, 2011 Annual Town Meeting

7-3

COLA, as determined by the Department of Revenue; the current amounts are $35,684 and $38,233)

• must be a resident of Massachusetts for at least 10 years
• must have owned and occupied the property in Brookline for at least 5 years

Clause 41C allows communities to adjust the eligibility thresholds. A survey of neighboring communities (see the chart under the Petitioner’s Article Description) found that all of those communities surveyed adopted the less restrictive factors. Therefore, the Board supports this article, which proposes the following adjustments:

• reduce the age of eligibility from 70 to 65
• increase the income limit, described as the preceding year’s gross receipts from all sources, from $13,000 to $20,000 for single taxpayers and from $15,000 to $30,000 for married taxpayers
• increase the asset limit, described as the whole estate real and personal, from $28,000 to $40,000 for single taxpayers and from $30,000 to $55,000 for married taxpayers; and
• exclude from the computation of the whole estate that real property occupied as his/her/their domicile except for any portion of said property which produces income and exceeds three dwelling units.

Based on the very small current number of taxpayers in the clause 41C program, we believe the town should adopt the lower age and higher income and assets tests. The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 5, 2011, on the vote offered by the Advisory Committee.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Amended Warrant Article 7 seeks Town Meeting’s approval to expand the application of the so-called Elderly Tax Exemption. If enacted, the amended warrant article would modify the eligibility factors governing clause 41C of Mass. Gen. Laws ch. 59, § 5:

1. To reduce the requisite age of eligibility from 70 years of age to 65 years of age;

2. To increase the income limit described as the preceding year’s gross receipts from all sources from $13,000 to $20,000 for single taxpayers;

3. To increase the asset limit described as the whole estate[] real and personal, from $28,000 to $40,000 for single taxpayers;
May 24, 2011 Annual Town Meeting

7-4

4. To increase the income limit described as the preceding year’s combined gross receipts with his/her spouse from $15,000 to $30,000 for married taxpayers;

5. To increase the asset limit described as the whole estate real and personal, from $30,000 to $55,000 for married taxpayers; and

6. To exclude from the determination of the whole estate up to three dwelling units.

or act on anything relative thereto.

For the reason discussed below, the Advisory Committee amended the language of the proposal set forth in the initial Warrant by deleting the word “computation” in the sixth numbered clause of the original warrant article and substituting the word “determination” for it; in addition, the Advisory Committee’s amendment deleted the phrase “that real property occupied as his/her/their domicile except for any portion of said property which produces income and exceeds,” and substituted the phrase “up to” for it. Shown through standard editing marks, the Advisory Committee amended the sixth numbered paragraph as follows:

To exclude from the computation determination of the whole estate that real property occupied as his/her/their domicile except for any portion of said property which produces income and exceeds up to three dwelling units.

DISCUSSION:
State law provides a series of mutually-exclusive tax exemptions targeting senior citizens of modest means. The various exemption schemes have differing eligibility requirements and benefits. The municipality, not the senior citizen owning taxable assets, selects which exemption program will apply for its city or town. Brookline adopted the exemption described in clause 41C of the referenced statute. In that this matter is altogether new to Town Meeting, the relevant text of the state law is set forth in a footnote to this report.1

1 The statute provides in relevant part:

Section 5. The following property shall be exempt from taxation …;

Real property, to the amount of four thousand dollars of taxable valuation or the sum of five hundred dollars, whichever would amount in an exemption of the greater amount of taxes due, of a person who has reached his seventieth birthday prior to the fiscal year for which an exemption is sought and occupied by such person as his domicile, or of a person who owns the same jointly with his spouse, either of whom has reached his seventieth birthday prior to the fiscal year for which an exemption is sought and occupied by such person as his domicile, or for a person who has reached his seventieth birthday prior to the fiscal year for which an exemption is sought who owns the same jointly or as a tenant in common with a person not his spouse and occupied by him as his domicile; provided: (A) that such person (1) has been domiciled in the commonwealth for the preceding ten years, (2) has so owned and occupied such real property or other real property in the commonwealth for five years, or (3) is a surviving
The Council on Aging and others proposed that the exemptions in place in Brookline require updating. The Advisory Committee heard from several members of the public referencing the financial difficulty faced by a senior citizen of modest means in staying in his or her home given Brookline’s tax rates, increased energy costs, and the like. We also heard from representatives of the Town’s Council on Aging and others that Brookline's current exemption criteria were not in line with those in effect for neighboring cities and towns. The table set forth in the Warrant Explanations highlights both the low participation rate given the current criteria and the eligibility criteria in effect for various neighboring communities.

At both the Subcommittee and then the full Advisory Committee meetings, there some discussion about the sixth numbered paragraph generally, and, specifically, the language about the number of dwelling units. Various hypothetical scenarios were raised to test if the language in the warrant article could actually exclude any would-be participant who ought to be able to benefit from the loosened requirements (an undesirable outcome given the purposes of the proposal), or, alternatively, if the language would unintentionally extend a benefit beyond what state law permits (an untenable outcome). A review of the underlying state law determined that the relevant language differs somewhat from the language in the sixth numbered paragraph in the warrant article.

While it is impossible to estimate precisely, the changes to the exemption criteria are, the Assessor estimates, expected to cost the Town approximately $5,000 per year net of monies for which the state will eventually return to the Town (as the state picks up much of the cost of the exemption).

The costs to enhance the eligibility criteria will be met by debits to the so-called Town Overlay Account.

spouse who inherits such real property and has occupied such real property in the commonwealth five years and who otherwise qualified under this clause; (B) that such person had, in the preceding year gross receipts from all sources of less than thirteen thousand dollars, or if married, combined gross receipts with his spouse of less than fifteen thousand dollars….; and (C) that such person had a whole estate, real and personal, not in excess of twenty-eight thousand dollars, or if married, not in excess of thirty thousand dollars, provided that real property occupied as his domicile shall not be included in computing the whole estate except for any portion of said property which produces income and exceeds two dwelling units. A … town, by vote of town meeting, may adjust the following factors contained in these provisions by: 1) reducing the requisite age of eligibility to any person age 65 years or older; 2) increasing either or both of the amounts contained in the first sentence of this clause, by not more than 100 per cent; 3) increasing the amounts contained in subclause (B) of said first sentence whenever they appear in said subclause from $13,000 to not more than $20,000 and from $15,000 dollars to not more than $30,000; 4) increasing the amounts contained in subclause (C) of said first sentence whenever they appear in said subclause from $28,000 dollars to not more than $40,000 and from $30,000 to not more than $55,000; and 5) by further excluding from the determination of whole estate up to 3 dwelling units…. (Emphasis added.)
RECOMMENDATION:
By a vote of 18 in favor and none opposed, the Advisory Committee unanimously recommends FAVORABLE ACTION on the following vote:

VOTED: That the Town approve adjustments to the factors applicable to the qualification for the Elderly Tax Exemption provided for and as permitted in General Laws Chapter 59, section 5, clause 41C as follows:

1. To reduce the requisite age of eligibility from 70 years of age to 65 years of age;
2. To increase the income limit described as the preceding year’s gross receipts from all sources from $13,000 to $20,000 for single taxpayers;
3. To increase the asset limit described as the whole estate real and personal, from $28,000 to $40,000 for single taxpayers;
4. To increase the income limit described as the preceding year’s combined gross receipts with his/her spouse from $15,000 to $30,000 for married taxpayers;
5. To increase the asset limit described as the whole estate real and personal, from $30,000 to $55,000 for married taxpayers; and
6. To exclude from the determination of the whole estate up to three dwelling units.

XXX
ARTICLE 8

EIGHTH ARTICLE
To see if the Town will raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2011 budget or transfer funds between said accounts, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
The purpose of this article is to make any year-end adjustments to the current year (FY11) budget.

SELECTMEN’S RECOMMENDATION
There are no amendments to the FY11 budget. Therefore, the Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 26, 2011.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Article 8 is placed on the Warrant as a way to transfer or appropriate funds among or for various accounts in the current FY11 budget.

RECOMMENDATION:
As no budget adjustments are needed, the Advisory Committee unanimously recommends NO ACTION on Article 8.
ARTICLE 9

NINTH ARTICLE

To see if the Town will:

A.) Fiscal Year 2012 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 2012 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 2012 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate $265,000, 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 $50,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the refurbishment of Fire Engine #6.

3. Appropriate $625,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for making extraordinary repairs to Fire Stations.

4. Appropriate $110,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen and the Council on Aging, for carpet replacement at the Senior Center.

5. 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 and the Library Trustees, for interior repairs at the libraries.

6. Appropriate $50,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for commercial area improvements.
7. Appropriate $1,750,000, 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.

8. Appropriate $269,000, 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.

9. 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 bicycle access improvements.

10. 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 streetlight replacement and repairs.

11. Appropriate $45,000, 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-owned parking lots.

12. 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 repairs to the floor at the Municipal Service Center.

13. Appropriate $280,000, 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 $135,000, 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 $160,000, 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 $660,000, 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 Park and Recreation Commission, for the renovation of Billy Ward Playground.

17. Appropriate $510,000, 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 Park and Recreation Commission, for the renovation of Clark Playground.

18. 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 and the Park and Recreation Commission, for repairs to the retaining wall at Larz Anderson Park.
19. Appropriate $80,000, 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 Park and Recreation Commission, for the renovation of Waldstein Playground.

20. Appropriate $60,000, 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 Park and Recreation Commission, for the renovation of Warren Field / Playground.

21. Appropriate $50,000, or any other sum, to be expended under the direction of the Recreation Director, with the approval of the Board of Selectmen and the Park and Recreation Commission, for ultraviolet (UV) filters at the Evelyn Kirrane Aquatics Center.

22. Appropriate $30,000, or any other sum, to be expended under the direction of the Recreation Director, with the approval of the Board of Selectmen and the Park and Recreation Commission, for replacement of the pavilion floor at the Jack Kirrane Skating Rink at Larz Anderson Park.

23. Appropriate $60,000, 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 hazardous materials from Town and School buildings.

24. Appropriate $60,000, 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.

25. Appropriate $50,000, 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.

26. Appropriate $25,000, 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 elevators in Town and School facilities.

27. Appropriate $125,000, 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.

28. Appropriate $75,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrades to energy management systems in Town and School buildings.

29. Appropriate $250,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for masonry repairs in Town and School buildings.
30. 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.

31. Appropriate $50,000, or any other sum, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen and the School Committee, for the replacement of intercom systems at School buildings.

32. Appropriate $130,000, 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 engineering or architectural services for plans and specifications for remodeling, reconstructing, or making extraordinary repairs to the Unified Arts Building (UAB).

33. Appropriate $750,000, 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 design and renovations to the auditorium at the Pierce School.

34. To see if the Town will vote to appropriate, borrow or transfer from available funds, $8,500,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the School Committee and Board of Selectmen, for additions and renovations at the Heath School located at 100 Eliot Street in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 277-01-00 in the Town of Brookline Assessor's map and database, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority (“MSBA”). The MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town of Brookline may receive from the MSBA for the Project shall not exceed the lesser of (1) 39.93% of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA;

35. Appropriate $500,000, 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 improvements to the storm drain system.

36. Appropriate $1,000,000, 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 water main improvements.

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, or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
This is the annual appropriations article for FY2012. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the publication of the Town Administrator’s Financial Plan on February 15th. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Board of Selectmen. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

SELECTMEN’S RECOMMENDATION
The Selectmen would like to thank the Town Administrator and his staff, the Advisory Committee, all Town Department Heads, the School Superintendent and his staff, and the School Committee for all of their efforts and collaboration in dealing with this FY12 budget.

SELECTMEN’S BUDGET VOTE vs ADVISORY COMMITTEE’S BUDGET VOTE
The Board of Selectmen is in agreement with the Advisory Committee on all items in the FY12 Budget.

ACTIONS SINCE THE RELEASE OF THE FINANCIAL PLAN
Since the Town Administrator’s Financial Plan was released on February 15, there have been two changes to the budget: a reduction in the Health Insurance line-item and changes to recommended funding amounts for a few Capital Improvement Program (CIP) projects.

1. Health Insurance – in the past, the Town knew its final rate increase for the ensuing fiscal year in mid-January, allowing the Town Administrator to incorporate that into the Financial Plan. With the move to the Group Insurance Commission (GIC), the Town must wait until March to find out what the rate increases will be. On March 2, the GIC met and voted on the FY12 rates. The rates approved by the GIC compare favorably to the 10% across-the-board rate increase assumed in the FY12 Financial Plan. While there were widely varying rate increases for the many different GIC plans, the ones that most impact the Town increased in the aggregate by less than 5%.

Based on these new rates, the Group Health budget for FY12 is now $21.76 million, an amount that is $960,816 less than the amount built into the Financial Plan. Of this amount, the School’s share is $511,477 and the Town’s share $449,339. This budget before you includes reallocating the School’s share to their operating budget appropriation. The Town’s share, however, remains in the Group Health budget because of two remaining uncertainties: State Aid and the Town’s exposure to the
current vehicle fuel market. If these issues are resolved prior to Town Meeting, then recommendations will be made and amendments will be offered. If they remain unresolved, then amendments will be made at the November Special Town Meeting.

2. **CIP Projects** – during the Capital Sub-Committee of the Advisory Committee’s review of individual CIP requests, the following changes were recommended, each of which this Board supports:

   - *Bicycle Access Improvements* – reduction from $50,000 to $48,040
   - *Sidewalk Repair/Reconstruction* – increase from $269,000 to $270,960
   - *Billy Ward Playground* – reduction from $660,000 to $630,000
   - *Tree Removal and Replacement* – increase from $160,000 to $190,000

   In addition to these dollar amount changes, line-item language was added to the following projects:

   - *Bicycle Access Improvements* – language was added so that all lane marking and symbols used must be in compliance with the 2009 Manual on Uniform Traffic Control Devices (MUTCD).
   - *Billy Ward Playground* – language was added so that a maximum of $60,000 can be expended prior to December 1, 2011. This was included so that the design of the playground can be reviewed prior to the November Town Meeting, thereby allowing for the possibility of amendments to the funding amount.
   - *Clark Playground* – language was added so that a maximum of $40,000 can be expended prior to December 1, 2011. This was included so that the design of the playground can be reviewed prior to the November Town Meeting, thereby allowing for the possibility of amendments to the funding amount.
   - *Pierce School Auditorium* – language was added so that no funds can be expended prior to December 1, 2011. This was included so that the design of the auditorium can be reviewed prior to the November Town Meeting, thereby allowing for the possibility of amendments to the funding amount.
   - *Street Rehab* – language was added that requires the Board of Selectmen to be notified, in advance of plans being submitted for bids, of any changes to pedestrian, bicycle, or motor vehicle traffic patterns or to pavement markings. The Board will be adopting a process that is to be followed so that this requirement can be followed out.
   - *Sidewalk Repair/Reconstruction* – language was added so that “no bike” stenciling can be done in commercial areas.

   These changes do not result in any net change to the total amount of funding available for the CIP.

**SUMMARY**

The budget proposed by the Advisory Committee totals $208.6 million, an increase of $7.5 million (3.8%). Table 1 on the following page details the entire FY12 budget, including enterprise / revolving funds. In total, this represents a 3.6% increase for all funds. This
budget recommendation includes a General Fund Operating Budget of $194.1 million, which represents an increase of $7.6 million (4.1%); revenue-financed capital of $7 million; enterprise / revolving funds of $27.9 million (gross); and non-appropriated expenses of $7.5 million. Table 2, found on page 9-8, details the FY12 General Fund revenues and expenditures.

**TABLE 1**

<table>
<thead>
<tr>
<th>FY2011</th>
<th>FY2012</th>
<th>INCREASE/DECREASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td><strong>REVENUE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund Revenue</td>
<td>201,042,641</td>
<td>208,587,542</td>
</tr>
<tr>
<td>Water and Sewer Enterprise Fund</td>
<td>24,192,301</td>
<td>24,687,605</td>
</tr>
<tr>
<td>(less Water &amp; Sewer Overhead included in General Fund Rev)</td>
<td>(1,869,338)</td>
<td>(1,867,647)</td>
</tr>
<tr>
<td>Golf Enterprise Fund</td>
<td>1,266,200</td>
<td>1,204,000</td>
</tr>
<tr>
<td>(less Golf Overhead included in General Fund Rev)</td>
<td>(191,161)</td>
<td>(163,852)</td>
</tr>
<tr>
<td>Recreation Revolving Fund</td>
<td>1,855,041</td>
<td>2,054,280</td>
</tr>
<tr>
<td>(less Rec. Revolving Fund Overhead included in General Fund Rev)</td>
<td>(257,205)</td>
<td>(295,912)</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td>226,038,478</td>
<td>234,206,016</td>
</tr>
<tr>
<td><strong>APPROPRIATIONS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund Operating Budget</td>
<td>186,462,101</td>
<td>194,072,544</td>
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<tr>
<td>Non-Appropriated Budget *</td>
<td>7,478,540</td>
<td>7,535,997</td>
</tr>
<tr>
<td>Revenue-Financed CIP Budget / Other Special Appropriations</td>
<td>7,102,000</td>
<td>6,979,000</td>
</tr>
<tr>
<td>General Fund Total</td>
<td>201,042,641</td>
<td>208,587,542</td>
</tr>
<tr>
<td>Water and Sewer Enterprise Fund</td>
<td>24,192,301</td>
<td>24,687,605</td>
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<tr>
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<tr>
<td><strong>TOTAL APPROPRIATIONS</strong></td>
<td>226,038,478</td>
<td>234,206,016</td>
</tr>
<tr>
<td><strong>BALANCE</strong></td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
The fully-allocated $194.1 million General Fund Operating budget is broken out in the pie chart on the following page.
In his budget message, which was his first as the Town Administrator in Brookline, the Town Administrator observed “a strong culture of financial management and fiscal discipline.” We could not agree more. The Board of Selectmen is extremely proud of the way the Town handles it fiscal affairs and takes great pride in being a Aaa-rated community. Certainly, this culture is a major factor in retaining this premier bond rating. It has also served the Town well in weathering the economic storm that has plagued Massachusetts and the country over the last few years. FY2012 is no exception. While the Town still faces difficult choices, it is in far better shape than most cities and towns and has been able to avoid deep reductions in services and depletion of its financial reserves. Several factors have contributed to this success, including the following:

- Better control of employee health insurance costs by joining the Commonwealth of Massachusetts’ Group Insurance Commission
- Careful allocation of one-time federal stimulus funding to minimize impacts on the future growth of operating budgets
- Diversification of the Town’s revenue mix by adopting local option hotel and meals taxes
May 24, 2011 Annual Town Meeting

9-10

- Negotiation of Payment in Lieu of Taxes (PILOT) agreements with tax-exempt institutions
- Investment in energy conservation and new technologies in order to reduce operation and maintenance costs
- Selective privatization of programs and services in order to minimize costly employee benefits and future liability
- Consolidation and reorganization of departmental staffing and operations
- Implementation of efficiencies in municipal operations

**FY2012 Revenues and Expenditures**

**Revenues**

**Taxes:** Property taxes are projected to be $163,159,995 and represent 70% of the revenues available to the Town. Of this amount, $3.9 million reflects the annual 2.5% allowable growth in the tax levy, $1.5 million from the value of new construction (New Growth) and $1.1 million for debt service on capital projects that the voters have excluded from the Proposition 2½ levy limit. While the annual tax levy is limited to 2.5%, it is a very stable source of revenue that has not been negatively impacted by the downturn in the economy. The Town is hopeful that major new commercial construction, including the development at Brookline Place, will provide additional revenue in the future.

Taxes on the value of automobiles (Motor Vehicle Excise), on hotels and on meals are included in the Local Receipts category.

**State Aid:** FY 2012 represents the fourth straight year that Brookline has experienced a reduction in general government aid from the Commonwealth of Massachusetts. Total aid in FY 2012 is projected at $13,302,525, down by nearly $500,000, or 3.6%, from FY 2011. When building the Financial Plan, the Town Administrator used a slightly more conservative estimate than the Governor proposed on January 26. That projection assumed a slight increase in the Chapter 70 Education formula (as proposed by the Governor) and a 10% reduction in the major Unrestricted General Government Aid (UGGA) formula (compared with the 7% reduction proposed by the Governor). Since then, the House Ways and Means Committee proposed its version of the budget, which was the same for Ch. 70 and UGGA proposals, but was different for others, such as Quinn, which was eliminated. In addition, METCO, which is a direct grant to the School Department, was reduced. Because of the
overall uncertainty of what the final State Aid package will be, the budget before Town
Meeting continues to assume the slightly more conservative estimate used in the original
Financial Plan. If the final State Aid numbers vary from the figures used to build the Town’s
FY12 budget, then amendments can be made at the November Special Town Meeting.

Local Receipts: This category of revenue represents a variety of sources generated by Town
fees and charges. Most prominent are the Motor Vehicle Excise taxes, Parking and Traffic
fines, Building Permit fees, Local Option taxes, and the Trash Collection charge. Local
receipts are directly impacted by the regional economy. FY 2012 represents the first
budgeted increase in Local Receipts since FY 2008, indicating that the economic recovery
has taken hold. The FY 2012 budget assumes $20,525,792, an increase of $807,317, or 4.1%
over FY 2011. In addition to improved economic performance, the Town has assertively
pursued a Payment in Lieu of Tax (PILOT) program. This budget includes $330,000 in new
PILOT revenue, mostly resulting from an agreement with Boston University.

Free Cash: The unrestricted fund balance from the prior fiscal year is certified by the State as
Free Cash. Based upon an historical Town financial policy and formula, this amount has
been allocated to fund certain operating reserves and the subsequent year’s Capital
Improvement Plan. The amount of Free Cash available in FY 2012 is $7.1 million. This
budget includes the recommendation of the Town Administrator that only $5.38 million of
Free Cash be available for allocation in FY 2012. The full amount is not recommended for
allocation because of the pressure by Moody’s Investors Services on the Town to maintain
sufficient “unrestricted” reserves. Over the past few years, Moody’s has expressed concern
over the declining trend of the Town’s undesignated fund balance. It is generally
recommended by Moody’s that 10% of General Fund revenues be maintained as unrestricted
reserves. The recommendation to retain a portion of Free Cash is a deviation from the
Town’s current Free Cash Policy and, as a result, the Board reconvened the Fiscal Policy
Review Committee (FPRC) to review this issue.

On April 11, the FPRC voted unanimously to support the recommendation to retain a portion
of Free Cash for fund balance purposes, resulting in $1.7 million of certified Free Cash being
left unallocated. The Committee has also voted on a set of recommended revisions to the
Town’s Fiscal Policies, all of which are available on the Committee’s webpage. The FPRC
will be presenting their findings and recommendations to the Selectmen on May 17.

Other Available Funds: There are a number of special funds whose revenue is used to offset
general government expenditures supporting those funds. This includes portions of Water
and Sewer fees, Recreation Program/Golf fees, Cemetery, Library and Parking Meter
revenue. In FY 2012, revenue from these funds will total $6,218,966, an increase of
$1,159,708, or 23%, from FY 2011. This increase is almost entirely attributable to an
increase in the Town’s Parking Meter rates/policies. In response to a long-standing initiative
of increasing parking supply and turnover in the Town’s commercial areas, the Board of
Selectmen adopted a $0.25 increase in the hourly parking rate. This increase, when
combined with the Transportation Board’s expansion of the hours the meters are in effect,
will generate $1 million in additional revenue to the Parking Meter Fund. Of this amount,
$50,000 has been set aside in the Capital Improvement Plan (CIP) to meet the commitment to
invest back into the Town’s commercial areas. 75% of the remaining amount, or $712,500,
was distributed to meet the challenges in the School budget and 25%, or $237,500, was used in the municipal budget to increase the commitment to fund the Town’s OPEB liability.

**Expenditures**

**Municipal Departments:** In FY 2012, the projected cost for all municipal (non-school) departments is $63,203,477, an increase over FY 2011 of 2.1%. This amount includes a reserve for wage and salary increases for municipal employees, conditional upon negotiated settlements, two of which are before Town Meeting under Article 2. The number of full-time equivalent personnel in municipal departments was reduced slightly over FY 2011. In general, any increase in departmental expenses was limited to an actual increase in materials or contracted services.

**School Department:** The allocation of funds to the School Department acknowledges the “bottom-line” budget authority of the School Committee. A formula has been developed that shares the projected change in the Town’s general fund revenue from one year to the next on a 50/50 basis between municipal departments and the School Department, offset by respective shares of fixed costs, such as personnel benefits and energy. The School
Department continues to be impacted in FY 2012 by increasing enrollment, special education and the loss of federal stimulus funds. For this reason, $712,500 of new revenue from the Parking Meter program is being allocated to the School budget.

Overall, a School budget of $75,330,344, inclusive of any reserve for negotiated salary increases, is recommended. This budget represents an increase of 4.6%. It is essential that the School budget remain sustainable over the long-term. While FY 2012 represents a unique year given the loss of federal stimulus funding, future annual budget increases of this magnitude will be very difficult to maintain given the limitation on the Town’s revenue growth and the level of increases in the cost of employee benefits.

Non-Departmental: This is a large category of expenses that incorporates personnel benefits for municipal and school employees, debt service on the Town’s bonds, insurance coverages and reserve funds. The proposed budget for FY 2012 is $55,538,724, an increase of 5.7% ($3 million) from FY 2011. By far, the municipal cost that is increasing greater than all others is the cost of providing health insurance for the Town’s employees and retirees. In July of 2010, the Town joined the State’s Group Insurance Commission (GIC), which provides health insurance for all state employees and retirees. The cost of the GIC plan was much less that the existing plan of benefits, and, as hoped, the annual rate of increase was more moderate. Still, the cost of health insurance under the GIC is projected to increase by 4.4% in FY 2012 for an additional cost of about $888,000. In addition, this budget item grows by approximately $500,000 to fund the increase in the Town’s share of premiums from 78% to 80%, a component of the agreement between the Town and the Public Employee Committee (PEC). (Under the agreement, this percentage will increase to 83% in FY13). Lastly, approximately $140,000 is estimated for increased enrollment, which happens as current employees retire and new employees are hired to backfill those positions. In total, the Group Health budget grows $1.5 million, or 7.2%.

If you look at the Group Health line-item in Table 1 (#23b) of the Advisory Committee’s motion, you will see a total growth of $1.9 million (9.4%). The reason this figure is shown instead of the $1.5 million stated in the previous paragraph is the Town’s share of the savings resulting from the GIC’s rate increases being less than the 10% used in the Financial Plan remains in this line-item. As previously explained under “Actions Since the Release of the Financial Plan” (page 9-5), the Town’s share ($449,339) is remaining in the Group Health budget because of two remaining budget uncertainties: State Aid and the Town’s exposure to the current vehicle fuel market. If these issues are resolved prior to Town Meeting, then recommendations will be made and amendments will be offered. If they remain unresolved, then amendments will be made at the November Special Town Meeting.

As discussed in greater detail later in this Recommendation, the Town is also allocating funds to continue funding its future liability for retiree health care. A recent actuarial study required under municipal accounting standards has identified this liability at $208 million. A 30-year funding schedule has been proposed to meet the overall liability, and the Town will appropriate over $1.5 million for this purpose in FY 2012, an amount that includes an increase of $500,000 (to $1.25 million) in General Fund-supported revenue instead of the $250,000 increase called for in the funding plan. It is possible that some portion of pension funding can be reallocated to the OPEB liability once that system is fully funded in 2029.
May 24, 2011 Annual Town Meeting
9-14

**Special Appropriations:** The Town funds its Capital Improvement Program (CIP) through a combination of current funding and debt. A portion of the cost of large school building projects is reimbursed by the Commonwealth of Massachusetts. The cost of the current funding (revenue-financed) for the CIP is $6,979,000 in FY 2012, a slight reduction of 1.7% ($123,000) from FY 2011. A more detailed discussion of the CIP is included in Section VII of the Financial Plan.

**Non-Appropriated:** This category includes required expenses that are raised directly without appropriation by Town Meeting. This includes State Charges, of which the largest sum is the Town’s assessment for the MBTA, and the Overlay, which is a reserve for tax abatements and exemptions issued by the Board of Assessors. Overall, the cost of Non-Appropriated items in FY 2012 is $7,535,997, an increase of 0.8% ($57,457) from FY 2011.

**Enterprises:** The Town funds its Water/Sewer, Recreation and Golf activities largely through self-supporting revenues. These are accounted for separately from the Town’s General Fund through formal enterprise and revolving funds. The gross cost of Enterprises in FY 2012 is $27,945,885, an increase over FY 2011 of 2.3% ($632,343), most of which is attributable to the projected increase in the MWRA Assessment. The Town is more carefully accounting for all costs of the enterprises, both direct and indirect, to ensure that the financial relationship between these funds and the General Fund is appropriate.

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**FY2012 Policy Issues and Initiatives**

There are a number of policy issues that have influenced the FY 2012 Budget and Financial Plan. They are addressed below:

**Employee Health Insurance:** Clearly, the rising cost of health care is the largest budgetary problem facing all levels of government. Despite relatively flat inflation, the annual increase in managed health care plans ranged from 10.2% to 10.8% in 2010. This is a problem that
impacts both the employer and the employee. According to the Segal Company’s 2010 Health Care Plan Cost Trend Survey, the cost trends in U.S. health plans will continue to be more than four times greater than the annual increase in average hourly earnings. The discussion of solutions to this problem has been a long-standing and productive dialogue between the Town and its employee groups. Still, the implementation of solutions has been difficult given that a major change in employee benefits requires collective bargaining with all municipal and school unions.

In 2007, the Town adopted the “coalition bargaining” statute that replaced the serial approach of bargaining with individual union agreements with a group process involving a Public Employee Committee (PEC) with a weighted vote to each union or employee/retiree group. Last year, the Town and the PEC reached agreement on joining the State’s GIC which provides health insurance to 350,000 state employees, retirees and dependents. In addition to a large purchasing pool, the GIC retains more discretion and flexibility to modify its plan design to respond to market forces. The cost of the GIC plans were substantially less than the existing Town plans, but carried higher deductibles and co-payments for services. Working closely with the PEC and the GIC, the Town established a Health Reimbursement Account (HRA) to ease the transition. This account was established and funded by the Town to reimburse employees with many of the out of pocket expenses employees incur with the GIC plan design. In anticipation that the GIC may continue to increase deductibles and co-payments, the budget proposes $250,000 to continue the HRA in FY 2012. The ability to retain the HRA is subject to approval by the GIC and conditional upon negotiation between the Town and its PEC.
In addition to the premium savings that the Town and its employees realized by joining the GIC, there were savings by having employees more carefully select the plan that best served their needs. The GIC is able to offer a wide range of plans with different features and costs. Following the open enrollment period, the Town was pleasantly surprised that more employees than anticipated chose plans with higher managed care features, increasing the projected savings. Overall, the Town has calculated the move to the GIC saved $5.5 million in FY 2011 alone.

<table>
<thead>
<tr>
<th>AVG FAMILY PLAN SUBSCRIBER (3-YR PER)</th>
<th>PPO</th>
<th>HMO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium Savings</td>
<td>($9,452)</td>
<td>($10,489)</td>
</tr>
<tr>
<td>Out of Pocket Increase</td>
<td>$4,300</td>
<td>$4,300</td>
</tr>
<tr>
<td>Net Savings</td>
<td>($5,152)</td>
<td>($6,189)</td>
</tr>
</tbody>
</table>

In the past, the Town knew its final rate increase for the ensuing fiscal year in mid-January, allowing the Town Administrator to incorporate that into the Financial Plan. With the move to the Group Insurance Commission (GIC), the Town must wait until March to find out what the rate increases will be. On March 2, the GIC met and voted on the FY12 rates. The rates approved by the GIC compare favorably to the 10% across-the-board rate increase assumed in the FY12 Financial Plan. While there were widely varying rate increases for the many different GIC plans, the ones that most impact the Town increased in the aggregate by less than 5%:

- Nearly one-third of the Town/School workforce are subscribers of the Harvard PPO plan and those rates are increasing less than 8%, less than the 10% budgeted.
- Nearly one-quarter are subscribers of the Tufts Navigator plan and those rates are increasing less than 2%, well below the 10% budgeted.
- Nearly 20% are subscribers of the Harvard and Unicare Medicare plans and those rates are increasing 1% (Harvard) or decreasing more than 1% (Unicare), compared to the 10% budgeted.

With 41% of Town/School employees covered by plans that are growing 2% or less (Tufts Navigator, Harvard Medicare, and Unicare Medicare) and with 32% of employees covered by a plan that is growing at 8%, the impact on the FY12 Group Health budget is significant. In fact, when the 30 new enrollees and the increase in the Town’s contribution rate from 78% to 80% are factored out, the FY12 budget increase is $888K, or 4.4%. Clearly, this is another favorable development for the Town’s budget brought on by the move to the GIC.

Based on these new rates, the Group Health budget for FY12 is now $21.76 million, an amount that is $960,816 less than the amount built into the Financial Plan. Of this amount, the School’s share is $511,477 and the Town’s share $449,339. This budget before you includes reallocation the School’s share to their operating budget appropriation. The Town’s share, however, remains in the Group Health budget because of two remaining uncertainties: State Aid and the Town’s exposure to the current vehicle fuel market. If these issues are resolved prior to Town Meeting, then recommendations will be made and amendments will be offered. If they remain unresolved, then amendments will be made at the November Special Town Meeting.
Staffing and Compensation: As the relative budget capacity to fund municipal operations has dwindled, the Town has reduced its workforce accordingly. Since FY2006, staffing levels for Town government operations in the General Fund have decreased by more than 34 positions, or 5% of the workforce. For the FY 2012 budget, net staffing has been further reduced by one full-time equivalent position. Over the years, the Town has systematically reviewed each vacant position in order to determine the merits of filling it.

More often than not, upon turnover the Town defers filling positions in order to provide flexibility in the event of budget reductions. Having unfilled positions allows the Town to avoid layoffs of actual employees when staffing reductions are required. It also creates an environment that is conducive to creating ideas about prioritizing program needs, the reorganization of personnel, and determining more efficient means of delivering services.

Permanent reductions in staffing have been proposed in several departments, including Board of Selectmen/Town Administrator, Comptroller, Public Works and Council on Aging. The table below describes the changes. A new position in the Health Department was established by converting existing funding for public health nursing services when that contracted agency could not remain competitive. The Recreation Department and the Parks Division of the DPW have enhanced staffing to support certain programs and maintenance expenses through dedicated revenue sources.

<table>
<thead>
<tr>
<th>FUND</th>
<th>DEPT.</th>
<th>CHANGE</th>
<th>NOTE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>Selectmen</td>
<td>-0.05</td>
<td>Reduced pay grade and hours from 20 to 18 (no longer benefits eligible)</td>
</tr>
<tr>
<td>General</td>
<td>Comptroller</td>
<td>-1</td>
<td>Elimination of vacant position (Sr. Account/Audit Clerk)</td>
</tr>
<tr>
<td>General</td>
<td>Treasurer</td>
<td>-0.21</td>
<td>Reduced hours in Scanner position</td>
</tr>
<tr>
<td>General</td>
<td>DPW · Highway Div</td>
<td>-1</td>
<td>Elimination of vacant position (Motor Equipment Repairman)</td>
</tr>
<tr>
<td>General</td>
<td>DPW · Parks Div</td>
<td>0.43</td>
<td>43% of Park Ranger, funded with new Green Dog Fee</td>
</tr>
<tr>
<td>General</td>
<td>Health</td>
<td>1</td>
<td>Public Health Nurse (contract with VNS was going to increase significantly)</td>
</tr>
<tr>
<td>General</td>
<td>COA</td>
<td>0.28</td>
<td>Clinical Social Worker III increase in hours (from 27 to 37.5)</td>
</tr>
<tr>
<td>General</td>
<td>Recreation</td>
<td>-0.48</td>
<td>Outreach Worker (one-time FY11 expense)</td>
</tr>
<tr>
<td>General</td>
<td>Recreation</td>
<td>1</td>
<td>New Therapeutic Recreation Specialist</td>
</tr>
<tr>
<td>General</td>
<td>Recreation</td>
<td>-1</td>
<td>Elimination of the vacant Assistant Recreation Leader/Aquatics</td>
</tr>
<tr>
<td>General Fund Sub-Total</td>
<td></td>
<td>-1.03</td>
<td></td>
</tr>
<tr>
<td>Revolving</td>
<td>Recreation</td>
<td>0.57</td>
<td>57% of Park Ranger, funded with new Field Use fees</td>
</tr>
<tr>
<td>Revolving</td>
<td>Recreation</td>
<td>1</td>
<td>Additional Lead Teacher</td>
</tr>
<tr>
<td>Revolving Fund Sub-Total</td>
<td></td>
<td>1.57</td>
<td></td>
</tr>
</tbody>
</table>
In response to the economic climate and a focus on public employee compensation, the Town has exercised caution in its consideration of employee wages and benefits. Increasingly, the Town is viewing its collective bargaining obligations in a broader context, linking salaries and wages with health insurance, pension and other benefits. Following a freeze in employee compensation in FY 2010, the Town reserved funding in FY 2011 to support modest increases in wages. This budget similarly includes funding for FY 2012.

As a public service organization, the Town’s greatest asset is a qualified, committed and dedicated work force. In addition, the demographics of the Town’s upper management will result in a higher rate of turnover in the next several years. As a result, the Town Administrator and Human Resources Director have worked together to increase funding for training and professional development. An additional $15,000 is included in FY 2012 to begin a more robust program of training our employees and developing the capacity of our mid-managers and supervisors.

**Recreation Cost Recovery:** Cost Recovery measures the extent to which the cost of the Recreation Department is supported by user fees versus tax dollars. For many recreation departments across the country, a cost model is used for long-range strategic financial planning. Last year, the Brookline Recreation Department began the first phase of implementing a cost recovery policy. The policy identifies the percentages of programs and services that are to be subsidized by tax dollars by assigning a level of community benefit, and allocating a subsidy accordingly.

This FY2012 budget continues the cost recovery efforts begun a few years ago to re-allocate costs between the General Fund and the Revolving Fund in an attempt to better reflect program costs versus administrative costs. This process involves moving various line-item expenses from the General Fund to the Revolving Fund and vice versa, and this is detailed below. The ultimate goal of this exercise is to clearly show what percentage of the Recreation Department is covered by program-related fees and what percentage is paid for out of the general tax base. As the table below shows, a total of $52,532 was shifted from General Fund budgets to the Recreation Revolving Fund in FY2012.

<table>
<thead>
<tr>
<th>Category of Expenditure</th>
<th>Recreation Revolving Fund</th>
<th>Recreation Building Public Works</th>
<th>Impact on General Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rec Facilities Electricity</td>
<td>53,940</td>
<td>(53,940)</td>
<td>(53,940)</td>
</tr>
<tr>
<td>Swimming pool Electricity</td>
<td></td>
<td>64,590 (64,590)</td>
<td>0</td>
</tr>
<tr>
<td>Rec Facilities Natural Gas</td>
<td>14,052</td>
<td>(14,052)</td>
<td>(14,052)</td>
</tr>
<tr>
<td>Swimming pool Natural Gas</td>
<td></td>
<td>39,900 (39,900)</td>
<td>0</td>
</tr>
<tr>
<td>Skating Rink Personnel</td>
<td>41,997</td>
<td></td>
<td>(41,997)</td>
</tr>
<tr>
<td>Skating Rink R&amp;M</td>
<td>8,500</td>
<td></td>
<td>(8,500)</td>
</tr>
<tr>
<td>Skating Rink Supplies</td>
<td>1,500</td>
<td></td>
<td>(1,500)</td>
</tr>
<tr>
<td>Services/Supplies/Other</td>
<td>(67,637)</td>
<td>67,637</td>
<td>67,637</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>52,352</td>
<td>104,135 (104,490) (51,997)</td>
<td>(52,352)</td>
</tr>
</tbody>
</table>
This approach to cost recovery follows the “Pyramid Methodology” that was developed in 2009 and states that a program or service providing the highest level of “community benefit” will have a smaller cost recovery than a program or service that is “highly individual.” The Commission’s fundamental purpose in implementing a cost recovery methodology is to provide accurate accounting and transparency to the community, and to achieve a clear, consistent approach to the pricing of programs and services that the Recreation Department offers in the community. The table below calculates the overall cost recovery level for the three Recreation Department budgets.

<table>
<thead>
<tr>
<th>REVENUES</th>
<th>ACTUAL FY2010</th>
<th>BUDGET FY2011</th>
<th>REQUEST FY2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Revolving Fund</td>
<td>1,828,737</td>
<td>1,855,041</td>
<td>2,054,280</td>
</tr>
<tr>
<td>Golf Enterprise Fund</td>
<td>1,132,976</td>
<td>1,266,200</td>
<td>1,204,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2,961,713</td>
<td>3,121,241</td>
<td>3,258,280</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXPENDITURES</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>905,021</td>
<td>943,849</td>
<td>992,259</td>
</tr>
<tr>
<td>General Fund Benefits (est.)</td>
<td>215,647</td>
<td>212,628</td>
<td>225,045</td>
</tr>
<tr>
<td>Revolving Fund</td>
<td>1,731,011</td>
<td>1,855,041</td>
<td>2,054,280</td>
</tr>
<tr>
<td>Golf Enterprise Fund</td>
<td>1,160,829</td>
<td>1,266,200</td>
<td>1,204,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4,012,507</td>
<td>4,277,718</td>
<td>4,475,584</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cost Recovery</th>
<th>73.8%</th>
<th>73.0%</th>
<th>72.8%</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund Subsidy</td>
<td>26.2%</td>
<td>27.0%</td>
<td>27.2%</td>
</tr>
</tbody>
</table>

Financial Reserves: All agencies, public and private, must maintain sufficient reserves to protect itself against situations that could adversely impact operations, fiscal health or reputation. The Town maintains both operating and long-term reserves for this purpose. On a short-term basis, the Town maintains an annual Reserve Fund that funds emergency or unforeseen situations, such as extraordinary snow and ice expenses. In FY 2012, a Reserve Fund of $1,877,151 is included, an amount that is equivalent to 1% of the prior year’s net revenue, as called for in the Town’s Reserve policies. As previously noted, the Town’s unreserved fund balance from the prior fiscal year is officially certified as Free Cash. The Town’s existing financial policies
dictate that no Free Cash is used for operating budget purposes; rather, it is allocated to fund the Town’s Capital Improvement Plan and other operating reserves. In response to concerns raised by our bond rating agency, the budget proposes retaining $1.7 million of Free Cash. We have reconvened the Fiscal Policy Review Committee (FPRC) to assist us in advising us on our reserve policies for future years.

On April 11, the FPRC voted unanimously to support the recommendation to retain a portion of Free Cash for fund balance purposes, resulting in $1.7 million of certified Free Cash being left unallocated. The Committee has also voted on a set of recommended revisions to the Town’s Fiscal Policies, all of which are available on the Committee’s webpage. The FPRC will be presenting their findings and recommendations to the Selectmen on May 17.

From a longer-term perspective, a major focus has been the identification of Town’s financial liability for pension and health care costs. Two decades ago, the Town identified its pension liability and established a long-term funding plan. Despite a hit from investment losses in 2008, the Town continues to fund a plan that would eliminate its long-term liability by 2028. Many communities and the Commonwealth have been forced to greatly extend its funding plan, leading to higher overall costs that will erode funding for other important services.

A key component that allowed Brookline to fund its liability without extending the schedule much further in the future than originally planned was the appropriation of additional monies into the pension fund in FY2010 ($965,151) and FY2011 ($1,270,151). These funds came from two sources: new Meals Excise Tax / increased Lodging Excise Tax and the balance in the FY2010 Collective Bargaining Reserve. These steps helped obviate the need for a $1.8 million increase in FY2012: per the newly approved funding schedule, the amount required for FY2012 is $14.4 million, which represents an increase of $657,380 (4.8%).

Similarly, the Town has calculated its actuarial financial liability for health insurance benefits for retirees. Officially referred to as Other Post Employment Benefits (OPEB’s), a recent actuarial study has identified this liability to be $208 million. Fortunately, the Town has already gotten a head start on meeting this liability and has deposited over $10 million in a special fund. With the assistance of the OPEB Task Force, the Town has developed a funding plan that includes annually increasing appropriations from the General Fund by $250,000, using the run-off from the Non-Contributory Pension line-item, and full assessments on enterprise/revolving funds for their share of the unfunded liability. Based on this funding plan and the recent actuarial report completed by the Segal Group, the Town will
be fully funding its Annual Required Contribution (ARC) in approximately 10 years. In addition, when the Town experiences unanticipated revenue or other positive budget performance, transferring these funds for OPEB liability has become a priority.

A 30-year funding schedule has been proposed to meet the overall liability, and the Town will appropriate over $1.5 million for this purpose in FY 2012, an amount that includes an increase of $500,000 (to $1.25 million) in General Fund-supported revenue instead of the $250,000 increase called for in the funding plan. It is possible that some portion of pension funding can be reallocated to the OPEB liability once that system is fully funded in 2029.

**Energy Conservation and Efficiency:** Being aggressive about conserving energy is no longer just an environmentally friendly practice. The escalation of energy costs has forced the Town to become extremely diligent in controlling energy costs and increasing the efficiency of our buildings. The Town has mitigated uncertainties in energy prices by locking into fixed price contracts when favorable, investing CIP monies for energy conservation and energy management systems, seeking grant opportunities for energy efficiency efforts, reducing usage, and purchasing more energy efficient and alternative (hybrid) vehicles.

The Town recently participated in a collaborative procurement to take advantage of a drop in certain energy prices. We negotiated a “blend and extend” contract with our existing electric supplier, TransCanada, which resulted in over $100,000 savings in FY2012. The new contract will now be fixed through December, 2015. Although the option of blend and extend was not available for natural gas, the Town was able to secure a lower rate effective upon the expiration of our current contract in October, 2012 (FY 2013).

As previously referenced, the Town has yet to procure a new contract for vehicle fuel (gasoline and diesel). The price of oil has risen substantially over the past few months as shown in the graph. While the Town is protected against the cost of heating oil since we use natural gas to heat virtually all buildings, and the price of natural gas is fixed per a multi-year contract, that is not the case for vehicle fuel. The Town’s current fixed price contract for vehicle fuel expires on June 30. The current contract price of $2.66 / gallon is well below the current market price. The Town’s Chief Procurement Officer manages the 11-
community purchasing consortium for fuel oil and continues to monitor the market. As of the writing of this Recommendation, the Consortium is weighing all options before making a determination of when/if to lock into a price at some point prior to June 30. While the budget assumed some increase in the cost of vehicle fuel ($2.90 / gallon), it is looking increasingly likely that we will need to amend this budget upward. If necessary, this issue will be addressed at the November Special Town Meeting by re-allocating the Town’s share of savings from the final GIC rates from the Group Health budget to the relevant energy account(s). (Changes to the Group Health budget is further detailed on page 9-5.)

The Town is in the process of seeking “Green Community” designation with the Commonwealth of Massachusetts in order to qualify for funding for energy efficiency and renewable energy initiatives. With the adoption of the energy reduction plan and fuel efficient vehicle policy by this Board on April 26, all five required milestones have now been completed. In anticipation of this effort, the Town continues its current practice of procuring energy efficient vehicles by including the procurement of five alternative fuel vehicles in this budget submission, including an electric vehicle that will be piloted in the Building Department.

In response to the preliminary findings of a Water/Sewer rate study with Weston & Sampson Engineers, a recommendation is being made to account for water and sewer usage for Town and School facilities in the General Fund instead of through the Enterprise Fund as was previously the practice. This results in the need to budget for approximately $440,000 in departmental budgets, with $260,000 for Town facilities and $180,000 for Schools.

**Operating Efficiencies:** In response to a comprehensive analysis by the Selectmen’s Efficiency Initiative Committee in 2009, a series of recommendations were made involving Privatization, Staffing, Consolidations of Programs and Services, Major Cost Reduction (e.g., Health Insurance) and New Revenue Sources. Most of these recommendations have been fully implemented or have been initiated and will have saved the Town over $1 million annually. More importantly, the Committee’s work has created a new focus and framework when considering the Town’s public policies and services.
Continued implementation of the Committee’s efforts is incorporated throughout the FY 2012 Financial Plan. Such efforts are integrated with the Town’s focus on technology improvements. In particular, the Town continues to make progress in converting manual tasks to automated processes, not only saving time and money but creating opportunities for sharing information to support other functions. For example, the Town is converting its system of inputting complaints into an automated system developed by Cartegraph. This process will interface with a work order system and will be tailored for citizen use via the web or mobile applications.

Similarly, building officials, parking control personnel and others in the field have been outfitted with handheld devices, enabling the input of quick and accurate information that can be uploaded and utilized for a variety of uses. The use of Global Positioning System (GPS) technology has become more prevalent in Town vehicles and enables managers to more effectively plan and manage the Town’s resources. The Town has acquired technologically advanced multi-space parking meter devices that can be programmed for different rates and hours depending upon certain circumstances.

The conversion of the Town’s telephone system to an integrated voice and data system using VOIP technology has created budget savings by eliminating costly telephone company charges. We are currently conducting an audit of all remaining telephone lines to ensure there are no excess or unnecessary costs.

As position vacancies occur in municipal departments, a hard look is taken to determine whether these positions should be filled. For FY 2012, a vacant position in the Comptroller’s Office and another in the DPW Fleet Maintenance Division are recommended for elimination. Although the functions provided by these positions are important, the enhancement of technology and other factors have improved productivity in these departments to the point where the loss of these positions can be reasonably absorbed.
Expanded Revenue Capacity: In addition to ensuring that Town funds are spent as cost effectively as possible, the Town is aggressively pursuing new and creative ways to expand revenue capacity. Proposition 2½ does not limit the amount of additional taxes a municipality can levy from the value of new construction. As a result, the Town is promoting and facilitating new development that is compatible with the residential nature of Brookline and does not create negative impacts. Examples that have been positive in recent years include the Marriott Hotel in Coolidge Corner, the conversion of the old “Town Barn” into a multi-unit residential complex and the office/retail complex at 1010 Commonwealth Avenue. Currently, the Economic Development Advisory Board and Town staff are working hard to implement a very ambitious commercial development at 2 Brookline Place and another at the former cinema site in Cleveland Circle, a portion of which is located within Brookline. Other smaller but important development opportunities exist, including the former Red Cab site on Boylston Street/Route 9.

Implementing a major policy initiative of the Board of Selectmen, the Town has begun to see progress in the negotiation of Payment in Lieu of Taxes (PILOT) agreements with tax-exempt institutions owning property in Brookline. A major milestone was reached in July, 2010 upon the execution of a PILOT agreement with Boston University. The University will pay the Town $389,000 beginning in FY 2011 and escalating to approximately $500,000 in FY2021. Other agreements are in negotiation and expected to be finalized soon.

The Town has begun to take advantage of its unique and strategic location to major entertainment venues and employment centers in neighboring Boston. New technology has permitted the Town to program higher metered parking rates along the median of Beacon Street near Fenway Park for Red Sox games. This plan could be expanded to other high demand locations, including the Longwood Medical Area. Another creative initiative is taking shape to convert the Town’s licensing authority for taxicabs into a financial opportunity. Special legislation modeled after other successful municipal ventures was passed for Brookline and we have retained a consultant to assist the Town in implementing a medallion system. The medallions would essentially be auctioned for a substantial one-time payment.

Finally, the Town seeks to expand its revenue capacity by pursuing funding from the state and federal governments. The Town is the recipient of over $1.6 million annually in federal Community Development Block Grant (CDBG) funding and has also secured a one-time Energy Efficiency Block Grant. A plan is being developed to complete a comprehensive upgrade of the existing circulation system at Washington Street, Route 9, Walnut Street, High Street, and Pearl Street area, combining infrastructure, traffic, and other public amenities. Referred to as the Village Square project, its $4.5 million cost would be funded entirely from outside sources (state grant, CDBG, and offsite improvements from the developer). Other major public works projects are being completed using funding from other governmental sources. Most prominent are the Lower Beacon Street Sewer project, 100% funded by the MWRA, and the Muddy River Restoration project, which is being funded primarily by the federal and state governments and the City of Boston. Many other smaller grants are being pursued to meet the Town’s objectives and help offset general government expenses. One example is a proposal to secure funding to implement a regional bicycle sharing system modeled after successful systems in Montreal and in some cities in Europe.
The cornerstone of the Town budgeting process is the Long-Range Financial Projection, often referred to as “the Forecast”. It is essential that a government have a financial planning process that assesses long-term financial implications of current and proposed policies, programs, and assumptions that develop appropriate strategies to achieve its goals. The Forecast also acts as a bridge between a municipality’s annual operating budget and its CIP, bringing all of the fiscal policy and economic variables together to establish coordinated managerial direction. Revenue and expenditure forecasting, along with capital planning and debt management, are key elements in developing a strong municipal fiscal position.

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

The FY2012 – FY2016 Long Range Financial Projection for the General Fund makes the following key assumptions:

- In FY2012, $1.5 million of New Growth in the Property Tax Levy. For FY2013-FY2014, $1.6 million. In FY2015-2016, a base of $1.6 million, augmented by additional levy growth from the 2 Brookline Place re-development.
- For State Aid in FY2012, a 10% cut in Unrestricted General Government Aid (UGGA) and Chapter 70 funding that reflects the Governor’s budget proposal ($37,020 increase). For FY2013, level-funding of all aid categories, except for the
elimination of the SBA payment for the Lincoln School ($640,509). For FY2014-FY2016, 2.5% annual growth in UGGA and Ch. 70.

- Limited growth in Local Receipts (approximately $290,000 / yr, or 1.5%).
- For FY2013-FY2016, a 2% wage increase for Town and School unions.
- Inflation in most Services, Supplies, and Capital Outlay accounts of 1.5% - 2.5% (approximately $200,000 per year for the Schools and $275,000 for Town departments).
- Annual utility increases of $100,000.
- SPED growth of $750,000 in FY2012 and $700,000 annually thereafter.
- Enrollment growth cost increases of $250,000 per year.
- Step increases in the School Department of $600,000 per year and $250,000 per year for Town Departments.
- Health Insurance rate increase of 10%, plus the additional enrollment of 30 employees, for FY2012. For FY2013-2016, assume 30 new enrollees per year and a declining annual rate increase (9% in FY13, 6% in FY16).
- A Pension appropriation based on the most recent funding schedule approved by PERAC (begins in FY2012).
- Continuation of the OPEB funding plan, with an annual increase of $250,000 from the General Fund and full assessments to the Town’s enterprise/revolving funds. In FY2012, the increase from the General Fund is actually $500,000.
- Debt Service and pay-as-you-go CIP that reflects full-funding for the CIP (back to the 5.5% level in FY2012).

These assumptions create an escalating deficit position for FY2013 and beyond, starting at $2.9 million in FY13 and reaching $6.3 million by FY2016. It should be noted that deficits in the out years are inflated because they are built upon a deficit in the prior fiscal year. In fact, the Town must balance its budget each year, and that balanced budget will become the base for the following year’s projection. Nonetheless, the cumulative deficits in the Long Range Projection are a reminder that the Town must find ways to support a sustainable budget in the long term.

The Long Range Financial Projection is detailed on the following pages:
### REVENUE

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Taxes</td>
<td>163,159,994</td>
<td>169,352,134</td>
<td>174,767,159</td>
<td>181,890,118</td>
<td>188,691,611</td>
</tr>
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<td>Local Receipts</td>
<td>20,525,792</td>
<td>21,084,551</td>
<td>21,211,964</td>
<td>21,440,626</td>
<td>21,690,194</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Motor Vehicle Excise (MVE)</td>
<td>4,794,000</td>
<td>4,889,880</td>
<td>4,987,678</td>
<td>5,087,431</td>
<td></td>
</tr>
<tr>
<td>Local Option Taxes</td>
<td>1,785,000</td>
<td>1,820,700</td>
<td>1,857,114</td>
<td>1,894,256</td>
<td></td>
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<tr>
<td>Licenses &amp; Permits</td>
<td>1,010,975</td>
<td>1,010,975</td>
<td>1,010,975</td>
<td>1,010,975</td>
<td></td>
</tr>
<tr>
<td>Parking / Court Fines</td>
<td>4,450,000</td>
<td>4,450,000</td>
<td>4,450,000</td>
<td>4,450,000</td>
<td>4,450,000</td>
</tr>
<tr>
<td>General Government</td>
<td>2,799,526</td>
<td>2,830,157</td>
<td>2,861,300</td>
<td>2,904,535</td>
<td></td>
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<tr>
<td>Interest Income</td>
<td>666,250</td>
<td>682,906</td>
<td>699,979</td>
<td>717,478</td>
<td></td>
</tr>
<tr>
<td>PILOT's</td>
<td>1,235,200</td>
<td>1,145,604</td>
<td>1,171,216</td>
<td>1,202,040</td>
<td></td>
</tr>
<tr>
<td>Refuse Fee</td>
<td>2,600,000</td>
<td>2,600,000</td>
<td>2,600,000</td>
<td>2,600,000</td>
<td>2,600,000</td>
</tr>
<tr>
<td>Departmental &amp; Other</td>
<td>1,743,600</td>
<td>1,781,742</td>
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EXPENDITURES

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<td>General Fund</td>
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<td>9,934,832</td>
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Capital Improvement Program (CIP)

Capital planning and budgeting is a critical undertaking for any government and is central to the delivery of essential services and the quality of life for residents. In fact, without a sound plan for long-term investment in infrastructure and equipment, the ability of local government to accomplish its goals is greatly hampered. Since FY1995, the Town has invested more than $340 million in the CIP. These efforts, which have been supported by the Board of Selectmen, the Advisory Committee, Town Meeting, and, ultimately, the taxpayers of Brookline, have helped address the backlog of capital projects, have dramatically improved the Town's physical assets, and have helped yield savings in the Operating Budget through investment in technology and energy efficiency. Although there is more to do in the areas of street and sidewalk repairs, parks/open space improvements, and school and town facilities upgrades, the commitment to capital improvements is clearly showing positive results.

The recommended FY2012 - FY2017 CIP calls for an investment of $157.4 million, for an average of approximately $26.2 million per year. Part of the plan to balance the FY2010 budget was to reduce the 5.5% funding level to 5% for FY2010, freeing-up $917,000 for the Operating Budget. Those funds were used to reduce the level of cuts in the Operating Budget. This CIP completes the plan to phase back-up to 5.5%, after reaching 5.25% in FY2011. The return to the 5.5% level is critical, as the amount of projected debt service in the out-years requires that level of funding for projects such as the Devotion School.

There were a number of challenges presented during the development of the CIP that made balancing difficult, including the Devotion School and new projects (fire station renovations, the maintenance shed at the golf course, and the Human Resources Information System), all of which placed pressure on each of the out-years of the CIP, in some cases requiring other projects to be pushed backward.
The biggest capital challenge facing the Town is solving the space needs for the K-8 schools, while at the same time maintaining the commitment to basic infrastructure needs such as streets, sidewalks, and parks/playgrounds.

Since 2005, enrollment in these grades has increased nearly 20% (more than 760 students), placing great pressure on the buildings and the ability to find classroom space for the students. In 2005, the schools operated with 3,890 students in 196 homerooms. In the current school year, they operate with 4,652 students in 226 homerooms. In FY2014, the Schools project a need for approximately 245 homerooms for the projected enrollment of 5,029 K-8 students. This is an increase of approximately 50 homerooms between 2005 and 2014. This issue began to be addressed in FY2008, when $400,000 was appropriated for the conversion of spaces intended for other purposes into regular classrooms. In FY2010, another $400,000 was appropriated, followed by another $530,000 in FY2011.

This $1.3 million represents just one phase of the plan to increase classroom space to address the burgeoning enrollment. The second step was the approval of a renovation/addition project for the Runkle School. This $29.1 million project, 41.58% of which is funded by the Massachusetts School Building Authority (MSBA), will make Runkle a three-section school for all grades. The third component of the plan is to add new permanent classrooms at the Heath School, which is estimated to cost $8.5 million, with the State paying for 39.9%, or $3.3 million. This project, which is included for FY2012, will make Heath a three-section school for all grades.

The final part of the plan to address enrollment growth is the Devotion School project. Preliminary plans are to fully renovate the building and add space for pre-K programs so that pre-K programs in some of the other schools can be moved to Devotion, thereby freeing up much-needed space for K-8 programs at those schools. This system-wide approach is what the MSBA is looking for in Brookline. A project of this magnitude places pressure on the CIP, specifically in FY2017-FY2018: at the current estimate of $75 million, the amount allocated for this project to debt service in FY2017 will limit the amount of pay-as-you-go CIP for other projects to $1.1 million. In FY2018 debt service will total $4.7 million, pushing the Town over its 5.5% CIP financing policy. Even with state funding, the ability to finance the Devotion project within the existing capital funding capacity is inadequate, requiring the Town to consider alternatives. While discussion of a Debt Exclusion is difficult, it must be included in the range of alternatives considered.

All of this is being addressed while at the same time continuing to address on-going infrastructure improvements including streets, sidewalks, parks/playgrounds, and water/sewer systems. The core of any CIP should be the maintenance / repair of and improvement to a community’s infrastructure and that is the case with this Proposed CIP.
Governmental jurisdictions across the country continue to struggle with the issue of funding infrastructure needs, especially in these economic and budgetary times. Fortunately, Brookline’s CIP policies (dedicated CIP funding) and taxpayer support (debt exclusions for Schools and an Override that included infrastructure needs) have allowed the community to fund these needs far more adequately than would otherwise be the case.

Major projects in the proposed CIP include:

- Devotion School Rehab - $50 million of Town funding plus the possibility of $26 million of State funding (FY14-FY15)
- Heath School Addition - $5.25 million of Town funding plus $3.25 million of State funding (FY12)
- Newton St. Landfill (Rear Landfill Closure) - $4.6 million (FY15)
- Village Square - $4.5 million (FY13) - all outside funding
- Fire Station Renovations - $3.3 million (all fiscal years)
- Fisher Hill Reservoir Re-Use - $3.25 million (FY14) - all outside funding
- Waldstein Playground & Warren Field - $2.1 million (FY12-FY13)
- Baldwin School - $2 million (FY14-FY15)
- Driscoll School HVAC - $1.65 million (FY16-FY17)
- Unified Arts Building - $1.4 million (FY12-FY13)
- Brookline Reservoir Park - $1.4 million (FY16)
- Pierce School - $1.1 million (FY12-FY14)

Continued major investments include:

- Street and Sidewalk Rehab - $15.8 million
- Parks and Open Space - $14.7 million
- General Town/School Building Repairs - $7.4 million
- Water and Sewer Infrastructure - $4.8 million
- Public Safety Equipment - $3.0 million
- Information Technology - $2.0 million
- Recreation Facilities - $1.3 million
- Energy Conservation - $1.0 million
- Tree Replacement - $1.0 million

Please read Section VII of the Financial Plan for an in-depth explanation of the CIP process, financing policies, and debt management.
Conclusion

The FY 2012 Financial Plan represents a balanced approach to the economic and budgetary uncertainties facing the Town of Brookline. It introduces modest revenue increases in order to offset reductions in State Aid and federal stimulus funding. Despite increasing costs in many areas, it avoids deep cuts in programs through conservative expenditure growth. Finally, it maintains the Town’s commitment to long-term financial stability through prudent allocation to reserves, capital investment and unfunded liabilities. This approach has served the Town well and has avoided disruptions to services, layoff of personnel and frequent tax override proposals that so many other cities and towns have faced.

The Long Range Financial Plan identifies many continued challenges for the future. The Town must remain aggressive in seeking enhanced revenues including new taxes from commercial development, PILOT payments from well endowed institutions, and grant funding from the federal and state governments. We must stay vigilant in the containment of costs and the pursuit of efficiency in the way the Town does business. The Board continues to be convinced that the investment in technology and in energy efficiency will serve the Town’s financial interests in the long-term while contributing to improved service delivery in the meantime.

RECOMMENDATION

As stated at the beginning of this Recommendation, the Board of Selectmen is in agreement with the Advisory Committee on all items in the FY12 Budget. By a vote of 5-0, taken on May 5, 2011, the Selectmen recommend FAVORABLE ACTION on the motion offered by the Advisory Committee.

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

FREE CASH POLICIES

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

FREE CASH FOR RESERVES

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

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

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

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

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

FREE CASH FOR CAPITAL

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

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

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

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

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

  2. The Stabilization Fund may only be used under the following circumstances:

     a. to fund capital projects, on a pay-as-you-go basis, when available Free Cash drops below $2 million in any year; and/or

     b. to support the operating budget when Net Revenue, as defined in the CIP policies, increases less than 3% from the prior fiscal year.

  3. The level of use of the Stabilization Fund shall be limited to the following:

     a. when funding capital projects, on a pay-as-you-go basis under #2a. above, no more than $1 million may be drawn down from the fund in any fiscal year. The maximum draw down over any three year period shall not exceed $2.5 million.

     b. when supporting the operating budget under #2b. above, the amount drawn down from the fund shall be equal to the amount necessary to bring the year-over-year increase in the Town’s prior year net revenue to 3%, or $1 million, whichever is less. The maximum draw down over any three year period shall not exceed $2.5 million.

     c. In order to replenish the Stabilization Fund if used, in the year immediately following any draw down, an amount at least equivalent to the draw down shall be deposited into the fund. Said funding shall come
from Free Cash.

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

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

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

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

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**CAPITAL IMPROVEMENT PROGRAM (CIP) POLICIES**

**Definition of a CIP Project**

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

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

**Evaluation of CIP Projects**

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

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

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

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

**CIP Financing Policies**

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

For the purposes of these policies, the following definitions apply:

- **Net Operating Revenue** - Gross revenues, less net debt exclusion funds, enterprise (self-supporting) operations funds, free cash, grants, transfers from other non-recurring non-general funds, and non-appropriated costs.
- **Net Direct Debt (and Debt Service)** - Gross costs from local debt, less Prop 2 1/2 debt
exclusion amounts and amounts from enterprise operations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**FREE CASH**

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

OVERVIEW

Our annual budgeting exercise is to balance our revenues and expenses in a responsible manner. On the face of it, we simply take in revenue and spend the money to provide for the Town’s operation. Of course, the reality is that it’s quite complicated, both financially and politically.

Brookline’s municipal budget must be maintained largely within the confines of Proposition 2½ limitations. Approximately 70% of our available revenue comes from property taxes, most of which is residential. This is our most significant point of vulnerability. Relative to most towns, Brookline has very little commercial revenue and limited opportunity for expanding the commercial base.

General property taxes, combined with New Growth (though New Growth revenue has been trending down for the past eight years), Fees, State Aid, Free Cash and Enterprise Funds, have consistently pushed our revenue up by more than 3% annually. The difficulty, though, lies in the fact that our expenses (Energy, Healthcare, School enrollment pressure) increase at a greater rate. This creates the proverbial “Budget Gap”.

As we struggle to close this gap, we must budget more tightly and grapple with uncomfortable choices. This tighter budgeting also means that the unrestricted fund balance (UFB) carried by the Town gets smaller.

Aaa-rated communities such as Brookline are expected to maintain at least a 10% UFB to ensure they can meet their financial obligations and respond to fiscal emergencies. For a number of years, Moody’s Investor’s Services has commented on our annual audit that we have been inching closer to an inadequate unrestricted fund balance.

We have never asserted that a Aaa rating is a goal in and of itself. Rather, it should be the consequence of consistently sound fiscal management. For Brookline, this has been the case. Nevertheless, the reality is that this rating determines borrowing costs and abilities. There was a time when credit and borrowing capacity was easy to come by — no longer. Ratings downgrades are like big holes these days – easy to fall into, but difficult to claw your way back out. Recently, Andover and Plymouth have seen their rating status decrease as a result, in part, of their declining unrestricted fund balances. It’s a sign of the times.

To ensure that Brookline’s balance of unrestricted funds remains at an adequate level, $1.7M of State Certified Free Cash should remain unappropriated this year. This somewhat serendipitous sum results from our participation in the GIC. Fortunately, this one-time transactional saving has come at a time when our unrestricted fund balance is under acute pressure. Going forward, we will need to ensure structurally that these funds do not drop below the 10% mark.

For FY’12 we successfully close the gap between revenues and expenses with less stress than many cities and towns. This is largely the result of making financial sacrifices and commitments over the past couple of years and our adoption of the GIC. Still, many challenges await us.
REVENUES AND EXPENSES

A number of sources support this year’s revenues of $208.6M. State Aid accounts for $13.3M. Continuing the trend, this represents a 3.6% decrease over last year and is millions of dollars less than it was just three years ago. Local Receipts have increased over $800K to $20.5M. This includes revenues from such things as permits and fees, local-option and excise taxes, interest income and payments in lieu of taxes (PILOTs). Interest Income increases only $50K – a sign of our current economy. Building Permits increased by $100K, with new construction decreasing and renovations still relatively strong. Contributing significantly are the hotel/meals taxes and PILOT payments. The hotel/meals taxes increased $200K to $1.75M and PILOTs increased $330K to $1.21M with a new agreement from Boston University. Additionally, parking meter receipts are expected to increase by more than $1M to $3.8M due to increased rates, extended times and special meter zones. After allocations to a variety of strategic reserves (e.g. Liability/Catastrophe Fund, Operating Budget Reserve) and leaving $1.7M unappropriated in our unrestricted fund balance, a total of $4.4M in Free Cash is available to our CIP.

The greatest contributor to our revenues, of course, are property taxes. Property tax increases prescribed by Prop. 2½, previously approved over-rides and additional taxes generated from New Growth, increase the total property tax levy by 3.3% to $163.2M (representing 78% of our Total Revenue line). When all revenue sources are aggregated, the sum is $208.6M, a 3.8% increase in revenue. Of our $208.6M General Fund revenue, $7.5M is deducted for Non-Appropriated Expenses (State/County charges, “cherry sheet” offsets, tax abatement overlay). This leaves us with a total of $201.1M of revenue for appropriation.

The law, and common sense, dictates that we ultimately balance revenues and expenditures. Departmental expenditures (~66% of total expenditures) increase by 3% to $130.5M ($63.2M Town / $75.3M Schools) – that translates to a 2.1% increase on the Town side and 4.6% for the Schools. Non-Departmental expenditures of $55.5M increase 5.7% and include such things as Employee Benefits (76% of this category), Reserves, Insurance, and Debt Service (18.7% of this category). Additionally, there are revenue-financed Special Appropriations (CIP) of $7M. Finally, there are the Non-Appropriated expenses of $7.5M as mentioned above.

Increased PILOT payments and parking meter fees alone added nearly $1.5M in revenue to help offset reductions in other revenues. Keep in mind that as our revenue sources decline, the Town continues to face escalating energy costs, building costs, and significant Pension Fund and Retiree Healthcare obligations. An outline of revenues and expenditures follows:
**Revenues**

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<thead>
<tr>
<th></th>
<th>$</th>
<th>% change</th>
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<tbody>
<tr>
<td>Property Tax</td>
<td>163,159,994</td>
<td>3.3</td>
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<tr>
<td>Local Receipts</td>
<td>20,525,792</td>
<td>4.1</td>
</tr>
<tr>
<td>State Aid</td>
<td>13,302,525</td>
<td>(3.6)</td>
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<tr>
<td>Free Cash</td>
<td>5,380,264</td>
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</tr>
<tr>
<td>Other Funds</td>
<td>6,218,966</td>
<td>22.9</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td><strong>208,587,524</strong></td>
<td>3.8</td>
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**Expenditures**

<table>
<thead>
<tr>
<th></th>
<th>$</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Departmental</td>
<td>138,533,821</td>
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<tr>
<td>Non-Departmental</td>
<td>55,538,724</td>
<td>5.7</td>
</tr>
<tr>
<td>Special Appropriations (CIP)</td>
<td>6,979,000</td>
<td>(1.7)</td>
</tr>
<tr>
<td>Non-Appropriated Exp.</td>
<td>7,535,997</td>
<td>0.8</td>
</tr>
<tr>
<td><strong>Total Expenditures</strong></td>
<td><strong>208,587,541</strong></td>
<td>3.8</td>
</tr>
</tbody>
</table>

**PERSONNEL**

The Town is by its very nature a service provider. While it is customary to value a Town’s assets by appraising its property, we understand a Town’s value lies largely in its live assets. That is, its employees. It is no surprise, therefore, that more than three quarters of our Operating Budget is dedicated to wages and benefits. Personnel increases 3.5% to $108.3M, and Benefits increase 5.6% to $42.3M.

Over the past six years, the Town has reduced full-time equivalent (FTE) positions in the General Fund by 5% (34 positions). This has been accomplished primarily through attrition, vacancies and reorganizations. This year there is a net reduction of 1 FTE in the General Fund (671.57 FTE’s total on Town side). There are reductions in several departments (Selectmen, Treasurer, DPW, and Council on Aging) including the elimination of two vacant positions. In the Recreation Department, a vacant position is being replaced with a new Therapeutic Recreation Specialist. In the Health department, a Public Health Nurse was added. The nurse had been under contract through VNS, but the contract became cost prohibitive.
May 24, 2011 Annual Town Meeting
9-42

Last year’s additions of two full-time Parking Control Officers and a Technology Director within the Fire Department appear to be bearing fruit. Personnel numbers, structure and job descriptions will change over time as service needs change. The goal is to find levels of efficiency. Brookline will also, from time to time, have to assess the most advantageous staffing structure. This may require consideration of additional consolidations, eliminations, or creations of positions, departments and services.

At the end of the day, good service is the result of good people, and good employees are a result of good employers (us). For the employer/employee bond to work there must be a fair and honest commitment with respect on both sides if we are to address the real issues we all face constructively.

GROUP HEALTH & BENEFITS

Brookline, being primarily a service organization, expends most of its budget on personnel expenses. If we are to maintain our services and personnel, we must manage those associated costs carefully. Employee benefits alone ($42.3) will consume nearly 21.8% of this year’s General Appropriation and include such things as pension, OPEB’s, workers’ compensation, unemployment coverage, life insurance and health insurance.

• Group Health

Group Health benefits ($22.1M) account for 11% of the General Fund Budget, and are provided to both active and retired employees. Currently, there are 2882 enrolled employees (1,345 Town / 1,537 School). 49% of the enrollees are active employees and 51% are retired. Historically, the Town paid 75% of the premium costs. However, the premium split between the Town and its employees was re-negotiated as part of adopting the GIC. The Town will contribute 80% in FY12 and 83% in FY13.

Many employees opted to enter into lower premium products this year. While employees may see increased co-pays in GIC plans, the premium saving far out weigh them. Cumulative savings to an employee with an average family plan ranges from ~$5100 to $6200 over three years. GIC premiums increased 4.2% in aggregate at a time when other plans increased at a double-digit rate. By entering the GIC, the Town’s healthcare premium costs are about $5.5M less than what they would be otherwise. Few things, short of an over-ride, can produce this kind of favorable revenue enhancement.

• Pensions

The other large benefit putting pressure on our budget is pensions. Pension benefits are provided for Town and School employees not covered as teachers. Pension benefits provide the primary source of retirement income for our employees, as they do not receive Social Security benefits. Currently, there are 2141 employees (active and retired) enrolled in the Town Pension System. Most of the Pension is funded by employee contributions (the current contribution by employees is 9% of their first $30K in salary and 2% on everything over that). However, each year the Town must also allocate funds for their pensions. That amount is determined by a State-authorized funding schedule.
Full funding is legally required by no later than 2040 and Brookline has a payment schedule designed to reach full funding by 2028. Much like paying down your mortgage early, this allows the Town to reduce its total costs considerably. The amount of annual payments needed to accomplish this is currently $14.6M in FY’12, based on the current value of assets in the pension, the Pension Board’s assumed rate of return, and disability retirement assumptions. The pension contribution increases by 4.4% ($612.4K) for FY’12. This year’s required contribution could have been much higher, but in FY’10 and FY’11 we made additional payments (~$2.2M) in anticipation of FY’12 being a particularly difficult year. The value of the pension now stands at $212M with the calculated unfunded liability standing at $142.9.

- **Retiree Health**

Just as we provide healthcare benefits for our active employees, we have also made promises to provide healthcare benefits to our employees in retirement. These fall under the category of Other Post Retirement Benefits (OPEBs). The calculated unfunded liability for our retiree health obligation stands at $208M. This is a marked reduction from earlier calculations of $240M to $330M, and is directly attributable to our entrance into the GIC and the implementation of a funding plan.

Healthcare costs have been escalating far in excess of inflation and far in excess of the rate of increase of Town revenue for some time. That is a reason it was so important for us to enter into the GIC. In addition, the Town’s adoption of Chapter 32B Section 18 several years ago allowed us to move retirees into a Medicare coverage program for marked savings.

Brookline is one of only a few communities to begin funding a post-retirement benefits trust. We have begun regular appropriations toward this fund by adding at least $250K incrementally each year for the next 29 years; this year’s proposed General Fund allocation increases $500K to $1.25M. The fund now stands at more than $10M. With continued and disciplined adherence to the payment schedule, the funding timeline may shorten.

Additional measures can be applied as well. As the Pension Fund becomes fully funded in 20 years, a portion of that appropriation may be directed toward the OPEBs. Enterprise funds now fully account for their OPEB costs and per a Town Meeting-voted resolution, a substantial portion of additional one-time revenues, such as from the sale of taxi medallions, can be directed toward the fund.

Much of our unfunded liability is the result of generous commitments made many years ago when times were better. There are a number of lessons here. First, do not promise more than you can reasonably provide. Second, understand the consequence of delaying payment on an obligation to successive generations. That being said, we must honor the promises made. Nevertheless, going forward we must better safeguard Brookline’s financial resources so that our successors and the next generation of citizens and taxpayers does not inherit yet more liability.
The recommended FY’12 appropriation of $1.25M, in concert with additional $500K from the assessment of other funds, will provide a total appropriation of $1.5M toward funding our OPEB liability.

CAPITAL IMPROVEMENTS PLAN (CIP)

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

The Town’s proposed FY’12 CIP anticipates $158.7M over six years, for an average annual investment of ~$26M over the next six years. We are slated to authorize ~$41.3M in cash from the General Fund toward our CIP (inclusive of the pay-as-you-go portion of the 5.55 financing policy, Free Cash, over-ride funds, and other). A total of $71.8M will be funded by the issuance of bonds supported by the General Fund. Additionally, funding for the CIP comes from grants (including CDBG, State/Federal grants ($40.6M)), and Enterprise Funds budgets ($5M).

Our financial guidelines call for us to apply 5.5% of the prior year’s net revenues toward the CIP (4.25% towards debt service and 1.25% towards pay-as-you-go financing). This budgetary discipline has allowed us to institute scheduled maintenance and infrastructure repair, as well as accommodate needed building projects and capital investments. By having a consistent approach to capital funding, we are able to predict and schedule projects and the associated debt service. In practice, this amount is actually closer to 6% given that we also commit funds from the 2008 General Over-Ride with an annual 2.5% escalation ($807.7K in FY’12) and this year we are augmenting with an additional $50K as a result of increased parking meter receipts stemming from our new meter system.

We consistently factor in an amount of Free Cash as well. For planning purposes this is assumed to be $3M annually as a base ($4.4M in FY’12), though the amount fluctuates from year to year. The net result of all of this is that we consistently tend to commit an equivalent of at least 7.5% of revenue towards our capital needs.

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

There are two significant school related projects within this year’s CIP: $750K for repairs and improvements to the Pierce School auditorium, and $8.5M for an addition to the Heath School.

The school system is contending with significant enrollment pressures. The project at the Heath School involves rehabilitation, reconfiguration and the addition of new classrooms to allow the school to be a full three-section school. It is anticipated that nearly 40% of this cost will ultimately be reimbursed through the State’s School Building Assistance program (MSBA).
Also in the CIP is $48K to create new bicycle lane markings, primarily along Cypress and Harvard streets. Brookline has what can only be described as a patchwork approach to bicycle lanes throughout the town. Bicycle ridership has increased and many people commute through Brookline. The Transportation Board, through study, deliberation and input, established a plan for the incremental introduction of bicycle lanes on our major roadways. The goal is to better control the flow of travelers, and provide some level of consistency and continuity between Brookline and our bordering towns and cities.

The Advisory Committee’s recommendation does not currently include funding for markings in the St. Mary’s area of Beacon St. as we are about to embark on major construction work in the lower Beacon St. area. The Committee also recommends that that there be better indications within our commercial areas that bicycling is strictly prohibited on the sidewalks.

From a financial standpoint, as Brookline adds new lane markings, we will also increase our future expenses for maintaining the markings (the FY11 budget increased the pavement markings account). From a safety and operational standpoint, we should all be mindful of the implications. We are not creating wider roadways; only better programming of the existing traffic. Both bicyclists and motorists will need to be mindful and respectful of these changes. Bike lanes may increase safety somewhat by better segregating traffic, but highly-trafficked roadways are still inherently dangerous.

Somewhat associated with this issue is the rehabilitation of streets at $1.75M. As major roadways are rehabilitated, new bicycle lane markings will be put in place concurrently. This is in keeping with the Town’s overall transportation plan.

Other major projects within the CIP include $630K for renovating the Billy Ward Playground and $510K for Clark Playground. Also, $625K for repairs to fire stations. In addition, an increase for the removal and replacement of trees ($190K).

A detailed description of all FY’12 CIP items is provided later in these Combined Reports.

**DEBT AND DEBT FINANCING**

As has been noted, the CIP is largely financed through debt (bonding). Projected outstanding debt for FY’12 is approximately $83.2M; $3.7M of which is State reimbursable via SBA, $7.8M is attributable to Debt Exclusion projects (e.g. Lincoln School and High School) and $13.9M is financed through the Enterprise Funds (Golf, W&S). Projected Debt Service (annual payments on that debt) increases $647K to $12.9 for all funds. Of the $12.9M in debt service, $2.5M is financed through the Enterprise Funds and $1.2M through the State SBA.

State law limits a town’s level of debt to 5% of its Equalized Valuation (EVU). At a ~0.5%, Brookline’s level is nowhere near that limit, and our CIP policy would not allow for such outstanding debt levels. Many municipalities have opted for greater levels of debt, much of it through Debt-Exclusion Over-Rides. The relatively low cost of borrowing now may influence those decisions, but sends up their per capita debt load significantly. Our practice of long-term financial planning, and use of a relatively short maturation debt periods (more than 80% amortized over 10 years), help us manage our debt levels prudently. This is important as debt service immediately impacts our Operating Budget.
Below are two tables; one details the anticipated funding source (as percentages) for the proposed FY’12-FY’17 CIP, and the other breaks out the CIP allocation by category.

<table>
<thead>
<tr>
<th>CIP (6 Yr) Funding by Source (%)</th>
<th>CIP (6 Yr) Allocation by Category (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund Bond</td>
<td>Facility Renovation/Repair</td>
</tr>
<tr>
<td>45.2</td>
<td>66.6</td>
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<tr>
<td>Free Cash</td>
<td>Infrastructure</td>
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<tr>
<td>Utility Bond/Budget</td>
<td>Misc.</td>
</tr>
<tr>
<td>3.2</td>
<td>1.4</td>
</tr>
<tr>
<td>Property Tax</td>
<td>Vehicles</td>
</tr>
<tr>
<td>11.3</td>
<td>1.9</td>
</tr>
<tr>
<td>Other</td>
<td>Total</td>
</tr>
<tr>
<td>2.5</td>
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</tr>
<tr>
<td>CDBG</td>
<td></td>
</tr>
<tr>
<td>1.4</td>
<td></td>
</tr>
<tr>
<td>Parking Meter Receipts</td>
<td></td>
</tr>
<tr>
<td>0.2</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
<tr>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

**SCHOOLS**

Brookline prides itself on its commitment to public education. It is a pride that is well deserved, and a commitment that is supported by this year’s School Budget allocation.

As with every other school system in the state, Brookline has been contending with the financial stress of a continued weak economy and ongoing increases in SPED costs. For Brookline, the financial and logistical stresses have been compounded by our significant increases in elementary enrollment for the past several years - and it is a trend that continues. In the past few years, Brookline’s elementary enrollment has increased by more than 760 students. As these meaningfully-larger classes of elementary school students progress through the system, we will see increased pressure in the upper grades and in to the high school.

Some of the space pressures are addressed in this year’s CIP with an addition to the Heath School. Last year we began the Runkle School addition. Still on the horizon, though, is the much needed Devotion School renovation. These projects are essential to addressing our capacity challenge.
While we need to contend with physical space issues in the budget, there are corresponding teaching and learning costs that must be supported as the core concern of our school system.

Although the total number of full-time equivalent (FTE) positions has decreased by 5 to 1,107 FTE’s, the School Department has made a very strong commitment to supporting teaching positions. The schools will add 11 FTE teaching positions across the system, with 5 new teaching positions at the elementary level this year. This is possible, in part; because of reorganizations the Superintendent and School Committee believe are more efficient, productive and cost effective within the Guidance and Career Center, and the implementation of a Team Facilitator model to address students with IEP’s. The School Department has also been striving to provide Special Education programs in-house to obviate the need for expensive, and logistically more challenging, out-placements. As our student population grows, we obtain critical mass of children needing certain services and can invest in local solutions. The department is also looking to develop programs in conjunction with established learning centers that can be housed within the Brookline school system’s facilities. Consider this in-sourcing.

The challenges facing Brookline’s public schools are great and we expect them to continue. While the proposed budget maintains and supports core services, we must understand that we lack the financial capacity to expand existing programs or add new ones. Ironically, some of this is the consequence of having an outstanding and attractive public education system.

A full report and analysis of the School Department budget appears later in this report.

MIND THE GAP

Brookline has fared far better than many communities, but balancing our budget becomes successively more difficult with each passing year. It has been noted that we are now in a “new normal”; one that presents us with slowing revenue streams in the face of increasing financial obligations. ‘Taxpayers’ expectations for quality service delivery have not declined. Increasingly, like other communities, we’re facing “the gap”.

Over the past years, Brookline has sacrificed a measure of services. We have creatively reorganized service delivery, asked our employees to do more with less, substantially reduced the escalation in our healthcare costs, dug deeper into our pockets by increasing fees, and we passed a significant tax over-ride, all in order to close the Revenue-Expense Gap.

While there have been varying levels of discomfort associated with these changes, the measures we have taken so far have been some of the easier or most obvious approaches. The choices ahead get harder.

With our costs increasing at a greater rate than our revenues, we have three primary choices: substantially decrease spending, substantially increase revenue, or find a middle point that combines the first two approaches. Substantially reduced spending necessitates corresponding reductions in services, cutting into our core. Substantial increases in revenue imply significant, and likely serialized, over-rides. A combination of spending reductions and revenue increases will be needed as we move forward. Wise development can certainly enhance revenues, but there are limits to development given that Brookline has few potential
opportunities for commercial development. Increased fees or over-rides will require a broad and thoughtful discussion within our community. Spending reductions could well translate to fewer employees, or the need to secure less expensive service providers. These will be uncomfortable community choices.

The residents of Brookline have creatively and selflessly contributed to the maintenance, care and support of this community. It is in our very nature to continue doing so, but we must be aware of the sober financial challenges we face, as we “mind the gap”.

RECOMMENDATION
The Advisory Committee unanimously recommends FAVORABLE ACTION on the FY12 budget as presented below.

=====

Advisory Committee Report to Town Meeting on the Public Schools of Brookline FY2012 Budget

BACKGROUND:
This report and accompanying Exhibit discuss the major fiscal issues facing the Public Schools of Brookline (“PSB”) in 2012 and beyond. Financial information was obtained from The Public Schools of Brookline, Superintendent’s Preliminary Budget, FY2012 and two subsequent amendments thereto, as well as other information provided by the PSB.

The revenues available to the PSB are housed in three funds - general, grant and revolving. The general fund is comprised of:

- an appropriation from the Town’s general fund, determined under the application of the Town/School Partnership Memorandum of Understanding
- state reimbursement of certain special education expenditures (“Circuit Breaker”)
  - includes a portion attributable to prior years’ cash flow differences in the disbursement of money and the later reimbursement by the state (a non-recurring and non-permanent source referred to herein as “reserves”)
- tuition and other fees
- in 2010 and 2011, federal stimuli that were included in the general fund because they funded core services

Beyond monies spent through the PSB funds, the Town’s general fund bears expenses directly supporting the PSB, which are embedded in several departmental and functional budgets.

The authority for the specific spending of the revenues housed in the PSB funds is vested in the School Committee. Town Meeting has the authority to approve or disapprove (i) only the total PSB appropriation from the Town’s general fund and (ii) the specifics of any spending by the Town that benefits the PSB through Town departments or functions.
Management of the PSB spending continues to be a major challenge in 2012 and beyond. The process of allocating available funds across the PSB system reflects compromise, involving many competing interests, including central administration, individual school leadership, teachers and parents. The ability to achieve a spending plan that satisfies all interests is difficult in the best of times, and much more so in the current environment.

The Advisory Committee believes the spending choices reflected in the 2012 PSB budget are reasoned judgments, but will not be satisfactory to all audiences.

The Superintendent’s budget message captures this challenge well, as reflected in the following paraphrases:

- there is significant reason to question the capacity of the Town and School Department to sustain the levels of financial support that have resulted in our historic success
- the budget development process has been complicated by:
  - enrollment growth
  - the dynamics of state funding and local receipts
  - the many elements of employee compensation
  - the replacement of federal stimuli
  - the resources dedicated to special education
- the spending attempts to honor significant elements of the strategic plan:
  - keeping teachers in the classroom with students
  - teaching and learning, program review, professional learning and data analysis
  - improving student services and special education
- some elements of the spending will cause anguish, but overall, it achieves the greatest good for the interests of all parties

DISCUSSION:
(Most amounts in this narrative, as well as other information garnered from the Preliminary Budget, as amended, are included in the Tables in the accompanying Exhibit)

Overview of PSB General Fund

In 2012, the budget calls for a combined spending of some $120.9 million on behalf of the PSB, $89.3 million by the PSB, and $31.6 million by the Town (including personnel benefits, school building expenses, and debt service, which are considered separately by Town Meeting). The $89.3 million of PSB spending comes from its general fund ($78.3 million), grants ($5.2 million), and revolving funds ($5.8 million).

Personnel spending represents $64.7 million (83%) of PSB general fund.

Approximately $33 million (42%) of the PSB general fund spending is identified with the elementary schools, $2 million (3%) with kindergarten, and $16 million (20%) for the high school, while $21 million (27%) is associated with special education (which amount excludes a $1.8 million federal grant).
In 2012, about 6,900 students are projected to be in the PSB system, with approximately 5,100 at the elementary schools, and 1,800 in the high school.

In 2012 across all PSB funds, teaching positions increase by 11 FTEs and classroom aides and support decline by 18 FTEs. The total staff declines by 5 FTEs to 1,107 FTEs. Within the PSB general fund, there is a special education teaching increase of 9 FTEs and an aide/support decrease of 23 FTEs.

2011’s forecasted spending from all the PSB funding sources ($86.1) is expected to be on budget, while 2010’s actual spending from such sources ($72.5) million was $1.0 million more than budgeted, virtually all attributable to special education (out-of-district placements, transportation, and lower Circuit Breaker revenue). A combination of PSB reserves ($0.5 million) and a Town-side reserve fund transfer ($0.5 million) were used to offset the deficit.

Dynamics of PSB General Fund Change from 2011 to 2012

PSB general fund spending increases by $2.9 million (3.9%) in 2012 to $78.3 million from 2011’s $75.3 million, which included $1.7 million of now-expired federal stimuli. The growth in Town appropriation component of the PSB general fund is $3.3 million (4.6%), and $750 thousand of reserves are used.

Based on the assumptions in the Preliminary Budget, at the end of fiscal 2012, remaining PSB reserves amount to $600 thousand, $400 thousand of which is expected to be used in fiscal 2013. This revenue source will likely be depleted no later than fiscal 2014.

The $2.9 million of general fund revenue growth is largely consumed by net increases in compensation ($1.4 million) and special education ($600 thousand), enrollment growth ($443 thousand), and program growth ($575 thousand). Reductions of $491 thousand contribute to the ability to achieve expenditure growth.

The existing collective bargaining agreement ends with fiscal 2011. Provisions in the expiring agreement have the effect of increasing 2012 salaries for teachers by less than 1%, and for paraprofessionals by close to 2%. There is no provision in the 2012 assumptions for additional salary increases beyond “steps and lanes”.

Grant Funds

The two largest components of the grant fund are for special education ($1.8 million) and METCO ($1.2 million).

Revolving Funds

Food services ($1.9 million), Early Childhood ($1.9 million) and Adult Education ($1.3 million) and the Athletic Fund ($400 thousand) represent $5.6 million of $5.8 million in revolving funds. Fee income in the Early Childhood fund supports virtually all expenses related to pre K regular education, while the resources for most pre K special education are supported by the general fund and grants. At present, there are no financial concerns from the operation of these services.
Managerial Focus

While optimizing the value of the PSB programs and services that are funded is important under all circumstances, the existing fiscal conditions make it even more so. Significant attention is being given to:

- special education
  - fewer district-wide programs, replaced by intensive learning centers, allowing greater neighborhood elementary school attendance
  - exploring potential private/public partnerships having the opportunity to reduce out-of-district placements
  - expansion of team facilitator model
- the tutorial program at the high school (involves 15 FTEs and $1 million of cost)
- professional development
- a move to career from guidance counseling at the high school
- Enrichment Challenge and Support “ECS” (i.e. “gifted” program)
- METCO
- Steps to Success

Important opportunities that are not being pursued because of financial limitations include:

- specialists for guidance, libraries and ECS
- K-2 support (paraprofessionals and interns) that has demonstrated value in reducing the number of students with Individualized Education Programs
- effective use of electronic devices that enhance learning

Special Education

A recent census shows that 1,209 students (average 18%) in the PSB population (including pre K – 98/34%) were in special education. That percentage is relatively consistent since 2004, and has exceeded the state average by 1% point. Of the total students in special education, 378 are classified as having low needs, 666 as moderate and 175 as high.

The percentage of students in special education by grade, excluding pre K, varies significantly – from a low of 11% in K to a high of 21.6% in Grade 4, with significant variation and direction of change between grades.

Students from low income households in special education represent 37% of that population, while those from medium to high income household incomes represent 15% of their corresponding population.

African American and Hispanic students in special education represent 32% and 30%, respectively, of their corresponding populations, compared to white (17%), multi-ethnic (14%) and Asian (9%).
### Table A

#### Public Schools of Brookline

**Funding Sources ($ in $000s)**

<table>
<thead>
<tr>
<th></th>
<th>2010 Actual</th>
<th>2011 Forecast</th>
<th>2012 Budget</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>PSB:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriation for PSB (Note)</td>
<td>68,824</td>
<td>72,043</td>
<td>75,330</td>
<td>3,287</td>
</tr>
<tr>
<td>Tuition/fees/rental</td>
<td>371</td>
<td>416</td>
<td>497</td>
<td>81</td>
</tr>
<tr>
<td>Special Education Circuit Breaker</td>
<td>1,013</td>
<td>1,138</td>
<td>1,683</td>
<td>500</td>
</tr>
<tr>
<td>Federal stimuli</td>
<td>1,071</td>
<td>1,705</td>
<td>(1,705)</td>
<td></td>
</tr>
<tr>
<td>Reserves</td>
<td>736</td>
<td>750</td>
<td>750</td>
<td></td>
</tr>
<tr>
<td>Total PSB General Fund funding sources</td>
<td>72,015</td>
<td>75,347</td>
<td>78,260</td>
<td>2,913</td>
</tr>
<tr>
<td>Grant Funds (Note 2)</td>
<td>5,908</td>
<td>5,331</td>
<td>5,195</td>
<td>(136)</td>
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<tr>
<td>Revolving Funds</td>
<td>5,180</td>
<td>5,447</td>
<td>5,844</td>
<td>397</td>
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<td>Total PSB funding sources</td>
<td>83,103</td>
<td>86,125</td>
<td>89,299</td>
<td>3,174</td>
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<td>Town spending benefiting PSB:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriation for other services benefiting PSB</td>
<td>33,264</td>
<td>32,063</td>
<td>31,611</td>
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<tr>
<td>Reserve fund transfer</td>
<td>500</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Total funding sources benefiting PSB</td>
<td>116,867</td>
<td>118,188</td>
<td>120,910</td>
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<td>General Fund appropriation subject to approval by Town Meeting</td>
<td>106,941</td>
<td>88%</td>
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Note: Includes $1.1 and $4.0 million from overrides in 1995 and 2008.

#### Grants and Revolving Funds

<table>
<thead>
<tr>
<th></th>
<th>2010 $</th>
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<th>2012 $</th>
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<tbody>
<tr>
<td><strong>Grants - recurring</strong></td>
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<tr>
<td>Special Ed IDEA</td>
<td>1,746</td>
<td>1,780</td>
<td>1,782</td>
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<tr>
<td>METCO</td>
<td>1,461</td>
<td>1,244</td>
<td>1,244</td>
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<tr>
<td>Over $1 million</td>
<td>3,207</td>
<td>3,024</td>
<td>3,026</td>
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<tr>
<td>Between $100-500 thousand</td>
<td>2,158</td>
<td>1,742</td>
<td>1,838</td>
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<td>Total recurring grants</td>
<td>5,365</td>
<td>4,766</td>
<td>4,864</td>
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<tr>
<td><strong>Grants - nonrecurring</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal stimuli</td>
<td>1,225</td>
<td>1,849</td>
<td></td>
</tr>
<tr>
<td>Included in General Fund</td>
<td>(1,071)</td>
<td>(1,705)</td>
<td></td>
</tr>
<tr>
<td>Net nonrecurring</td>
<td>154</td>
<td>144</td>
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<tr>
<td>Total itemized grants</td>
<td>5,519</td>
<td>4,910</td>
<td>4,864</td>
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<tr>
<td><strong>Total grants</strong></td>
<td>5,908</td>
<td>5,331</td>
<td>5,195</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>2010 $</th>
<th>2011 $</th>
<th>2012 $</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revolving Funds</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Food Services</td>
<td>1,786</td>
<td>1,817</td>
<td>1,937</td>
</tr>
<tr>
<td>Early Childhood</td>
<td>1,493</td>
<td>1,713</td>
<td>1,958</td>
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<tr>
<td>Adult Ed</td>
<td>1,283</td>
<td>1,294</td>
<td>1,322</td>
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<tr>
<td>Athletics</td>
<td>330</td>
<td>356</td>
<td>357</td>
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<tr>
<td>Total itemized funds</td>
<td>4,892</td>
<td>5,180</td>
<td>5,574</td>
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<tr>
<td><strong>Total revolving funds</strong></td>
<td>5,180</td>
<td>5,447</td>
<td>5,844</td>
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</table>

**Total grants and revolving funds** | 11,088 | 10,778 | 11,039 |
### General Fund Spending by Resource

<table>
<thead>
<tr>
<th>Resource</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>% of Total</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td>Personnel</td>
<td>61,063</td>
<td>62,951</td>
<td>64,710</td>
<td>83%</td>
<td>1,759</td>
</tr>
<tr>
<td>Services</td>
<td>9,235</td>
<td>9,895</td>
<td>10,043</td>
<td>13%</td>
<td>148</td>
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<tr>
<td>Supplies</td>
<td>1,459</td>
<td>1,597</td>
<td>1,771</td>
<td>2%</td>
<td>174</td>
</tr>
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<td>Other</td>
<td>335</td>
<td>476</td>
<td>1,305</td>
<td>2%</td>
<td>829</td>
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<tr>
<td>Equipment</td>
<td>423</td>
<td>417</td>
<td>431</td>
<td>1%</td>
<td>14</td>
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</tbody>
</table>

**Total spending**  
72,515  75,336  78,260  100%  2,924  3.9%

**Excess/(deficit)**  
(986)  11

**Budget**  
71,529  75,347  78,260  2,913  3.9%

#### 2012 General Fund Spending by School/Program

<table>
<thead>
<tr>
<th>Program</th>
<th>2012</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elementary</td>
<td>32,820</td>
<td>42%</td>
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<tr>
<td>SPED</td>
<td>21,279</td>
<td>27%</td>
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<tr>
<td>High school</td>
<td>15,577</td>
<td>20%</td>
</tr>
<tr>
<td>Kindergarten</td>
<td>2,164</td>
<td>3%</td>
</tr>
<tr>
<td>Unallocated</td>
<td>6,420</td>
<td>8%</td>
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</table>

**Total**  
78,260  100%

### Staffing Resources in FTEs

#### 2012 by Funding Source

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>2011</th>
<th>2012</th>
<th>% of 2011</th>
<th>% of 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>969.6</td>
<td>980.9</td>
<td>87%</td>
<td>100%</td>
</tr>
<tr>
<td>Grants</td>
<td>73.2</td>
<td>70.3</td>
<td>6%</td>
<td>6%</td>
</tr>
<tr>
<td>Revolving</td>
<td>69.4</td>
<td>75.9</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>Total</td>
<td>1,112.2</td>
<td>1,107.1</td>
<td>100%</td>
<td>100%</td>
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</table>

#### 2011

<table>
<thead>
<tr>
<th>2011</th>
<th>2012</th>
<th>% of 2011</th>
<th>% of 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>969.6</td>
<td>980.9</td>
<td>87%</td>
<td>100%</td>
</tr>
<tr>
<td>73.2</td>
<td>70.3</td>
<td>6%</td>
<td>6%</td>
</tr>
<tr>
<td>69.4</td>
<td>75.9</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>1,112.2</td>
<td>1,107.1</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Revenues:</td>
<td>FTEs</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>2011 General Fund</td>
<td>75,347</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Changes in funding sources:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriation</td>
<td>3,287</td>
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<tr>
<td>Federal stimuli</td>
<td>(1,705)</td>
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<td></td>
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<tr>
<td>Circuit Breaker</td>
<td>500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Materials fee increase</td>
<td>81</td>
<td></td>
<td></td>
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<tr>
<td>Reserves</td>
<td>750</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net change</td>
<td>2,913</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012 General Fund</td>
<td>78,260</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Expenditures: |      |      |
| 2011 General Fund spending | 75,347 |
| Changes in spending: |      |      |
| Increases: |      |      |
| Collective bargaining/teacher mix | 1,440 |
| Special Education |      |      |
| Increases, including $600 contingency | 9.0 | 1,119 |
| Reductions | (23.0) | (527) |
| Enrollment growth | 7.0 | 443 |
| Program growth | 4.0 | 575 |
| Other |      |      |
| Increases, largely to replace federal stimuli | 1.4 | 154 |
| Reductions | (8.0) | (491) |
| General contingency | 200 |
| Net change in spending | (9.6) | 2,913 |
| 2012 General Fund spending | 78,260 |
Table D

Public Schools of Brookline
2012 Details of Program Growth and Spending Reductions
($s in 000s)

<table>
<thead>
<tr>
<th>Table</th>
<th>Total</th>
<th>Central Support</th>
<th>Elementary</th>
<th>BHS</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>FTEs</td>
<td>$</td>
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<td>$</td>
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<tr>
<td>Growth</td>
<td>4.0</td>
<td>575.0</td>
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<tr>
<td>College and career counselor</td>
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<td>67</td>
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<td>Principals and vice principals</td>
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<td>20</td>
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<tr>
<td>Literacy</td>
<td>50</td>
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<td>Bullying</td>
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<td>95</td>
<td></td>
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<td>Curriculum and program materials</td>
<td>25</td>
<td>44</td>
<td>15</td>
<td></td>
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<tr>
<td>Technology</td>
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<td>15</td>
<td></td>
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<td>Early education paraprofessionals</td>
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<td>5.5</td>
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<tr>
<td>Total growth</td>
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<td>162</td>
<td>198</td>
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<td>System courier</td>
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<tr>
<td>Guidance and career center</td>
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<td>Private funding replacement</td>
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<td>40</td>
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<td>Food services efficiencies</td>
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<tr>
<td>Total growth</td>
<td>1.4</td>
<td>80</td>
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Advisory Committee Report on the FY2012 Capital Improvement Program (CIP)
Recommendations and Project Descriptions

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

35. TECHNOLOGY APPLICATIONS
Recommended: $265,000 (T)

This annual request is for funding the projects detailed in the Information Technology Department's Long-Term Strategic Plan, which serves as the framework for the selection and management of technology expenditures and is updated periodically by the Chief Information Officer (CIO). Moreover, additional projects that meet the short-term objectives set by the CIO and appropriate committees provide the guidance for the Town's approach to technology management. Primary focus areas for IT investments include Infrastructure lifecycle replacement, Enterprise Applications/Better Government initiatives, School Technology, and Public Safety
4. **FIRE APPARATUS REHAB**  
**Recommended: $50,000 (T)**

The Town’s policy is to replace all front line engines every 17 years and all front line ladder trucks every 20 years. While this replacement schedule serves the Town very well, funding needs to be appropriated every 10 years to rehab engines and every 12 years to rehab ladder trucks. Engine #6, a Sutphen, was purchased in 2002 and is scheduled for rehab in FY 12. It is currently located at Station 6 on Hammond Street.

37. **FIRE STATION RENOVATION**  
**Recommended: $625,000 (T)**

A study was made of the conditions of the fire stations and what was needed to maintain the integrity of the floors and building in regard to the new, larger fire equipment. The work outlined in the report includes flooring, shoring, beams, columns, and structural work. The report also includes recommendations for the HVAC systems, generators, lighting, sprinklers, fire alarms, mechanical, electrical, plumbing, and other peripheral systems.

The $3,285,000 requested for this multi-year project can be broken into three categories: (1) structural, (2) sprinkler systems / life safety systems, and (3) mechanical, electrical, and plumbing (MEP). The recommended approach is to fund all required structural work in the first year ($625,000 in FY12), then fund sprinkler and life safety systems by stations as prioritized by the Fire Chief (FY13 – FY17), and then undertake the MEP work (Future Years). The estimates for each station are as follows:

<table>
<thead>
<tr>
<th>Station</th>
<th>Structural</th>
<th>Life Safety</th>
<th>MEP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sta 1 (Brookline Village)</td>
<td>$248,000</td>
<td>$320,000 (FY13)</td>
<td>$310,000</td>
</tr>
<tr>
<td>Sta 4 (Rt. 9/Reservoir Rd)</td>
<td>$60,000</td>
<td>$190,000 (FY15)</td>
<td>$305,000</td>
</tr>
<tr>
<td>Sta 5 (Babcock St)</td>
<td>$0</td>
<td>$300,000 (FY17)</td>
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<td>Sta 6 (Hammond St)</td>
<td>$154,000</td>
<td>$205,000 (FY16)</td>
<td>$300,000</td>
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<tr>
<td>Sta 7 (Washington Sq)</td>
<td>$165,000</td>
<td>$195,000 (FY14)</td>
<td>$310,000</td>
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38. **SENIOR CENTER - RECARPETING**  
**Recommended: $110,000 (T)**

The Senior Center is an 18,000 square foot building that opened in February 2001. The high attendance at the Center has resulted in wear and tear on the carpeting. It is soiled in certain areas and some of the seams are coming apart. The carpeting has been cleaned on a regular basis in order to maximize its useful life, but it is now in need of replacement.
39. **LIBRARY INTERIOR FACELIFT/PAINTING AND REPAIRS**  
**Recommended: $100,000 (T)**

Funds will be used for interior painting, ceiling tile replacement, some carpet replacement, and possibly drywall repairs in the Main Library.

40. **COMMERCIAL AREAS IMPROVEMENTS**  
**Recommended: $50,000 (T)**

Commercial Areas Improvements are designed to direct public investment in pedestrian amenities, streets, and other civic spaces for the benefit of those who shop, work, dine or otherwise enjoy Brookline’s commercial areas. Visually appealing and high-functioning commercial areas contribute to both the quality of life and to property values in the community.

Commercial Area Improvement funds will be used to protect and enhance the quality of the Town’s commercial areas and may support such projects as:

- Upgrading lighting in streets, walkways and parking areas
- Improving directional signage to municipal parking lots
- Adding/upgrading street furniture

The request for $50,000 in FY 12 CIP funds addresses the need to complete the Coolidge Corner Streetscape Improvements Project initiated in FY 05. Some of the FY 12 funds would be used to purchase three benches and to purchase and install lights in the Centre Street Walk and Beacon Street Walk. Lighting was a component of the original Streetscape Improvement Plan. Funds would also be used to landscape (with trees and perennial plant material) the parking lot end of Theatre Walk (behind CVS) and Centre Street Walk (behind the Gap). Included in the landscaping plan is the replacement of four trees located at the southeastern corner of the Coolidge Corner (East) parking lot, where Beacon Way enters the lot from Beacon Street (behind Party Favors and Century Bank). Tree replacement was not part of the original Streetscape Plan.

41. **STREET REHABILITATION - TOWN**  
**Recommended: $1,750,000 (T)**

In 1992, the Department of Public Works (DPW) undertook a comprehensive study of its roads and implemented a pavement management system. The system was designed to bring Town-owned streets to a sufficient level of repair such that the roads could be maintained without undertaking costly full reconstruction. From 1992 to 1997, the Town made some progress in this regard, but funding was inconsistent. Starting in 1997, the Town began allocating $1 million per year to streets, in addition to Chapter 90 funding from the State.

The Override Study Committee (OSC), which undertook their study in CY07-08, determined that the Town had underfunded road and sidewalk maintenance and
construction. Its analysis showed that while funding for road construction activities remained level, construction costs increased approximately 35% between 1997 and 2007, reducing the amount of work that could be completed each year. Had the funding levels for roads been increased each year, the level of funding at that time would have been $1.35 million.

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

Based on the recommendations of the OSC, the 2008 Override approved by the voters included $750,000 for streets and sidewalks. Of the FY09 override amount, $580,000 was appropriated for streets, with $300,000 addressing the underfunding caused by level-funding and $280,000 for the “catch-up”. In FY12, the base appropriation is recommended at $1.32 million (the original $1 million base, plus the $300,000 added in FY09 adjusted for three years of 2.5% increases). In addition, $430,000 is included for the “catch-up”. In FY13, the “catch-up” funding goes away and the appropriation base is set at $1.47 million. It then continues to be increased annually by 2.5%.

In FY 12, in accordance with Beta Group’s Street Assessment, Dummer Street from Amory Street to Essex Street; Gibbs Street from Fuller Street to Beals Street; Lancaster Road from Summit Avenue to Jordan Road; Salisbury Road, and Williston Road are all scheduled for rehabilitation.

42. SIDEWALK REPAIR
Recommended: $270,960 (T)

The Department of Public Works has prepared a sidewalk management program that prioritizes repairs. Some sidewalks are reconstructed as part of the street reconstruction program; those that are not are funded under this program. The Override Study Committee (OSC), which undertook their study in CY07-08, determined that the Town had underfunded road and sidewalk maintenance and construction. Based on the recommendations of the OSC, the 2008 Override approved by the voters included $750,000 for streets and sidewalks. Of the FY09 override amount, $50,000 was appropriated for sidewalks. In FY12, the base appropriation is recommended at $269,000 (the original $200,000 base, plus the $50,000 added in FY09 adjusted for three years of 2.5% increases). It then continues to be increased annually by 2.5%.

The list of sidewalks scheduled for repair is currently being developed and includes Tully Street.
43. **BICYCLE ACCESS IMPROVEMENTS**

   **Recommended: $48,040 (T)**

The following projects have been identified for implementation:

1. **Cypress Street South Route** - $16,150.90
2. **Harvard Street Bike Lane** - $23,095.20
3. **Commercial Area Bicycle Parking** - $7,500.00

1. **The Cypress Street South Route** is a combination of bike lanes and Brookline-modified sharrows (priority bike lanes), starting at Paul Pender Circle and continuing along portions of Chestnut Street, High Street, and Cypress Street ending at the intersection with Boylston Street (Rte. 9). When installed, this north/south bicycle lane will improve roadway safety and access for cyclists and will connect the residential neighborhood in the southwest part of Precinct 5 to destinations to the north including Brookline High School. It will also connect to bicycle lanes within the City of Boston, including bicycle paths within the Emerald Necklace. Most of the installation costs relate to the 45 bike lane markings or Brookline-modified sharrows, estimated at $280 each (or $12,600 total). This work will be performed by an outside contractor using thermoplastic paint and will require police details to manage traffic during installation.

   The cost of repainting the markings annually, beginning in 2015, is approximately $2300 (based on existing contract figures).

2. The proposed **Harvard Street Bike Lane** project calls for bringing the existing lanes on Harvard Street, from Beacon to School Street, into compliance with new standards introduced by MA Department of Transportation and the American Association of State Highway and Transportation Officials. The project also proposes transforming the existing wide shoulder on Harvard Street, from Green Street to the Allston boundary, into a bike lane that complies with industry standards. The work would result in a continuous north/south bicycle route for the entire length of Harvard Street and a connection to the bicycle lane on Harvard Avenue in Boston. The cost includes the layout of new pavement markings and the installation of all double yellow and white long lines as well as 47 sharrows and bike lane symbols. This work will be performed by an outside contractor using thermoplastic paint and will require police details to manage traffic during installation.

   The cost of repainting the markings annually, beginning in 2015, is approximately $2694.78 (based on existing contract figures).

3. The **Commercial Area Bicycle Parking** project involves using fifty post and hitch meter pole sleeve bike racks to convert existing meter poles into bike racks in commercial districts throughout the town. Once installed, bicyclists will be able to lock up their bikes safely and conveniently while frequenting commercial establishments. The cost is $150 per rack. Installation will be performed by DPW/Highway Division.
44. STREETLIGHT REPAIR /REPLACEMENT PROGRAM
Recommended: $25,000 (T)

In 2005, decorative streetlights and poles were purchased for installation on Harvard Street. Based on August, 2010 bids for installing these new lights on Harvard from School to Webster Street, it is estimated that the cost of installation of the new street lights on Harvard from Beacon to Stedman Street will be approximately $195,000. There is approximately $180,000 available from previous appropriations for this project; therefore, $15,000 of the requested $25,000 will be used for streetlight installation, while $10,000 will be used to replace structurally unstable or poles needing new service feeds in the existing inventory.

FY 10 American Recovery and Reinvestment Act funds have been used to support two pilot projects using LED lighting in the town: one on selected streets in South Brookline and the other on streets in commercial areas. A comparison of metered energy use will help to determine energy and cost savings in town streetlights.

45. PARKING LOT REHABILITATION
Recommended: $45,000 (T)

Four years ago, the Town’s DPW began a program to rehab four parking lots: School Street, Webster Street, Fuller Street, and Centre Street (east). Work on the School Street lot was funded in FY 10, while work on the Webster Street lot is contemplated for FY 12. The latter has not seen significant repair for over 20 years. FY 12 dollars will fund pavement replacement and granite curb realignment.

The parking lot on Fuller Street is currently scheduled for rehab in 2013, followed by Centre Street (east) in FY 17.

46. MUNICIPAL SERVICE CENTER FLOOR
Recommended: $25,000 (T)

Due to its type of use and exposure to salt and fuels, as well as the effect of severe weather conditions, the floor at the Municipal Service Center (MSC) must be repaired and resealed on a regular basis. This work, generally performed with a warranty of seven years, includes removal of existing remaining sealants, shot blasting, and preparation for and reapplication of a new epoxy sealant.

Without such scheduled maintenance, the floor would likely fail prematurely, resulting in structural damage to the building.

With the move of the Parks and Open Space Division of DPW to the MSC during the summer of 2009, there exists a potential alternative plan to spending tax dollars frequently for repairs to the floor. In FY09, $40,000 was approved by Town Meeting for a study of space and facility needs of both the Parks and Open Space Division and the Building Department’s maintenance craftsmen. Since the Parks and Open Space Division has moved to the MSC, the study will include an analysis of what, if anything, could be done at the MSC to address the Parks and Open Space Division’s
needs there, potentially freeing-up space at the Parks and Open Space Division’s current location at Larz Anderson for the Building Department’s needs. The outcome of the study will determine how to proceed with (1) the MSC floor, (2) Parks and Open Space Division space needs, and (3) Building Department space needs. In the meantime, $25,000 is required for short-term patching to address current deficiencies in the flooring.

47. **PARKS AND PLAYGROUNDS REHABILITATION & UPGRADE**  
**Recommended:** $280,000 (T)

This is an on-going town-wide program for the repair and replacement of unsafe and deteriorating playground, fence, and field facilities or components. This program avoids more expensive rehabilitation that would be necessary if these items were left to deteriorate.

Allowing for year-to-year shifts in specific amounts, the breakdown of funds generally falls into the following categories:

- Fencing (fabric, posts, rails, backstops, barricades, related services and supplies): +/- $100,000
- Playground parts/repair/replacement: +/- $30,000
- Playground safety surfacing (rubber based surfaces, rubber tile, wood fiber): +/- $30,000-$45,000
- Athletic fields and infields: +/- $60,000 - $75,000
- Park Furniture replacement (picnic furniture, benches): +/- $10,000
- General site repairs: +/- $25,000

48. **TOWN/SCHOOL GROUNDS REHAB**  
**Recommended:** $135,000 (T)

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

49. **TREE REMOVAL AND REPLACEMENT**  
**Recommended:** $190,000 (T)

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

50. BILLY WARD PLAYGROUND
Recommended: $630,000 (T)

Billy Ward Playground is slightly larger than half an acre and is located between Aspinwall Avenue and Brook Street. Part of the land for the playground was acquired in 1914, and adjacent lots were purchased in 1972 at which time the playground took on its present size and included a grassy seating area, a sand area, a spray pool, and a half basketball court. In 1990, a design process for renovation was started, culminating two years later with the installation of updated equipment for tots and older children, a new spray pool, a downsized basketball key, and landscaping and screening. At that time, its name was changed from Brook Street Playground to Billy Ward Playground. Neighborhood families, daycare groups, and St. Mary’s after-school program are among the current playground users.

In its present configuration, a path bisects the park and a sizeable grade change creates two different levels. There is a lawn area as well as a large sandbox, swings, spray pool, two large play structures, half basketball court, mature trees and bushes, and landscaped spaces for additional plantings. Both coated chain link and decorative metal fencing mark the playground’s perimeter.

Renovation of the playground contemplates new play equipment for tots and older children, a new gate and fencing at the Brook Street entrance, improved accessibility, reconstruction of the existing retaining wall, rehabilitation of pathways and stairs, landscape improvements to both the Brook Street and Aspinwall entrances, siting of picnic/passive areas, review of spray pool utilities, and rehabilitation of the planted seating area. The design review process will revisit layout, grading, accessibility, safety, and functionality of the park. Survey, design, and plan development are budgeted at $60,000, while construction costs are budgeted at $570,000.

51. CLARK PLAYGROUND
Recommended: $510,000 (T)

Clark playground, approximately 1.68 acres in size is a multi-use active playground on Cypress Street between Mulford and Edwin Streets. Land for the playground was purchased in 1913 and included the large puddingstone boulder sited towards the rear of the playground, near the swings. The playground was rebuilt in 1990 and currently includes mature trees, an open lawn area, tot lot, swings, picnic area, spray pool, and a basketball court.
The planning and design review process will consider circulation, site drainage, perimeter fencing, and pedestrian lighting as well as overall layout, grading, accessibility, safety, and functionality of the playground. Renovations may include new site furniture (benches, picnic tables, and trash/recycling receptacles); repaved paths, new play equipment for tots and older children; a new basketball court; a handicap-accessible water fountain, and upgraded spray pool. Design, survey, and plan development are budgeted at $40,000, while construction costs are budgeted at $470,000.

52. LARZ ANDERSON PARK
Recommended: $50,000 (T)

A 52-foot section of the retaining wall, which runs along a pathway between the Carriage House and the Town’s Park Facility at Larz Anderson Park, needs to be rebuilt. The cost is estimated to be $50,000. An adjoining portion of this same wall was recently rebuilt, consequently the Engineering Department will make use of the plans and specs from that work.

In the near future (FY 14), the CIP calls for rebuilding the roadway through the park (from Newton Street to Avon Street) and installing support drainage structures and swales. The following year (FY 15), pedestrian pathways and stairs that are in poor condition are scheduled to be repaired or replaced. Additionally, work will be required on the deteriorating Temple of Love and fountain at the lagoon.

53. WALDSTEIN PLAYGROUND RENOVATION
Recommended: $80,000 (T)

Waldstein Playground, 5.63 acres in size, is located close to Beacon Street on Dean Road, and extends to Strathmore Road. It is a large community playground with tennis, basketball, playing field, and playground facilities and large perimeter shade trees, including mature oaks. The playing field was re-sodded in 1996 and the irrigation system was upgraded in 1997. Drainage of the large playing field, once the site of the Village Brook, remains an issue. The playground was renovated in the early 1990s. Preliminary plans for its renovation call for the replacement of all children's play equipment, two large banks of swings, and sandplay, and the renovation of the spray pool area, drinking fountains, field, tennis courts, and pathways. Total project costs are budgeted at $1,280,000, with $80,000 for survey, design and plan development scheduled for FY12.

54. WARREN FIELD / PLAYGROUND
Recommended: $60,000 (T)

Warren Field (Eliot Playground), located between Eliot Street, Dean Road, and Chestnut Hill Avenue, includes 11.1 acres of active recreational resources such as baseball and little league fields, soccer fields, bang boards (2) basketball and tennis courts (four and three, respectively), and numerous playground structures for a variety of age groups. Warren Field serves the neighborhood, the Heath School, and two of the Town’s early childhood programs, currently located in the Eliot Recreation
Center, as well as being a town-wide facility for baseball, soccer, and softball. The most recent renovation of Warren Field was in 1995.

Total project costs are budgeted at $860,000, with $60,000 in FY 12 funds for design, survey, and development of plans, and the remaining $800,000 in FY 13 CIP funds for construction, possibly including new playground equipment for toddlers and older children, signage, tree pruning, planting, field restoration, new backstop and players benches, trash receptacles, pathways, and pedestrian lighting.

55. SWIMMING POOL - UV FILTERS
Recommended: $50,000 (T)

Two types of treatment are used to treat contaminants in the water of the swimming pool at the Evelyn Kirrane Aquatics Center: automatic chlorination and copper/silver ionization. Recently, the MWRA has begun to treat the water it supplies with (mono) chloramines, apparently a successful and cost-effective way to remove contaminants. Unfortunately, the kind of chloramine formed when the treated water combines with the chemicals already in the pool water form a type of chloramine that cannot be removed by the Town’s current water treatment methods. As a result, the levels of chloramine become elevated, potentially leading to corroding of metal surfaces including ductwork and HVAC equipment as well as unpleasant physical symptoms in swimmers such as red, burning eyes; burning sensation in nose, throat, and lungs, and dry, itchy skin. The installation of an ultraviolet light system would treat the water as it enters the pool, resulting in the proper balance of chemicals in pool water. There seems to be no intention on the part of the MWRA to change its current practice in using chloramines for water treatment.

56. JACK KIRRANE ICE SKATING RINK PAVILION FLOOR REPLACEMENT
Recommended: $30,000 (T)

The flooring inside the pavilion of the Jack Kirrane Ice Skating Rink at Larz Anderson Park covers 2100 square feet and includes the main area that the public uses to access the rink, the public bathroom areas, and the office. The flooring is made of composite rubber, is about 16 years old, and is in deteriorated condition. This flooring will be replaced with interlocking rubber tile, which has a 15-year life expectancy.

57. TOWN/SCHOOL BUILDING - HAZARDOUS MATERIALS
Recommended: $60,000 (T)

This annual appropriation will allow for the removal of asbestos, lead paint, mold, toxins, and any other hazardous materials whenever it is discovered in a Town/School facility. Many times when mechanical system repairs are in progress, expensive asbestos abatement has been required. These funds will allow for the proper abatement of asbestos.
58. **TOWN/SCHOOL BUILDING - ADA RENOVATIONS**  
Recommended: $60,000 (T)

This annual appropriation is used to bring Town and School buildings into compliance with the Americans with Disabilities Act (ADA), which requires that the Town make public buildings accessible to all. This work includes adding lifts, modifications to HVAC equipment, and classroom modifications for sound, layout or access. As the disabilities of students become increasingly complex, this money becomes increasingly important in order to carry out appropriate accommodations in school buildings. These funds will be used on buildings that are not part of currently planned major renovations.

59. **TOWN/SCHOOL BUILDING - SECURITY/LIFE SAFETY**  
Recommended: $50,000 (T)

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

In past years, these funds have been used to undertake and complete work at elementary school buildings; in the coming year, security improvements are planned for the High School and the libraries.

60. **TOWN/SCHOOL BUILDING - ELEVATOR RENOVATIONS**  
Recommended: $25,000 (T)

When a building is renovated, most elevators are upgraded with new controls, motors, cables, refurbishment of the car, etc. A number of buildings that have not been recently renovated have elevators that are close to 40 years old. Maintenance has become challenging, and parts are becoming more difficult to find. FY12 funding will be used to undertake a study, with renovations planned for the elevators in the Lawrence and Pierce Schools, Lynch Center, and Unified Arts Building at the High School in the coming years.

61. **TOWN/SCHOOL BUILDING - ENERGY CONSERVATION**  
Recommended: $125,000 (T)

With increases in utility costs, it is imperative that monies be invested to decrease energy consumption in buildings. Programs include, but are not limited to, lighting...
retrofit and controls, energy efficient motors, insulation, and temperature equipment. This program augments existing gas and electric utility conservation programs. Monies would also go toward more efficient heating and cooling equipment to save money. A new goal would be building commissioning. Many years ago, a building's HVAC system was set up by multiple contractors and then signed off by the design engineer. Sometimes there would be control issues - leading to complaints or high energy usage. The Building Department, for all new projects, hires a Commissioning Agent. This has been done for many years and has been very successful. Recommissioning of certain buildings is suggested in order to confirm that the equipment was designed, installed and set up properly.

62. TOWN/SCHOOL BUILDING - ENERGY MANAGEMENT SYSTEM  
Recommended: $75,000 (T)  
Funds for this program are used to upgrade the energy management systems in town and school buildings. Most of the larger buildings have older (25 years) energy management systems that have gone beyond their life expectancy and replacement parts are no longer available. It is expected that these systems will be replaced and upgraded with new web-based systems integrated into the Town's existing computer network. The Building Department will work in conjunction with the Information Technology Department on this project. The New Lincoln School is scheduled for an upgrade in FY 12.

63. TOWN/SCHOOL BUILDING - ENVELOPE REPAIRS  
Recommended: $250,000 (T)  
The $250,000 in FY12 is recommended for the development of a long-term plan to repair the outside envelope of all Town and School buildings. This would include all masonry: bricks and mortar, flashing, dental work, and copingstones, as well as metal shelves, wooden structures, and tower work. Some buildings are over 100 years old and have never had exterior work done to them.  
As part of the Town’s project to convert heating systems to be able to burn both oil and natural gas, new liners are required to be installed in those buildings with the dual-fuel burners. This is due to gas code requirements. Chimneys will be inspected and repaired if appropriate; if not, a new metal liner will be installed to connect to the gas burning equipment in the building.

64. SCHOOL FURNITURE  
Recommended: $25,000 (T)  
This is a continuous program to upgrade furniture in all schools. The furniture in classrooms absorbs significant wear and tear annually. This program will replace the most outdated and worn items.
65. INTERCOM SYSTEM REPLACEMENT  
Recommended: $50,000 (T)

Existing intercom equipment in the Schools is out of date and has become more difficult and costly to maintain. Due to safety concerns, it is imperative that a PA system is working 100% in all areas. These monies would enable the existing VOIP phone systems to also be used as intercom systems in the schools. Software licenses are required, as well as extra wiring (data drops) and equipment.

66. UAB - ROOF/CHIMNEY/POINTING/GUTTERS & DOWNSPOUTS  
Recommended: $130,000 (T)

The exterior of the Unified Arts Building at the High School is in need of repointing; the chimney for the heating and lighting plant is in need of repair/repointing, and its roof, gutters, and downspouts are also in need of repair/replacement. This project will be undertaken over the next two years with FY 12 funds paying for plans and specification and FY 13 funds ($1.3 million) paying for the work. The existing slate roof is close to 100 years old and patchwork has been done on some valleys and overhangs. This project would replace those other missing or damaged tiles, redo all of the copper in the valleys, and replace all damaged downspouts and gutters that have failed over the years.

67. PIERCE SCHOOL – Auditorium Renovation  
Recommended: $750,000 (T)

In May 2009, Town Meeting approved $75,000 in FY 10 CIP funds for designs to enhance the existing Pierce School Auditorium within the existing walls by improving on the sight lines, stage, seating, sound, lighting, egress, etc., thereby providing a more programatically appropriate space for school performances. FY 12 funds totaling $750,000 are budgeted for auditorium improvements.

68. HEATH SCHOOL ADDITION  
Recommended: $5,250,000 (B)  
$ 3,250,000 (State Grant)

The Public Schools of Brookline have been experiencing K-8 enrollment increases for the past five years. During this period, the total K-8 enrollment has grown 762 (19.5%) and, based upon available birth data and other demographic trends, this growth pattern is expected to continue for at least the next three years. This will result in total K-8 enrollment growth of approximately 1,060 students (27%) during the ten year (FY05-FY14) period.

The impact of the K-8 enrollment growth during the last seven years has increased demand on the Town’s eight K-8 schools significantly. In 2005, the schools operated with 3,890 students in 196 homerooms. In the current school year, they operate with 4,652 students in 226 homerooms. In FY2014, the schools project a need for 241 homerooms for the projected enrollment of 4,950 K-8 students. This is an increase of 45 homerooms between 2005 and 2014. In order to create the classroom space
necessary to accommodate this enrollment level, the schools have had to convert spaces intended for other purposes into regular classrooms. Each of the Town’s K-8 schools is at its capacity. The community is experiencing an influx of students, especially at the Kindergarten level, that far exceeds what would be expected from the birth data alone. This indicates that other activities/actions are affecting the enrollment numbers. Analysis by the schools points to families moving to the community, resulting in this growth over the birth rate.

In order to address this serious issue, various mitigation measures have been taken, the most significant being the Runkle School Renovation/Addition project. This project, which is being funded 41.58% by the Massachusetts School Building Authority (MSBA), will allow for additional school capacity in a geographic location that is buffered by multiple schools. The Runkle School will become a three section per grade school across all grades, with appropriate support and shared space to support the enrollment of 560 students – the enrollment that Runkle is projected to have in 2014.

Other mitigation activities have primarily consisted of the careful remodeling and renovation to internal spaces within each of the schools, with the goal being the creation of the highest quality space within available constraints. For example, multi-purpose rooms and music rooms have been converted into dedicated homerooms, resulting in itinerant music teachers working in substandard spaces. Adjacent office and learning spaces have been reconstructed and modified into full size classrooms. Dedicated computer laboratories have been converted into homerooms. Lastly, pre-school classes have been moved from dedicated homerooms into shared spaces with extended day programs. Those projects were funded by the $400,000 approved in both FY08 and FY10 by Town Meeting.

The Schools submitted a Statement of Interest (SOI) to the MSBA for the construction of six to eight new classrooms at the Heath School, which will create space at the Town’s currently smallest building to accommodate a three-section school at each grade level. The additional classrooms will allow each class at the Heath School to have an appropriate full size regular classroom. Additional classrooms at Heath will also allow the schools to assign district-wide Pre-K classes to the building in the years prior to the grades fully advancing to three sections at the higher grades, and if enrollments in the out years (FY15 - FY20) fall back to more historic levels (425 - 475 students per incoming class), the additional capacity will allow for the growth of Pre-K programs.

In May 2010, Town Meeting approved $300,000 in FY 11 CIP funds to undertake a feasibility study and schematic design for an expanded school. The architectural firm of MDS has proposed plans for and the design of six new classrooms (one of which is a science room); a multi-purpose room; bathrooms, an expanded cafeteria and library; upgrades to building systems for code conformity, and accessibility improvements.
69. **STORM DRAIN IMPROVEMENTS**  
Recommended: $500,000 (Water and Sewer Enterprise Fund Bond)

Studies have indicated that there is storm water entering the Town's sanitary sewer system through public connections (i.e., catch basins, site drains) and private connections (i.e., sump pumps, roof drains, yard drains, etc.). Recently, the Town completed two projects that separated combined sewers by installing a separate storm drain where there was none, and reconnecting the catch basins and other drain connections. Funding for this project will be used to further this type of work by investigating, identifying, designing, and constructing measures to correct the problem where drain pipes are connected to the sanitary sewer (inflow). This project will also provide funding for the investigation, remediation, and rehabilitation of storm drain systems to remove potential sanitary sewer connections and to improve system capacity and discharge water quality. This program will have three major benefits: 1) increasing the capacity of the sanitary sewers and storm drains, 2) decreasing the amount of storm water the Town is paying to have treated at the Deer Island treatment plant, and 3) improving discharge water quality.

70. **WATER MAIN IMPROVEMENTS**  
Recommended: $1,000,000 (Water and Sewer Enterprise Fund Bond)

In 2005, a comprehensive evaluation and hydraulic analysis of the water distribution system was completed to determine the effectiveness of the completed Water Main Cleaning and Lining Program. The report has recommended additional improvements to the system to reinforce capacity for fire flows. This project will provide for the design and construction of improvements to both the Low Service and High Service water systems.

Minority Report – Item 13 of Article 9 (Special Appropriation #43 - $48,040 for Bicycle Access Improvements)

The Advisory Committee unanimously recommends favorable action on the installation of bicycle racks and by a 13-8 vote, recommends favorable action on bicycle access improvements on Cypress Street and Harvard Street. For the reasons set forth below, some members of the Advisory Committee have concerns regarding the latter expenditures, which implement recommendations of the “Green Routes Network Plan, A Bicycle Network Master Plan.”

**Background:**

The “Green Routes Network Plan” was presented to the Brookline Transportation Board in November 2008. This plan is divided into five sections and includes a map depicting, among other features, various streets with proposed bicycle accommodation and “contraflow” lanes (making streets that are one-way for motor traffic two-way for bicycle traffic).
May 24, 2011 Annual Town Meeting
9-70

A few months after the Green Routes Plan was published, the State’s Bicyclist Safety Law was signed. Among other things, it repealed bicycle registration and it allowed bicyclists to operate a bicycle on all public ways in MA except limited access highways.

Two other town-wide plans, the Open Space Plan and the Comprehensive Plan for Brookline, also encourage bicycle use and creating a bike-friendly environment. All of these plans are posted on the Town’s website, but it does not appear that any of these three plans have been approved by Town Meeting.

Questions and Concerns:
The questions raised by the subcommittee included:

1. What is the long-term cost of maintaining bicycle pavement markings already in existence and how will the Town pay for the maintenance cost of future markings (and signs) as envisioned in the Green Routes Plan? Bicycle lanes add both additional lines as well as bicycle symbols, all of which must be maintained. For example, the estimated cost of repainting the markings for just the Harvard Street and Cypress Street bicycle lanes is $4,991 in 2011 prices, in comparison to a Town-wide FY 11 budget for all street painting of only $90,000.

2. Does the creation of bicycle lanes have the unintended consequence of attracting cyclists who lack sufficient skill to use busy, high volume streets? Do dedicated bike lanes or advisory bike lanes send a message to inexperienced riders that they’ll be “safe” if they stay in those lanes?

3. Is the creation of bicycle lanes a de-facto method of traffic calming and if so, does it make sense to use 35-pound bicycle to slow down a 3500-pound car?

4. Do automobile drivers know the meaning of bicycle pavement markings? For example,
   a. Is it legal to drive in a bike lane if there are no bicycles within sight?
   b. May bicyclists use the rest of the road?
   c. What do the dashed outside lines in an advisory bicycle lane signify?
   d. What is the rule regarding an advisory bike lane and under what conditions may an automobile driver legally pass a bicyclist who is traveling at a slower speed?

Conclusion:
The Green Routes Network Plan states that improved conditions for cyclists should be accompanied by, among other components, “bicycle parking, safety education, and traffic law enforcement.” Given the questions and concerns raised during two public hearings and one public meeting, and the current deficiencies in other areas relating to bicycle use in the town, particularly public education, a minority of the Advisory Committee recommends funding only bicycle racks in commercial areas at this time.

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

VOTED: To approve the budget for fiscal year 2012 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

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

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

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

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

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

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

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

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

   vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.
C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.

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

2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2012 budget, and to solicit and award contracts for terms of more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #21) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Board of Selectmen shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

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

4.) STIPENDS / SALARIES OF ELECTED OFFICIALS: The stipends of members of the Board of Selectmen shall be at the rate of $4,500 per year for the Chairman and at the rate of $3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of $96,345 effective July 1, 2011, plus any adjustment approved by vote of the Board of Selectmen. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

5.) VACANT POSITIONS: No appropriation for salaries, wages, or other compensation shall be expended for a position which has become vacant during the fiscal year unless the Board of Selectmen, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.
6.) **GOLF ENTERPRISE FUND:** The following sums, totaling $1,204,000 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$425,885</td>
</tr>
<tr>
<td>Purchase of Services</td>
<td>$116,566</td>
</tr>
<tr>
<td>Supplies</td>
<td>$118,200</td>
</tr>
<tr>
<td>Other</td>
<td>$4,100</td>
</tr>
<tr>
<td>Utilities</td>
<td>$89,817</td>
</tr>
<tr>
<td>Capital</td>
<td>$83,900</td>
</tr>
<tr>
<td>Debt Service</td>
<td>$185,679</td>
</tr>
<tr>
<td>Reserve</td>
<td>$16,000</td>
</tr>
<tr>
<td><strong>Total Appropriations</strong></td>
<td><strong>$1,040,148</strong></td>
</tr>
<tr>
<td>Indirect Costs</td>
<td>$163,852</td>
</tr>
<tr>
<td><strong>Total Costs</strong></td>
<td><strong>$1,204,000</strong></td>
</tr>
</tbody>
</table>

Total costs of $1,204,000 to be funded from golf receipts with $163,852 to be reimbursed to the General Fund for indirect costs.

7.) **WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling $24,687,605, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

<table>
<thead>
<tr>
<th>Item</th>
<th>Water</th>
<th>Sewer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>1,936,429</td>
<td>330,272</td>
<td>2,266,701</td>
</tr>
<tr>
<td>Purchase of Services</td>
<td>167,889</td>
<td>151,200</td>
<td>319,089</td>
</tr>
<tr>
<td>Supplies</td>
<td>101,415</td>
<td>21,000</td>
<td>122,415</td>
</tr>
<tr>
<td>Other</td>
<td>6,400</td>
<td>0</td>
<td>6,400</td>
</tr>
<tr>
<td>Utilities</td>
<td>160,625</td>
<td>0</td>
<td>160,625</td>
</tr>
<tr>
<td>Capital</td>
<td>112,150</td>
<td>142,500</td>
<td>254,650</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td>5,495,536</td>
<td>11,614,406</td>
<td>17,109,942</td>
</tr>
<tr>
<td>Debt Service</td>
<td>1,190,779</td>
<td>1,144,925</td>
<td>2,335,704</td>
</tr>
<tr>
<td>Reserve</td>
<td>106,942</td>
<td>137,490</td>
<td>244,432</td>
</tr>
<tr>
<td><strong>Total Appropriations</strong></td>
<td><strong>9,278,166</strong></td>
<td><strong>13,541,792</strong></td>
<td><strong>22,819,958</strong></td>
</tr>
<tr>
<td>Indirect Costs</td>
<td>1,522,985</td>
<td>344,661</td>
<td>1,867,647</td>
</tr>
<tr>
<td><strong>Total Costs</strong></td>
<td>10,801,151</td>
<td>13,886,454</td>
<td>24,687,605</td>
</tr>
</tbody>
</table>

Total costs of $24,687,605 to be funded from water and sewer receipts with $1,867,647 to be reimbursed to the General Fund for indirect costs.
May 24, 2011 Annual Town Meeting
9-74

8.) REVOLVING FUNDS:

a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed $2,250,000.

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

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

d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed $30,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of $4,491,063, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) SNOW AND ICE BUDGET: The sum of $412,555, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article.

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

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking Meter Special Revenue Fund</td>
<td>$3,800,000</td>
</tr>
<tr>
<td>[to the Department of Public Works - $1,875,000]</td>
<td></td>
</tr>
<tr>
<td>[to the Police Department - $1,875,000]</td>
<td></td>
</tr>
<tr>
<td>[for Special Appropriations (CIP) - $50,000]</td>
<td></td>
</tr>
</tbody>
</table>
May 24, 2011 Annual Town Meeting

9-75

State Library Aid Special Revenue Fund [to the Library] $ 41,555

Cemetery Sales Special Revenue Fund [to the Department of Public Works] $ 50,000

Recreation Revolving Fund [to the General Fund for benefits reimbursement] $ 295,912

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

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 35 through 70, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #68 - 70, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

35.) Raise and appropriate $265,000, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for the enhancement of town-wide hardware and software.

36.) Raise and appropriate $50,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the refurbishment of Fire Engine #6.

37.) Raise and appropriate $625,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for making extraordinary repairs to Fire Stations.

38.) Raise and appropriate $110,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen and the Council on Aging, for carpet replacement at the Senior Center.

39.) Raise and appropriate $100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen and the Library Trustees, for interior repairs at the libraries.

40.) Raise and appropriate $50,000, to be expended under the direction of the Director of Planning and Community Development, with the approval of the Board of Selectmen, for commercial area improvements.
41.) Raise and appropriate $1,750,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets, with notification, in advance of plans being submitted for bids, to the Board of Selectmen of any changes to pedestrian, bicycle, or motor vehicle traffic patterns or to pavement markings.

42.) Raise and appropriate $270,960, 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, including “no bike” stenciling in commercial areas.

43.) Raise and appropriate $48,040, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for bicycle access improvements; provided that all lane marking and symbols used shall be in compliance with the 2009 Manual on Uniform Traffic Control Devices (MUTCD).

44.) Raise and appropriate $25,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.

45.) Raise and appropriate $45,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town-owned parking lots.

46.) Raise and appropriate $25,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repairs to the floor at the Municipal Service Center.

47.) Raise and appropriate $280,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.

48.) Raise and appropriate $135,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town and School grounds.

49.) Raise and appropriate $190,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.

50.) Raise and appropriate $630,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the renovation of Billy Ward Playground; provided that no more than $60,000 shall be expended prior to December 1, 2011.

51.) Raise and appropriate $510,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the renovation of Clark Playground; provided that no more than $40,000 shall be expended prior to December 1, 2011.
52.) Raise and appropriate $50,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for repairs to the retaining wall at Larz Anderson Park.

53.) Raise and appropriate $80,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the renovation of Waldstein Playground.

54.) Raise and appropriate $60,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the renovation of Warren Field / Playground.

55.) Raise and appropriate $50,000, to be expended under the direction of the Recreation Director, with the approval of the Board of Selectmen and the Park and Recreation Commission, for ultraviolet (UV) filters at the Evelyn Kirrane Aquatics Center.

56.) Raise and appropriate $30,000, to be expended under the direction of the Recreation Director, with the approval of the Board of Selectmen and the Park and Recreation Commission, for replacement of the pavilion floor at the Jack Kirrane Skating Rink at Larz Anderson Park.

57.) Raise and appropriate $60,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of hazardous materials from Town and School buildings.

58.) Raise and appropriate $60,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town and School buildings.

59.) Raise and appropriate $50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to life safety systems and building security in Town and School facilities.

60.) Raise and appropriate $25,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to elevators in Town and School facilities.

61.) Raise and appropriate $125,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School buildings.

62.) Raise and appropriate $75,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrades to energy management systems in Town and School buildings.
Raise and appropriate $250,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for costs associated with building envelope repairs, including chimneys, in Town and School buildings.

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

Raise and appropriate $50,000, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen and the School Committee, for the replacement of intercom systems at School buildings.

Raise and appropriate $130,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for engineering or architectural services for plans and specifications for remodeling, reconstructing, or making extraordinary repairs to the Unified Arts Building (UAB).

Raise and appropriate $750,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for making extraordinary repairs to the auditorium at the Pierce School; provided that no funds shall be expended for said extraordinary repairs prior to December 1, 2011.

That the Town appropriate the sum of $8,500,000 for remodeling, renovating, reconstructing or making extraordinary repairs to the Heath School located at 100 Eliot Street in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 277-01-00 in the Town of Brookline Assessor's map and database, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, said sum to be expended under the direction of the Building Commission, with the approval of the School Committee and Board of Selectmen, and to meet said appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under M.G.L. Chapter 44, or any other enabling authority; that the Town acknowledges that the Massachusetts School Building Authority’s (“MSBA”) grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided further that any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) 39.93% of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Town and the MSBA.

Appropriate $500,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for improvements to the storm drain system, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $500,000 under General Laws, Chapter 44, Section 7(1), or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans
and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

70.) Appropriate $1,000,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for water main improvements, and to meet the appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow $1,000,000 under General Laws, Chapter 44, Section 8(5), or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

14.) **FREE CASH:** Appropriate and transfer $5,380,264 from free cash for the following purposes:

   a.) Reduce the tax rate (Special Appropriations) – $4,413,753;
   b.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – $469,288;
   d.) Housing Trust Fund – $355,264.

XXX
<table>
<thead>
<tr>
<th>REVENUES</th>
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</thead>
<tbody>
<tr>
<td>Property Taxes</td>
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<tr>
<td>Local Receipts</td>
</tr>
<tr>
<td>State Aid</td>
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<td>Free Cash</td>
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<td>Overlay Surplus</td>
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<td>Other Available Funds</td>
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<td>TOTAL REVENUE</td>
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<th>EXPENDITURES</th>
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<td>DEPARTMENTAL EXPENDITURES</td>
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<tr>
<td>1. Selectmen</td>
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<tr>
<td>2. Human Resources</td>
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<tr>
<td>3. Information Technology</td>
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<td>4. Finance Department</td>
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<td>5. Legal Services</td>
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<td>6. Advisory Committee</td>
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<td>7. Town Clerk</td>
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<td>8. Planning and Community Development</td>
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<td>9. Police</td>
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<td>10. Fire</td>
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<td>11. Building</td>
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<td>12. Public Works</td>
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<td>13. Library</td>
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<td>14. Health</td>
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<td>15. Veterans’ Services</td>
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<td>16. Council on Aging</td>
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<td>17. Human Relations</td>
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<td>18. Recreation</td>
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<td>19. Energy Reserve</td>
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<td>20. Personnel Services Reserve</td>
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<td>21. Collective Bargaining - Town</td>
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<td>22. Schools</td>
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<td>TOTAL DEPARTMENTAL EXPENDITURES</td>
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<table>
<thead>
<tr>
<th>NON-DEPARTMENTAL EXPENDITURES</th>
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<tbody>
<tr>
<td>23. Employee Benefits</td>
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<td>24. Reserve Fund</td>
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<tr>
<td>TOTAL NON-DEPARTMENTAL EXPENDITURES</td>
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<tr>
<td>FY07 ACTUAL</td>
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<tr>
<td>25 Stabilization Fund</td>
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<td>26 Affordable Housing</td>
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<td>27 Liability/Catastrophe Fund</td>
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<td>28 General Insurance</td>
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<td>29 Audit/Professional Services</td>
</tr>
<tr>
<td>30 Contingency Fund</td>
</tr>
<tr>
<td>31 Out-of-State Travel</td>
</tr>
<tr>
<td>32 Printing of Warrants &amp; Reports</td>
</tr>
<tr>
<td>33 MMA Dues</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
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<td>34 Borrowing</td>
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<tr>
<td>a. Funded Debt - Principal</td>
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<tr>
<td>b. Funded Debt - Interest</td>
</tr>
<tr>
<td>c. Bond Anticipation Notes</td>
</tr>
<tr>
<td>d. Abatement Interest and Refunds</td>
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<td><strong>TOTAL NON-DEPARTMENTAL EXPENDITURES</strong></td>
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<tr>
<td><strong>TOTAL GENERAL APPROPRIATIONS</strong></td>
</tr>
<tr>
<td><strong>SPECIAL APPROPRIATIONS</strong></td>
</tr>
<tr>
<td>36 Fire Apparatus Rehabilitation (revenue financed)</td>
</tr>
<tr>
<td>37 Fire Station Renovations (revenue financed)</td>
</tr>
<tr>
<td>38 Senior Center Recarpeting (revenue financed)</td>
</tr>
<tr>
<td>39 Library Interior Painting / Facelift (revenue financed)</td>
</tr>
<tr>
<td>40 Commercial Areas Improvements (revenue financed)</td>
</tr>
<tr>
<td>41 Street Rehabilitation (revenue financed)</td>
</tr>
<tr>
<td>42 Sidewalk Repair/Reconstruction (revenue financed)</td>
</tr>
<tr>
<td>43 Bicycle Access Improvements (revenue financed)</td>
</tr>
<tr>
<td>44 Streetlight Repair / Replacement (revenue financed)</td>
</tr>
<tr>
<td>45 ParkingLot Rehabilitation (revenue financed)</td>
</tr>
<tr>
<td>46 Municipal Service Center Floor Repairs (revenue financed)</td>
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<tr>
<td>47 Playground Equipment, Fields, Fencing (revenue financed)</td>
</tr>
<tr>
<td>48 Town/School Grounds Rehab (revenue financed)</td>
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<tr>
<td>49 Tree Removal and Replacement (revenue financed)</td>
</tr>
<tr>
<td>50 Billy Ward Playground (revenue financed)</td>
</tr>
<tr>
<td>51 Clark Playground (revenue financed)</td>
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<tr>
<td>52 Larz Anderson Park Retaining Wall (revenue financed)</td>
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<tr>
<td>53 Waldstein Playground - Design (revenue financed)</td>
</tr>
<tr>
<td>54 Warren Field / Playground - Design (revenue financed)</td>
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<tr>
<td>55 Swimming Pool - UV Filters (revenue financed)</td>
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<tr>
<td>56 Skating Rink Pavilion Floor Replacement (revenue financed)</td>
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<tr>
<td>57 Town/School Hazardous Material Removal (revenue financed)</td>
</tr>
<tr>
<td>58 Town/School ADA Renovations (revenue financed)</td>
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<td>59 Town/School Building Security / Life Safety (revenue financed)</td>
</tr>
<tr>
<td>60 Town/School Elevator Renovations - Study (revenue financed)</td>
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<tr>
<td>61 Town/School Energy Conservation Projects (revenue financed)</td>
</tr>
<tr>
<td>62 Town/School Energy Management Systems (revenue financed)</td>
</tr>
<tr>
<td>63 Town/School Building Envelope Repairs (revenue financed)</td>
</tr>
<tr>
<td>64 School Furniture Upgrades (revenue financed)</td>
</tr>
<tr>
<td>65 School Intercom System Replacement (revenue financed)</td>
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<tr>
<td>66 Unified Arts Building (UAB) Repairs/Renovations - Design (revenue financed)</td>
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<tr>
<td>67 Pierce School Auditorium Renovation (revenue financed)</td>
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<tr>
<td>68 Heath School Addition (bond)</td>
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<tr>
<td>69 Storm Drain Improvements (enterprise bond)</td>
</tr>
<tr>
<td>70 Water Main Improvements (enterprise bond)</td>
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<td><strong>TOTAL SPECIAL APPROPRIATIONS</strong></td>
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<td><strong>TOTAL APPROPRIATED EXPENDITURES</strong></td>
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<tr>
<td><strong>NON-APPROPRIATED EXPENDITURES</strong></td>
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<tr>
<td>Cherry Sheet Offsets</td>
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<tr>
<td>State &amp; County Charges</td>
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<td>Overlay</td>
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<td>Deficits-Judgments-Tax Titles</td>
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<td><strong>TOTAL NON-APPROPRIATED EXPEND.</strong></td>
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<tr>
<td>TOTAL EXPENDITURES</td>
</tr>
<tr>
<td><strong>SURPLUS/(DEFICIT)</strong></td>
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</tbody>
</table>

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (Item #34).
<table>
<thead>
<tr>
<th>Department/Board/Commission</th>
<th>Personnel Services</th>
<th>Purchase of Services</th>
<th>Supplies</th>
<th>Other Charges/Expenses</th>
<th>Utilities</th>
<th>Capital Outlay</th>
<th>Inter-Gov'tal</th>
<th>Snow &amp; Ice</th>
<th>Debt Service</th>
<th>Personnel Benefits</th>
<th>Agency Total</th>
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<td>Board of Selectmen (Town Administrator)</td>
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<td>5,600</td>
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<td>611,303</td>
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<td>Human Resources Department (Human Resources Director)</td>
<td>267,310</td>
<td>218,329</td>
<td>8,500</td>
<td>30,900</td>
<td>2,100</td>
<td>1,419,821</td>
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<td>Information Technology Department (Chief Information Officer)</td>
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<td>38,752</td>
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<td>Legal Services (Town Counsel)</td>
<td>535,173</td>
<td>126,017</td>
<td>2,200</td>
<td>104,700</td>
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<td>Town Clerk (Town Clerk)</td>
<td>470,972</td>
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<td>12,350</td>
<td>1,400</td>
<td>2,500</td>
<td>564,494</td>
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<td>Planning and Community Department (Planning &amp; Com. Dev. Dir.)</td>
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<td>59,500</td>
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<td>25,125</td>
<td>252,029</td>
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<td>2,477,520</td>
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<td>Health Department (Health Director)</td>
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<td>4,120</td>
<td>38,133</td>
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<td>Veterans Services (Veterans Services Director)</td>
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<td>3,086</td>
<td>650</td>
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<td>525</td>
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<td>Council on Aging (Council on Aging Director)</td>
<td>615,748</td>
<td>57,799</td>
<td>19,815</td>
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<td>103,703</td>
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<td>Human Relations/Youth Resources (Human Relations Dir.)</td>
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<td>School Department (School Committee)</td>
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<td>461,363</td>
<td>5,125,928</td>
<td>1,475,365</td>
<td>136,643,820</td>
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</tbody>
</table>

**DEBT SERVICE**
- Debt Service (Director of Finance) | 10,404,421 | 10,404,421 |
- Total Debt Service: | 10,404,421 | 10,404,421 |

**EMPLOYEE BENEFITS**
- Contributory Pensions Contribution (Director of Finance) | 14,442,334 |
- Non-Contributory Pensions Contribution (Director of Finance) | 170,000 |
- Group Health Insurance (Human Resources Director) | 22,129,741 |
- Health Reimbursement Account (HRA) (Human Resources Director) | 250,000 |
- Retiree Group Health Insurance - OPEB's (Director of Finance) | 1,548,435 |
- Employee Assistance Program (Human Resources Director) | 30,000 |
- Group Life Insurance (Human Resources Director) | 130,000 |
- Disability Insurance | 16,000 |
- Workers' Compensation (Human Resources Director) | 1,548,435 |
- Public Safety IOD Medical Expenses (Human Resources Director) | 300,000 |
- Unemployment Insurance (Human Resources Director) | 350,000 |
- Ch. 41, Sec. 100B Medical Benefits (Town Counsel) | 30,000 |
- Medicare Payroll Tax (Director of Finance) | 1,660,000 |
- Total Employee Benefits: | 42,304,511 | 42,304,511 |

**GENERAL / UNCLASSIFIED**
- Reserve Fund (*) (Chair, Advisory Committee) | 1,877,151 |
- Liability/Catastrophe Fund (Director of Finance) | 141,959 |
- Housing Trust Fund (Planning & Community Development Dir.) | 355,264 |
- General Insurance (Town Administrator) | 275,000 |
- Audit/Professional Services (Director of Finance) | 130,000 |
- Contingency (Town Administrator) | 15,000 |
- Out of State Travel (*) (Town Administrator) | 3,000 |
- Printing of Warrants (Town Administrator) | 10,000 |
- MMA Dues (Town Administrator) | 12,419 |
- Town Salary Reserve (*) (Director of Finance) | 1,175,000 |
- Personnel Services Reserve (*) (Director of Finance) | 715,000 |
- Total General / Unclassified: | 1,890,000 | 418,000 | 10,000 | 2,401,794 |

**TOTAL APPROPRIATIONS**
45,861,258 | 8,372,745 | 1,902,261 | 2,863,157 | 5,125,928 | 1,475,365 | 20,000 | 412,555 | 10,404,421 | 42,304,511 | 194,072,545 |

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.
ARTICLE 9

Amendment offered by Martin Rosenthal, TMM-9

Motion to amend Special Appropriation #41 (Street Rehabilitation) to add another sentence after its current proposed ending (“traffic patterns or to pavement markings.”):

$12,000 of this shall be expended under the direction of the Commissioner of Public Works, with the approval of the Transportation Board, for further traffic calming improvements on Stedman St., specifically for raised crosswalks or speed humps; and any additional traffic calming expenditures shall be expended under the direction of said Commissioner, with the approval of the Board of Selectmen, provided that the Commissioner and Transportation Board provide status reports to the Board of Selectmen on a semi-annual basis."

EXPLANATION

This amendment has a three-fold purpose. First, we have long favored both earmarking of traffic calming (“T/C”) appropriations and at least general monitoring by the Board of Selectmen over this activity, both of which serve to augment participation, prioritization, and influence by citizens over these projects which are important for neighborhoods and public safety, especially for children and seniors. Since receiving the Combined Report, we have inquired why there is absolutely no T/C appropriation proposed for next year, which by its absence defeats part of this approach. This has happened before, and we reacted similarly, restoring an earmarked line item.

Second, as for this year’s proposed, apparent zero-funding, Townhall officials have been helpfully responsive on short notice, saying essentially and inter alia:

[T]he only project that ... [we] will be able to study and have ready for construction this upcoming fiscal year is Runkle School ... [for which] funding is available through the school construction budget ... . Since we will not have any other plans created and ready for construction DPW thought it fair ... "due to constraints" ... to allocate that funding to other CIP items. ... There is currently $77k in the FY 2010 Traffic Calming CIP budget line item allocated to Pond Ave. & High St. ...

However, this Amendment will not impede any other CIP items, but merely makes more specific some funding within the unchanged Street Rehabilitation budget. More importantly, will there be any new requests, and/or any pending ones that can be

1 Cf., also the asserted rationale, Combined Report, p. 57; and Capital Improvement Plan, # 21. The latter shows earmarked funds last year and all later years –but zero for FY-12. Analogous to what some of us ask every Passover, “why is this next year different from all other years” – for safety improvements?
accelerated? Since we are thus far neither convinced otherwise nor adding any negative budgetary impact, the issue is merely priority and focus.

For some examples, a Status Report by the Transportation Department dated May 11 says, *inter alia*:

*Heath School:* ... Issues brought up initially may need to be revisited in future.

*Beaver Country Day:* ... preliminary ... needs assessment was completed in 2005. Among the DPW recommendations being considered are the following: ...

*South Brookline: Traffic & Pedestrian Safety Evaluations:* ... A series of short-term and long-term improvement alternatives were identified at each location. DPW is seeking the commitment of area developers whose proposed projects would impact the locations to fund and implement many of the short-term improvements. Action on long-term recommendations will be contingent on cooperation of Mass. Department of Conservation and Recreation (DCR) and significant state funding.

As one other specific, “concrete” example, T/C decisions for STEDMAN St. in 2009 slipped through the cracks of citizen input procedures. (*Cf.*, our proposed Amendment to article 19.) After recent inquiries to Transportation officials – who have otherwise and often made exemplary outreach to citizens – it appears that neither petitioners, local TMM’s, abutters, nor Devotion PTO leaders were apprised of either the proposed plan or its imminent approval in December, 2009. Many were surprised and disappointed when the otherwise welcome 2010 improvements lacked the requested speed bumps – and have conveyed that sentiment to the Transportation Board through the mover of this Amendment, hoping the Board will replace the “neck-downs” with speed bumps (as was done on Welland Rd. after the abject failure of the former and a neighborhood input).

Third, the second half of this proposal (“and any additional traffic calming expenditures ...”) is intended as both (1) leeway and encouragement to pursue any such additional needs that can arise next year, and (2) the language we have gotten Town Meeting to add in the last few years’ budgets – to keep the selectmen involved in some oversight and leadership role. At a minimum, it should be retained perennially.
ARTICLE 10

TENTH ARTICLE

To see if the Town will amend Article 5.6 of the Town's By-laws, entitled Preservation Commission & Historic Districts By-law, in the following manner:

By deleting Section 5.6.3. (f) and substituting new sections 3 (f) and 3 (g) therefore:

"(f) Lawrence Local Historic District

There is hereby established an Historic District, to be entitled the "Lawrence Historic District", the boundaries of which shall be shown on the map entitled "Lawrence Historic District", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

(g) Other Historic Districts

Other Historic Districts within the Town may be established from time to time in accordance with the procedures set forth in Chapter 40C of the Massachusetts General Laws, as amended from time to time."

or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

At a special meeting on December 15, 2010, the Preservation Commission received a petition signed by a large group of neighbors, who live within an area of Kent Street, Francis Street, Newell Road, Toxteth Street, Perry Street, Harrison Street, Kent Square and part of Aspinwall Avenue, requesting that a new local historic district be established for their neighborhood. The Commission voted to instruct the Commission’s staff to work with a neighbors and a consultant to prepare a preliminary study report as required by M.G.L. Chapter 40C and to consider appropriate boundaries for such a local historic district.

A preliminary study report was prepared by consultant Tim Orwig which describes the historical, architectural, and cultural significance of the residential neighborhood that includes parts of Kent Square, Kent Street, Francis Street, and Toxteth Street, Aspinwall Avenue on one side; all of Newell Road and Harrison Street.

Based on the conclusions in the report, the Brookline Preservation Commission voted at its January 11, 2011 meeting to accept the preliminary study report for submission to the Massachusetts Historical Commission and the Brookline Planning Board as required by M. G. L. Chapter 40C.
The Preservation Commission, at its March 8th meeting, voted to submit a warrant article to Town Meeting with a slight modification (based on architectural considerations) to the boundaries of the district in the preliminary study report.

There will be a Public Hearing on the matter on March 21, 2011, as per M.G.L. Chapter 40C, after which time the final study report will be completed and reviewed for acceptance.

Under Article 5.6, Preservation Commission and Historic Districts By-law of the Town By-laws, any proposed local historic district must be approved by a 2/3 vote of Town Meeting. There are currently five local historic districts in Brookline: Cottage Farm, established in 1979; Pill Hill, established in 1983; Graffam-McKay established in 2004; Harvard Avenue established in 2005; and Chestnut Hill North established in 2005.
Report of the Preservation Commission

At a special meeting on December 15, 2010, the Preservation Commission received a petition signed by a large group of neighbors, who live within an area of Kent Street, Francis Street, Newell Road, Toxteth Street, Perry Street, Harrison Street, Kent Square and part of Aspinwall Avenue, requesting that a new local historic district be established for their neighborhood. The Commission voted to instruct the Commission’s staff to work with a neighbors and a consultant to prepare a preliminary study report as required by M.G.L. Chapter 40C and to consider appropriate boundaries for such a local historic district.

A preliminary study report was prepared by consultant Tim Orwig which describes the historical, architectural, and cultural significance of the residential neighborhood that includes parts of Kent Square, Kent Street, Francis Street, and Toxteth Street, Aspinwall Avenue on one side; all of Newell Road and Harrison Street. The proposed district includes six properties listed in the Longwood National Register District. This area represents the development of Brookline from the late 19th century, with the variety of Queen Anne, Colonial Revival and Shingle style houses, to the mid-20th century and Tudor and Spanish Revival residences.

Based on the conclusions in the report, the Brookline Preservation Commission voted at its January 11, 2011 meeting to accept the preliminary study report for submission to the Massachusetts Historical Commission and the Brookline Planning Board as required by M. G. L. Chapter 40C.

The Preservation Commission voted at its March 8th meeting to submit a warrant article to Town Meeting with a slight modification to the boundaries of the district (taking out post WWII apartments along Kent Street and Kent Square based on architectural considerations) in the preliminary study report.

At the Public Hearing held on Monday, March 21, 2011, to satisfy the requirements of Chapter 40C, the Commission heard comments from the public regarding the establishment of the historic district and the boundaries. Neighborhood advocates of the proposed district did not feel that there was adequate support for the parts lower section of the proposed area at this time. They suggested removing a large section of the proposed district south of Francis Street. After additional discussion, a request was made by property owners on Kent Square and Francis Street to be included in the district. In an unanimous vote, the Commission modified the initially proposed boundaries of the area to be considered for Local Historic District designation at Town Meeting. The new boundaries encompass a smaller area, including Kent Square, Newell Road and sections of Francis, Kent, and Harrison Streets (as shown on the revised map of March 24, 2011).

The Commission received notification from an owner on Harrison Street wishing to be removed from the district on the day of its April BPC meeting. Shortly afterwards, owners of two other houses on Harrison Street also requested to be removed from the district. The Commission will discuss and vote on a possible amendment to the boundary at its May 10th, 2011 meeting.
Under Article 5.6, Preservation Commission and Historic Districts By-law of the Town By-laws, any proposed local historic district must be approved by a 2/3 vote of Town Meeting. There are currently five local historic districts in Brookline: Cottage Farm, established in 1979; Pill Hill, established in 1983; Graffam-McKay established in 2004; Harvard Avenue established in 2005; and Chestnut Hill North established in 2005.

SELECTMEN’S RECOMMENDATION

The Board of Selectmen will offer their Recommendation in a Supplemental Report to be issued prior to the commencement of Town Meeting.

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Article 10, which has been submitted by the Preservation Commission, would create a Lawrence Local Historic District. The proposed boundaries of the local historic district have changed since the warrant was filed initially. Properties on Aspinwall Avenue, Harrison Street, and Toxteth Street are no longer included in the proposed district. The properties currently in the proposed district are primarily on Kent Square, Francis Street (between Kent Street and Harrison Street), Newell Road, and Kent Street (between Francis Street and Longwood Avenue).

Brookline currently has five local historic districts, established in the following order: Cottage Farm (1979), Pill Hill (1983), Graffam-McKay (2004), Chestnut Hill North (2005), and Harvard Avenue (2005). Each was created under the terms of MGL Chapter 40C. A two-thirds vote of Town Meeting is required to establish a local historic district.

Once a local historic district is established, any significant alterations to the exterior of a structure located in the district visible from a public way, park, or body of water are subject to the review of the Preservation Commission, which serves as the Town’s Historic District Commission. The Preservation Commission has published a booklet, Design Guidelines for Local Historic Districts, that explains the design review process.

Residents of the area near the Lawrence School began to explore the possibility of establishing a local historic district in 2010, when they became concerned about the potential for demolition of houses on large lots that could be subdivided or otherwise used for higher-density development. The specific impetus for creating a local district was the July 2010 notification of the proposed demolition of the house at 240 Kent Street. (The Preservation Commission imposed a one-year demolition delay in August 2010.) Neighbors were more generally concerned that the area’s proximity to the Longwood Medical Area would create pressure for additional development. They also were aware of proposed demolitions and infill development (e.g., 70 Sewall Avenue) in nearby areas. The factors that motivated residents to consider establishing a local historic district are
similar to those that led to the creation of the existing local historic districts, most of which were established in response to a specific demolition or development proposal and general concern about other changes to the character of a neighborhood.

On December 15, 2010, residents of many streets near the Lawrence School, including Perry, Toxteth, Francis, Kent, Aspinwall, Kent Square, and Harrison, presented a petition to the Preservation Commission calling for the establishment of a local historic district. The Preservation Commission voted to accept the petition and instructed the Commission’s staff to work with neighbors and a consultant (Dr. Timothy Orwig) to prepare a Preliminary Study Report on the Establishment of the Lawrence Local Historic District. With the assistance of the Preservation Commission staff, Dr. Orwig drafted the report and also led a guided walk through the area on January 10, 2011.

The Preservation Commission voted to accept the Preliminary Study Report on January 11, 2011, and initiated the process for establishing a local historic district. All property owners within the boundaries of the proposed district were mailed the agenda for the meeting one week in advance.

The Commission sponsored a February 15, informational meeting at the Lawrence School. The agenda was mailed to property owners a Town Meeting Members in Precincts 1, 3, 4, and 7 on February 1. The revised agenda was mailed on February 3.

On March 21, 2011, the Preservation Commission held a public hearing based on the Preliminary Study Report. Notices of the hearing and copies of Design Guidelines for Local Historic Districts were mailed to all property owners in the proposed district on March 7. After listening to comments and discussion from residents at the hearing, the Preservation Commission voted to reduce the size of the proposed district.

In addition to holding neighborhood meetings at various stages in the process, a group of residents in the proposed district sent an April 4, 2011, mailing to all property owners in the proposed district’s boundaries as voted by the Preservation Commission on March 21.

DISCUSSION:
In deciding whether to establish local historic districts, Town Meeting has generally taken into account whether the proposed district has historical significance, the level of support of the property owners in the proposed district, and whether a process has been followed that informs all property owners of the requirements associated with a local historic district. In the case of the proposed Lawrence Local Historic District, the Advisory Committee also considered the budgetary impact of a new local historic district and amended the boundaries of the proposed district.

The Historical Significance of the Proposed District

The Preliminary Study Report concludes that the proposed local historic district “is quite comparable to a substantial portion of the Pill Hill LHD (the entire length [of] Walnut St. from High to Cypress Streets) and to many LHDs in other towns.” The report finds that “the ultimate importance of the Lawrence LHD to Brookline as a whole lies in its
relatively intact historical fabric of post-Civil War development, and its continuity with the abutting Emerald Necklace and Longwood NR [National Register] districts.”

Much of the proposal Lawrence Local Historic District consists of land once owned by the Aspinwall family that was subdivided and developed in the late 19th century. In addition to designing the adjacent portion of the Emerald Necklace, Frederick Law Olmsted offered an unexecuted plan for the street grid in the neighborhood that nonetheless influenced the creation of Kent Square, the route of Kent Street, and the placement of other streets in the area. The houses built in the area include prominent examples of several architectural styles. They represent successive waves of residential development in Brookline. Several were designed by well-known architects.

The proposed Lawrence Local Historic District essentially consists of four areas, each of which has their own historical character and significance: (1) the area along Kent Street, which includes substantial Victorian mansions on large lots; (2) the Newell Road area of Spanish Revival and Tudor Revival houses from the 1920s; (3) Francis Street near the Lawrence School, a block of noteworthy Queen Anne Victorian houses; and (4) the Kent Square area with its more modest but architecturally cohesive brick, shingle, and clapboard Victorians built in the 1880s and 1890s. Properties on the east side of Kent Street between Francis Street and Longwood Avenue are included in the Longwood National Register District.

Support for the Proposed Local Historic District

The Preservation Commission and Town Meeting have voted to establish previous local historic districts when at least 80% of the residents have supported establishment of the district. This level of support is not mandated by state law or Town by-law, but it has become the “ballpark” figure used as a proxy for overwhelming neighborhood support.

Town Meeting definitely has not required unanimous support from the residents of previously established local historic districts and has voted to establish local historic districts even if some residents of the would-be district have publicly opposed establishment of a district. In the Graffam-McKay district, for example, four out of 90 property owners were opposed to its establishment.

The Advisory Committee received a spreadsheet provided by residents that listed the positions of property owners as to whether a local historic district should be established. In the proposed district, as amended by the Advisory Committee (see below), information provided by residents indicates that of 40 property owners, 34 (85%) support, one opposes, three are neutral, and two have not responded.

There was less support for being in a local historic district in several areas that were originally included in the district’s boundaries (e.g., Harrison Street and Toxteth Street). Redrawing the boundaries of the district has limited it to areas in which there is strong support. The current proposed district also has coherent architectural and historical boundaries.
Residents of the proposed district who attended a hearing of the Advisory Committee’s Ad Hoc Subcommittee on Article 10 were reminded by subcommittee members that establishment of a local historic district is not the only way to limit or control development. Residents could, for example, attempt to downzone the area or they could agree to create preservation easements or other recorded covenants binding their properties. Residents at the hearing argued that the former would be inadequate and that the latter would be extremely difficult to coordinate in an established neighborhood, as opposed to a newly created community in which all owners would accept a restrictive covenant when they purchased their houses. Residents at the hearing expressed a strong desire for a local historic district as the strongest possible approach to restricting development, maintaining the current character of the neighborhood, and preserving green space.

Potential Need for More Preservation Staff

The increase in the number of local historic districts in Brookline has raised the question of whether the Preservation Commission and the preservation planners who serve as its staff will have enough time to handle the increased workload associated with another new local historic district. Some residents already feel that the staff is overburdened and that the number of full-time equivalents should be increased. It is important to bear in mind, however, that local historic districts are not the only source of the preservation staff’s workload. Some staff time is also devoted to the increasing number of proposed building demolitions and potential demolition delays. In addition, some local historic districts generate more cases for review than others. The number of properties in the proposed Lawrence district is relatively small, so it may not add much to the workload of the preservation staff.

The Advisory Committee did not take up the issue of recommending funding for additional preservation staff in the Department of Planning and Community Development. That question clearly would be beyond the scope of Article 10. Given that the Advisory Committee already has discussed the question of staffing within the Department and the town administrator has indicated that he will undertake a broad review of this issue, it might be appropriate to revisit this issue later this fiscal year or during the development of the financial plan and budget for fiscal year 2013.

Amendment of Proposed Boundaries

The Advisory Committee to amend the boundaries of the proposed Lawrence Local Historic District by removing three properties: the two-family houses at 43/45 Harrison Street and 47/49 Harrison Street, and the two-unit condominium at 55 Harrison Street. This change is indicated on the attached map. This vote reflected four factors. First, the owners of those properties no longer wish to be included in the local historic district. The owners of 55 Harrison Street attended the Ad Hoc Subcommittee hearing and explained that they would have wanted their property to be included, but they reconsidered when all the houses on the other side of Harrison Street were removed from the proposed local historic district. They stated that the owners of 43/45 Harrison Street also did not want to be included in the district. The son of the owners of 47/49 Harrison Street attended the
hearing and expressed concern that his parents would have to pay more for repairs and renovations if they had to comply with enhanced requirements attendant to being in a local historic district. Second, the three properties differ architecturally from most of the other buildings in the proposed local historic district. The two-family houses at 43/45 and 47/49 Harrison Street were built in the 1920s and are thus much newer than the nearby Victorian houses on Kent Square and Francis Street. The house at 55 Harrison Street was built at about the same time as the nearby Victorian houses, but differs in style. Third, the three properties were the only properties on Harrison Street in the proposed local historic district, and the owners made a persuasive case against including properties on one side of the street while excluding similar ones on the other side. Finally, because the three properties are on the edge of the proposed local historic district, removing them does not disrupt the geographical contiguity of the remaining properties.

The Advisory Committee recognized that there are arguments for including the properties on Harrison Street in the proposed local historic district, even if the owners object. In general, a street is a more clearly defined boundary of a local historic district than a property line. It is also possible, although unlikely, that alterations to the properties on Harrison Street could affect the nearby properties that would remain in the proposed district. Nevertheless, the combination of the four factors enumerated above made the case for exclusion the Harrison Street properties persuasive. In addition, it might be regarded as inequitable to include those properties after other properties originally included in the proposed district were removed at the request of their owners.

RECOMMENDATION:
By a vote of 18-0-2, the Advisory Committee recommends FAVORABLE ACTION on Article 10, as amended to remove the properties at 43/45 Harrison Street, 47/49 Harrison Street, and 55 Harrison Street from the proposed local historic district. The proposed boundaries are indicated on the attached map.

VOTED: That the Town amend Article 5.6 of the Town’s By-laws, entitled Preservation Commission & Historic Districts By-law, in the following manner:

By deleting Section 5.6.3. (f) and substituting new sections 3 (f) and 3 (g) therefore:

“(f) Lawrence Local Historic District

There is hereby established an Historic District, to be entitled the “Lawrence Historic District”, the boundaries of which shall be shown on the map entitled “Lawrence Historic District”, a copy of which is on file with the Town Clerk’s office, which accompanies and is hereby declared to be part of this By-law.

(g) Other Historic Districts

Other Historic Districts within the Town may be established from time to time in accordance with the procedures set forth in Chapter 40C of the Massachusetts General Laws, as amended from time to time.”
Advisory Committee Recommendation for Lawrence Local Historic District, voted April 28, 2011
ARTICLE 10

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Residents in the proposed Lawrence Local Historic District (LHD) became alarmed by proposals to demolish historically significant homes in their neighborhood to be replaced with higher-density multi-family development. They petitioned the Preservation Commission to establish a local historic district to protect their neighborhood. Neighbors were also concerned that additional housing units would overburden the school district.

Preservation Commission staff worked with an outside consultant who prepared a study report indicating that there were sufficient historic structures to support an LHD designation. Preliminary boundaries were proposed and all property owners within the boundary were notified.

After many neighborhood meetings and a Public Hearing on March 21, 2011, the Preservation Commission voted on May 10, 2011 to establish the Lawrence Local Historic District with the boundaries as indicated on the map in this supplemental report. More than 80% of residents within the district have indicated support for the LHD. The Advisory Committee and Planning Board have also voted to support the Preservation Commission recommendation.

The Lawrence LHD would be the sixth Local Historic District in Brookline: in order of approval, Cottage Farm, Pill Hill, Graffam-McKay, Harvard Avenue, and Chestnut Hill North are the five existing LHD’s.

The Board of Selectmen supports the establishment of the Lawrence Local Historic District and recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 17, 2011, on the following vote, which is identical to the vote offered by the Advisory Committee on page 10-9 of the Combined Reports:

VOTED: That the Town amend Article 5.6 of the Town’s By-laws, entitled Preservation Commission & Historic Districts By-law, in the following manner:

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Report of the Preservation Commission

At a special meeting on December 15, 2010, the Preservation Commission received a petition signed by a large group of neighbors, who live within an area of Kent Street, Francis Street, Newell Road, Toxteth Street, Perry Street, Harrison Street, Kent Square and part of Aspinwall Avenue, requesting that a new local historic district be established for their neighborhood. The Commission voted to instruct the Commission’s staff to work with a neighbors and a consultant to prepare a preliminary study report as required by M.G.L. Chapter 40C and to consider appropriate boundaries for such a local historic district.

A preliminary study report was prepared by consultant Tim Orwig which describes the historical, architectural, and cultural significance of the residential neighborhood that includes parts of Kent Square, Kent Street, Francis Street, and Toxteth Street, Aspinwall Avenue on one side; all of Newell Road and Harrison Street. The proposed district includes six properties listed in the Longwood National Register District. This area represents the development of Brookline from the late 19th century, with the variety of Queen Anne, Colonial Revival and Shingle style houses, to the mid-20th century and Tudor and Spanish Revival residences.

Based on the conclusions in the report, the Brookline Preservation Commission voted at its January 11, 2011 meeting to accept the preliminary study report for submission to the Massachusetts Historical Commission and the Brookline Planning Board as required by M. G. L. Chapter 40C.

The Preservation Commission voted at its March 8th meeting to submit a warrant article to Town Meeting with a slight modification to the boundaries of the district (taking out post WWII apartments along Kent Street and Kent Square based on architectural considerations) in the preliminary study report.

At the Public Hearing held on Monday, March 21, 2011, to satisfy the requirements of Chapter 40C, the Commission heard comments from the public regarding the establishment of the historic district and the boundaries. Neighborhood advocates of the proposed district did not feel that there was adequate support for the parts lower section of the proposed area at this time. They suggested removing a large section of the proposed district south of Francis Street. After additional discussion, a request was made by property owners on Kent Square and Francis Street to be included in the district. In an unanimous vote, the Commission modified the initially proposed boundaries of the area to be considered for Local Historic District designation at Town Meeting. The new boundaries encompass a smaller area, including Kent Square, Newell Road and sections of Francis, Kent, and Harrison Streets (as shown on the revised map of March 24, 2011).

The Commission received notification from an owner on Harrison Street wishing to be removed from the district on the day of its April BPC meeting. Shortly afterwards,
owners of two other houses on Harrison Street also requested to be removed from the
district. The Commission voted at its May 10th meeting to remove the three on Harrison
Street houses (43-45 Harrison Street, 47-49 Harrison Street and 55 Harrison Street). See
attached map. These boundaries are the same as those recommended by the Advisory
Committee, the Board of Selectmen and the Planning Board.

Under Article 5.6, Preservation Commission and Historic Districts By-law of the Town
By-laws, any proposed local historic district must be approved by a 2/3 vote of Town
Meeting. There are currently five local historic districts in Brookline: Cottage Farm,
established in 1979; Pill Hill, established in 1983; Graffam-McKay established in 2004;
Harvard Avenue established in 2005; and Chestnut Hill North established in 2005.
ARTICLE 11

ELEVENTH ARTICLE
To see if the Town will mend the General By-Laws by adding a Section 7.7.7 to Article 7.7 Removal of Snow and Ice from Sidewalks as follows,

Section 7.7.7 Town Responsibility for Plowing and Sanding Sidewalks in Residential Districts.

Notwithstanding the provision of 7.7.1 to 7.7.6 inclusive, the Town shall be responsible for plowing and sanding sidewalks in residential districts.

Or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
What prompted the reinstatement of the Town being responsible for the plowing and sanding of sidewalks in residential districts is the following:

The sidewalks are public property. Shoveling public sidewalks should not be the burden of homeowners. There are cases of homeowners having heart attacks shoveling snow. Homeowners do not have the capabilities nor the equipment to remove ice or hard packed snow. To prevent a slip and fall accident on icy sidewalks, people may have to walk on the street, which is dangerous, to go shopping, deep a doctors appointment, or for any other reasons. Many homeowners cannot afford to pay for ice and snow removal on top of their high taxes. Brookline people deserve the safety and quality of life, to be able to take a walk on sidewalks, especially the elderly, handicapped and children. This should be a top priority for the protection and safety of the Town’s people. As we understand, Brookline is the second highest taxed town in the state.

Under proper business leadership, this could have been done, and can be done without any increase in taxes.

SELECTMEN’S RECOMMENDATION

Article 11 is a petitioned article that would require the DPW to plow and sand all sidewalks in all residential districts throughout town. According to his explanation, the petitioner believes that the burden of shoveling public sidewalks should not fall on the homeowners; since they are public property, they should be shoveled by the Town.

The Department of Public Works (DPW) currently plows and sands approximately 43 miles of public sidewalks during the winter months. The areas DPW plows are the result of a Moderator’s Snow Committee that concluded its work in 1979. This Committee was
Other Historic Districts within the Town may be established from time to time in accordance with the procedures set forth in Chapter 40C of the Massachusetts General Laws, as amended from time to time.”
Report of the Preservation Commission

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formed after the Blizzard of 1978 and its charge was to study the snow procedures and equipment needs of the Department. At that time, DPW was plowing approximately 75 miles of the 100 miles of sidewalk in the community. There were 10 sidewalk tractor routes and at the time the Department had approximately 14 tractors.

The Snow Committee reviewed all aspects of the Department’s snow procedures and made a number of recommendations. The sidewalk plowing issue was reviewed extensively. The number of miles was reduced to 43. The Committee mapped sidewalk plowing routes with schools, public transportation, elderly, and places of worship taking priority. School routes took into consideration the number of crossings for children and the safest possible route to school. In some areas sidewalks on both sides of the street were recommended. The number of routes was reduced from 10 to 5 and there was a recommendation to purchase more reliable and efficient equipment.

This same article was previously submitted twice, the first time as Article 19 of the 2007 Annual Town Meeting and the second as Article 23 of the 2008 Annual Town Meeting. At the 2007 Annual, Town Meeting voted to establish a Moderator’s Committee, which completed its work in December, 2007 and submitted its recommendations to the Selectmen on January 29, 2008. At the 2008 Annual, Town Meeting voted No Action on Article 23.

An important fact to highlight is that even if this article were approved and funding was made available, not every resident would be provided this service. This is due to the fact that of the 147 miles of sidewalk that are paved with either bituminous concrete (asphalt) or concrete, only 97 miles has been determined to be plowable with current snow plowing equipment operated by the Department of Public Works (of which 43 miles of high priority sidewalk consisting of routes leading to and from schools and commercial areas are cleared). This would certainly lead to an equity issue: those with sidewalks less than 5 feet wide would not be plowed (1/3’s), yet those with sidewalks at least 5 feet wide would (2/3’s).

The estimated increase in cost associated with plowing all of the sidewalks in the community is approximately $1.35 million, an amount that includes a substantial capital investment and the hiring of additional seasonal employees. While the Town understands and appreciates the petitioner’s concerns, the Town cannot afford to sand and plow the 97 miles of plowable sidewalks in town. Therefore, the Selectmen recommend NO ACTION, by a vote of 5-0 taken on April 12, 2011, on Article 11.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:

Article 11 seeks to amend our by-laws to make it the Town’s responsibility to plow and sand sidewalks in residential districts. This article was last considered at the 2007 Annual Town Meeting. At that time, the subject was referred to a Moderator’s
committee. The following is a summary of the committee’s recommendations published in fall 2007:

1. **DPW Policies and Budget**
   DPW should treat streets and sidewalks equally. The DPW capital budget should be increased $125,000 annually to replace the three 1994 Bombardier sidewalk tractors. After 3 years, this should be followed by funds to maintain the existing tractors. The DPW's budget should be increased by a sum each year to maintain adequate personnel and equipment to maintain sidewalk snow removal.

2. **Resident involvement and enforcement of existing regulations**
   The Town should dramatically increase resident involvement in maintaining clear sidewalks, including increased enforcement of existing regulations, and should advertise the need for resident involvement in reporting problems whether for private or town-owned properties.

3. **Custodians should clear school property**
   Building custodians should assist in maintaining the sidewalks at their buildings, including schools. With minimal effort, the custodians could clear snow from doorways, steps, and handicapped areas. Call-backs to DPW by custodians of public buildings should be eliminated.

4. **Use of seasonal employees for snow removal**
   The town should make procedural, contractual, and budget changes to allow for seasonal employees to assist with sidewalk snow removal. An annual budget of $35,000 should be provided to maintain a pool of seasonal employees responsible for sidewalk snow removal.

5. **Expansion and coordination of existing programs**
   Public participation should be solicited with expansion of the existing programs such as the recreation department’s SOS program. There should be improved coordination with the schools in order to take advantage of the Community Service program at the high school and the list of paying jobs. An effort should be made to coordinate with the probation department at the Brookline district court with regard to their community service program.

The town has 154 miles of sidewalk. 147 miles are paved with asphalt or concrete; of those, 50 miles either have obstructions or are not wide enough for a sidewalk plow (5 feet). That leaves 97 miles of plowable sidewalks. Right now the Town clears 43 miles of “high priority” sidewalks, including routes leading to and from schools and commercial areas (Coolidge Corner, Washington Sq). Each route is plowed, sanded, salted. The routes were revamped after the blizzard of ’78, and were looked at again in 2007.

There are currently 3 sidewalk plow routes in town; two tractors are assigned to each route. Sidewalk clearing starts at the first plowable point of a storm. The first line of defense is sanding and salting on the streets. Street plowing begins at 4” of snow—sidewalk tractors are first deployed at this point.
May 24, 2011 Annual Town Meeting
11-4

The Town owns 9 tractors, two more than in 2007. One of them was acquired as part of the 2008 override. The inventory includes equipment purchased in 1994 (3), 1999 (2), 2003, 2004, 2008, and 2010. There is a mix of various models, some of which support v-blades, sweepers, blowers, etc, which can be used all year. Out of the 9, the town deploys 6 and keeps the 3 oldest for spares. At an estimated cost of $130,000 per plow, with a life expectancy of 15 years, the town accrues approximately $52,000 in capital costs annually to keep 6 active plows.

Today, the Town spends about $90,000 for labor to plow 43 sidewalk miles using 6 tractors, or 7.2 miles per tractor. In an average year the DPW budgets for 12 plowable storms; each storm requires 30 hours of working time for the sidewalk plow operators, including 14 hours during the storm and 16 hours post storm for cleanup. That’s 2,160 person hours.

The current average annual cost to plow 43 sidewalk miles is $142,270, inclusive of capital and labor.

DISCUSSION:
The petitioner seeks to have the Town take responsibility for clearing and sanding residential sidewalks. Because sidewalks are public property, the petitioner believes the town should be responsible for clearing them of snow and ice. While the town has only cleared a portion of sidewalks since 1978, it had historically been the town’s practice to clear all plowable sidewalks (97 miles). The petitioner sees sidewalk clearing as a critical element of public safety. He believes it is particularly onerous to expect the elderly to shovel sidewalks. Given that Brookline residents pay significantly high taxes, he believes residents expect this as a basic service.

To implement Article 11, the DPW would need a total of 13 or 14 tractors (5 more). At $130,000 per unit, that’s $650,000; the Town typically uses a lease/purchase to spread the cost over 3 years, making the incremental capital outlay $217,000 per year over the next three years if the Town were to ramp up immediately. On an annualized basis, the incremental capital cost would be an increase of $70,000 per year ($52,000 to $121,333); this would represent replacing approximately one tractor per year with a 15 year life expectancy.

In terms of labor, the DPW Commissioner believes it’s unwise to hire more FTE’s just for the winter, so the department would recommend use of seasonal laborers, if this article was approved. At a pay rate of $13/hr (about the lowest employee rate) plus overtime during storms, the total incremental labor cost would be $93,440. Some of this time would be dedicated to training on tractor operation. Some Committee members were skeptical that qualified equipment operators could be had at $13/hr.

The total incremental cost for capital and labor to implement Article 11 would be $162,773 (capital plus labor on an annualized basis); near term capital expenses could be higher depending on how quickly the town ramps up capability. To ramp up within one year would include a front-loaded capital outlay of $217,000/year for next three years, plus the $93,440 in labor costs; after 3 years, the capital would reduce to a maintenance level of $70,000/year.
One of the recommendations of the Moderator’s Committee on Snow Removal was to make the sidewalks and streets the same priority. To this end, the department begins plowing sidewalks as soon as it starts plowing streets. The department also has crews manually clearing schools, ramps, and crosswalks at the end of the storm. Another recommendation was to replace the bombardier sidewalk tractors. The DPW purchased one in 2008 and another in 2010, but still has the other 3 older models. There are now 5 units scheduled in the CIP over 2013 and 2014.

A third recommendation was to have residents help, and to step up an enforcement policy. Since 2007, the Health, Building, Police, and DPW have shared enforcement duties according to different zones in town. This past year the DPW issued over 150 citations, the Health Department issued over 100, the Police and Building issued fewer than 25 each. The Commissioner indicated that the Police would have more credibility with the public than DPW workers in the role of issuing citations.

Some members of the Advisory Committee expressed concerns over damage caused by the sidewalk plows. Other members believed that it would create inequities to plow only certain sidewalks and not others; while the town currently plows major routes for schools and commercial areas, the dichotomy would be worsened by an expanded program. They also felt that it was important to note that the 97 miles of sidewalk represents only one side of each street, so the unplowed side would have to be cleared by residents. It is also possible that the language of the article and the Town’s expanded responsibility could increase liability from personal injuries. One other concern with the language of the article is that it doesn’t distinguish between plowable and unplowable sidewalks, which presents a technical problem. Given the budget constraints facing the Town, the Advisory Committee believes it is inadvisable to expand a program such as sidewalk clearing.

While supporting technical changes to the article, an almost unanimous Advisory Committee recommends no action on article 11.

RECOMMENDATION:
By a vote of 13 to 6 with no abstentions, the Advisory Committee recommended amending the language of Article 11 by inserting the word *plowable* after the words “plowing and sanding” as follows:

Section 7.7.7 Town Responsibility for Plowing and Sanding Sidewalks in Residential Districts

> Notwithstanding the provision of 7.7.1 to 7.7.6 inclusive, the Town shall be responsible for plowing and sanding *plowable* sidewalks in residential districts

However, by a vote of 0 to 16 with 3 abstentions, the Advisory Committee recommends NO ACTION on Warrant Article 11, even as amended.

XXX
ARTICLE 12

TWELFTH ARTICLE
To see if the Town will amend the Zoning By-law and Zoning Map as follows:

1. By adopting the following map change creating a Cleveland Circle Hotel Overlay District.

2. By amending Section 3.01.2.a.2 to add the following reference at the end
   “Cleveland Circle (Refer to §5.06, Special District Regulations)”

3. By amending Section 3.01.4 by adding a new item at the end:
   “c. Cleveland Circle Hotel Overlay District”

4. By amending Section 4.07 - Table of Use Regulations - to allow limited service
   hotels, certain retail, and a restaurant by Special Permit in the Cleveland Circle
   Hotel Overlay District, as follows:

   a. Use 8A, Limited Service Hotel – Adding “*” after “No” in column
      “L” and amending the first footnote as follows: “*Permitted by Special
      permit in M-2.5 and in the Cleveland Circle Hotel Overlay District.”
      and

   b. Use 34, Restaurant greater than 5,000 square feet - Adding “*” after
      “No” in column “L” and adding the following after the description of
      Use 34 in the Use Table “*Permitted by Special Permit in the
      Cleveland Circle Hotel Overlay District.”

5. By amending Section 5.01 - Table of Dimensional Requirements - by adding
   Footnote 19 after the words “L-0.5 & L-0.5 (CL) Districts”, which Footnote 19
   shall read as follows:

   “19. See Section 5.06 - Special District Regulations, subsections f.
   Cleveland Circle Local Business District L-0.5 (CL) and h. Cleveland Circle
   Hotel Overlay District.”

6. By amending Section 5.06.4.f - Cleveland Circle Local Business District L-0.5
   (CL) - by adding a new item at the end:

   “4) In any review of a project that is located across municipal boundaries, the
   project and improvements shall be reviewed as a single lot, without regard to
   municipal boundaries, in connection with parking requirements or setbacks.
   Additionally, any Design Review per Section 5.09 shall include review and
   approval of the entire length of the façade facing the MBTA property line as
   well as any lighting proposed along this length, irrespective of municipal
   boundaries. Such façade shall be designed and constructed with care and
   quality of finishes equivalent to the northern façade.”
7. By amending Section 5.06.4 - Special Districts - by adding a new item as follows:

“h. Cleveland Circle Hotel Overlay District

1) It has been determined through study of the Local Business District in Cleveland Circle that potential exists for appropriate, planned redevelopment of the western side of this Local Business District. It has further been determined that, due to the circulation and multiple transit systems in this area as well as the proximity of the municipal boundary with Boston that this is an appropriate district for development density consistent with transit oriented development schemes. For this reason, additional uses typical of transit oriented developments may be permitted under the criteria of this section, as long as such development is planned in a way consistent with other pedestrian-friendly commercial properties in Cleveland Circle.

2) Any applicant may seek relief under this Overlay District by Special Permit per Section 9.03 and Design Review by Section 5.09, provided it meets the following requirements within the Town of Brookline:

   a) It contains a minimum of 40 Limited Service Hotel guest rooms.

   b) The Floor Area Ratio of the proposed project shall be no less than 2.2 and no greater than 2.5.

3) For the purposes of this Overlay District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet under separate ownership and operation from a Limited Service Hotel may be located in the same building as the Limited Service Hotel without being considered as an accessory use, or as part of the Limited Service Hotel use.

4) Any application requesting relief under this Overlay District shall be subject to the following dimensional requirements, superseding any conflicting requirements in Article 5 of the Zoning Bylaw. Any other dimensional relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.

   a) Maximum Floor Area Ratio: There is a strong desire for pedestrian-friendly uses along Chestnut Hill Avenue in this Overlay District, which has a grade change of more than 8’ along this edge of the District. Therefore, with regards to calculating Gross Floor Area in this Overlay District, up to 10,000 square feet of area on the ground floor fronting Chestnut Hill Avenue may have finished floor to ceiling heights greater than 12’, but no greater than 18’, without requiring the Gross Floor Area to be calculated by multiplying this area by a factor greater than 1 where the floor to ceiling height exceeds 12’.
b) Setbacks and Build-to Lines:

1. Buildings shall not be greater than 15 feet nor less than 5 feet from the frontage of Chestnut Hill Avenue; and

2. Any portion of building within 50’ of the frontage of Chestnut Hill Avenue that is above three stories shall be set back not less than 5 feet from lower floors, along all facades. For the purposes of this Overlay District, “Story” shall be defined as that portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above, whether or not such space is enclosed; and

3. Buildings shall be set back not less than 5 feet from the MBTA right-of-way.

c) The maximum height permitted is 56 feet;

d) Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment shall not be located within 15’ of the MBTA property line.

e) A screen fence along the property line with the MBTA right-of-way which exceeds a height of seven feet may be allowed by Special Permit granted by the Board of Appeals.

5) Parking requirements for Special Permit applications utilizing this Overlay District shall be as follows, superseding any conflicting requirements under Article 6:

a) Minimum Parking ratios:
   1. Limited Service Hotel use: 0.5 parking spaces per hotel room
   2. Retail use: 0.75 parking spaces per 1,000 g.s.f. of floor area
   3. Restaurant use: 1 parking space per 1,000 g.s.f. of floor area
   4. Office/Medical office use: 1 parking space per 1,000 g.s.f. of floor area

b) Subject to the approval of the Brookline Director of Transportation and Engineering, the required off-street loading facilities under Section 6.06.6 may be limited to the provision of 2 loading bays.

c) Any other parking relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.

6) The following traffic mitigation measures shall be required, subject to the review and approval of the Brookline Director of Transportation and Engineering:
a) Vehicle ingress and egress:

1. Vehicle ingress and egress to and from Chestnut Hill Avenue shall be via no more than one curb cut two lanes in width, controlled by a traffic signal. Such traffic signal shall include demand-actuated technology such that the light phase for egress from the Overlay District will not be triggered when there is no demand.

2. A segregated parking facility containing not less than 60 vehicle parking spaces shall be provided for the exclusive use of the Limited Service Hotel guests, visitors and employees. Vehicle egress for all users of this segregated parking facility shall be via the one-way rear exit roadway easement to Beacon Street. Both signage and physical barriers shall prohibit any vehicles entering the Limited Service Hotel segregated parking facility from exiting that facility back onto Chestnut Hill Avenue. To the extent a parking area is established to be shared by multiple uses, hotel users (except for taxicab/shuttle service vehicles and deliveries) parked in the shared parking area shall be required to exit the one way rear exit roadway to Beacon Street and other users shall exit via Chestnut Hill Avenue.

3. Vehicle egress for all uses other than that of the Limited Service Hotel and for taxicab/shuttle service vehicles and deliveries shall be via the single Chestnut Hill Avenue curb cut. All vehicles exiting the site onto Chestnut Hill Avenue must be able to make either a left or a right turn. No right turn on a red light shall be permitted from the site onto Chestnut Hill Avenue.

4. Taxicab stand and taxi pickup and drop-off shall be provided in an adjacent area on both the Brookline and the Boston segments of the site.

b) Final traffic design and mitigation shall be required and include the potential impact of the redevelopment of any directly abutting parcels, regardless of municipal boundaries. Specifically, the traffic design and mitigation shall allow for no more than a total of 110,000 square feet of Limited Service Hotel use; 48,000 square feet of office or medical office; and 18,000 square feet of restaurant or retail use.

c) Pedestrian improvements shall include:
1. Improvements to two pedestrian crossings across Chestnut Hill Avenue, including at Cleveland Circle as well as the crossing aligned with vehicular turn-around at the MBTA station south of the MBTA right-of-way. A third pedestrian crossing shall be provided where the signal for the Chestnut Hill Avenue entrance will be located, near the Boston/Brookline boundary, if approved by the Brookline Director of Transportation and Engineering as well as Boston Transportation Department.

2. Sidewalk improvements on the western side of Chestnut Hill Avenue shall include a minimum 10’ wide sidewalk from the Brookline Boundary to the MBTA bridge and a replacement of sidewalk from the MBTA bridge to Clinton Road.

7) Noise. A required condition for any Special Permit under this Overlay shall be an enforceable agreement and/or condition to the Special Permit that requires the property owner to comply with the requirements any Noise By-law or ordinance of both Brookline and Boston, without regard to municipal boundaries.

Or act on anything relative thereto.
PETITIONER’S ARTICLE DESCRIPTION

This zoning amendment Article is being submitted by Town Meeting Members from Precincts 13 and 14, whose neighborhoods are situated near the subject site. The Article would authorize the mixed-use development of a limited service hotel, which may include also a restaurant, retail, medical and/or general offices at the property formerly operated as the Circle Cinema. This proposed amendment would create a Cleveland Circle Hotel Overlay District, with boundaries coterminous with the western portion of the Cleveland Circle Local Business District designated as district L-0.5 (CL). This amendment would retain all of the existing zoning requirements in place for the Cleveland Circle Local Business District, which is subject to further Special District Regulations under Section 5.06. The Cleveland Circle Hotel Overlay District then allows additional uses and density by Special Permit, provided that development meets certain threshold requirements, namely: (1) any such new development provides at least 40 hotel guest rooms in Brookline and, (2) a floor area ratio (FAR) of not less than 2.2 or more than 2.5 is to be built in Brookline.

L-0.5 (CL) District

The L-0.5 (CL) district straddles Chestnut Hill Avenue at the Brookline / Boston municipal lines on the south side of Cleveland Circle. The western portion of this district consists of the front segment of the former Circle Cinema site (399 Chestnut Hill Avenue). The eastern portion of the L-0.5 (CL) District contains the Brookline portion of the Reservoir MBTA station yard, which is not within the Cleveland Circle Hotel Overlay District described in this article.

Summary of Proposed zoning overlay

There has been considerable outreach and discussion since 2009 prior to the filing of this proposed up-zoning, including numerous meetings over the last six months with Town Meeting members from Precinct 13 and three public hearings for neighborhood residents, abutters and other members of the general public. The proposal is an overlay that is additive to the base zoning and does not affect the Reservoir MBTA station yard.

As to whether this proposal would be considered "spot zoning" (which is generally not permissible), determinations of spot zoning usually involve a re-zoning proposal that benefits a single parcel that is situated among a number of similarly zoned parcels having similar features. For example, a single-family property surrounded by similarly zoned residential homes seeking re-zoning as a higher-density commercial use for no compelling reason other than the economic benefit of the subject parcel’s owner would likely be considered spot zoning. The Circle Cinema site, in contrast, has unique characteristics, including its location in two municipalities, its position between a residential area of Brookline, including the MBTA D Line tracks, and commercially zoned properties at Cleveland Circle in Boston, and, since 1982, mandated egress out the one-way rear roadway to Beacon Street. Due to planning efforts regarding this area since 2009, Boston Development Group’s (BDG) recent neighborhood outreach, and this parcel’s unique characteristics, any challenge based on spot zoning is considered unlikely to prevail.
Any development on the Brookline portion of the Cinema site will be subject to major project review under Section 5.09 of the Zoning ByLaw, including a Design Advisory Team (DAT) review. Further, the proposed up-zoning provides for the Zoning Board of Appeals to review the proposal for the entire Cinema site and the Applebee’s site (immediately to the north and entirely in Boston) as a single lot in relation to parking requirements and setbacks. Additionally, lighting and façade review along the entire southern edge of this Overlay District which faces residential properties in Brookline shall be reviewed by the Brookline DAT. Finally, a condition for any Special Permit in this Overlay District includes adherence to the Brookline Noise Bylaw for the entire development, irrespective of municipal boundaries.

**Boston zoning and timing of development**

Presently, Boston zoning for both the Cinema property and the Applebee’s property immediately to the north allows a Floor Area Ratio (FAR) of 1.0 compared to Brookline’s 0.5. The Boston Redevelopment Authority (BRA) has indicated to Town Officials a willingness to permit a development with a FAR greater than 1.0 by either variance or re-zoning.

BDG intends to file a Project Notification Form with the BRA in April, thus commencing Boston’s project review. As re-zoning is under the power of the BRA (rather than a biannual Town Meeting vote), and occurs only after final site plans and mitigation are approved, it is important that Brookline Town Meeting consider the rezoning proposal this spring. With an up-zoning in place, BDG will be able to submit a Special Permit application to Brookline this summer, allowing the timing of design review to be concurrent and cooperative in Brookline and Boston over the summer and early fall. It is anticipated that BDG will work on construction documents in the fall and winter of 2011, and will be ready to begin an 18-month construction project in spring 2012.

**District planning**

A 2009 study by the Urban Land Institute (ULI) studying potential re-development in the Cleveland Circle area concluded that train operations and maintenance would need to be relocated offsite prior to the Reservoir MBTA yard being studied further for re-development, and that even then the site’s considerable infra-structure challenges would likely make any contextually sensitive development not financially feasible.

However, the same ULI study noted that the smaller Circle Cinema site across Chestnut Hill Avenue, closed by National Amusement in the fall of 2008, would be feasible for re-development. In the summer of 2010, BDG announced plans to develop both the Cinema site and the adjacent Applebee’s located in Boston, and now has both properties under agreement to purchase.

**2009 Special District**

In the fall of 2009, at the urging of a group of Town Meeting Members, Town Meeting passed a new Special District under Section 5.06 of the Zoning ByLaw. This measure
was adopted in anticipation that Brookline might subsequently wish to consider an up-zoning of the site in order to help ensure that the Town would not end up, as it has on other cross-municipal sites, with little tax revenue but many adverse impacts. This “defensive” Special District was intended to provide the Town with additional controls to mitigate impacts, with the thought that an up-zoning might follow for a proposed project in both municipalities of the Cinema site.

While this favorable outcome to Brookline is BDG’s present stated intention and preferred option, BDG has indicated that if the proposed up-zoning in Brookline is not approved, it will instead proceed with an “all-Boston” alternative plan of similar total size, using the adjacent Applebee’s site to gain access to the rear Boston portion of the Cinema site. In that scenario, BDG would subdivide and separate the Brookline portion of the Cinema site from its main Boston-only development. It could then later seek a special permit to develop in Brookline a 0.5 FAR (approximately 9,000 sq. ft.) retail “outparcel” building with parking out front.

Under this alternative scenario, Brookline would forfeit the benefits of the proposed amendment including both considerable tax revenue and the opportunity to substantially mitigate adverse impacts (traffic and otherwise), of this large mixed-use development on Brookline’s adjoining neighborhoods.

**BDG’s re-development concept plan**

BDG has presented a transit-oriented concept to redevelop the Cinema and Applebee’s sites respectively in two separate phases, with the Cinema site to be developed first. This plan calls for an up-zoning of Brookline’s portion of the Cinema property, creating an “urban edge” adjacent to a pedestrian-friendly wide sidewalk along Chestnut Hill Avenue.

BDG has indicated that Hilton Worldwide will license a 180-room limited service hotel (most likely under their Hampton Inn name) with 40 rooms (and 19,005 sq. ft.) in Brookline. BDG is also planning 18,000 sq. ft. of medical office and 8,500 sq. ft. of retail / restaurant space on the Brookline portion of the Cinema site. BDG intends to lease this space to a high-end restaurant, as has been done in partnership with Hilton in other metropolitan areas. Under the proposed up-zoning, these mixed uses would total 45,505 sq. ft. to be situated entirely on the Brookline portion of the site comprising a FAR of 2.5. The overall Cinema site, including both its Brookline and Boston segments, is proposed to have 118 parking spaces and an FAR of 1.7.

BDG has also indicated that a second phase of permitting in Boston for Applebee’s will follow its initial development of the Cinema site. Applebee’s has approximately 3.5 years remaining on its lease. BDG intends to build 30,000 sq. ft. of office space and 9,000 sq. ft. of retail space with an additional 37 parking spaces on this property. If both the Cinema and Applebee’s properties are developed as BDG plans, there would be a total of 172,500 sq. ft. and 155 parking spaces.
Implications of not up-zoning

If the Town fails to up-zone and a development proceeds in Boston only, the likely negative consequences for Brookline include:

a. Substantially greater adverse neighborhood traffic impact, especially on Clinton Road;
b. No formal project design input from the Town;
c. No significant new tax revenue for the Town;
d. Greater visual intrusion for the Clinton Road homes closer to the lower, rear (Boston) portion of the site, where a more substantial portion of the development will be forced; and
e. No agreement requiring conformance to the noise bylaw of Brookline and Boston, without regard to municipal boundaries.

Benefits of up-zoning

If Town Meeting were to establish this zoning overlay district which prescribes detailed terms of development, including critical traffic controls and limitations relating to Chestnut Hill Avenue, and the ZBA were to issue the required special permits, BDG has agreed that the only access from the Applebee's site to the Circle Cinema site will be within Brookline. This outcome, rather than a “build around Brookline” alternative, would ensure the re-development of the Circle Cinema site under a cooperative, rather than a fragmented, design approach in this “boundary situation” between Boston and Brookline.

As such, the Town and the immediate neighborhood would benefit as follows:

1. BDG would be required to provide two forms of traffic mitigation:
   a) by using the existing rear roadway egress to Beacon Street west of Cleveland Circle, as provided for by an easement over Waterworks Park property which is accessed from the rear of the cinema site to Beacon Street west of Cleveland Circle. This would prevent a substantial share of the development’s traffic from exiting on to Chestnut Hill Avenue. The easement would be granted to BDG by the nonprofit Waterworks Preservation Trust (the new Waterworks Museum) whose presence benefits both the immediate communities of Brookline, Brighton, and Newton as well as residents of the Greater Boston area.
   b) an additional traffic control signal, coordinated with those already existing at Cleveland Circle, would control traffic exiting the site onto Chestnut Hill Avenue, thereby permitting exiting vehicles to turn left into Cleveland Circle, whereas without such a light, nearly all exiting traffic would turn right into Brookline and its nearby residential streets—most notably Clinton Road.

2. As planned, Brookline and Boston would review the design of the entire development proposal at the same time; and
3. Brookline will receive nearly $400,000 annually in new taxes (property plus hotel room excise tax. BDG has agreed to ensure this anticipated revenue stream by entering into a 75-year Payment In Lieu of Taxes (PILOT) agreement to be held in escrow for recording upon the purchase of the Cinema site. The PILOT agreement will have a penalty provision to incentivize concurrent construction of both portions of the Cinema site. Such penalty will be triggered if the request for a Certificate of Occupancy in the Brookline portion lags behind the request for the Boston portion by more than three months, and if triggered, would require the payment of PILOT payments as if the Brookline portion of the approved development were completed.

Key Neighborhood Concerns

1. Traffic

The Cleveland Circle area has long-standing chronic traffic congestion, exacerbated by the MBTA’s sporadic compliance with directional signals. After the Cinema’s major expansion in 1982 the Town, on behalf of the abutting neighborhoods, won a lawsuit which included a requirement that all traffic exiting the Cinema site do so via the rear roadway egress. Since that time, no traffic had been allowed to exit the site onto Chestnut Hill Avenue. This legal case, however, related to cinema use and did not apply to the Applebee’s site, which is entirely in Boston. Presently, traffic may exit freely from Applebee’s, including via Chestnut Hill Avenue into Brookline, which contributes to the already chaotic traffic flow patterns near the Cleveland Circle intersection. Traffic mitigation measures from the Cinema site are included in this Article’s proposed up-zoning and in the redevelopment plan.

Under the proposed up-zoning, hotel-related traffic (other than deliveries and taxis) will be required to use the rear exit roadway rather than Chestnut Hill Avenue. The office and retail traffic will be required to exit the site via Chestnut Hill Avenue at a single curb cut, no more than two lanes in width, with a new sensor controlled demand-activated traffic signal.

All vehicles exiting the site onto Chestnut Hill Avenue, subject to the new required traffic control signal must be able to make either a left or a right turn. Importantly, no free right turn on a red light shall be permitted from the site onto Chestnut Hill Avenue, thus minimizing adverse traffic impacts on Brookline’s neighboring residential streets (including, for example, hotel taxicabs destined for downtown Boston and Logan Airport). Further, BDG’s plan is to consolidate the present four Chestnut Hill Avenue curb cuts on these sites into this one new traffic-light-controlled curb cut. This consolidated curb cut will be situated in Brookline, giving the Town control over its use under this Article. With the future up-zoned Applebee’s site traffic also exiting via this single, traffic-controlled curb cut, Brookline neighbors will benefit yet further from the exiting traffic limitations provided under this article.

While not directly required as a part of this zoning proposal, BDG has sought, and continues to seek, the cooperation of the MBTA in honoring its own operating rules at Cleveland Circle, including obeying all existing traffic signals. Brookline and Boston
officials are actively seeking a joint meeting in this matter, which continues to be a critical traffic issue for Cleveland Circle, whether or not this development occurs.

2. Impacts on Clinton Road residences

The proposed mixed-use building on the Cinema site will run along the MBTA tracks from Chestnut Hill Avenue covering about two-thirds of the distance to the rear boundary of the site. There will be no additional shadows cast on Clinton Road homes, since they are to the south of the proposed development. Moreover, BDG has indicated intentions to minimize light pollution and maximize privacy views—which matters will be part of Brookline’s DAT design review process.

Due to relative grade differentials between Clinton Road and the Cinema site and also along Clinton Road itself, more building height on the Brookline portion of the development site and less in Boston would appear to minimize overall visual impacts from those seven or eight Clinton Road homes that are situated directly across the T tracks from the development portion of the Cinema site.

Through the proposed zoning, Brookline also will have authority over noise and light pollution for the entire site, as well as to review the entire façade along the MBTA property line and viewable from Clinton Road residences, even that portion of the development that lies in Boston.

3. Design quality

Providing a gateway to Brookline, the Cinema site’s proposed re-development will include a large building that should be well designed. There are a plethora of land uses in the immediate vicinity, including stately homes in the Fisher Hill and Chestnut Hill neighborhoods in Brookline to the south, Boston’s Waterworks residential condominium complex to the west, and the urban Cleveland Circle commercial district to the north. As a result, the area presently features many different architectural styles. Zoning requires a five-foot step-back for any floors above the third for any portion of the building that is within 50’ of Chestnut Hill Avenue. Initial conversations with Boston officials indicate willingness for the Boston Civic Design Commission and Brookline’s Design Advisory Team to review plans at the same time.

4. Adequacy of onsite parking

The BDG concept plan calls for most of the parking to be located on the larger Boston portion of the Cinema property. Less than a quarter of the combined Cinema parcel’s land area is within Brookline; the remainder is in Boston. As a result, the proposed Brookline zoning is based on Boston’s required maximum parking ratios for each land use category. Except for the Limited Service Hotel, these ratios are less than provided for in Brookline’s zoning. These ratios are intended to reflect the functional characteristics inherent to this urban transit-oriented setting, adjacent to two MBTA Green Line transit lines, as well as bus lines and surrounded by dense residential neighborhoods and some commercial businesses.
A significant share of total trips to this site will be via walking or transit. Further, the site’s different uses will facilitate the shared use of parking, thereby allowing the same parking spaces to service more than one use over any given 24-hour period. Complementary uses, such as an office building, which has a consistent parking demand throughout the weekday business hours, and a hotel, which typically experiences its peak parking demand on the weekends, can “share” some of the same parking supply. Similarly, time-of-day parking demand peaks can also vary between uses, such as a fine-dining restaurant which is busiest during the evening hours, and a medical office building, which experiences peak parking demand during daytime hours. Additionally, there is a “captive” factor, when patrons of one use are also patrons of another use, thereby generating parking demand attributable to only one of the uses, such as when a hotel guest dines at an on-site restaurant without moving his/her vehicle from its original hotel parking space.

The adequacy of parking will be determined in the regulatory phase following a Special Permit application submission. Although a possible consequence of inadequate on-site parking is spill-over into the surrounding neighborhood, the nearby residential streets in Brookline already restrict on-street parking to residents. This resident parking program was instituted in the early 1980s to prevent overflow Cinema parking. Additional signage and enforcement will discourage any potential spillover parking.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by Citizen Petition and proposes to create a Cleveland Circle Hotel Overlay District over the portion of the property that is west of Chestnut Hill Avenue and in the L-0.5(CL) Cleveland Circle Local Business District. The remaining portion of the L-0.5(CL) district, east of Chestnut Hill Avenue and owned and used by the MBTA for its station yard, is not included in the proposed overlay district.

The overlay area is the site of the former Circle Cinema. Most of the former Circle Cinema building and parking is in Boston, with only part of the theater lobby and some parking facing the street in Brookline. Traffic going to the former theater had entered the site from Chestnut Hill Avenue and exited onto Beacon Street through a right-of-way in Boston. Contiguous on the north and west sides of the site are a large playing field and park in Boston, and to the south in Brookline are the MBTA train tracks and backyards of Clinton Road single family homes.

Because the majority of the former Circle Cinema site is in Boston, the Town is rightfully concerned that Brookline, in addition to Boston, should benefit from any development occurring there. From a planning perspective, Brookline wants to avoid a development with only parking and no building within the Town boundary. Having a building edge facing Chestnut Hill Avenue will enhance and revitalize the streetscape on Chestnut Hill Avenue and in Cleveland Circle in general. Because of the very low density allowed under the current zoning (0.5 Floor Area Ratio) and the limited number of allowed uses, the proposed zoning in the overlay district would allow a Floor Area Ratio between 2.2-2.5 and uses, including a limited service hotel and a restaurant greater than 5,000 s.f., if
May 24, 2011 Annual Town Meeting
12-14

certain well-defined criteria are met. These criteria mandate that 40 hotel rooms be located on the Brookline side of the property, the building height not exceed 56 feet, and the part of the building above three stories have additional setbacks from the street. The parking requirements under the overlay district have also been lowered for this site because of its proximity to two major rapid transit lines.

The Planning Board believes that the most important benefits of the proposed zoning are the requirements for design review and impact analysis of the entire project by the Town, including the portion of the development in Boston, and required traffic mitigation measures in both Brookline and Boston.

For the above reasons, the Planning Board supports the proposed Hotel Overlay District for Cleveland Circle and unanimously recommends FAVORABLE ACTION on Article 12.

SELECTMEN’S RECOMMENDATION

Because of an issue with Article 12 and the map as printed in the Warrant, a Special Town Meeting within the Annual has been called for May 26 to hear the subject matter of this article. A recommendation on Article 1 of the Special Town Meeting will be included in the Supplemental mailing that will be sent out the weekend before Town Meeting.

Article 12 is being submitted by Town Meeting Members from Precincts 13 and 14. It is being proposed to allow a mixed-use redevelopment of the Circle Cinema site at Cleveland Circle, including limited service hotel, restaurant/retail and medical/general office uses. The allowed Floor Area Ratio (FAR) for the Brookline portion of the site would be increased from 0.5 to 2.5, and will encourage a pedestrian-friendly building edge relatively close to Chestnut Hill Avenue.

Currently the property in Brookline holds a parking lot, while almost all of the commercial building (abandoned movie theatre) is to the rear, in Boston. This zoning article would allow a significant portion of a proposed development to be located in Brookline as well as Boston, including more control over the redevelopment of this site. For example, the zoning article requires façade review along the entire southern edge of the Circle Cinema site property and a required condition that the entire site meets the Brookline Noise Bylaw standards. Additionally, Brookline would receive significant revenues from property taxes and occupancy excise (hotel room) taxes.

Outreach and discussion about the Cleveland Circle area started in 2009 with a study by the Urban Land Institute. Over the past six months, Town Meeting Members have met with Boston Development Group (who has an option to purchase the site), and Planning Staff has held three public neighborhood meetings. Control over traffic design and coordination with the MBTA operations are consistently the major concerns regarding any proposed redevelopment at this site. Additionally, Selectmen heard from two immediate abutters on Clinton Road who are concerned about potential negative impacts.
of the proposed upzoning on their properties. While sympathetic to their concerns, the Selectmen noted that all the residents along Clinton Road will be affected by any redevelopment, whether or not this zoning article is passed. By approving this warrant article, the Town is both able to assert more control over the nature of this development and capture a significant portion of tax revenue that it will generate.

If Town Meeting were to pass this zoning article, multiple special permits would be required for the limited service hotel use, Major Impact Project review (including traffic design and Design Advisory Team review). The Circle Cinema site has been empty for a number of years now and will not remain like that forever. In fact, Boston Development Group filed for Boston’s Article 80 review process on April 19th, and two Boston project review meetings have already been scheduled for May. Brookline Planning staff has been in close coordination with the Boston Redevelopment Authority (BRA) for the past year, and notes that the BRA expects to be finished with their permitting this fall.

The Board supports the proposed zoning amendment and believes that any redevelopment on this site should be a benefit for Brookline. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 12, 2011, on the vote offered by the Advisory Committee.

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ADVISORY COMMITTEE’S RECOMMENDATION

Because of an issue with Article 12 and the map as printed in the Warrant, a Special Town Meeting within the Annual has been called for May 26 to hear the subject matter of this article. A recommendation on Article 1 of the Special Town Meeting will be included in the Supplemental mailing that will be sent out the weekend before Town Meeting.

BACKGROUND:
Article 12 was filed as a citizen petition by a coalition of Precinct 13 and 14 Town Meeting Members and is intended to influence the direction of future development on the site and insure that Brookline remains a player as the development review process progresses. This article is an attempt to declare the acceptable and desired uses, building envelope, and conditions for the Brookline portion of the site up front.

The site in question is the location of the former Cleveland Circle Cinema which closed in 2008 and has been empty and unused since. About 77% of the site is in Boston but the portion that is in Brookline is important in that it contains the frontage to Chestnut Hill Avenue. However, if the Applebee’s site next door is combined with the cinema property, the combined site would contain the street frontage to provide an opportunity to avoid building in the Brookline portion of the combined site.

Boston Development Group (BDG) of Newton Centre, Mass. is proposing to develop a hotel, retail and office complex in two phases. BDG would demolish the current
buildings on the site; the former cinema and the Applebees. Phase 1 would develop the cinema site. Phase 2 would develop the Applebee’s site. The schematic below shows the footprint of the current proposal and how the municipal boundary relates to the site. A formal project notification was filed with the Boston Redevelopment Authority (BRA) on April 19, 2011. The BRA approval process is beginning and we understand will proceed very quickly. As of this writing, BRA community meetings are set for May 17 and May 31, 2011.

Current Zoning

The current zoning for the Brookline portion of the site is L-0.5(CL). The current district also includes the MBTA trolley maintenance facility across the street (though the proposed change does not include the trolley barn.) The L-0.5 is a relatively low density, local business zoning classification that explicitly excludes a hotel (limited service or otherwise) as a permitted use. Other sites in town with L-0.5 zoning are at the corner of Cypress St and Boylston St., Cypress St and Washington St., the 800 block of Boylston St. (gas stations inbound and outbound) and the Shops at Putterham Circle.

The CL designation was passed at the November 2009 Special Town Meeting. It added design review and traffic requirements beyond that of other L-0.5 districts. The write ups for the zoning change in the Combined Reports (Article 10) indicated that the changes associated with the CL designation were intended to delay development while a more comprehensive zoning review of this and other L-05 districts was taking place. The Planning Board report in particular indicated explicitly that they had concerns that the FAR allowed in this L-05 district was too low and that the issue should be examined at a later date.

The Boston portion of the site currently allows for higher density development (an allowed FAR of 1.0). Additionally, Boston has the authority to change zoning on its own volition unlike Brookline which requires a two thirds vote of Town Meeting. They have already indicated that they are amenable to changing their zoning to permit greater density.
Key Features of the Proposed Zoning

The intent of the zoning change is to encourage significant development of the Brookline portion of the site to include a limited service hotel with an urban street edge. To accomplish this, the zoning provides (in part):

1. In order to access the increased FAR of the zoning, a hotel with at least 40 rooms in Brookline must be built.
2. The Brookline FAR must be between 2.2 and 2.5.
3. Maximum height will be 56 feet. Any portion of the building higher than 50 feet and 3 stories must be stepped back at least 5 feet from lower floor along all facades.
4. The setback on Chestnut Hill Ave must be between 5 and 15 feet.
5. For other uses, the restrictions of the L classification remain (including no retail use over 5,000 sq ft, for example) EXCEPT, a restaurant of greater than 5,000 sq. ft. can be allowed by special permit.
6. There needs to be design review of the south façade facing the MBTA property as well as lighting. In other words, facades visible from Brookline as well as light impacts upon Brookline are subject to design review.
7. Various specific traffic mitigation measures including, intersection traffic light signalization, hotel parking egress to the rear of the property to Beacon St. and specific requirements for taxi stands and pickup.
8. Various specific pedestrian improvements including a 10 foot wide sidewalk on the western side of Chestnut Hill Ave.
9. Reduced parking for various commercial uses in recognition of the availability of mass transit as follows:
   a. Limited Service Hotel .5 spaces per room
   b. Retail: .75 space per 1,000 sq. ft.
   c. Restaurant: 1 space per 1000 sq. ft.
   d. Office/Medical 1 space per 1,000 sq. ft.
10. Brookline Noise Bylaw compliance without regard to municipal boundaries.

DISCUSSION:
This is a complex site to develop given its shape, compounded by the fact that the site straddles two municipalities, Boston and Brookline. As stated above, 77% of the site is in Boston. The two communities have different permitting flexibilities and timetables. While many of the interests of the two communities intersect, in other ways they compete.

The flexibilities that Boston has allows the BRA to typically negotiate project details with a developer and then adjust the zoning to accommodate what was negotiated. Brookline doesn’t have quite that flexibility given that a two thirds majority of town meeting is required to change zoning.

The goal here is to codify the broad parameters of what is acceptable to Brookline in terms of desired uses, permitted building envelope, setbacks, parking requirements, traffic mitigation and other conditions. The subsequent project details including project
May 24, 2011 Annual Town Meeting
12-18

design and specific mitigations will then be subject to the design review and special permitting process in addition to the Boston processes. In other words, this zoning change expresses Brookline’s vision for its portion of the site, and should this zoning change pass allows for development greater than the low density local business oriented uses currently permitted.

Should this zoning not pass, the current zoning would remain in place which would increase the likelihood of shifting the to be developed mass back into Boston. Further, without an upzoning incentive the developer may be more inclined to build around the Brookline border. All of the hotel room planned for the site (and the associated room tax revenue) would be in Boston. Brookline would get unmitigated impact but little of the benefits.

Additional goals of the petitioners are:

1. Do our best to increase the likelihood that Brookline is at the table as the project details are being negotiated.
2. Minimize that impact on neighbors, especially those on Clinton Road.
3. Do our best to provide a stream of tax revenue to the town. The estimated tax stream of the proposed development including a hotel would be about $400,000 per year.

In addition there is a grade difference between Clinton Road and the site at the Chestnut Hill end which works towards pushing the height towards the front of the site. If the project is built to the maximum height on the Brookline end of the site, the top floor of a 4 story project would be at about the same height as the 2 story houses on Clinton Road. As one proceeds towards the back of the site the grade equalizes so that if the density of the project is pushed back, it will increase the towering effect of the project over the houses further down Clinton Road.

The site is located on Chestnut Hill Ave which has extreme traffic issues compounded by the turnaround for the Beacon St. MBTA line. To address this, the zoning outlines some very prescriptive traffic mitigation measures. All these measures will be subject to review and approval by the Brookline Director of Transportation and Engineering.

Brookline’s record of cross municipal boundary development is not good. The most obvious example of this is at the shopping center anchored by the Chestnut Hill Star Market on Route 9 where the building is in Newton while the parking lot is in Brookline. In that development, Brookline got much of the impact while Newton got most of the monetary benefits.

Proponents of the zoning change made the following additional points at the Planning and Regulation Public Hearing in favor of passage:

• Important elements in the zoning are a limited number of driveways into the site, a lively urban streetscape, bringing the building forward to create a different, more urban experience than what exists now in Cleveland Circle.
• The footprint that exists now is indicative of what we would get if the zoning doesn’t pass
• This zoning change is the most effective way to remain at the table and get a development to maximize the benefits and minimize the impacts on Brookline.
• The neighborhood is very sensitive to ingress and egress issues at the site and this is addressed in the zoning.
• The buyers into the neighboring Waterworks development bought with the expectation that the traffic would not exceed that of the cinema and this accomplishes that goal in that non hotel traffic would remain on Chestnut Hill Ave.
• The different calendars and flexibilities between Boston and Brookline make passing this now important. Without this change, Boston can negotiate knowing that it can change the zoning while the specter of the 2/3 Town Meeting vote being required to change the Brookline zoning will increase the likelihood of pushing the project into Boston.
• The Urban Land Institute studied the site and recommended these changes.
• The zoning change promotes sound land use and best insures a seat at the table with the BRA.
• The difference in grade between the site and Clinton Road, especially at the end closest to Chestnut Hill Avenue will minimize the height impacts on Clinton Road.
• The reduced parking and mixed uses will reduce traffic given the project proximity to mass transit.
• There is a big difference between passing the zoning and approving the project and we should not concede our place at the table by not passing this zoning change.

Arguments made by opponents to the zoning change included:

• By upzoning the site now, Brookline is disempowered and Brookline’s best negotiating tool; zoning is removed.
• The time to pass the zoning is in the fall after the project has been negotiated.
• The zoning is too prescriptive and codifies items that should not be in zoning.
• By passing the zoning now we are running the risk of giving away the zoning and not getting what we want in return.
  A superior project could be achieved by using the Applebee’s site (in Boston) to push the mass of the building away from Clinton Road. In this scheme, the Applebee’s site would contain much of the mass currently envisioned for the Brookline portion of the site thus lessening the impact on Clinton Road. (We note that this project concept would shift much of the project out of Brookline.)

One of the direct Clinton Rd abutters is opposed to the zoning changeArguments made in opposition to the change included:

• The building permitted by the revised zoning has too much mass and height to be handled by the site. Because of this, he prefers the current zoning.
The proposed zoning will result in hotel room windows looking directly into the back of his house. This is an undesirable outcome.

- The proposed traffic mitigations will not work.
- He would like to see zoning that yields a project with less direct impact on his property.

Commitments by the developer contingent on passage of the zoning change

Boston Development Group (BDG) has agreed to a Payment In Lieu of Taxes (PILOT) and Development Agreement to be executed and in effect prior to Spring Town Meeting, including a commitment to not seek any development proposal that would avoid building in Brookline. The PILOT would bind BDG to pay property and hotel occupancy room excise taxes in the event that the Circle Cinema property becomes a non-profit or other exempt use. This 75-year agreement will also be recorded at the Registry of Deeds when BDG purchases the property, and be in effect for any successors in title. Finally, the PILOT and Development Agreement contains a penalty provision to incentivize concurrent construction of both the Brookline and Boston portions of the Cinema site. If a Certificate of Occupancy (CO) is not requested in Brookline within three months of receiving a final CO in Boston, PILOT payments would be required as if the Brookline portion of the approved development were completed.

We do note that while BDG has made this agreement, should BDG make a decision to not complete the purchase of the site, other buyers from the current owner would not necessarily be bound by this agreement. It would only become binding to future owners after the agreement is recorded upon purchase.

RECOMMENDATION:
This is a site ripe for redevelopment with complex issues which the Committee believes have been effectively balanced in this zoning proposal. We must remember that over ¾ of the site is in Boston and the Boston process will be largest determinant of what happens on the site. The subcommittee believes that it is the best way to keep Brookline at the table during the Boston-dominated design review process.

The Committee was unanimous in recommending passage of this zoning change. Passage of the zoning change is not approving any particular project but is the best way to express Brookline’s vision for the site and insure that the vision is carried into the project negotiations. It does not guarantee any particular outcome. We believe that it increases the likelihood of an outcome more favorable to Brookline.

The Advisory Committee believes that this zoning change is timely, is the best way to minimize the impact on all Clinton Road abutters, will create positive change for Cleveland Circle, and at the same time bring additional revenue into Brookline’s coffers. We don’t want to see another cross border situation where Brookline gets the impact but little of the benefits. We note that the Boston process will be ramping up quickly with the first community meetings set for May 17 and May 31, 2011.

The Advisory Committee by a unanimous 20-0 vote recommends FAVORABLE ACTION on the following vote:
VOTED: That the Town amend the Zoning By-Law and Zoning Map as follows:

1. By adopting the following map change creating a Cleveland Circle Hotel Overlay District.

2. By amending Section 3.01.2.a.2 to add the following reference at the end
   “Cleveland Circle (Refer to §5.06, Special District Regulations)”

3. By amending Section 3.01.4 by adding a new item at the end:
   “c. Cleveland Circle Hotel Overlay District”

4. By amending Section 4.07 - Table of Use Regulations - to allow limited service hotels, certain retail, and a restaurant by Special Permit in the Cleveland Circle Hotel Overlay District, as follows:
   a. Use 8A, Limited Service Hotel – Adding “*” after “No” in column “L” and amending the first footnote as follows: “*Permitted by Special permit in M-2.5 and in the Cleveland Circle Hotel Overlay District.”
   b. Use 34, Restaurant greater than 5,000 square feet - Adding “*” after “No” in column “L” and adding the following after the description of Use 34 in the Use Table “*Permitted by Special Permit in the Cleveland Circle Hotel Overlay District.”

5. By amending Section 5.01 - Table of Dimensional Requirements - by adding Footnote 19 after the words “L-0.5 & L-0.5 (CL) Districts”, which Footnote 19 shall read as follows:
   “19. See Section 5.06 - Special District Regulations, subsections f. Cleveland Circle Local Business District L-0.5 (CL) and h. Cleveland Circle Hotel Overlay District.”

6. By amending Section 5.06.4.f - Cleveland Circle Local Business District L-0.5 (CL) - by adding a new item at the end:
   “4) In any review of a project that is located across municipal boundaries, the project and improvements shall be reviewed as a single lot, without regard to municipal boundaries, in connection with parking requirements or setbacks. Additionally, any Design Review per Section 5.09 shall include review and approval of the entire length of the façade facing the MBTA property line as well as any lighting proposed along this length, irrespective of municipal boundaries. Such façade shall be designed and constructed with care and quality of finishes equivalent to the northern façade.”

7. By amending Section 5.06.4 - Special Districts - by adding a new item as follows:
“h. Cleveland Circle Hotel Overlay District

1) It has been determined through study of the Local Business District in Cleveland Circle that potential exists for appropriate, planned redevelopment of the western side of this Local Business District. It has further been determined that, due to the circulation and multiple transit systems in this area as well as the proximity of the municipal boundary with Boston that this is an appropriate district for development density consistent with transit oriented development schemes. For this reason, additional uses typical of transit oriented developments may be permitted under the criteria of this section, as long as such development is planned in a way consistent with other pedestrian-friendly commercial properties in Cleveland Circle.

2) Any applicant may seek relief under this Overlay District by Special Permit per Section 9.03 and Design Review by Section 5.09, provided it meets the following requirements within the Town of Brookline:

   a) It contains a minimum of 40 Limited Service Hotel guest rooms.

   b) The Floor Area Ratio of the proposed project shall be no less than 2.2 and no greater than 2.5.

3) For the purposes of this Overlay District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet under separate ownership and operation from a Limited Service Hotel may be located in the same building as the Limited Service Hotel without being considered as an accessory use, or as part of the Limited Service Hotel use.

4) Any application requesting relief under this Overlay District shall be subject to the following dimensional requirements, superseding any conflicting requirements in Article 5 of the Zoning Bylaw. Any other dimensional relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.

   a) Maximum Floor Area Ratio: There is a strong desire for pedestrian-friendly uses along Chestnut Hill Avenue in this Overlay District, which has a grade change of more than 8’ along this edge of the District. Therefore, with regards to calculating Gross Floor Area in this Overlay District, up to 10,000 square feet of area on the ground floor fronting Chestnut Hill Avenue may have finished floor to ceiling heights greater than 12’, but no greater than 18’, without requiring the Gross Floor Area to be calculated by multiplying this area by a factor greater than 1 where the floor to ceiling height exceeds 12’.

   b) Setbacks and Build-to Lines:
1. Buildings shall not be greater than 15 feet nor less than 5 feet from the frontage of Chestnut Hill Avenue; and

2. Any portion of building within 50’ of the frontage of Chestnut Hill Avenue that is above three stories shall be set back not less than 5 feet from lower floors, along all facades. For the purposes of this Overlay District, “Story” shall be defined as that portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above, whether or not such space is enclosed; and

3. Buildings shall be set back not less than 5 feet from the MBTA right-of-way.

c) The maximum height permitted is 56 feet;

d) Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment shall not be located within 15’ of the MBTA property line.

e) A screen fence along the property line with the MBTA right-of-way which exceeds a height of seven feet may be allowed by Special Permit granted by the Board of Appeals.

5) Parking requirements for Special Permit applications utilizing this Overlay District shall be as follows, superseding any conflicting requirements under Article 6:

a) Minimum Parking ratios:
   5. Limited Service Hotel use: 0.5 parking spaces per hotel room
   6. Retail use: 0.75 parking spaces per 1,000 g.s.f. of floor area
   7. Restaurant use: 1 parking space per 1,000 g.s.f. of floor area
   8. Office/Medical office use: 1 parking space per 1,000 g.s.f. of floor area

b) Subject to the approval of the Brookline Director of Transportation and Engineering, the required off-street loading facilities under Section 6.06.6 may be limited to the provision of 2 loading bays.

c) Any other parking relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.

6) The following traffic mitigation measures shall be required, subject to the review and approval of the Brookline Director of Transportation and Engineering:

a) Vehicle ingress and egress:
1. Vehicle ingress and egress to and from Chestnut Hill Avenue shall be via no more than one curb cut two lanes in width, controlled by a traffic signal. Such traffic signal shall include demand-actuated technology such that the light phase for egress from the Overlay District will not be triggered when there is no demand.

2. A segregated parking facility containing not less than 60 vehicle parking spaces shall be provided for the exclusive use of the Limited Service Hotel guests, visitors and employees. Vehicle egress for all users of this segregated parking facility shall be via the one-way rear exit roadway easement to Beacon Street. Both signage and physical barriers shall prohibit any vehicles entering the Limited Service Hotel segregated parking facility from exiting that facility back onto Chestnut Hill Avenue. To the extent a parking area is established to be shared by multiple uses, hotel users (except for taxicab/shuttle service vehicles and deliveries) parked in the shared parking area shall be required to exit the one way rear exit roadway to Beacon Street and other users shall exit via Chestnut Hill Avenue.

3. Vehicle egress for all uses other than that of the Limited Service Hotel and for taxicab/shuttle service vehicles and deliveries shall be via the single Chestnut Hill Avenue curb cut. All vehicles exiting the site onto Chestnut Hill Avenue must be able to make either a left or a right turn. No right turn on a red light shall be permitted from the site onto Chestnut Hill Avenue.

4. Taxicab stand and taxi pickup and drop-off shall be provided in an adjacent area on both the Brookline and the Boston segments of the site.

b) Final traffic design and mitigation shall be required and include the potential impact of the redevelopment of any directly abutting parcels, regardless of municipal boundaries. Specifically, the traffic design and mitigation shall allow for no more than a total of 110,000 square feet of Limited Service Hotel use; 48,000 square feet of office or medical office; and 18,000 square feet of restaurant or retail use.

c) Pedestrian improvements shall include:

1. Improvements to two pedestrian crossings across Chestnut Hill Avenue, including at Cleveland Circle as well as the crossing aligned with vehicular turn-around at the MBTA station south
of the MBTA right-of-way. A third pedestrian crossing shall be provided where the signal for the Chestnut Hill Avenue entrance will be located, near the Boston/Brookline boundary, if approved by the Brookline Director of Transportation and Engineering as well as Boston Transportation Department.

2. Sidewalk improvements on the western side of Chestnut Hill Avenue shall include a minimum 10’ wide sidewalk from the Brookline Boundary to the MBTA bridge and a replacement of sidewalk from the MBTA bridge to Clinton Road.

7) Noise. A required condition for any Special Permit under this Overlay shall be an enforceable agreement and/or condition to the Special Permit that requires the property owner to comply with the requirements any Noise By-law or ordinance of both Brookline and Boston, without regard to municipal boundaries.
ARTICLE 13

THIRTEENTH ARTICLE
To see if the Town will amend the Zoning By-Law to exclude long-term occupancy in hotels as follows: (new language in bold)

1. In §2.08.5, amend the definition of “Hotel” by adding language at the end of the current definition as follows:

5. HOTEL – A structure in which sleeping accommodations are let for compensation primarily to transients and in which a public eating facility is provided and where all room or rooms fall within the definition of M.G.L. 64G, §1(g) as may be amended.

2. In §2.12.1, amend the definition of “Limited Service Hotel” as follows:

1. LIMITED SERVICE HOTEL– A hotel structure in which sleeping accommodations are let for compensation primarily to transients in which no more than 5,000 square feet of space is used for eating, drinking, dancing, meeting halls or similar purposes, and where all room or rooms fall within the definition of M.G.L. 64G, §1(g) as may be amended.

or act on anything else relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
This zoning amendment warrant article is being submitted by the Planning & Community Department at the request of the petitioners of two proposed zoning articles for Spring Town Meeting, related to the Circle Cinema site (also referred to as the Cleveland Circle Hotel Overlay District), as well as the proposal put forth by the Davis Path Special District Zoning Study Committee (also referred to as the Davis Path Special Zoning District or “Red Cab” site).

This amendment has two purposes:
1) Stays longer than 90 consecutive days would not be considered a Hotel or Limited Service Hotel Use; and
2) Hotel or Limited Service Hotel Use could only allow occupancy of rooms that are eligible for “room occupancy excise taxes”, often referred to as “hotel taxes.”

PLANNING BOARD REPORT AND RECOMMENDATION
This article is being submitted by the Department of Planning and Community Development at the request of the Cleveland Circle Hotel Overlay District petitioners and the Davis Path Special District Study Committee, who have submitted Articles 12 and 13.
This zoning amendment would modify the current Zoning By-Law definitions for “hotel” and “limited service hotel” by limiting a hotel stay to 90 consecutive days and requiring that all hotel rooms be eligible for room occupancy excise taxes, as required under the definition for “occupancy” in MGL Chap. 64G.

This addition to the definitions in our Zoning By-Law related to hotels clarifies what is considered a hotel and ensures that Brookline benefits financially from the hotel excise tax.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 13.

SELECTMEN’S RECOMMENDATION

Article 13 was submitted by the Department of Planning and Community Development at the request of Selectman Benka, the Cleveland Circle Hotel Overlay District petitioners, and the Davis Path Special District Study Committee. This amendment modifies the current Zoning By-Law definitions for “hotel” and “limited service hotel” in order to prevent the use of hotel rooms for long-term occupancy. Long-term occupancy is not intended for hotel rooms in Brookline, both because it is not an intended land use and because long-term occupancy of rooms exempts the room from room tax. This article would address this issue by limiting a hotel stay to 90 consecutive days, and requiring that all hotel rooms be eligible for room occupancy excise taxes, as required under the definition for “occupancy” in MGL Chap. 64G. It would also clarify some circular language in the definition of Limited Service Hotel.

Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 12, 2011, on the following:

VOTED: That the Town amend the Zoning By-Law to exclude long-term occupancy in hotels as follows: **(new language in bold)**

1. In §2.08.5, amend the definition of “Hotel” by adding language at the end of the current definition as follows:

   5. HOTEL – A structure in which sleeping accommodations are let for compensation primarily to transients and in which a public eating facility is provided and where all room or rooms fall within the definition of M.G.L. 64G, §1(g) as may be amended.

2. In §2.12.1, amend the definition of “Limited Service Hotel” as follows:
1. LIMITED SERVICE HOTEL— A hotel structure in which sleeping accommodations are let for compensation primarily to transients in which no more than 5,000 square feet of space is used for eating, drinking, dancing, meeting halls or similar purposes, and where all room or rooms fall within the definition of M.G.L. 64G, §1(g) as may be amended.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
This zoning amendment warrant article was submitted by the Planning & Community Department at the request of the petitioners of two proposed zoning articles for Spring Town Meeting, related to the Circle Cinema site (also referred to as the Cleveland Circle Hotel Overlay District), as well as the proposal put forth by the Davis Path Special District Zoning Study Committee (also referred to as the Davis Path Special Zoning District or “Red Cab” site).

This amendment has two purposes:

1) Stays longer than 90 consecutive days would not be considered a Hotel or Limited Service Hotel Use under the Brookline Zoning Bylaw; and  
2) Hotel or Limited Service Hotel Use could only allow occupancy of rooms that are eligible for “room occupancy excise taxes”, often referred to as “hotel taxes.”

DISCUSSION:
While developing the proposed zoning for the Davis Path Special District an incongruity between: 1) the state statute providing for the hotel and motel tax and 2) the current general town zoning for hotel use was discovered. Specifically, the hotel and motel tax in the statute is not applicable to rooms rented out for a period of greater than 90 days, conversely there is currently no such limitation on the length of stays in the general hotel zoning language. This proposal would ensure that no residential use for a period of greater than 90 days would be allowed in a structure qualifying as a Hotel or one useful for Limited Service Hotel use.

The Advisory Committee discussed whether the two existing hotels in town had occupants who excluded these new limits. The town has reached out to the managers of both facilities and requested current occupancy information only rooms whose occupants have exceeded the 90 day limitation would be “grandfathered” from this provision. We note that “lodging houses” were separated regulated by the By-law.

RECOMMENDATION:
The Advisory Committee recommends (by vote of 16-2-0) FAVORABLE ACTION on the vote offered by the Selectmen.

XXX
FOURTEENTH ARTICLE
To see if the Town will amend the Zoning By-Law by amending the zoning district and corresponding sections of the Bylaw currently designated G-1.0 (DP) including the property at 109-111 Boylston Street and all land between this parcel and Davis Path, as shown on the current Zoning Map, as follows:

1. Amending the Zoning Map as shown to add a new G-(DP) district:

2. Amend Section 3.01 (Classification of Districts) by amending 3.01.2.c.8. as follows:

   8) G-1.0(DP) Davis Path (Refer to §5.06, Special District Regulations) —Note: G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and this Section 3.01.d.c.9 shall be removed from the Zoning By-law. (Attorney General approval still pending as of May 27, 2010.)

3. Amend Section 4.07 Table of Uses as follows:

   a. Amend Principal Use 8A, Limited Service Hotel, by adding the following to footnote **: Permitted by Special Permit in G-(DP) District in accordance with Section 5.06.4.g.

   b. Amend Accessory Use 58A as follows:
May 24, 2011 Annual Town Meeting

14-2

58A. Office within the place of residence provided condition (e) below is met in the G-(DP) District, and all of the following conditions are met in other Districts:

(a) The office occupies not more than one room;
(b) There are no nonresident employees;
(c) There are no clients visiting the premises (members of the clergy shall be exempt from this limitation);
(d) There are no signs nor other external evidence of the office; and
(e) There is no production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.

4. Amend Table 5.01 - Table Of Dimensional Requirements by amending G-1.0 (DP) and footnote 18 as follows:

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>USE</th>
<th>LOT SIZE MINIMUM (sq. ft.)</th>
<th>FLOOR AREA RATIO MAXIMUM</th>
<th>PBII NB ONLY</th>
<th>LOT WIDTH MINIMUM (feet)</th>
<th>HEIGHT MAXIMUM</th>
<th>PBII</th>
<th>MINIMUM YARD(3) (feet)</th>
<th>OPEN SPACE(% of gross floor area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>G-1.0 (DP)</td>
<td>Any structure or principal use (dwelling – footnote 5)</td>
<td>none</td>
<td>1.0 to 3.0</td>
<td>NA</td>
<td>none</td>
<td>40 66</td>
<td>N A</td>
<td>NA</td>
<td>none</td>
</tr>
</tbody>
</table>

18. See Section 5.06.4.g, Special District Regulations with respect to uses and all dimensional requirements. G-1.0 (DP) district, shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and its line shall be removed from Table 5.01. (Attorney General approval still pending as of May 27, 2010.)

5. Amend Section 5.06.4.g by deleting the existing Section 5.06.4.g and replacing it with the following:

g. Davis Path Special District G-(DP)

1) It has been found through study by the Davis Path Special District Zoning Study Committee that very specific rules are required to encourage appropriate redevelopment of the Davis Path Special District, due to the combination of the close proximity of the White Place National Register District, which contains residential uses on lots that are relatively shallow in depth, the substantial differences in elevation between the Davis Path Special District and the White Place district, the substantial differences in the scale of existing buildings in the White Place district and existing and proposed development in the Davis Path Special District, and the solar orientation of White Place district and the Davis Path Special District. Following a comprehensive study by financial, architecture, and transportation experts, the Committee further concluded that the concepts relating to Building Envelope, façade articulation, and parking requirements have only been deemed appropriate for this Special District, and not intended to affect other districts.
2) For the purposes of the Special District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet may be located in the same building as a Limited Service Hotel without being considered an accessory use.

3) Building Envelope

a) This section describes the three dimensional space within which all Building Construction must occur, subject to further limitations and exceptions as provided in this Section 5.06.4.g. Notwithstanding the provisions of Section 5.31, Building Construction shall include all portions of a structured parking area or building, including elevator penthouses, mechanical equipment enclosures, water tanks and water towers, and cooling towers, with only the exceptions set forth in Section 5.06.4.g.3.e below.

b) Minimum Yard Setbacks shall be defined as follows:
   i. 20 feet from the property line bordering the MBTA property.
   ii. 7 feet from the property line bordering Davis Path.
   iii. 5 feet from the property line bordering Boylston Street for the ground floor (excluding support columns).
   iv. 5 feet from the eastern property line of the G-(DP) District.

c) Height of Building shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of Boylston Street at the edge of pavement opposite the midpoint of the southern boundary of the G-(DP) district. The Height of Building shall be in no case taller than 65’. Additionally, any elevator penthouse, mechanical equipment enclosure, water tanks and water towers, or cooling towers may in no case be taller than 80’ from the District Record Grade. Notwithstanding the foregoing, in no case may any Building Construction exceed the Building Envelope set forth in Section 5.06.4.g.3.d below, except as expressly provided in Section 5.06.4.g.3.e below.

Figure 5.02b – Height of Building Measurements in the G-(DP) District.
d) The Building Envelope shall be further restricted by an Angled Plane beginning at an elevation 20 feet above the District Record Grade and aligned with the MBTA property line, with such plane rising toward Boylston Street at an angle of one foot of vertical height for every 2.25 horizontal feet from the MBTA property line in a direction perpendicular to the MBTA property line.

![Figure 5.02c – Angled Plane Diagram](image)

e) Exceptions to the Building Envelope may be permitted only as follows:
   i. flag poles and transmission towers not exceeding 5 feet in horizontal width including appurtenant equipment;
   ii. railings up to 44" high provided they are at least 75% open (measured at 90 degrees to the vertical surface);
   iii. seasonal shading devices, including any awnings and canopies, provided they are removed between October 1st and April 1st; and
   iv. if within 72' of the Boylston Street property line, a projection containing no more than 4,000 square feet of gross floor area, such floor area to be measured by the vertical projection of any mass above the Angled Plane onto the horizontal floor area of any story that penetrates the Angled Plane, but in no case 15 feet above the Building Envelope at any point.
4) No relief by Special Permit may be approved for setbacks, height, floor area ratio, or projections above the defined Building Envelope beyond any provisions specified in this Section 5.06.4.g. For example, relief from setbacks per Section 5.43 shall not be available for buildings within these provisions. Similarly, the “public benefit incentive” exceptions to floor area ratio and height regulations set forth in Sections 5.21 and 5.32 shall not apply.

5) Any building façade parallel to or within 45 degrees of parallel to any property line other than the eastern property line shall be designed and constructed with care and quality of design equivalent to the Boylston Street façade. Visual articulation shall be achieved for each such façade by (a) employing variations in materials and/or ensuring that no portion of any such façade is coplanar for more than 3,500 square feet without a change in depth of 2 feet or more in depth, or (b) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for reasons expressed in such written determination. In the event that the Planning Board modifies or does not accept the recommendation of the Design Advisory Team, or the Board of Appeals modifies or does not accept the recommendation of the Planning Board, a similar affirmative and written determination and reasons shall be provided.

6) Nearby properties, including properties north of the MBTA property, shall be visually screened and protected from the lights of any parking lot or garage by compliance with the requirements of Section 6.04.6, notwithstanding the fact that such properties do not abut and are not across the street from any proposed parking lot or garage.
7) All applications for new structures, outdoor uses, and exterior alterations or additions in the G-DP District which seek a floor area ratio (FAR) greater than 1.0 or reduced parking requirements shall be permitted only on a lot no less than 28,000 square feet in contiguous area, shall be subject to the requirements of Section 5.09, Design Review, obtain a special permit pursuant to Section 9.03, and meet the following requirements:

a) All underlying provisions described in Section 5.04.6.g.1 to 5.04.6.g.6 above.

b) An FAR above 1.0 may be increased by special permit up to 3.0 for Principal Use 8A (Limited Service Hotel), up to 2.0 for other residential uses, and up to 2.25 for all other uses. Where a building contains more than one use, the gross floor area attributable to each use (including an allocated portion of any common areas) shall be computed and divided by the total allowable gross floor area for such use to determine a percentage. The total of all percentages for all uses shall not exceed 100%.

c) Parking and Vehicular Requirements
   i. Parking requirements may be reduced from Section 6.02, Paragraph 1, the Table of Off-Street Parking Space Requirements, for the following uses:
      1. Residential studio units that are less than 500 net square feet in size: 1.0 parking spaces per dwelling unit
      2. Residential units that are less than 700 net square feet in size and have less than 2 bedrooms: 1.25 parking spaces per dwelling unit
      3. Limited Service Hotel: 0.5 spaces per room and no additional spaces shall be required for floor areas used for eating, drinking, dancing, meeting halls or similar purposes
      4. Retail: one space per 500 g.s.f.
      5. Office: one space per 600 g.s.f.
      6. Medical and Dental Office: one space per 400 g.s.f.
   ii. In addition to relief available under Section 6.04.14.c, the width of a building façade facing or within 45 degrees of parallel to the Boylston Street property line devoted to the entrance or exit of a garage, carport, loading dock, parking area or other vehicular use may as of right:
      1. exceed twenty-four feet in width, provided, however, that no such individual entrance or exit shall exceed 30 feet in width and the total width of all entrances and exits shall not be more than 40% of the facade; and
      2. in the case of multiple entrances, the measurement shall not include the portion of any façade between the entrances that is usable floor area.
   iii. Notwithstanding the provisions of Section 6.06.6, only one loading dock shall be required.
iv. Notwithstanding the provisions of footnote 1 of the Table 5.01 Dimensional Requirements, the entrance to a garage or covered vehicular passage facing the street shall be at least 5 feet from the street lot line.

d) The applicant shall provide street trees approximately every 25’, subject to the review and approval of the Director of Parks & Open Space or his/her designee.

e) In addition to (d) above, the applicant shall devote no less than 1% of the hard construction costs (including any site work, above-ground or underground structures, but exclusive of tenant fit-up) towards improvements to the adjacent Davis Path and/or Boylston Street Playground, with such improvements subject to the review and approval of the Director of Parks & Open Space or his/her designee, or, in the alternative, the applicant shall make a cash payment to the Town in an equivalent amount to be utilized by the Town for such purposes.

6. Amend Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements by adding a Footnote as follows:

1. For the G-(DP) Special District, parking requirements shall be the same as those districts with a maximum floor area of 1.0, except as otherwise provided for in Section 5.06.4.g.

Or act on anything else relative thereto.

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PETITIONER’S ARTICLE DESCRIPTION

This article is submitted by the members of the Davis Path Special District Zoning Committee appointed by the Board of Selectmen, as well as two nearby residents. The Committee was given the responsibility of reviewing and analyzing current conditions, zoning and parking requirements, design guidelines, shadow studies and other land use planning tools such as transit-oriented development with regard to the Red Cab/White Place/Davis Path study area. This area is bounded by Boylston Street on the south, Davis Path on the west, the eastern boundary of the so-called “Red Cab” parcel on the east, and the MBTA tracks and the White Place neighborhood on the north.

The Committee consisted of 13 individuals, with professional backgrounds and expertise in architecture, commercial development, finance, law, planning, preservation, and transportation planning. The individuals represented the Board of Selectmen, the Advisory Committee, the Planning Board, the Economic Development Advisory Board, the Zoning By-Law Committee, and the Transportation Board. There were seven Community Representatives. In addition, the Committee relied heavily on Kara Brewton, the Town’s Economic Development Director, and retained consulting services regarding issues of financial feasibility. Given the complexity of the issues, there were 23 committee and subcommittee meetings, and countless hours of additional volunteer work.
by Committee members. Neighborhood representatives attended many of the meetings; they were given the opportunity to, and did, actively participate in the process.

The Committee was initially directed to report back at or before the Fall 2011 Town Meeting. Because of time constraints imposed by prior zoning changes, explained below, the Committee has completed its work for the Spring 2011 Town Meeting.

The Committee’s fundamental charge was to recommend zoning amendments that would permit appropriate development while mitigating impacts on adjacent neighborhoods and historic districts. The proposed zoning changes strike compromises and utilize new zoning tools in an effort to meet that goal.

The area in question includes the site to the east of Kerrigan Place owned by American Transportation Enterprises, Inc. (ATE) that formerly housed Red Cab operations (111 Boylston Street), a small Town-owned parcel also to the east of Kerrigan Place, Kerrigan Place itself, a smaller ATE parcel to the west of Kerrigan Place, and two additional parcels to the west of Kerrigan Place owned by the Chung family. The zoning district also includes portions of the MBTA tracks to the north.

Prior to 1993, the parcels were zoned for industrial use, as I-1.0. This allowed a floor area ratio (FAR) of 1.0 and a maximum 40 foot height. In 1993, Town meeting passed a zoning change to G-2.0, increasing the FAR to 2.0 and the maximum height to 45 feet (or 60 feet if “public benefits” within the meaning of the Zoning By-Law were provided). Industrial uses were no longer permitted, but additional uses such as medical offices, a life care facility and a hotel were newly allowed.

In September 2008, Leggat McCall developers received a special permit under the G-2.0 zoning for a 70,000 square foot medical office building. That development did not proceed and the special permit expired on April 15, 2010. Although subsequent state legislation theoretically extended the permit, Leggat McCall no longer has the site under agreement.

The Leggat McCall proposal, however, mobilized the neighborhood that sits to the north across the MBTA tracks. The structure permitted under the existing G-2.0 zoning was criticized as visually overwhelming. In addition, it was noted that the structure would have cast many of the homes on White Place, and White Place itself, into shadow for much of the year.

As a result, the neighborhood proposed that the Spring 2010 Town Meeting “downzone” the properties to G-1.0, which would allow an FAR of 1.0 and a maximum height of 40 feet. The zoning also imposed a 30 foot setback from the MBTA tracks. Town Meeting did not adopt the neighborhood proposal on a permanent basis; instead, it imposed G-1.0 zoning until August 1, 2011, at which point the zoning will revert to G-2.0 if this Town Meeting does not take action. This deadline motivated the Davis Path Committee to complete its work expeditiously, rather than wait until the Fall 2011 Town Meeting.

The zoning controversy between the neighbors, the owner and the developer took one final turn. On May 11, 2010, ATE submitted a preliminary subdivision plan that showed
the Red Cab parcel east of Kerrigan Place divided into two residential building lots. This was followed by a definitive subdivision plan in December 2010. The effect of these filings is to “freeze” the G-2.0 zoning that was in effect prior to the Spring 2010 Town Meeting (that is, the zoning under which the Leggat McCall building was permitted) for eight years from the date of the endorsement of the approved plan, if and when that occurs. On January 20, 2011, the Planning Board voted to approve the 111 Boylston Street Subdivision Plan, dated 12/8/10, and prepared by Stantec, subject to a written approval by the Director of Engineer of the construction of curbs and retaining walls over the Town drainage easement. Peter Ditto requested that the applicant submit a construction drawing of the retaining walls cantilevered over the town drainage easement to allow access to it if necessary. Such approval by the Director of Engineer has not been submitted to the Planning Board to date. State law does not require that the subdivision be built as shown on the plan; indeed, the land does not even have to be subdivided. A potential developer of the Red Cab parcel east of Kerrigan Place would have the choice, for the eight-year period, of proceeding either under the “frozen” G-2.0 zoning, or under any “new” zoning in effect at the time of the development.

As a result of the foregoing, the Committee was faced with the following task: drafting zoning that would protect the neighborhood while at the same time providing benefits to a potential developer, with the goal that a developer would opt to proceed under the new zoning rather than the “frozen” zoning. The Committee recognized that its work might well be moot, because the protections sought by the neighborhood and embodied in the zoning might be so unappealing to a developer that the developer would proceed under the “frozen” zoning.

The Committee has sought to protect the neighborhood by, for the first time in Brookline, requiring that all building construction, with limited exceptions, occur only with a building envelope bounded by an angled plane that rises from the MBTA tracks in a southerly direction toward Boylston Street. Thus, the building could be higher along Boylston Street than along the MBTA tracks, reducing both the shadow impacts and the visual impact of the mass of the building relative to the smaller scale homes along White Place. This angled plane is designed to approximate the height of the shadows cast by the existing Red Cab buildings on December 21, the shortest day of the year, although there would of course be additional shadow and visual impacts resulting from the fact that a building could extend across the entire width of the parcel, whereas the existing buildings are only at the eastern end of the parcel.

Other protections are included for the benefit of the neighborhood and the Town, including explicit requirements designed to ensure reasoned and explicit design decisions, an increased setback along Davis Path, an additional 5 foot setback of the first floor along Boylston Street (widening the Boylston Street sidewalk to about 13 feet), screening of any parking areas or garages beyond the screening otherwise required by the zoning by-law, street trees, a contribution to the restoration of Davis Path and the adjoining playground, and the expectation of a “tax certainty” agreement with the Town.

Conversely, the new zoning provides the developer with lesser parking requirements than the “frozen” zoning. The Committee’s economic consultant made clear that such reduced parking requirements could substantially reduce the cost of construction, since much of
May 24, 2011 Annual Town Meeting
14-10

the additional parking required by the “frozen” G-2.0 zoning would have to be built underground at great expense. In addition, the new zoning provides a potentially greater FAR for uses encouraged by the Town, including a limited service hotel (with a potential FAR of 3.0) and medical office, office and other commercial uses (with an FAR of 2.25).

The new zoning does not provide all of the development constraints sought by the neighborhood, but the Committee was faced with the reality that the new zoning would be “competing” with the “frozen” zoning in a potential developer’s analysis. Conversely, the new zoning imposes constraints that will reduce development options and increase costs, but lesser constraints would not have been acceptable to the neighborhood. The Committee sought to strike a balance between competing goals. Assuming the “new” zoning is passed by Town Meeting, it will remain to be seen whether a developer will choose to, and be able to, proceed under the “frozen” zoning or will ultimately proceed under the new zoning.

PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Davis Path Special District Zoning Committee and proposes to amend several sections of the Brookline Zoning By-Law to create a new Davis Path Special District G-(DP), which will include a portion of land fronting on Boylston Street, often referred to as the Red Cab site, as well as 10-12 Kerrigan Place and a Town-owned parcel between those two lots.

The Davis Path Special District Zoning Committee has met several times since the fall to study possible zoning options for the site. The site is currently zoned G-1.0 (DP), a temporary zoning district passed in 2010 by Town Meeting which expires on August 1, 2011. This proposed zoning is meant to encourage redevelopment of the Red Cab site while limiting impacts to the White Place National Register District, Davis Path, and the adjacent playground. In order to minimize shadow and visual impacts, a new zoning tool is being used to define the massing of the building by defining a specific building envelope with an angled plane that allows greater height on the Boylston Street side of the building and slopes downward toward White Place. All construction with a few exceptions, but including rooftop utilities, must be built within this three dimensional space. Additional protections have also been included, such as requiring greater setbacks, specific façade design elements, provision of street trees, and a contribution to the restoration of Davis Path and the adjoining playground.

The Planning Board supports this zoning amendment, but only with some significant revisions. These primarily relate to eliminating some overly prescriptive design details that during the design review process would limit the exploration of alternative methods of achieving an attractive façade and streetscape. Additionally, the Planning Board believes it is duplicative to add a requirement for written determinations addressing design by the Design Advisory Team, Planning Board, and Board of Appeals, because each group already provides either minutes, recommendations or decisions, all of which are in writing.
Overall, the Planning Board believes this proposed zoning amendment, with the Board’s suggested revisions, will serve as an incentive to potential developers to proceed under the new zoning, rather than the “frozen” zoning, because the parking requirements have been reduced and a greater FAR allowed for certain uses - up to 3.0 for a Limited Service Hotel, up to 2.0 for residential uses, and up to 2.25 for all other uses, while still offering greater protection to the neighborhood.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 14 with the following revisions:

ARTICLE XIV (diagrams in original article will be added)

To see if the Town will amend the Zoning By-Law by amending the zoning district and corresponding sections of the Bylaw currently designated G-1.0 (DP) including the property at 109-111 Boylston Street and all land between this parcel and Davis Path, as shown on the current Zoning Map, as follows:

1. Amending the Zoning Map as shown to add a new G-(DP) district:

2. Amend Section 3.01 (Classification of Districts) by amending 3.01.2.c.8. as follows:

8) G-1.0 (DP) Davis Path (Refer to §5.06, Special District Regulations) — Note: G-1.0 (DP) district shall be in effect until August 1, 2014. After that date, the district shall cease to be in effect and this Section 3.01.d.c.9 shall be removed from the Zoning By-law. (Attorney General approval still pending as of May 27, 2010.)
3. Amend Section 4.07 Table of Uses as follows:

   a. Amend Principal Use 8A, Limited Service Hotel, by adding the following to footnote **: Permitted by Special Permit in G-(DP) District in accordance with Section 5.06.4.g.

   b. Amend Accessory Use 58A as follows:

   58A. Office within the place of residence provided condition (e) below is met in the G-(DP) District, and all of the following conditions are met, except that only condition (e) below needs to be met in the G-(DP) District in other Districts:

   (f) The office occupies not more than one room;
   (g) There are no nonresident employees;
   (h) There are no clients visiting the premises (members of the clergy shall be exempt from this limitation);
   (i) There are no signs nor other external evidence of the office; and
   (j) There is no production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.

4. Amend Table 5.01 - Table Of Dimensional Requirements by amending G-1.0 (DP) and footnote 18 as follows:

| DISTRICT USE | LOT SIZE MINIMUM (sq. ft.) | FLOOR AREA RATIO MAXIMUM | PBI¹ NB ONLY | LOT WIDTH MINIMUM (feet) | HEIGHT MAXIMUM | PBI B N B | MINIMUM YARD3, 18 (feet) | OPEN SPACE(% of gross floor area) | LANDsc. Usable |
|--------------|---------------------------|--------------------------|-------------|--------------------------|---------------|---------|----------------------|-------------------------------|---------------|-----------------|---------------------|-----------------|-------------------|-----------------|-------------------|-----------------|-------------------|
| G-1.0 (DP)¹⁸ | Any structure or principal use (dwelling – footnote 5) | none⁴ | 1.0 to 3.0¹⁸ | NA | none | 40 | 65 | N A | N/A | none | none | 10+L/1 | 0 | | | | | |
|              | Any structure or principal use (dwelling – footnote 5) | none⁴ | 1.0 to 3.0¹⁸ | NA | none | 40 | 65 | N A | N/A | none | none | 10+L/1 | 0 | | | | | | |

18. See Section 5.06.4.g, Special District Regulations with respect to uses and all dimensional requirements. G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and its line shall be removed from Table 5.01. (Attorney General approval still pending as of May 27, 2010.)

5. Amend Section 5.06.4.g by deleting the existing Section 5.06.4.g and replacing it with the following:

   g. Davis Path Special District G-(DP)
1) It has been found through study by the Davis Path Special District Zoning Study Committee that very specific rules are required to encourage appropriate redevelopment of the Davis Path Special District, due to the combination of the close proximity of the White Place National Register District, which contains residential uses on lots that are relatively shallow in depth, the substantial differences in elevation between the Davis Path Special District and the White Place district, the substantial differences in the scale of existing buildings in the White Place district and existing and proposed development in the Davis Path Special District, and the solar orientation of White Place district and the Davis Path Special District. Following a comprehensive study by financial, architecture, and transportation experts, the Committee further concluded that the concepts relating to Building Envelope, façade articulation, and parking requirements have only been deemed appropriate for this Special District, and not intended to affect other districts.

2) For the purposes of the Special District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet may be located in the same building as a Limited Service Hotel without being considered an accessory use.

3) Building Envelope

a) This section describes the three dimensional space within which all Building Construction must occur, subject to further limitations and exceptions as provided in this Section 5.06.4.g. Notwithstanding the provisions of Section 5.31, Building Construction shall include all portions of a structured parking area or building, including elevator penthouses, mechanical equipment enclosures, water tanks and water towers, and cooling towers, with only the exceptions set forth in Section 5.06.4.g.3.e below.

b) Minimum Yard Setbacks shall be defined as follows:
   i. 20 feet from the property line bordering the MBTA property.
   ii. 7 feet from the property line bordering Davis Path.
   iii. 5 feet from the property line bordering Boylston Street for the ground floor (excluding support columns).
   iv. 5 feet from the eastern property line of the G-(DP) District.

c) Height of Building shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of Boylston Street at the edge of pavement opposite the midpoint of the southern boundary of the G-(DP) district. The Height of Building shall be in no case taller than 65’. Additionally, any elevator penthouse, mechanical equipment enclosure, water tanks and water towers, or cooling towers may in no case be taller than 80’ from the District Record Grade. Notwithstanding the foregoing, in no case may any Building Construction exceed the Building Envelope set forth in
Section 5.06.4.g.3.d below, except as expressly provided in Section 5.06.4.g.3.e below.

d) The Building Envelope shall be further restricted by an Angled Plane beginning at an elevation 20 feet above the District Record Grade and aligned with the MBTA property line, with such plane rising toward Boylston Street at an angle of one foot of vertical height for every 2.25 horizontal feet from the MBTA property line in a direction perpendicular to the MBTA property line.

e) Exceptions to the Building Envelope may be permitted only as follows:
   i. flag poles and transmission towers not exceeding 5 feet in horizontal width including appurtenant equipment;
   ii. railings up to 44" high provided they are at least 75% open (measured at 90 degrees to the vertical surface);
   iii. seasonal shading devices, including any awnings and canopies, provided they are removed between October 1st and April 1st; and
   iv. if within 72’ of the Boylston Street property line, a projection or projections containing no more than 4,000 square feet of total gross floor area, such floor area to be measured by the vertical projection(s) of any mass above the Angled Plane onto the horizontal floor area of any story that penetrates the Angled Plane, but in no case no more than 15 feet above the Building Envelope at any point as shown in Figure 5.02d.

4) No relief by Special Permit may be approved for setbacks, height, floor area ratio, or projections above the defined Building Envelope beyond any provisions specified in this Section 5.06.4.g. For example, relief from setbacks per Section 5.43 shall not be available for buildings within these
provisions. Similarly, the “public benefit incentive” exceptions to floor area ratio and height regulations set forth in Sections 5.21 and 5.32 shall not apply.

5) Any building façade parallel to or within 45 degrees of parallel to any property line other than the eastern property line shall be designed and constructed with care and quality of design equivalent to the Boylston Street façade. Visual articulation shall be achieved for each such façade by (a) employing variations in materials and/or ensuring that no portion of any such façade is coplanar for more than 3,500 square feet without a change in depth of 2 feet or more in depth, or (b) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for reasons expressed in such written determination. In the event that the Planning Board modifies or does not accept the recommendation of the Design Advisory Team, or the Board of Appeals modifies or does not accept the recommendation of the Planning Board, a similar affirmative and written determination and reasons shall be provided.

6) Nearby properties, including properties north of the MBTA property, shall be visually screened and protected from the lights of any parking lot or garage by compliance with the requirements of Section 6.04.6, notwithstanding the fact that such properties do not abut and are not across the street from any proposed parking lot or garage.

7) All applications for new structures, outdoor uses, and exterior alterations or additions in the G-DP District which seek a floor area ratio (FAR) greater than 1.0 or reduced parking requirements shall be permitted only on a lot no less than 28,000 square feet in contiguous area, shall be subject to the requirements of Section 5.09, Design Review, obtain a special permit pursuant to Section 9.03, and meet the following requirements:

a) All underlying provisions described in Section 5.04.6.g.1 to 5.04.6.g.6 above.

b) An FAR above 1.0 may be increased by special permit up to 3.0 for Principal Use 8A (Limited Service Hotel), up to 2.0 for other residential uses, and up to 2.25 for all other uses. Where a building contains more than one use, the gross floor area attributable to each use (including an allocated portion of any common areas) shall be computed and divided by the total allowable gross floor area for such use to determine a percentage. The total of all percentages for all uses shall not exceed 100%.

c) Parking and Vehicular Requirements
   i. Parking requirements may be reduced from Section 6.02, Paragraph 1, the Table of Off-Street Parking Space Requirements, for the following uses:
May 24, 2011 Annual Town Meeting
14-16

1. Residential studio units that are less than 500 net square feet in size: 1.0 parking spaces per dwelling unit
2. Residential units that are less than 700 net square feet in size and have less than 2 bedrooms: 1.25 parking spaces per dwelling unit
3. Limited Service Hotel: 0.5 spaces per room and no additional spaces shall be required for floor areas used for eating, drinking, dancing, meeting halls or similar purposes
4. Retail: one space per 500 g.s.f.
5. Office: one space per 600 g.s.f.
6. Medical and Dental Office: one space per 400 g.s.f.

ii. In addition to relief available under Section 6.04.14.c, the width of a building façade facing or within 45 degrees of parallel to the Boylston Street property line devoted to the entrance or exit of a garage, carport, loading dock, parking area or other vehicular use may as of right:

1. exceed twenty-four feet in width, provided, however, that no such individual entrance or exit shall exceed 30 feet in width and the total width of all entrances and exits shall not be more than 40% of the façade; and
2. in the case of multiple entrances, the measurement shall not include the portion of any façade between the entrances that is usable floor area.

iii. Notwithstanding the provisions of Section 6.06.6, only one loading dock shall be required.

iv. Notwithstanding the provisions of footnote 1 of the Table 5.01 Dimensional Requirements, the entrance to a garage or covered vehicular passage facing the street shall be at least 5 feet from the street lot line.

d) The applicant shall provide street trees approximately every 25’, subject to the review and approval of the Director of Parks & Open Space or his/her designee.

e) In addition to (d) above, the applicant shall devote no less than 1% of the hard construction costs (including any site work, above-ground or underground structures, but exclusive of tenant fit-up) towards improvements to the adjacent Davis Path and/or Boylston Street Playground, with such improvements subject to the review and approval of the Director of Parks & Open Space or his/her designee, or, in the alternative, the applicant shall make a cash payment to the Town in an equivalent amount to be utilized by the Town for such purposes.

6. Amend Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements by adding a Footnote as follows:
1. For the G-(DP) Special District, parking requirements shall be the same as those districts with a maximum floor area of 1.0, except as otherwise provided for in Section 5.06.4.g.

Or act on anything else relative thereto.

SELECTMEN’S RECOMMENDATION

Article 14 is being submitted by all the members of the Selectmen’s Davis Path Special District Zoning Study (Davis Path) Committee and two additional nearby residents. It is being proposed to reflect the Committee’s recommended zoning amendments for the so-called “Red Cab” site, located at 111 Boylston Street, as well as Kerrigan Place and small parcels between Davis Path and Kerrigan Place. This recommendation permits appropriate development while mitigating impacts on adjacent neighborhoods and historic districts, as described further below.

The Davis Path Committee consisted of 13 individuals with professional backgrounds and expertise in architecture, commercial development, finance, law, planning, preservation, and transportation planning. The Committee was faced with the following task: drafting zoning that would protect the neighborhood while at the time providing benefits to a potential developer, with the goal that a developer would opt to proceed under the new zoning rather than the “frozen” zoning for most of the site, which would allow a Floor Area Ratio (FAR) of 2.0. A significant piece of the proposed zoning requires all building construction, with limited exceptions, be within a building envelope bounded by an angled plane rising from the MBTA tracks (northerly property line) in a southerly direction toward Boylston Street. Conversely, the new zoning provides any potential developer with lesser parking requirements than the “frozen” zoning and provides a potentially greater FAR for uses encouraged by the Town, including a limited service hotel (with a potential FAR of 3.0) and other commercial uses (with an FAR of 2.25).

The Advisory Committee suggested some of the Planning Board’s recommendations to the zoning article that clarified the intent of the language. However, the Advisory Committee did not adopt all of the Planning Board’s recommendations. For example, the Planning Board voted to strike language that requires the Design Advisory Team (DAT) provide a written determination affirming that visual articulation with respect to building massing is equivalent or better than standards specified in the zoning article. The Planning Board was concerned that the DAT, although advisory to the Planning Board, might be given undue weight in the regulatory process. Although the DAT already keeps minutes of their discussions, the Selectmen agree with the Davis Path Special District Zoning Study Committee and the Advisory Committee that a written determination with respect to the façade design would be a crucial part of documenting any future design review process for this site.
May 24, 2011 Annual Town Meeting
14-18

The Board supports the Advisory Committee’s proposed changes and believes that the zoning article reflects a creative and well thought out solution as an alternative to the frozen zoning language. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 26, 2011, on Article 12, as amended by the Advisory Committee.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
This article is the result of the work of the petitioner Davis Path Special District Zoning Committee. That committee is unanimously recommending passage.

Article 14 at the May 2010 Annual Town Meeting (coincidentally the same Article number as in the current Warrant) was initiated by a group of White Place residents and had proposed to decrease the Floor Area Ratio (“FAR”) applicable to a parcel of land known generally as the “Red Cab site” at 111 Boylston Street, from 2.0 to 1.0. In 2008, the Planning Board had given a favorable recommendation and the Board of Appeals had approved a special permit for a commercial development for this site. The proposed building was to have consisted of three stories, with a recessed fourth story, and underground parking for 265 cars. The proposed building was set back 20 to 47 feet from the MBTA tracks and was heavily landscaped. An abutter appealed the Board of Appeals approval but subsequently withdrew it when it appeared that the development was not going forward. Subsequently, a requested one-year time extension of the special permit by the developer was withdrawn, meaning that the special permit approvals expired on April 15, 2010. Any future project would be required to begin anew the review and approval process.

In support of the May 2010 Article 14, a number of petitioners, including residents of White Place, utilizing software provided by the prior developer of the property, visually outlined the effect (largely shadow and massing) of the proposed development that had been previously approved. White Place is at a 12-foot lower elevation than Boylston Street, such that the length of any shadow cast by a building at the Boylston Street elevation is expanded by virtue of the difference in elevation. The White Place residents were concerned that the construction of a building of similar dimensions would have a similar effect, and sought through their proposed Article to have the parcel downzoned from an FAR of 2.0 to 1.0 so as to limit the size of any structure on that site.

Town Meeting heard that it wasn’t possible to get the zoning “right” without a zoning study and certainly not within the time frame necessary to implement for the May 2010 Town Meeting and not within the confines of the zoning proposal then before us. So as to accommodate such a study, the Town Meeting passed an effective development moratorium in this zoning district until after the 2011 Annual Town Meeting so as to provide the time necessary to determine the correct FAR, setbacks and parking requirements for the site that allow for an economically viable project that will be a better fit given the site’s context.
The vehicle for imposing the moratorium was to accept the petitioners' proposed change in the zoning, but have it sunset after the Spring 2011 Town Meeting. Town Meeting approved the revised Article with the one-year moratorium as recommended by the Advisory Committee. The Selectmen appointed a Davis Path Special District Zoning Committee chaired by Selectman Benka, with representatives from the affected neighborhoods, EDAB, and design and development professionals. The goal of the committee was to see if zoning could be created which would allow development which minimized the impact on the adjacent neighborhoods yet is commercially viable.

DISCUSSION:
Prior to the 2010 Town Meeting, the owner of 111 Boylston St took unilateral action to effectively “freeze” the then-extant zoning at the 2.0 FAR by submitting a “subdivision plan” for the property whose effect was to lock in the then-existing 2.0 FAR. However, since only a portion of the full site was (and is) owned by the prospective developer, the subdivision plan was necessarily limited to less than the entirety of the potential area available for development, which includes certain small parcels one of which is owned by the Town itself.

In the intervening period, the Davis Path Special District Zoning Committee was formed with the goal of reaching a compromise that could permit development at 111 Boylston Street to take place while minimizing any adverse effect upon White Place. The current Article 14, which was introduced by the Davis Path Special District Zoning Committee, represents the culmination of that effort. That Committee has crafted Article 14 and is in unanimous agreement with recommending the article when submitted for the warrant.

As described more fully in the Planning Board’s Report and Recommendation, the current proposed zoning is meant to encourage redevelopment of the Red Cab site while limiting impacts to the White Place National Register District, Davis Path, and the adjacent playground. In order to minimize shadow and visual impacts, a new zoning tool called a “sky plane” is being used to define the massing of the building by defining a specific building envelope with an angled plane that allows greater height on the Boylston Street side of the building and slopes downward toward White Place. All construction with a few exceptions, but including rooftop utilities, must be built within this three dimensional sky plane. Additional protections have also been included, such as requiring greater setbacks, specific façade design elements, provision of street trees, and a contribution to the restoration of Davis Path and the adjoining playground.

We note that although the sky plane concept is new to the Brookline Zoning Bylaw, it is used in other jurisdictions such as Cambridge, MA., New York City and Nashville, TN.

Adding to the challenge faced by the Davis Path committee is the fact that the 111 Boylston St parcel of the zoning district is covered by the subdivision plan providing any prospective developer of choice of using the old zoning for just that parcel or the new zoning which covers all the parcels in the district. So, in effect, the new zoning must compete with the old zoning and must provide sufficient “carrots” to entice a developer to want to use the new zoning.
May 24, 2011 Annual Town Meeting
14-20

The Planning Board held a public hearing on Article 14 on April 7, and voted to support Article 14, “but only with some significant revisions” which it describes as involving the elimination of “some overly prescriptive design details that during the design review process would limit the exploration of alternative methods of achieving an attractive façade and streetscape.” Additionally, the PB’s revisions also include elimination of requirements for the involvement of the Director of Parks & Open Space with respect to the placement of street trees and “improvements to the adjacent Davis Path and/or Boylston Street Playground.” PB has also eliminated certain design details that had been specifically addressed by the Davis Path Special District Zoning Committee and, as the Subcommittee understands, represent material elements of the Committee’s support for Article 14.

The Advisory Committee accepted several small technical changes recommended by the Planning Board, but does not support the Board’s proposed elimination of the design details that had been the subject of extensive discussion by the Davis Path Special Zoning District Committee. The Advisory Committee believes that the design review process is sufficiently flexible as to provide for appropriate modifications without the need to eliminate the Davis Path Committee’s language.

Additionally, the Advisory Committee disagreed with the Planning Board’s language that would (1) eliminate the involvement of the Director of Parks & Open Space with respect to the placement of street trees and “improvements to the adjacent Davis Path and/or Boylston Street Playground”, and (2) remove explicit requirements regarding decisions of aspects of the design review process being stated in writing. The Advisory Committee believes that the Park and Open Space Director’s involvement as stated in the Davis Path Committee proposal is entirely appropriate. We also believe that the written process as proscribed will aid in assuring transparency and increase public confidence in the design review and special permitting processes.

RECOMMENDATION:
The Davis Path Committee worked hard to formulate a zoning proposal it believes is both economically feasible and meets the concerns of the White Place neighborhood. The provisions have been vetted by design and development professionals and included an analysis of whether the permitted building envelope would yield a project which is economically feasible. We owe this committee our thanks for a job well done.

Some of the changes suggested by the Planning Board were substantive and changed the result of hard negotiations within the Davis Path Committee and thus, we believe, should not be supported.

With all this said, we must all recognize that for the 111 Boylston St. parcel, the current zoning is available for another 7 years for a prospective developer due to the filing of the subdivision plan. Thus there is no guarantee that this new zoning will be used by a developer.

The Advisory Committee, by a vote of 18-0-0, recommends FAVORABLE ACTION on the following vote:
VOTED: That the Town amend the Zoning By-Law by amending the zoning district and corresponding sections of the Bylaw currently designated G-1.0 (DP) including the property at 109-111 Boylston Street and all land between this parcel and Davis Path, as shown on the current Zoning Map, as follows:

1. Amending the Zoning Map as shown to add a new G-(DP) district:

2. Amend Section 3.01 (Classification of Districts) by amending 3.01.2.c.8. as follows:

8) G-1.0 (DP) Davis Path (Refer to §5.06, Special District Regulations) — Note: G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and this Section 3.01.d.c.9 shall be removed from the Zoning By-law. (Attorney General approval still pending as of May 27, 2010.)

3. Amend Section 4.07 Table of Uses as follows:

a. Amend Principal Use 8A, Limited Service Hotel, by adding the following to footnote **: Permitted by Special Permit in G-(DP) District in accordance with Section 5.06.4.g.

b. Amend Accessory Use 58A as follows:
58A. Office within the place of residence provided condition (e) below is met in the G-(DP) District, and all of the following conditions are met, except that only condition (e) below needs to be met in the G-(DP) District; in other Districts:
May 24, 2011 Annual Town Meeting
14-22

a) The office occupies not more than one room;

b) There are no nonresident employees;

c) There are no clients visiting the premises (members of the clergy shall be exempt from this limitation);

d) There are no signs nor other external evidence of the office; and

e) There is no production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.

4. Amend Table 5.01 - Table Of Dimensional Requirements by amending G-1.0 (DP) and footnote 18 as follows:

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>USE</th>
<th>LOT SIZE</th>
<th>FLOOR AREA</th>
<th>LOT WIDTH</th>
<th>HEIGHT</th>
<th>MINIMUM YARD</th>
<th>OPEN SPACE</th>
</tr>
</thead>
<tbody>
<tr>
<td>G-1.0 (DP)</td>
<td>Any structure or principal use (dwelling – footnote 5)</td>
<td>1.0 to 3.0</td>
<td>40</td>
<td>NA</td>
<td>10+L/10</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>

18. See Section 5.06.4.g, Special District Regulations with respect to uses and all dimensional requirements. G-1.0 (DP) district shall be in effect until August 1, 2011. After that date, the district shall cease to be in effect and its line shall be removed from Table 5.01. (Attorney General approval still pending as of May 27, 2010.)

5. Amend Section 5.06.4.g by deleting the existing Section 5.06.4.g and replacing it with the following:

g. Davis Path Special District G-(DP)

1) It has been found through study by the Davis Path Special District Zoning Study Committee that very specific rules are required to encourage appropriate redevelopment of the Davis Path Special District, due to the combination of the close proximity of the White Place National Register District, which contains residential uses on lots that are relatively shallow in depth, the substantial differences in elevation between the Davis Path Special District and the White Place district, the substantial differences in the scale of existing buildings in the White Place district and existing and proposed development in the Davis Path Special District, and the solar orientation of White Place district and the Davis Path Special District. Following a comprehensive study by financial, architecture, and transportation experts, the Committee further concluded that the concepts relating to Building Envelope, façade articulation, and parking requirements have only been deemed appropriate for this Special District, and not intended to affect other districts.

2) For the purposes of the Special District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant
greater than 5,000 square feet may be located in the same building as a Limited Service Hotel without being considered an accessory use.

3) Building Envelope

a) This section describes the three dimensional space within which all Building Construction must occur, subject to further limitations and exceptions as provided in this Section 5.06.4.g. Notwithstanding the provisions of Section 5.31, Building Construction shall include all portions of a structured parking area or building, including elevator penthouses, mechanical equipment enclosures, water tanks and water towers, and cooling towers, with only the exceptions set forth in Section 5.06.4.g.3.e below.

b) Minimum Yard Setbacks shall be defined as follows:
   i. 20 feet from the property line bordering the MBTA property.
   ii. 7 feet from the property line bordering Davis Path.
   iii. 5 feet from the property line bordering Boylston Street for the ground floor (excluding support columns).
   iv. 5 feet from the eastern property line of the G-(DP) District.

c) Height of Building shall be measured from the District Record Grade rather than as prescribed in Section 5.30. The District Record Grade shall be the record grade of Boylston Street at the edge of pavement opposite the midpoint of the southern boundary of the G-(DP) district. The Height of Building shall be in no case taller than 65'. Additionally, any elevator penthouse, mechanical equipment enclosure, water tanks and water towers, or cooling towers may in no case be taller than 80' from the District Record Grade. Notwithstanding the foregoing, in no case may any Building Construction exceed the Building Envelope set forth in Section 5.06.4.g.3.d below, except as expressly provided in Section 5.06.4.g.3.e below.

Figure 5.02b – Height of Building Measurements in the G-(DP) District.
d) The Building Envelope shall be further restricted by an Angled Plane beginning at an elevation 20 feet above the District Record Grade and aligned with the MBTA property line, with such plane rising toward Boylston Street at an angle of one foot of vertical height for every 2.25 horizontal feet from the MBTA property line in a direction perpendicular to the MBTA property line.

Figure 5.02c – Angled Plane Diagram

e) Exceptions to the Building Envelope may be permitted only as follows:
   i. flag poles and transmission towers not exceeding 5 feet in horizontal width including appurtenant equipment;
   ii. railings up to 44" high provided they are at least 75% open (measured at 90 degrees to the vertical surface);
   iii. seasonal shading devices, including any awnings and canopies, provided they are removed between October 1st and April 1st; and
   iv. if within 72’ of the Boylston Street property line, a projection or projections containing no more than 4,000 square feet of total gross floor area, such floor area to be measured by the area of the floor immediately below vertical projection of any mass above the Angled Plane onto the horizontal floor area of any story that penetrates the Angled Plane, but in no case 15 feet above the Building Envelope at any point as shown in Figure 5.02d.
4) No relief by Special Permit may be approved for setbacks, height, floor area ratio, or projections above the defined Building Envelope beyond any provisions specified in this Section 5.06.4.g. For example, relief from setbacks per Section 5.43 shall not be available for buildings within these provisions. Similarly, the “public benefit incentive” exceptions to floor area ratio and height regulations set forth in Sections 5.21 and 5.32 shall not apply.

5) Any building façade parallel to or within 45 degrees of parallel to any property line other than the eastern property line shall be designed and constructed with care and quality of design equivalent to the Boylston Street façade. Visual articulation shall be achieved for each such façade by (a) employing variations in materials and/or ensuring that no portion of any such façade is coplanar for more than 3,500 square feet without a change in depth of 2 feet or more in depth, or (b) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for reasons expressed in such written determination. In the event that the Planning Board modifies or does not accept the recommendation of the Design Advisory Team, or the Board of Appeals modifies or does not accept the recommendation of the Planning Board, a similar affirmative and written determination and reasons shall be provided. The Planning Board and the Board of Appeals shall provide a similar written determination and reasons with respect to façade design.

Figure 5.02d – Diagram of Allowable Projection Above Angled Plane
Nearby properties, including properties north of the MBTA property, shall be visually screened and protected from the lights of any parking lot or garage by compliance with the requirements of Section 6.04.6, notwithstanding the fact that such properties do not abut and are not across the street from any proposed parking lot or garage.

All applications for new structures, outdoor uses, and exterior alterations or additions in the G-DP District which seek a floor area ratio (FAR) greater than 1.0 or reduced parking requirements shall be permitted only on a lot no less than 28,000 square feet in contiguous area, shall be subject to the requirements of Section 5.09, Design Review, obtain a special permit pursuant to Section 9.03, and meet the following requirements:

a) All underlying provisions described in Section 5.04.6.g.1 to 5.04.6.g.6 above.

b) An FAR above 1.0 may be increased by special permit up to 3.0 for Principal Use 8A (Limited Service Hotel), up to 2.0 for other residential uses, and up to 2.25 for all other uses. Where a building contains more than one use, the gross floor area attributable to each use (including an allocated portion of any common areas) shall be computed and divided by the total allowable gross floor area for such use to determine a percentage. The total of all percentages for all uses shall not exceed 100%.

c) Parking and Vehicular Requirements
   i. Parking requirements may be reduced from Section 6.02, Paragraph 1, the Table of Off-Street Parking Space Requirements, for the following uses:
      1. Residential studio units that are less than 500 net square feet in size: 1.0 parking spaces per dwelling unit
      2. Residential units that are less than 700 net square feet in size and have less than 2 bedrooms: 1.25 parking spaces per dwelling unit
      3. Limited Service Hotel: 0.5 spaces per room and no additional spaces shall be required for floor areas used for eating, drinking, dancing, meeting halls or similar purposes
      4. Retail: one space per 500 g.s.f.
      5. Office: one space per 600 g.s.f.
      6. Medical and Dental Office: one space per 400 g.s.f.
   ii. In addition to relief available under Section 6.04.14.c, the width of a building façade facing or within 45 degrees of parallel to the Boylston Street property line devoted to the entrance or exit of a garage, carport, loading dock, parking area or other vehicular use may as of right:
      1. exceed twenty-four feet in width, provided, however, that no such individual entrance or exit shall exceed 30 feet in width and the total width of all entrances and exits shall not be more than 40% of the facade; and
2. in the case of multiple entrances, the measurement shall not include the portion of any façade between the entrances that is usable floor area.

iii. Notwithstanding the provisions of Section 6.06.6, only one loading dock shall be required.

iv. Notwithstanding the provisions of footnote 1 of the Table 5.01 Dimensional Requirements, the entrance to a garage or covered vehicular passage facing the street shall be at least 5 feet from the street lot line.

d) The applicant shall provide trees at regular intervals street trees approximately every 25’ along the public sidewalk of Boylston Street. The final design of landscaping along the public sidewalk shall be approved by , subject to the review and approval of the Director of Parks & Open Space or his/her designee.

e) In addition to (d) above, the applicant shall devote no less than 1% of the hard construction costs (including any site work, above-ground or underground structures, but exclusive of tenant fit-up) towards improvements to the adjacent Davis Path and/or Boylston Street Playground, with such improvements subject to the review and approval of the Director of Parks & Open Space or his/her designee, or, in the alternative, the applicant shall make a cash payment to the Town in an equivalent amount to be utilized by the Town for such purposes.

6. Amend Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements by adding a Footnote as follows:

1. For the G-(DP) Special District, parking requirements shall be the same as those districts with a maximum floor area of 1.0, except as otherwise provided for in Section 5.06.4.g.
ARTICLE 15

FIFTEENTH ARTICLE
To see if the Town will amend Section 5.73.1 of the Zoning By-Law by adding “O,” after the letter “G,” and by striking the words “but no rear yard need be deeper than 20 feet” in Section 5.73.1 and replacing them with the words “but the 10 foot increase required by the previous clause shall not result in a rear yard deeper than 20 feet. This section shall not result in a decrease of the rear yard that would otherwise be required under Table 5.01.”

or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
This article is proposed by the Department of Planning and Community Development as a result of an issue that emerged during the deliberations of the Davis Path Special District Zoning Study Committee.

Section 5.73.1 of the Zoning By-Law currently provides for an increase in the rear yard of, for example, a commercial (“G”) property when that property abuts a residential (e.g., “S” or “T”) zone:

Where a rear lot line in an L, G, or I District abuts an S, SC, T, F, or M District the rear yard requirements as specified in Table 5.01 shall be increased by 10 feet, but no rear yard need be deeper than 20 feet.

Most L, G, O and I districts require a rear yard setback determined by a formula of 10 + L/10, where L is the length of a building (i.e., the width of the façade). See Table 5.01.

As a result, a building with a length (rear façade width) of 50 feet in, for example, a G-2.0 district would have a required rear yard setback of 15 feet (10 + 50/10). If the rear lot line of that property abutted a residential zone, Section 5.73.1 would increase the rear yard setback to 20 feet.

On the other hand, a building in a G-2.0 district with a length of 200 feet would have a required rear yard setback of 30 feet (10 + 200/10). Any commercial building with a length over 100 feet would have a required setback greater than 20 feet as a result of the 10 + L/10 formula.

Two potential anomalies became apparent during the deliberations of the Davis Path Committee.

First, Section 5.73.1 fails to include “O” or “office” districts among the affected commercial districts. The proposed revision would include them.

Second, while Section 5.73.1 is apparently designed to provide greater protection to residential (S, SC, T, F or M) districts when they abut commercial districts, the final
clause could arguably be read to have the opposite effect with regard to large commercial structures. Thus, 200-foot wide building in a G-2.0 district would have a required rear yard of 30 feet if it did not abut a residential district, but would arguably have a required rear yard of only 20 feet if it did abut a residential district if the phrase “no rear yard need be deeper than 20 feet” were applicable.

The proposed change is not designed to affect the Red Cab site. First, the owner of the Red Cab site has filed a subdivision plan with the purpose of “freezing” the pre-existing zoning at that site. Second, it appears that the rear lot line of the Red Cab site (in a G district) does not directly abut the T district that includes White Place.

However, it seems appropriate to clarify Section 5.73.1 with respect to other locations so that it reads:

Where a rear lot line in an L, G, O, or I District abuts an S, SC, T, F, or M District the rear yard requirements as specified in Table 5.01 shall be increased by 10 feet, but the 10 foot increase required by the previous clause shall not result in a rear yard deeper than 20 feet. This section shall not result in a decrease of the rear yard that would otherwise be required under Table 5.01.

With this change, the “20 foot” reference would only “cap” the increase provided in the first clause of Section 5.73.1; it could not even arguably be used to reduce a setback that would be greater than 20 feet under the 10 + L/10 formula. For example, a property in a G-2.0 District (which employs the 10 + L/10 formula) would have the following setbacks:

<table>
<thead>
<tr>
<th>Length of rear wall</th>
<th>Rear Yard - Not abutting residential district</th>
<th>Rear Yard - Abutting residential district</th>
</tr>
</thead>
<tbody>
<tr>
<td>50’</td>
<td>15’</td>
<td>20’</td>
</tr>
<tr>
<td>75’</td>
<td>17.5’</td>
<td>20’</td>
</tr>
<tr>
<td>100’</td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>200’</td>
<td>30’</td>
<td>30’</td>
</tr>
</tbody>
</table>

The change would provide the additional protection of Section 5.73.1 for residential districts, without even arguably “undoing” the protection with respect to large buildings provided by the 10 + L/10 formula contained in Table 5.01.

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**PLANNING BOARD REPORT AND RECOMMENDATION**

This article is being submitted by the Department of Planning and Community Development and is being proposed to address an anomaly in the Zoning By-Law, which was discovered during the analysis of appropriate setbacks for the Red Cab site by the Davis Path Study Committee. The current By-Law requires, in certain cases, a greater rear yard setback for a commercial building abutting a commercially zoned district, than
if it were abutting a residually zoned district, where there is a cap of a 20 foot rear yard setback.

Under the current Zoning By-Law, Section 5.73.1, when a lot in a business or industrial zone abuts a residential zone, the rear yard setback requirement for a building \((10+L/10)\) shall be increased by 10 feet, except that the resulting setback need not be greater than 20 feet. However, for a building abutting a commercial zone, there is no limit on the rear yard setback; therefore, a building abutting a commercial zone may have a greater rear yard setback requirement than a building abutting a residential zone, if the length of the rear wall of the building is greater than 100 feet. For example, where a building that does not abut a residential district and has a rear wall with a length of 150’, the required setback would be \(10’ + 150’/10 = 25’\), whereas the same building in a commercial district abutting a residential district would only require a 20 foot setback. Since the intent was to provide greater protection to residential districts, the proposed amendment requires a minimum rear yard setback for commercial lots abutting residential zones and eliminates the 20 foot maximum.

In order to simplify the language in the proposed warrant article, the Planning Board recommends replacing the phrase of the existing By-Law “increased by 10 feet, but no rear yard need be deeper than 20 feet” with “except that no rear yard shall be less than 20 feet”.

As shown in the chart below, conditionally adding 10’ becomes unnecessary, because the minimum setback would start at 20’ and would become greater, the longer the building. The resulting rear yard setback would be the same under the original warrant article language or the Planning Board proposed revisions. However, the revision is more user-friendly because it simplifies the calculation for the required rear yard setback.

<table>
<thead>
<tr>
<th>Length of Rear Wall in business/industrial district*</th>
<th>Current Zoning</th>
<th>Proposed Zoning</th>
<th>PB Proposed Revisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Length of Rear Wall in business/industrial district*</td>
<td>Rear Yard Setbk if abutting residential district</td>
<td>Rear Yard Setbk if abutting residential district</td>
<td>Rear Yard Setbk if abutting residential district</td>
</tr>
<tr>
<td>25’</td>
<td>20’</td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>50’</td>
<td>20’</td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>100’</td>
<td>20’</td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>150’</td>
<td>20’</td>
<td>25’</td>
<td>25’</td>
</tr>
<tr>
<td>200’</td>
<td>20’</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td>300’</td>
<td>20’</td>
<td>40’</td>
<td>40’</td>
</tr>
</tbody>
</table>

*Both in the proposed zoning article and in the PB revised article, buildings in office (O) districts would be included with business and industrial districts. There are two office districts, O-1.0 and O-2.0. In the O-1.0, the rear yard setback requirement is the height of the building; in the O-2.0, the rear yard setback requirement is \(10+L/10\), the same formula as for business and industrial districts. In both the proposed and revised wording, the minimum rear yard setback for buildings in an office district that abut a residential district would be 20 feet.
Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 15 with the following revisions to the current Zoning By-Law, Section 5.73.1.

1. Where a rear lot line in an L, G, O, or I District abuts an S, SC, T, F, or M District, the rear yard requirements as specified in Table 5.01 shall be applied, except that no rear yard shall be less than 20 feet increased by 10 feet, but no rear yard need be deeper than 20 feet.

or act on anything relative thereto.

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SELECTMEN’S RECOMMENDATION

Article 15 was submitted by the Department of Planning and Community Development at the request of Selectman Benka and the Davis Path Study Committee. It is being proposed to address an anomaly in the Zoning By-Law that requires, in certain cases, a greater rear yard setback for a commercial building abutting a commercially zoned district, than if it were abutting a residentially zoned district, where there is a cap of a 20 foot rear yard setback.

Under the current Zoning By-Law, when a lot in a business or industrial zone abuts a residential zone, the rear yard setback requirement for a building shall be increased by 10 feet, except that the resulting setback need not be greater than 20 feet. This 20 foot limit does not apply when a property abuts a commercial district, so a building abutting a commercial zone may have a greater rear yard setback requirement than a building abutting a residential zone. This anomaly applies when buildings are longer than 100 feet; however, this situation does arise from time to time. This article levels the playing field by limiting rear yards in all cases to the more restrictive setback.

In order to simplify the language in the proposed warrant article, the Planning Board recommends replacing the phrase of the existing By-Law “increased by 10 feet, but no rear yard need be deeper than 20 feet” with “except that no rear yard shall be less than 20 feet”.

The Board supports the proposed change and believes that the Planning Board amendments clarify the article significantly without changing its effect. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 12, 2011, on the motion offered by the Advisory Committee, which reflects the amendments made by the Planning Board.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
This article is proposed by the Department of Planning and Community Development as a result of an issue that emerged during the deliberations of the Davis Path Special District Zoning Study Committee.

Section 5.73.1 of the Zoning By-Law currently provides for an increase in the rear yard of, for example, a commercial (“G”) property when that property abuts a residential (e.g., “S” or “T”) zone:

Where a rear lot line in an L, G, or I District abuts an S, SC, T, F, or M District the rear yard requirements as specified in Table 5.01 shall be increased by 10 feet, but no rear yard need be deeper than 20 feet.

Most L, G, O and I districts require a rear yard setback determined by a formula of 10 + L/10, where L is the length of a building (i.e., the width of the façade). See Table 5.01. As a result, a building with a length (rear façade width) of 50 feet in, for example, a G-2.0 district would have a required rear yard setback of 15 feet (10 + 50/10). If the rear lot line of that property abutted a residential zone, Section 5.73.1 would increase the rear yard setback to 20 feet.

On the other hand, a building in a G-2.0 district with a length of 200 feet would have a required rear yard setback of 30 feet (10 + 200/10). Any commercial building with a length over 100 feet would have a required setback greater than 20 feet as a result of the 10 + L/10 formula.

Two potential anomalies became apparent during the deliberations of the Davis Path Committee.

First, Section 5.73.1 fails to include “O” or “office” districts among the affected commercial districts. The proposed revision would include them.

Second, while Section 5.73.1 is apparently designed to provide greater protection to residential (S, SC, T, F or M) districts when they abut commercial districts, the final clause could arguably be read to have the opposite effect with regard to large commercial structures. Thus, 200-foot wide building in a G-2.0 district would have a required rear yard of 30 feet if it did not abut a residential district, but would arguably have a required rear yard of only 20 feet if it did abut a residential district if the phrase “no rear yard need be deeper than 20 feet” were applicable.

The proposed change is not designed to affect the Red Cab site. First, the owner of the Red Cab site has filed a subdivision plan with the purpose of “freezing” the pre-existing zoning at that site. Second, it appears that the rear lot line of the Red Cab site (in a G district) does not directly abut the T district that includes White Place.
May 24, 2011 Annual Town Meeting
15-6

With this change, the “20 foot” reference would only “cap” the increase provided in the first clause of Section 5.73.1; it could not even arguably be used to reduce a setback that would be greater than 20 feet under the 10 + L/10 formula. For example, a property in a G-2.0 District (which employs the 10 + L/10 formula) would have the following setbacks:

<table>
<thead>
<tr>
<th>Length of rear wall</th>
<th>Rear Yard - Not abutting residential district</th>
<th>Rear Yard - Abutting residential district</th>
</tr>
</thead>
<tbody>
<tr>
<td>50’</td>
<td>15’</td>
<td>20’</td>
</tr>
<tr>
<td>75’</td>
<td>17.5’</td>
<td>20’</td>
</tr>
<tr>
<td>100’</td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>200’</td>
<td>30’</td>
<td>30’</td>
</tr>
</tbody>
</table>

The change would provide the additional protection of Section 5.73.1 for residential districts, without even arguably “undoing” the protection with respect to large buildings provided by the 10 + L/10 formula contained in Table 5.01.

DISCUSSION:
Current Section 5.73.1 establishes an increase in the rear yard setback if a proposed commercial use parcel abuts a residential zone. First, while the Section applies to an “L,” “G”, or “I” district, an “O” district, presumably inadvertently, was not included. Second, under the current rear yard measurement procedure (the so-called 10+ L/10 formula) for large structures, if a rear yard of greater than 20 feet would be required by the measurement, the current “20 feet” language could be read as establishing a maximum (implying that these larger required rear yards where the parcel abuts a residential district could be decreased to 20 feet.)

The proposed Article corrects these discrepancies.

The Planning Board recommended language which does not change the substance but is simpler. The Advisory Committee agreed with the Planning Board.

RECOMMENDATION:
The Advisory Committee unanimously recommends FAVORABLE ACTION on the Planning Board language by a vote of 18-0-1 as follows:

VOTED: That the Town amend Section 5.73.1 of the Zoning By-Law as follows:

1. Where a rear lot line in an L, G, O, or I District abuts an S, SC, T, F, or M District, the rear yard requirements as specified in Table 5.01 shall be applied, except that no rear yard shall be less than 20 feet increased by 10 feet, but no rear yard need be deeper than 20 feet.

XXX
ARTICLE 16

SIXTEENTH ARTICLE
To see if the Town will amend the Zoning By-Law as follows: (new language in bold)

1. In §5.45, Traffic Visibility Across Corners, add language to the end of the section as follows:

§5.45 – TRAFFIC VISIBILITY ACROSS CORNERS
In any district where a front yard is required, no structure, fence, planting or other structure shall be maintained between a plane two and one-half feet above curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner within that part of the lot which is within a triangle bounded by the street lot lines and, a straight line drawn between points on each such lot line 25 feet from the intersection of said lot lines or extension thereof, except if the Director of Transportation determines that no safety hazard will result, such as from a fence that allows adequate visibility.

Figure 5.11 – Traffic Visibility Across Corners

In §5.62, Fences And Terraces In Side Yards, add a last sentence to the paragraph to read as follows:

§5.62 – FENCES AND TERRACES IN SIDE YARDS
Subject to §5.45, the provisions of §5.60 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent noise or other
objectionable impact or provide greater safety, such as when a property is bounded by train tracks.

2. In §5.74, Fences And Terraces In Rear Yards, add a last sentence to the paragraph to read as follows:

§5.74 – FENCES AND TERRACES IN REAR YARDS
Subject to §5.45, the provisions of §5.70 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent noise or other objectionable impacts or provide greater safety, such as when a property is bounded by train tracks.

or act on anything thereto.

PETITIONER’S ARTICLE DESCRIPTION
This zoning amendment warrant article is being submitted by the Planning Board, because over the years, several cases have come before the Board which required variances to allow fences, greater than seven feet in height, to be installed on properties bordering the MBTA tracks. The applicants were seeking taller fences to serve as a noise and safety barrier from the trains. Other cases have involved fences being installed on top of retaining walls that, for instance, border a driveway. A fence on top of the wall is needed to prevent someone from falling off, and since the height of the retaining wall is added to the height of the fence on top of it, the height limit is often exceeded. Rather than granting an exception to the Zoning By-Law regulations by variance, it is more appropriate for the Board of Appeals to grant special permit relief if certain conditions are present.

Additionally, the Planning Board has had some cases where a fence was proposed for a corner property. Even if the fence is a wrought iron fence with space between its balusters and does not obstruct visibility or pose a safety hazard, a fence taller than 2 ½ feet within 25 feet of the corner is not permitted and requires a variance. This by-law change would allow the Director of Transportation to determine whether the fence would or would not present a hazard to pedestrians or vehicular traffic. If it is decided that it is not a hazard, it could be approved by-right and receive a building permit from the Building Commissioner without the applicant going through the Board of Appeals approval process. In the past, when variance relief has not been granted, it has resulted in unsightly fences with portions of significantly different heights. Since a fence surrounding a front yard to contain children or pets is a reasonable request if it doesn’t obstruct visibility, it should be allowed.
PLANNING BOARD REPORT AND RECOMMENDATION

This article is being submitted by the Planning Board to address fence related issues that have come before the Planning Board and Board of Appeals in previous years. The article would allow by special permit, if justifiable to mitigate safety or nuisance problems, fences higher than the 7’ maximum currently allowed inside and rear yards. Currently, a variance, with its more stringent standards for relief, is required. The article would also address a provision in the Zoning By-Law that requires fences and plantings within 25’ of a street corner not to exceed 2 ½’ in height; there is currently no exemption in the Zoning By-Law for fences that do not obstruct visibility, such as one with widely spaced balusters. This article does not change the maximum allowed height for fences in the front yard, which are limited to six feet.

The Planning Board believes that for specific cases where a taller fence in a side or rear yard is clearly appropriate, such as for properties abutting the MBTA, a special permit should be allowed if the relief is warranted to ameliorate noise or safety issues. The same is true for retaining walls. For instance, a six foot retaining wall bordering a driveway requires a railing or fence on top of it to provide a safety barrier. Since height is measured from the surrounding grade and includes both the height of the wall and the fence together; the height maximum could easily be exceeded, especially to meet building code safety standards.

Related to fences and plantings on corner properties, the Planning Board believes it is an undue burden on a homeowner to require a special permit or a variance if a fence on a corner lot which has balusters spaced widely apart is determined not to be a safety hazard by the Director of Transportation. The Zoning By-Law currently requires that a fence not be higher than 2 ½ feet within 25’ of the intersection of the property lines that are adjacent to a street. Under the current regulation, a fence around the front yard of a property on a corner lot would need to dip down at its corner from 4’, for example, to 2 ½ feet, even if there were no impairment of visibility. This would result in a fence that does not provide a safe barrier for children or pets and has an irregular appearance.

Therefore, the Planning Board unanimously recommends FAVORABLE ACTION on Article 16 with the following revisions in italics.

To see if the Town will amend the Zoning By-Law as follows: (new language in bold, suggested revisions in italics and underlined)

1. In §5.45, Traffic Visibility Across Corners, add language to the end of the section as follows:

§5.45 – TRAFFIC VISIBILITY ACROSS CORNERS

In any district where a front yard is required, no structure, fence, planting or other structure shall be maintained between a plane two and one-half feet above curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner within that part of the lot which is within a triangle bounded by the street lot lines and, a straight line drawn between points on each such lot line 25 feet from the
intersection of said lot lines or extension thereof, except if the Director of Transportation determines that no safety hazard will result, such as from a fence or plantings that allows adequate visibility.

Figure 5.11 – Traffic Visibility Across Corners

2. In §5.62, Fences And Terraces In Side Yards, add a last sentence to the paragraph to read as follows:

§5.62 – FENCES AND TERRACES IN SIDE YARDS
Subject to §5.45, the provisions of §5.60 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent mitigate noise or other objectionable impact or provide greater safety, such as when a property is bounded by active train tracks.

3. In §5.74, Fences And Terraces In Rear Yards, add a last sentence to the paragraph to read as follows:

§5.74 – FENCES AND TERRACES IN REAR YARDS
Subject to §5.45, the provisions of §5.70 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent mitigate noise or other
objectionable impacts or provide greater safety, such as when a property is bounded by *active* train tracks.

or act on anything thereto.

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**SELECTMEN’S RECOMMENDATION**

Article 16 is being submitted by the Planning Board to address some restrictions on fencing in the Zoning By-Law. The article would allow fences higher than the 7’ maximum currently allowed in side and rear yards, by special permit, if justifiable to mitigate safety or nuisance problems. Currently, a variance, with its more stringent standards for relief, is required. The article would also address a provision in the Zoning By-Law that requires fences and plantings within 25’ of a street corner not to exceed 2 ½’ in height. There is currently no exemption in the Zoning By-Law for fences that do not obstruct visibility, such as one with widely spaced balusters. This article does not change the maximum allowed height for fences in the front yard, which are limited to six feet.

The Planning Board believes that for specific cases where a taller fence in a side or rear yard is clearly appropriate, such as for properties abutting the MBTA, a special permit should be allowed if the relief is warranted to ameliorate noise or safety issues. The same is true for retaining walls. Since height is measured from the surrounding grade and includes both the height of the wall and the fence together, the height maximum could easily be exceeded, especially to meet building code safety standards.

The Board of Selectmen generally agrees that this flexibility should be permitted. However, the Board is concerned that the term “objectionable” is too flexible, and that a more limiting term “detrimental” should be used in its place. The Board also agrees with other changes that the Planning Board recommended to their original article. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 26, 2011, on Article 15 amended as follows:

**VOTED:** That the Town amend the Zoning By-Law as follows: *(new language in bold, suggested revisions in italics and underlined)*

1. In §5.45, Traffic Visibility Across Corners, add language to the end of the section as follows:

   **§5.45 – TRAFFIC VISIBILITY ACROSS CORNERS**

   In any district where a front yard is required, no structure, fence, planting or other structure shall be maintained between a plane two and one-half feet above curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner within that part of the lot which is within a triangle bounded by the street lot lines and, a straight line drawn between points on each
such lot line 25 feet from the intersection of said lot lines or extension thereof, except if the Director of Transportation determines that no safety hazard will result, such as from a fence or plantings that allows adequate visibility.

Figure 5.11 – Traffic Visibility Across Corners

2. In §5.62, Fences And Terraces In Side Yards, add a last sentence to the paragraph to read as follows:

§5.62 – FENCES AND TERRACES IN SIDE YARDS

Subject to §5.45, the provisions of §5.60 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent mitigate noise or other objectionable detrimental impacts or provide greater safety, such as when a property is bounded by active train tracks.

3. In §5.74, Fences And Terraces In Rear Yards, add a last sentence to the paragraph to read as follows:

§5.74 – FENCES AND TERRACES IN REAR YARDS

Subject to §5.45, the provisions of §5.70 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than
twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. **Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent mitigate noise or other objectionable detrimental impacts or provide greater safety, such as when a property is bounded by active train tracks.**

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**ADVISORY COMMITTEE’S RECOMMENDATION**

**BACKGROUND:**
This zoning amendment warrant article was submitted by the Planning Board, because over the years, several cases have come before the Board which required variances to allow fences, greater than seven feet in height, to be installed on properties bordering the MBTA tracks. The applicants were seeking taller fences to serve as a noise and safety barrier from the trains. Other cases have involved fences being installed on top of retaining walls that, for instance, border a driveway. A fence on top of the wall is needed to prevent someone from falling off, and since the height of the retaining wall is added to the height of the fence on top of it, the height limit is often exceeded. Rather than granting an exception to the Zoning By-Law regulations by variance, it is more appropriate for the Board of Appeals to grant special permit relief if certain conditions are present.

Additionally, the Planning Board has had some cases where a fence was proposed for a corner property. Even if the fence is a wrought iron fence with space between its balusters and does not obstruct visibility or pose a safety hazard, a fence taller than 2 1/2 feet within 25 feet of the corner is not permitted and requires a variance. This by-law change would allow the Director of Transportation to determine whether the fence would or would not present a hazard to pedestrians or vehicular traffic. If it is decided that it is not a hazard, it could be approved by-right and receive a building permit from the Building Commissioner without the applicant going through the Board of Appeals approval process. In the past, when variance relief has not been granted, it has resulted in unsightly fences with portions of significantly different heights. Since a fence surrounding a front yard to contain children or pets is a reasonable request if it doesn’t obstruct visibility, it should be allowed.

**DISCUSSION:**
The purpose of this article is to simplify the process of getting fence relief in limited circumstances where it makes sense. Currently, installing a fence higher than seven feet requires a variance. Since the Planning Board and the Zoning Board of Appeals disfavor variances, and since in certain situations (particularly when a residential property abuts the MBTA tracks), such a fence is warranted, the Planning Board believes the process for the homeowner should be simplified through the Special Permit mechanism. Similarly, there is currently a limit, on fences, structures, and plants on “corner” lots, of two and one/half feet. The Planning Board felt that dependent on the nature of such a
structure (e.g., space between columns or railings) higher fences could be warranted. In such a case, the Planning Board felt the Director of Transportation should determine that no safety hazard would result.

The Planning Board voted to modify the warrant language that substituted the word “mitigation” for the word “prevent” and inserted the word “active” before the word “train” in the last section of both Sections 5.45 and 5.47 A motion was made to further substitute the word “detrimental” for the word “objectionable” in that same last sentence. The Advisory Committee rejected this substitute language by a vote of 6-12-1.

RECOMMENDATION:
The Advisory Committee agreed with the Planning Board and unanimously recommends FAVORABLE ACTION on the Planning Board version of Article 16 by a vote of 19-0-0 (with a typographic change) as follows:

VOTED: That the Town will amend the Zoning By-Law as follows: (new language in bold)

1. In §5.45, Traffic Visibility Across Corners, add language to the end of the section as follows:

§5.45 – TRAFFIC VISIBILITY ACROSS CORNERS

In any district where a front yard is required, no structure, fence, planting or other structure shall be maintained between a plane two and one-half feet above curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner within that part of the lot which is within a triangle bounded by the street lot lines and, a straight line drawn between points on each such lot line 25 feet from the intersection of said lot lines or extension thereof, except if the Director of Transportation determines that no safety hazard will result, such as from a fence or plantings that allows adequate visibility.

![Figure 5.11 – Traffic Visibility Across Corners](image)

2. In §5.62, Fences And Terraces In Side Yards, add a last sentence to the paragraph to read as follows:
§5.62 – FENCES AND TERRACES IN SIDE YARDS
Subject to §5.45, the provisions of §5.60 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent mitigate noise or other objectionable impacts or provide greater safety, such as when a property is bounded by active train tracks.

3. In §5.74, Fences And Terraces In Rear Yards, add a last sentence to the paragraph to read as follows:

§5.74 – FENCES AND TERRACES IN REAR YARDS
Subject to §5.45, the provisions of §5.70 shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences, hedges or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to prevent mitigate noise or other objectionable impacts or provide greater safety, such as when a property is bounded by active train tracks.
ARTICLE 17

SEVENTEENTH ARTICLE
To see if the Town will accept the provisions of General Laws Chapter 138, Section 33B, “Sales of Alcoholic Beverages by On-Premise Licensees on Sundays and Certain Legal Holidays; Sales Between 10:00 a.m. and 12:00 noon,”

or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
To date, the Town has not adopted Chapter 138, Section 33B (the “Sunday Brunch Law”), a local option statute that would permit, but not require, the Board of Selectmen, as the local licensing authority, to license restaurants, hotels and clubs to sell alcoholic beverages from 10 a.m. on Sundays, the last Monday in May, and Christmas day and the day thereafter when either falls on a Sunday. Currently, without adoption of this statute, the Board is only authorized to license the sale of alcoholic beverages on such days from 12 noon, pursuant to a different section of Chapter 138, Section 33.

In 2010, the Board of Selectmen established the Licensing Review Committee, a nine-member body comprised of two Selectmen and residents with a broad array of experience and expertise (e.g., in business, economic development, law, and medicine) to make recommendations to the Selectmen on liquor licensing practices and regulations. After interviewing current license holders about the question of the adoption of the Sunday Brunch Law, the Committee found widespread support for adoption because it would afford businesses the opportunity to seek expanded hours with Board approval. License holders commented that the ability to serve alcoholic beverages for brunch beginning earlier than noon would permit a second seating for a mid-day meal, which would make operations more cost-effective. Committee members noted that it would also increase town revenues from the local option meals tax.

The Committee voted unanimously to recommend to the Board that it file a warrant article asking the May 2010 Annual Town Meeting to adopt the Sunday Brunch Law.

The Board supports adoption of this local option statute in order to have flexibility under local authority to decide whether or not to approve licensed alcoholic beverages sales hours as specified in Section 33B, on a case-by-case basis.

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1 Section 33B states: “The local licensing authority of any city or town which accepts this section may authorize licensees under section twelve to sell alcoholic beverages between the hours of 10 a.m. and 12 noon on Sundays, the last Monday in May and on Christmas day or on the day following when said day occurs on Sunday.” The statute was amended in 2010 to permit licensing of sales from 10 a.m.; formerly, it had authorized licensing of sales from 11 a.m.
SELECTMEN’S RECOMMENDATION

Massachusetts General Laws Chapter 138, Section 33B (the “Act”) became effective on July 1, 2010. The Act provides:

The local licensing authority of any city or town which accepts this section may authorize licensees under section twelve to sell alcoholic beverages between the hours of 10:00 a.m. and 12:00 noon on Sundays, the last Monday in May and on Christmas day or on the day following when said day occurs on Sunday.

The statute reverses decades-old ‘blue law’ restrictions on liquor licensees that required that alcoholic beverages could not be sold on Sunday mornings, Memorial Day or Christmas Day. “Section 12” referred to in the Act, is the section of Chapter 138 which controls liquor licensing for sale of beverages to be drunk on premises (essentially, restaurants only). Allowable package stores hours are not effected by the Act. Adopting Article 17 will allow the Board of Selectman, Brookline’s local licensing authority, to permit restaurant licensees to sell alcoholic beverages at these formerly forbidden hours.

Beginning in July 2010, The Board of Selectman, through their Licensing Review Subcommittee, has been studying the Town’s liquor licensing policy and procedures. The Committee will soon make more extensive recommendations. In the course of the Committee’s study they became aware of the Act and concluded that there is no reason why the Town should not consider its acceptance now.

The Committee met with several Town restaurant licensees who strongly advocated for the extended alcohol serving hours. Alcohol sales are an important part of restaurant economics. The limited Sunday hours means that restaurants serving Sunday brunch menus typically attract only one round of seating. This has kept some licensees out of the brunch business entirely. The earlier Sunday hours will enable restaurants in Brookline to attract sufficient customers so that tables can turn over and a Sunday morning serving becomes financially feasible.

Just as alcohol sales are important to restaurants, restaurants are important to Brookline. A healthy business climate for restaurants helps to keep our commercial areas vibrant. Washington Square, for example, has been revitalized in recent years due in large part to a successful restaurant industry. Restaurants keep commercial spaces occupied and storefronts modernized. Restaurants attract patrons, from within Town and without, who support other local merchants. In addition, due to local options taxes, restaurants tabs, and alcohol sales in particular, have a direct financial benefit to the Town.

No objection to this change has been raised. The Sunday blue laws (which have been criticized as an unconstitutional establishment of religion) have been abandoned. There is no reason to believe that ‘the brunch crowd’ will create any greater risk of noise or public drunkenness than we already manage. It should be noted that, if the warrant article passes and the Act is adopted, no licensee will have the absolute right to these
extended hours. Serving hours will continue to be set by the Board of Selectman on a license by license basis, subject to review and revision.

Upon recommendation of its Licensing Review Sub-Committee, the Board of Selectman, for the reasons stated, recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 12, 2011, on the following:

VOTED: That the Town accept the provisions of General Laws Chapter 138, Section 33B, “Sales of Alcoholic Beverages by On-Premise Licensees on Sundays and Certain Legal Holidays; Sales Between 10:00 a.m. and 12:00 noon.”

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
In 2010, the Commonwealth enacted Chapter 138, Section 33B (the “Sunday Brunch” law), a local option statute that permitted—but did not require—the Board of Selectmen, as the local licensing authority, to license restaurants, hotels and clubs to sell alcoholic beverages from 10 a.m. on Sundays, the last Monday in May, and Christmas day and the day thereafter when either falls on a Sunday. Previously, alcohol could not be sold before Noon on those days.

The Licensing Review Committee (LRC), consisting of nine members—two Selectmen and seven Town residents with a variety of areas of expertise—was appointed in 2010 by the Selectmen to make recommendations regarding liquor licensing practices and regulations. In carrying out its charge, the committee interviewed current license holders about the “Sunday Brunch Law” and found widespread support for adoption of the State provisions. The LRC held a public hearing on the question, but there were no attendees, and no opposition expressed by Town residents. The LRC voted unanimously to recommend that the Board of Selectmen file a warrant article asking the May, 2011, Annual Town Meeting to adopt the Sunday Brunch Law.

The Board supports adoption of this local option statute in order to have flexibility under local authority to decide whether or not to approve on a case-by-case basis licenses to sell alcoholic beverages during hours as specified in Section 33B.

DISCUSSION:
All establishments in Brookline that serve alcohol for consumption on the premises must also serve food. Earlier brunch service would permit businesses a second seating for a mid-day meal, making their operation more cost effective. In addition, the Town would also benefit from increased tax revenues from the local option meals tax.
The extended hours would not be not automatically awarded. Adoption of this local option statute would give the Town local authority to decide whether to approve the extended hours for the sale of licensed alcoholic beverages as specified in Section 33B, on a case-by-case basis.

Other communities have already adopted the “Sunday Brunch” local option statute, and extended hours are already in effect in Boston and Cambridge, without ill effect.

RECOMMENDATION:
The Advisory Committee recommends FAVORABLE ACTION by a vote of 18 in Favor, 2 opposed, and 0 abstentions on the vote offered by the Selectmen.
ARTICLE 18

EIGHTEENTH ARTICLE
Resolution to Honor Michael and Kitty Dukakis

Whereas, Michael Stanley, and Katharine ("Kitty") Dickson Dukakis each grew up in Brookline, graduated from Brookline High School, and have continually resided here for over 60 years; and

Whereas, Michael Dukakis represented Brookline in the Massachusetts House of Representatives between 1962 and 1970, and was the 65th and 67th Governor of Massachusetts from 1975 to 1979, and 1983 to 1991; and

Whereas, Mrs. Dukakis has worked extensively for over 40 years to bear witness to horror, speak truth to power, and protect human rights including as a member of President’s Commission on the Holocaust, as a member of the US Holocaust Memorial Committee, as a director of the Refugee Policy Group/Refugees International, the Task Force on Cambodian Children, the Cambodian Crisis Fund, and Mapendo International, a humanitarian organization that rescues and protects African refugees; and

Whereas, in 1988 Governor Dukakis won the nomination of the Democratic Party for President of the United States, and in the general election that year won the support of the people of the states of Hawaii, Iowa, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Washington, West Virginia, Wisconsin, and the District of Columbia; and

Whereas, the citizens of Brookline believe it is time for the Town to publicly thank Governor and Mrs. Dukakis for their service via the creation of a monument, or the naming or renaming of some Town property for them;

Now, therefore, be it hereby resolved that the Town honor Governor and Mrs. Dukakis with a monument appropriate to their accomplishments, and sufficient in scope to mark the esteem with which they are held. And be it further resolved that Town Meeting urges the Selectmen to appoint a committee to liaise with the Dukakis family, their friends and supporters, and any relevant institutions, and charge this committee with, among other things debating the questions of sufficiency and feasibility, and reporting back to the Selectmen by October 31, 2011 with a recommendation for the Selectmen to make on behalf of the Town to the appropriate Town body(ies) to create and fund such a monument or dedication. The Board of Selectmen, and all other relevant boards, commissions, and/or committees, including but not limited to the Naming Committee are further encouraged to complete all processes and procedures related to naming such that a recommendation may be brought to the 2012 Annual Town Meeting for its action to honor Michael and Kitty Dukakis.

Or act on anything relative thereto.
PETITIONER’S ARTICLE DESCRIPTION

It is time for Brookline to publicly thank Michael and Kitty Dukakis for all they have done for us. Governor and Mrs. Dukakis are each in their 70’s, and while it is certain that they will both be with us for many more years, why should we wait any longer to begin the process of thanking them?

Governor and Mrs. Dukakis each grew up in Brookline, graduated from Brookline High, and have continually resided here for over 60 years. Michael Dukakis began his political career as a Town Meeting member, and from 1962 to 1970 represented Brookline in the Massachusetts House of Representatives. He served as 65th and 67th Governor of Massachusetts from 1975 to 1978, and 1982 to 1991. His three terms in office remain the longest tenure of any Governor in state history. In 1988 Governor Dukakis won the Democratic Party’s nomination for the Presidency of the United States, winning the Electoral College votes of ten states.

As First Lady of the Commonwealth from 1975-1979, and 1983-1991 Mrs. Dukakis worked to ensure that the crimes such as those perpetuated by the Nazi’s in the 1930’s and 1940’s were not repeated against others. In 1978 President Carter appointed her to the President’s Commission on the Holocaust, a body whose efforts are credited with the construction of United States Holocaust Memorial Museum as a permanent, living, and national memorial to the victims of the Holocaust. In 1981 Mrs. Dukakis organized a rescue mission to Thailand, securing the release of 250 Cambodian children orphaned by the crimes against humanity perpetuated by the Khmer Rouge regime. In 1985 she returned to Thailand as part on an international team investigating the way Southeast Asian refugees with families in the United States were treated by officials. In 1989 President Bush appointed her to the board of directors of the US Holocaust Memorial Museum. To this day, she remains a member of its Committee on Conscience, a standing committee tasked with calling attention to all any and all acts of genocide or other crimes against humanity taking place anywhere on earth.

Since leaving public life Governor Dukakis has served as a distinguished professor of political science at Northeastern University and as a visiting professor at the school of public policy at UCLA. In 1998 President Clinton nominated, and the Senate confirmed him for a five-year term on the Amtrak board of directors. Mrs. Dukakis has also continued her advocacy efforts as a director of Mapendo International; a humanitarian organization focused saving African orphans and refugees, and as a director of the New England Center for Children, a school for autistic children in Southborough. Mrs. Dukakis’ battles with deeply personal afflictions make her one of the most public advocates for treatment in America.

Mrs. Dukakis is namesake of the Kitty Dukakis Treatment Center for Women, an affiliate of the Lemeul Shattuck Hospital. Governor Dukakis is namesake of the Michael S. Dukakis Governor’s Summer Fellows Program at the Kennedy School of Government at Harvard University. The Kitty and Michael Dukakis Center for Urban & Regional Policy is named in their honor at Northeastern University.

This non-binding resolution asks the Town to also create some monument to the
Dukakis’, either by naming something, or creating something in their honor. It asks the Board of Selectmen to appoint a committee to decide what this should be, and that it choose something commensurate with their accomplishments. Finally it asks that this committee, the Board of Selectmen, and all other relevant boards, commissions, and committees act in such a manner to facilitate Town Meeting action on a binding warrant article to honor Governor and Mrs. Dukakis in 2012.

Source: [http://www.northeastern.edu/dukakiscenter/about_us/kitty_michael/](http://www.northeastern.edu/dukakiscenter/about_us/kitty_michael/)

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**SELECTMEN’S RECOMMENDATION**

Kitty and Michael Dukakis are local examples of dedicated public servants, tireless advocates for innumerable worthy causes and exemplary individuals with a long history of good deeds for the Town and citizenry at large. Article 18 is a resolution that, as amended by the Advisory Committee, asks that a committee be formed to study the issue of funding a recognition of or dedication to the Dukakis’.

Michael Dukakis began his political career as an elected Town Meeting Member in Brookline and went on to represent Brookline in the Massachusetts House of Representatives between 1962 and 1970, and was the 65th and 67th Governor of Massachusetts from 1975 to 1979 and 1983 to 1991. In 1988 Governor Dukakis won the Democratic Party’s nomination for the Presidency of the United States, winning the Electoral College votes of ten states. Ms. Dukakis has worked extensively on issues related to the Holocaust, the Armenian genocide, and contemporary human rights issues.

As private citizens the work of Kitty and Michael Dukakis can still be felt throughout the community. Michael Dukakis has been a Distinguished Professor of Political Science at Northeastern University and Visiting Professor at the School of Public Policy at UCLA. He has inspired scores of students to enter public service and has continued to advocate for issues such as national health care policy reform and transportation. Mrs. Dukakis serves as a director of Mapendo International, a humanitarian organization focused on saving African orphans and refugees, and as a director of the New England Center for Children, a school for autistic children in Southborough. Mrs. Dukakis’s battles with deeply personal afflictions make her one of the most public advocates for treatment in America.

It seems a daunting task to a fitting way to honor their legacy, but the Board agrees that the time has come for Brookline to honor the achievements of Kitty and Michael Dukakis. Therefore the Board unanimously and proudly recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 26, 2011, on the following motion:

**VOTED:** that the Town adopt the following resolution:
May 24, 2011 Annual Town Meeting
18-4

Whereas, Michael Stanley, and Katharine (“Kitty”) Dickson Dukakis each grew up in Brookline, graduated from Brookline High School, and have continually resided here for over 60 years; and

Whereas, Michael Dukakis represented Brookline in the Massachusetts House of Representatives between 1962 and 1970, and was the 65th and 67th Governor of Massachusetts from 1975 to 1979, and 1983 to 1991; and

Whereas, Mrs. Dukakis has worked extensively for over 40 years to bear witness to horror, speak truth to power, and protect human rights including as a member of President’s Commission on the Holocaust, as a member of the US Holocaust Memorial Committee, as a director of the Refugee Policy Group/Refugees International, the Task Force on Cambodian Children, the Cambodian Crisis Fund, and Mapendo International, a humanitarian organization that rescues and protects African refugees; and

Whereas, in 1988 Governor Dukakis won the nomination of the Democratic Party for President of the United States, and in the general election that year won the support of the people of the states of Hawaii, Iowa, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Washington, West Virginia, Wisconsin, and the District of Columbia; and

Whereas, the citizens of Brookline believe it is time for the Town to publicly thank Governor and Mrs. Dukakis for their service;

Now, therefore, be it hereby resolved that the Town honor Governor and Mrs. Dukakis with a recognition appropriate to their accomplishments, and sufficient in scope to mark the esteem with which they are held. And be it further resolved that Town Meeting urges the Selectmen to appoint a committee to consult with the Dukakis family, their friends and supporters, and any relevant institutions, and charge this committee with, among other things, debating the questions of sufficiency and feasibility, and reporting back to the Selectmen by February 3, 2012 with a recommendation for the Selectmen to make on behalf of the Town to the appropriate Town body(ies) to create and fund such a recognition or dedication. The Board of Selectmen and all other relevant boards, commissions, and/or committees, including but not limited to the Naming Committee, are further encouraged to complete all processes and procedures related to naming such that a recommendation may be brought to the 2012 Annual Town Meeting for its action to honor Michael and Kitty Dukakis.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Article 18 is a resolution that asks the town to bestow upon Governor and Mrs. Dukakis a meaningful tribute marking their many contributions and accomplishments.
DISCUSSION:
This article does not prescribe a specific action. Rather, it aims to explore a way to honor two of Brookline’s most influential citizens, Michael and Kitty Dukakis, both of whom are of local, national and international prominence. It urges the Selectmen to report back on a possible action to thank the Dukakises and to recognize their outstanding contributions to Brookline, the nation and the world. It is felt that this tribute is long overdue since many communities have honored the Dukakis name, whereas their own community has not yet done so.

While by virtue of his national political prominence, the Governor’s service may be better known, Kitty too has contributed immeasurably for over 40 years, particularly in the area of human rights. She has been a member of the Holocaust commission and U.S. Holocaust Memorial Committee, Director of The Refugee Group, Refugees International, a member of the Task Force on Cambodian Children, active with the Cambodian Crisis Fund and the Mapendo Intervention, a humanitarian organization that protects African refugees. Her involvement in these causes helped save 250 orphans in Thailand, victims of the Khemer Rouge. These are but a few examples of the dedicated contributions Kitty Dukakis made.

Michael Dukakis, perhaps the most influential Brookline citizen in 40 years, served three terms as Governor of Massachusetts. Dukakis began his political career as an elected Brookline Town Meeting member. He went on to win a seat in the Massachusetts legislature where he served four terms. Dukakis won the Governorship in 1974, inheriting a record deficit and record-high unemployment. He is credited by many with digging Massachusetts out of its worst financial and economic crisis in history. Although defeated in the Democratic primary in 1978, he was re-elected to an unprecedented third term in 1986 by one of the largest margins in history, making him the longest-serving Governor on record. In 1986, his colleagues in the National Governors’ Association voted him the most effective Governor. He is widely known for his honesty and integrity, even by those who differ with his principles.

In 1988, Michael Dukakis won the Democratic nomination for the Presidency. Although he lost to George Bush, he amassed a huge popular vote.

After the defeat, he and Kitty spent three months in Hawaii where he was a visiting professor in the Departments of Political Science and Public Health. Currently Governor Dukakis serves as a Distinguished Professor of Political Science at Northeastern University and Visiting Professor at the School of Public Policy at UCLA. Dukakis lectures frequently on the subjects of Public Health and Political Science and he recently wrote a book with former U.S. Senator Paul Simon entitled How To Get Into Politics. President Clinton appointed Dukakis to a five-year term on the Board of Directors of Amtrak.

Governor Dukakis is widely sought after as an advisor, consultant and speaker, and continues to maintain his dedication and concern for the Town of Brookline where he and Kitty were born, raised and continue to live and where they raised their three children.
RECOMMENDATION:
The Advisory Committee, by a vote of 20-1-1, recommends FAVORABLE ACTION on the vote offered by the Selectmen.

XXX
ARTICLE 19

NINETEENTH ARTICLE
To see if the Town will adopt the following resolution:

Whereas, changes to create traffic calming can have a significant effect on the daily lives of residents;

Whereas, traffic calming measures can be expensive to implement, and if faulty, to remove;

Whereas, the existing _Traffic Calming Policy and Procedures_ adopted in 2001 direct that "A Design Review Committee will be established to guide the development of a traffic calming plan in each area where definitive problems conducive to traffic calming treatments are found to exist";

Whereas, funds from the Capital Improvement Program (CIP) are expended for traffic calming projects which follow established policy;

Whereas, the Transportation Board has not complied with the _Traffic Calming Policy and Procedures_ in establishing a Design Review Committee consisting of 2 members of the Transportation Board, 2 members from the Department of Public Works, and 3 members from the affected neighborhood;

NOW, THEREFORE BE IT RESOLVED THAT:
Town Meeting urges the Transportation Board to forthwith take the following action with respect to any and all traffic calming projects:

1) appoint a Design Review Committee for each traffic calming project, with the membership to consist of 2 members of the Transportation Board, 1 member of the Department of Public Works, and 4 members from the affected neighborhood, at least one of which is a direct abutter;

2) post notice of each public meeting of the Design Review Committee(s) on the Town's website and send said notice to each Town Meeting Member in the affected precinct(s) and direct abutters;

3) post the following reports as described in the current _Traffic Calming Policy and Procedures_ on the Town's website before discussion at any public meeting - Traffic Calming Screening Report, Needs Assessment Report, Traffic Calming Plan Report;

4) do not approve the expenditure of funds for traffic calming projects unless a traffic calming plan has been developed in accordance with Traffic Calming Policy and Procedures; and
BE IT FURTHER RESOLVED, that the Board of Selectmen are urged not to approve any expenditure for traffic calming projects unless and until the Transportation Board has followed the process outlined above.

or act on anything relative thereto.

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MOTION OFFERED BY THE PETITIONER
Hugh Mattison, TMM-Prec.5

Resolution Requesting Transportation Board to Adhere to existing Traffic Calming Policy and Procedures and Board of Selectmen to Adhere to existing Capital Improvements Program

Moved that the Town will adopt the following resolution:

Whereas, changes to create traffic calming can have a significant effect on the daily lives of residents;

Whereas, traffic calming measures can be expensive to implement, and if faulty, to remove;

Whereas, the existing Traffic Calming Policy and Procedures adopted in 2001 direct that "A Design Review Committee will be established to guide the development of a traffic calming plan in each area where definitive problems conducive to traffic calming treatments are found to exist";

Whereas, funds from the Capital Improvements Program (CIP) are expended for traffic calming projects which follow established policy;

Whereas, the Transportation Board has not complied with the Traffic Calming Policy and Procedures in establishing a Design Review Committee consisting of 2 members of the Transportation Board, 2 members from the Department of Public Works, and 3 members from the affected neighborhood;

NOW, THEREFORE BE IT RESOLVED THAT:
Town Meeting urges the Transportation Board to forthwith take the following action with respect to any and all traffic calming projects as specified in the existing Traffic Calming Policy and Procedures:

1) appoint a Design Review Committee for each traffic calming project,

2) post the following reports as described in the current Traffic Calming Policy and Procedures on the Town's website before discussion at any public meeting - Traffic Calming Screening Report, Needs Assessment Report, Traffic Calming Plan Report;
3) do not approve the expenditure of funds for traffic calming projects implementation unless a traffic calming plan has been developed in accordance with Traffic Calming Policy and Procedures; and

BE IT FURTHER RESOLVED, that the Board of Selectmen are urged not to approve any expenditure for traffic calming projects construction unless and until the Transportation Board has followed the process outlined above as described in the 2001 Traffic Calming Policy and Procedures and the 2012-2017 CIP.

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PETITIONER’S ARTICLE DESCRIPTION

Few actions by a Town Board can affect our lives as much as the Transportation Board, especially when it comes to the routes we travel daily. Traffic Calming is considered by some as the solution to lowering speed and volume, and increasing public safety.

This resolution expresses Town Meeting's desire that the Transportation Board follow the procedures defined in the Brookline's Traffic Calming Policy and Procedures adopted in 2001. There should be no increased cost.

To quote this policy "A Design Review Committee will be established to guide the development of a traffic calming plan in each area where definitive problems conducive to traffic calming treatments are found to exist. To ensure that the traffic calming plan developed respects not only the views of the affected neighborhood, but also the historical, economic and aesthetic values of the Town, this committee will be appointed by the Transportation Board and consist of at least seven (7) members: Transportation Board, 2 members; Department of Public Works, 2 members; and Affected Neighborhood, 3 members."

Current practice, despite the existing Policy, does not include establishing a Design Review Committee (DRC). A DRC is a "public body", as defined by the Open Meeting Law. Failure to appoint a DRC means that no standard public process is followed. Notice of any meetings is not necessarily posted on the Town website, meetings are not necessarily held on public property, and Open Meeting Laws do not apply. Failure to follow established policies violates good government practices, and good government is a practice in which Brookline takes pride.

Moreover, the Traffic Calming Policy and Procedures requires the DRC to review three reports - Traffic Calming Screening Report, Needs Assessment Report, and Traffic Calming Plan Report. To allow citizens the chance to read each report, these reports should be posted on the Town website before public discussion at a Design Review or Transportation Board meeting. However, recent practice has not complied with this policy.

The change to one more resident (an abutter) appointed to the DRC and requiring the Transportation Board to follow their own formal procedure provides a more structured process for reports and greater public visibility and accountability in decision-making.
Appointment of a DRC parallels the Open Space Design Review Panel, appointed by the Park and Recreation Commission whenever a park or recreation area undergoes substantial construction. A similar provision in the Zoning By-Law allows the Planning Board to appoint a Design Advisory Team for projects requiring a special permit. A DRC offers the same assurance that affected residents will participate in decisions affecting their daily lives.

To assure that citizens have a strong voice in deciding the design of the traffic calming, this resolution asks the Transportation Board to amend its Policy by appointing four citizens (rather than three), and to appoint only one DPW staff member. This will reduce the cost for DPW staff.

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**Town of Brookline**

**Massachusetts**

**Department of Public Works**

*Engineering & Transportation Division*

April 29, 2011

Brookline Board of Selectmen
Brookline Advisory Committee
Brookline Town Meeting

Subj: Warrant Article 19

As part of the DPW - Transportation Division reorganization conducted by Commissioner DeMaio in 2007, the Transportation Board and staff members reviewed pending resident requests for traffic calming throughout Brookline and realized that the needs of the residents were not being adequately met in a timely fashion under the existing policies and procedures. In order to better address the needs of our residents, expedite the backlog of safety improvement requests, and include a broader range of input from all interested members of the public, a seven step process was developed that has led to the adoption of successful safety improvement measures including:
- Pedestrian improvements at the intersection of Washington Street and Gardner Road;
- Pedestrian improvements in the Emerson Garden Neighborhood (Emerson, Thayer, Waverly);
- Pedestrian improvements on Goddard Avenue at Larz Anderson Playground;
- Bicycle and vehicular improvements in the Riverway Neighborhood (Netherlands Road and Parkway);
- School zone safety improvements on Stedman Street; and
- Vehicular improvements on Welland Road.

Attached is a brief outline of that seven step process with respect to the Pond Avenue portion of the Pond Avenue and High Street Safety Improvement Plan, which started in October 2009 and was approved 16 months later on February 17, 2011. As this outline shows, the comments made by the petitioner that “no standard public process is followed. Notice of any meetings is not necessarily posted on the Town website, meetings are not necessarily held on public property, and Open Meeting Laws do not apply....” is a completely inaccurate representation of the great lengths to which the Transportation Board and DPW staff went to ensure substantial public input on these matters. For the six public meetings held on the Pond Avenue and High Street project, we mailed out 6,840 notices, posted it on the Town Calendar, and emailed it to the TMMA list. This extensive amount of outreach went far beyond the requirements of State law, Town Bylaws, and that of most boards and commissions, including design review committees.

The Transportation Board believes that the residents of Brookline deserve a public process which addresses their requests and develops the best possible solution to their demonstrated public safety concerns in a timely manner. Good government demands that Boards and Commissions not only create policies and procedures but also regularly amend them to ensure that the best practices are being followed as new technologies and industry standards evolve. Our Traffic Calming Policy and Procedures were developed in 2001 at a time when traffic calming was a new idea in our town. We have learned a lot over the past 10 years and that is why we ask that you support the Capital Subcommittee of the Advisory Committee’s recommendation that Warrant Article 19 not be adopted and in it’s place substitute wording requesting that the Transportation Board and DPW staff examine, revise, and issue a new Traffic Calming Policy and Procedure and present it to the Board of Selectmen by November 2011.

Sincerely (on behalf of the full Board),
Typical Seven Step Process for Pond Avenue portion of the Pond Avenue & High Street Safety Improvement Plan

Step 1: Initial Assessment

Our first step is initial data collection to assess whether or not safety improvements are needed. Generally if the 85th percentile speed is around 10 mph above the posted or statutory speed limit and there is a significant pedestrian presence raised elements are included in any designs.

POND AVENUE:

As part of the initial data collection process for this project the DPW Transportation Division staff collected speed and volume data for Pond Avenue. Pond Avenue is a local roadway under the jurisdiction of the Town of Brookline which abuts the Olmstead Park to the east and residential properties to the west. It has a MassDOT permitted posted speed limit of 25 mph.

The October 27th & 28th data collected in 2009 indicate that the peak AM hour for northbound traffic is from 8am to 9am with an average of 307 vehicles per day during that 1 hour period. The peak PM hour for northbound traffic is from 5 PM to 6 PM with an average of 163 vehicles per day during that 1 hour period. For southbound traffic the peak AM hour is 7 AM to 8 AM with an
average of 167 vehicles per day during that 1 hour period. Likewise the PM peak for the southbound traffic is 5 PM to 6 PM with an average of 719 vehicles per day during that 1 hour period. Previous destination studies compiled by Howard Stein Hudson consulting for Children’s Hospital indicated that the vast majority of the PM peak hour traffic is commuter based coming from the Longwood Medical Area and other parts north and traveling to destinations to the south of Brookline/Boston.

During that same 2 day period the data indicates that northbound 50th percentile speed was 29 mph (4 mph above posted speed limit), 85th percentile speed was 35 mph (10 mph above the posted speed limit), and the 95th percentile speed was 38 mph (13 mph above the posted speed limit). The southbound 50th percentile speed was 29 mph (4 mph above the posted speed limit), 85th percentile speed was 34 mph (9 mph above the posted speed limit), and the 95th percentile speed was 37 mph (12 mph above the posted speed limit).

HIGH STREET:

As part of the initial data collection process for this project the DPW Transportation Division staff collected speed and volume data for High Street. High Street is a collector roadway under the jurisdiction of the Town of Brookline which abuts residential properties along both curbs. It has a MassDOT permitted posted speed limit of 20 mph northbound for .10 miles (528 feet) beginning at Cypress Street and ending before Highland Road) and 30 mph for the remaining .43 miles (2271 feet) beginning before Highland Road and ending at it’s intersection with Boylston Street/Washington Street. The southbound speed limit permit issued by MassDOT replicates these zones with a posted speed limit of 30 mph starting at the intersection of Boylston Street/Washington Street and ending after Oakland Road Extension and a posted speed limit of 20 mph starting after Oakland Road Extension and ending at it’s intersection with Cypress Road.

The October 27th & 28th data collected in 2009 indicate that the peak AM hour for northbound traffic is from 7am to 8am with an average of 138 vehicles per day during that 1 hour period. The peak PM hour for northbound traffic is from 5 PM to 6 PM with an average of 260 vehicles per day during that 1 hour period. For southbound traffic the peak AM hour is 7 AM to 8 AM with an average of 351 vehicles per day during that 1 hour period. Likewise the PM peak for the southbound traffic is 5 PM to 6 PM with an average of 220 vehicles per day during that 1 hour period.

During that same 2 day period the data indicates that northbound 50th percentile speed was 29 mph (1 mph below posted speed limit), 85th percentile speed was 34 mph (4 mph above the posted speed limit), and the 95th percentile speed was 36 mph (6 mph above the posted speed limit). The southbound 50th percentile speed was 29 mph (1 mph below the posted speed
limit), 85th percentile speed was 34 mph (4 mph above the posted speed limit), and the 95th percentile speed was 37 mph (7 mph above the posted speed limit).

Based on the fact that speeds on Pond Avenue at previous traffic calming locations (Highland intersection with bulb out and flashing beacon and a crosswalk) was 35 mph (10 miles above the posted speed limit) it was determined that the area warranted safety improvements.

**Step Two: Initial Staff Plan**

Second Step of the process is for staff to use Institute of Transportation Engineer (ITE), MUTCD, and MassDOT guidelines to create an initial staff plan. The initial staff plan, created by Transportation Engineers Kurt Fraser and Dan Martin included 5 raised crosswalks along Pond Avenue to maintain a speed of 25 to 30 mph throughout the corridor and 15 mph at the crosswalk locations and a realignment of the intersection of Washington & Pond. These crosswalks DO NOT include the steep slope and curb extensions that were used previously throughout the Town but are based on newer designs used in Newton and other communities. For High Street the initial design included a new crosswalk on High Street at Allerton and a speed radar board on the southbound approach (downhill) on High before Highland.

**Step Three: Public Meeting # 1**

On April 8, 2010 Transportation Division staff presented the initial staff plan based on ITE, MUTCD, and MassDOT standards & best practices to a group of 30+ neighborhood residents. This meeting was held in the Selectmen's Conference Room on the 6th floor of Town Hall. Public notice included mailings, email blast from HSHNA, and posting on Town Calendar. Staff reviewed the initial plan the proposed design of the raised crosswalks which are lower in profile than those previously used in Town, and the signage as prescribed in MUTCD. Resident feedback included positive comments about the raised crosswalk model in Newton 9Auburn Street) by Rob Daves and Hugh Mattison who visited the site together. Other feedback requested a reduction in the number of signs for the crosswalks on Pond Avenue and better improvements on High Street including a new crosswalk near Cumberland and elements at High & Highland.

**Step Four: Revision of Staff Plan based on feedback from Public Meeting # 1**

Based on feedback from residents at the first public hearing staff developed a revised plan which reduced the signage to the minimum allowed by MUTCD, a new curb extension at the intersection of High & Highland to reduce the travel lane width, and the moving of the crosswalk on High @ Irving to Cumberland.
Step Five: Public Meeting # 2

On July 28, 2010 Transportation Division staff presented the revised staff plan to a group of 30+ neighborhood residents, many of whom were not at the first meeting. This meeting was held in room 103 on the 1st floor of Town Hall. Public notice included mailings, email blast from HSHNA, and posting on Town Calendar. Feedback included support of the raised crosswalks, support of the reduction in signage, and reduction of improvements at High & Highland. Further areas to explore included concerns that raised elements on pond Avenue would lead to additional diverging of vehicles to High Street, preference for crosswalk at Irving and not Cumberland, raised elements on High Street Hill.

Step Six: Transportation Board Meetings

Once again staff develops a revised plan based on resident feedback and presents it to a public meeting of the Transportation Board for the process of fine tuning and approval. The issue appeared on September 16th, December 1st, January 20th, and February 17th agendas of the Transportation Board meetings which are public meetings which allow public comment on all items. The Transportation Board went through many revisions of the plan and requested staff to conduct several additional studies or considerations based on concerns by residents. These included:

- a study conducted by residents, T-Board members, and Brookline Police which showed that vehicles would still arrive faster at their destination by using Pond Avenue with the raised elements as opposed to High Street;
- a detailed list provided to Hugh Mattison of previous measures taken including police enforcement activities and milder forms of traffic calming;
- consideration of fewer raised crosswalks along Pond Avenue similar to Winchester Street;
- consideration of raised elements on High Street Hill.

At the February 17th meeting of the Transportation Board they adopted, with the support of most neighbors, the Brook House Condo Association, and High Street Hill Neighborhood Association the 5 raised crosswalks and intersection realignment on Pond Avenue. The High Street portion of the plan was postponed to April to further consider a last minute memo submitted by the HSHNA including comments by Peter Furth for alternative designs.

Step Seven: Appeal Period

As allowed under the enabling legislation, there is a 21 day period where any resident can collect the signature of 20 registered Brookline voters
May 24, 2011 Annual Town Meeting
19-10

and appeal that decision to the Board of Selectmen. That period past with no appeal made by any person who opposed the decision of the Transportation Board relative to Pond Avenue.

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SELECTMEN’S RECOMMENDATION

Article 19 is a petitioned resolution regarding the existing Traffic Calming Policy and Procedures. Specifically, in the words of the motion being moved by the Petitioner, the resolution urges the Transportation Board to appoint a Design Review Committee for each traffic calming project, post reports as described in the current Traffic Calming Policy and Procedures on the Town's website before discussion at any public meeting, and not approve the expenditure of funds for traffic calming projects implementation unless a traffic calming plan has been developed in accordance with Traffic Calming Policy and Procedures. In addition, it urges the Board of Selectmen to not approve any expenditure for traffic calming projects construction unless and until the Transportation Board has followed the process outlined in the 2001 Traffic Calming Policy and Procedures.

The Board thanks the petitioner for highlighting the fact that the Transportation Board has not been following the Traffic Calming Policy and Procedures adopted by the Selectmen in 2001, specifically the appointment of a Design Review Committee. The Selectmen must approve any changes to the 2001 policies.

While the current practice of the Transportation Board may be effective, this Board has let the Chairman of the Transportation Board know that any changes to the policies must come before the Selectmen before they can be implemented. The Selectmen are certainly willing to entertain suggested changes to the policies, but it must be done in the open and transparent manner that this Board follows for changes to existing policies. That includes a public hearing.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 5, 2011, on the following resolution, which is identical to the Advisory Committee’s except for the underlined words:

VOTED: that the Town adopt the following resolution:

Whereas, changes to create traffic calming can have a significant effect on the daily lives of residents;

Whereas, the existing Traffic Calming Policy and Procedures were written and voted by the Board of Selectmen in 2001 at which time traffic calming was a new idea in Brookline;
Whereas the Transportation Board has had ten years of experience in developing and implementing traffic calming measures;

Whereas new approaches and strategies for traffic calming continue to evolve;

NOW, THEREFORE BE IT RESOLVED THAT:

Town Meeting urges the Transportation Board to assess and evaluate its current Traffic Calming Policy and Procedures and revise them, where necessary, to reflect best practices regarding traffic calming planning, including public outreach and participation, development, and implementation; and follow the existing policy voted by the Board of Selectmen in 2001 in the interim; and

BE IT FURTHER RESOLVED, that Town Meeting urges the Transportation Board to submit its findings to the Board of Selectmen by the end of November 2011, after soliciting public input at least one public hearing.

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ADVISORY COMMITTEE’S RECOMMENDATION

ARTICLE SUMMARY:
Article 19 is a citizens’ petition for a Town Meeting Resolution urging the Transportation Board to follow the Town of Brookline’s 2001 Traffic Calming Policy and Procedures (2001 Policy), particularly as they relate to the appointment and responsibilities of a Design Review Committee (DRC). The Article also asks Town Meeting to urge the Selectmen not to approve expenditures for implementing traffic calming plans “unless and until” specific processes in the 2001 Policy have been followed. During the review period for warrant articles, the principal petitioner amended the original article. For example, a proposed change to the make-up of the Design Review Committee was deleted, as was reference to posting notice of public meetings, and specific reference to the 2012-2017 CIP was added.

BACKGROUND:
In 2010, the Transportation Board, after meeting with the Executive Board of the High Street Hill Neighborhood Association, started to discuss changes to slow traffic on High Street and Pond Avenue. No DRC was established and according to the petitioner, a series of other steps that are stipulated in the 2001 Policy were ignored. The petitioner notes that he, as a TMM and a Pond Avenue abutter, was therefore denied the potential opportunity to serve on the DRC and to be part of the decision-making process. His experience with this matter led him to conclude that the 2001 Policy was not followed in 2010 and has not been followed for a number of years. Specifically, the Transportation Board has failed to form DRCs and to assign them the responsibility to develop feasible and effective traffic calming plans, as the policy dictates. Instead, the Board has used a Neighborhood Review Process (NRP).
The petitioner finds this change troubling for a number of reasons. First, as a general rule, Town boards and commissions should adhere to their written policies. If there are to be changes to those policies, they should be discussed publicly before being enacted. Second, government works best when it is transparent. If the Transportation Board uses a process that has not been formally adopted or well publicized, citizens will have a more difficult time understanding and participating in that process. Finally, by substituting a Neighborhood Review Process for the DRC, the Board has removed both the possibility for citizens to have a “seat-at-the-table” as well as the opportunity for them to guide the design process and its outcome.

In response to the petitioner’s concerns, the Transportation Board asserts that, with the exception of not using a DRC, the Board continues to follow the 2001 Calming Policy, particularly adhering to the three-step approach to traffic calming – Education, Enforcement, and Engineering. Furthermore, the Board asserts that it and the Transportation Department have consistently reached out to the public for participation and input. In the case of traffic calming on High Street and Pond Avenue, six public meetings were held, notice for all meetings was posted on the Town’s calendar and e-mailed to the TMMA list, and a total of 6,840 notices were mailed. In the Board’s experience, a Neighborhood Review Process involves interaction with a larger group of people, in contrast to a DRC which can end up working in isolation and can be a “fifth wheel” that doesn’t always bring the entire neighborhood into the picture. Although traffic calming proposals very rarely achieve 100% approval, an NRP can produce a higher percentage of accord, in the view of the Transportation Board. Walnut Street and Winchester Street, Brookline’s most unsuccessful traffic calming designs, were the products of a process that used DRCs. Finally, the NRP can engage many more members of the public than a DRC, and with the former the Transportation Board can receive more input from, and provide information to, more citizens.

DISCUSSION:
In the Advisory Committee’s discussion of Article 19, there was no disagreement that boards and commissions should develop policies and then follow them. The petitioner’s complaint that the Transportation Board is not following its published procedures, specifically not appointing DRCs to develop traffic calming plans, monitor their implementation for compliance, and recommend adjustments to remedy legitimate safety concerns, is well-founded. However, it was also noted that the Transportation Board did not discard the fundamental principle of working with members of the public in addressing traffic safety issues, but rather had replaced one approach with another with the intent of soliciting and working with more broadly based public input.

There was some debate regarding the efficacy of a small, Board-appointed group such as a DRC versus a larger, self-selected group, in this instance, the NRP. Several members of the Advisory Committee advocated for the former, believing that a Design Review Committee could play a valuable role in the development of traffic calming projects, might have more consistent attendance at meetings, and might be more reliable in following up with assigned tasks. They supported having the Transportation Board convene a Design Review Committee at least in some cases.
Although there was little interest in urging the Selectmen not to approve expenditures for implementing traffic calming policies unless specific procedures had been followed, a significant majority believed that the fundamental issue is the need for the Transportation Board to amend the written 2001 Traffic Calming Policies and Procedures so that they reflect the current strategies and practices that the Board believes are the most effective in serving the needs of the public.

RECOMMENDATION:
By a vote of 15-4-1, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED: that the Town adopt the following resolution:

Whereas, changes to create traffic calming can have a significant effect on the daily lives of residents;

Whereas, the existing Traffic Calming Policy and Procedures were written in 2001 at which time traffic calming was a new idea in Brookline;

Whereas the Transportation Board has had ten years of experience in developing and implementing traffic calming measures;

Whereas new approaches and strategies for traffic calming continue to evolve;

NOW, THEREFORE BE IT RESOLVED THAT:

Town Meeting urges the Transportation Board to assess and evaluate its current Traffic Calming Policy and Procedures and revise them, where necessary, to reflect best practices regarding traffic calming planning, including public outreach and participation, development, and implementation; and

BE IT FURTHER RESOLVED, that Town Meeting urges the Transportation Board to submit its findings to the Board of Selectmen by the end of November 2011, after soliciting public input at least one public hearing.

XXX
ARTICLE 19

REVISED MOTION OF THE PETITIONER
Hugh Mattison, TMM-Prec.5

Moved: that the Town adopt the following resolution:

Whereas, changes to create traffic calming can have a significant effect on the daily lives of residents;

Whereas, the existing Traffic Calming Policy and Procedures were written and voted by the Board of Selectmen in 2001 at which time traffic calming was a new idea in Brookline;

Whereas the Transportation Board has had ten years of experience in developing and implementing traffic calming measures;

Whereas new approaches and strategies for traffic calming continue to evolve;

NOW, THEREFORE BE IT RESOLVED THAT:

Town Meeting urges the Transportation Board to assess and evaluate its current Traffic Calming Policy and Procedures and revise them, where necessary, to reflect best practices regarding traffic calming planning, including public outreach and participation, development, and implementation; and follow the existing policy voted by the Board of Selectmen in 2001 in the interim; and

BE IT FURTHER RESOLVED, that Town Meeting urges the Transportation Board to submit its findings to the Board of Selectmen by the end of November 2011, after soliciting public input in at least one public hearing.

EXPLANATION

The Board of Selectmen's amendment to this article, which has now become the main motion, acknowledges that there is indeed a Town policy voted in 2001. This amendment urges the Transportation Board (TB) to follow this existing policy. Any Transportation Board plans which have not been implemented must follow the Design Review Process and all aspects of the Traffic Calming Policy. There may be claims that this will delay implementation; however, citizens are entitled to know the rules and procedures and participate accordingly. Better solutions may well result from following the proscribed Design Review process - as many other Boards and Commissions do.
This resolution reaffirms the principle that Boards and Commissions should follow their adopted policies. This principle applies equally to the Board of Selectmen who have a policy stating that CIP funding will not be approved for any Traffic Calming project which has not followed the approved policy.

So in fact, there are 2 policies involved: the Transportation Board's Traffic Calming Policy, made official by the vote of the Board of Selectmen in 2001; and the Board of Selectmen's CIP Policy. If TB decisions that violate Transportation Board Policy are funded by the Selectmen, there will be two violations of policies. As the saying goes, two wrongs don't make a right. Citizens expect and trust that policies will be followed. And that the Board of Selectmen will enforce compliance. Following the rules of the game is what ensures fairness.

A vote of No Action on this article will send a clear message that policies don't have to be followed by Boards and Commissions, especially when more expedient shortcuts are available and can be rationalized. Boards and Commissions must be held accountable. Without passage of this Resolution, the Transportation Board can continue its business-as-usual approach and citizens can only hope to know what our government is doing.
ARTICLE 19

Amendment offered by Martin Rosenthal, TMM-9

Motion to amend the Selectmen's motion by amending the “BE IT FURTHER RESOLVED” clause to read (amendment underscored):

that Town Meeting urges the Transportation Board to submit its findings to the Board of Selectmen by the end of November 2011, after soliciting public input in at least one public hearing held after making a draft of the proposed policy and procedures publicly available through timely dissemination both by prominent placement on the Town website and also by a link thereto from by-law §3.21 listserv e-notices.

EXPLANATION

While Transportation officials have often made exemplary outreach to citizens, and might have used this proposal on their own volition, it reflects an overall deficiency in (PAX’s) 2007 By-Law mandating listserv e-notices, which may not be explicit enough and may need improvement. It now reads in pertinent part (emphasis added):

§3.21.3 Meeting Notices & Agendas: (a) Each meeting "notice" required by OML shall not only be "posted" ... [b]ut to the extent possible, ... shall include (i) an agenda that is reasonably descriptive of the intended business of the meeting, ... and (ii) ... contact information for further inquiries, ... for obtaining background information to the extent readily available, and for ... all of members of the governmental body.

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to citizens who join the aforementioned notification list(s).

The By-Law seems to have been generally successful, albeit still a challenge for some committees lacking Town staff; and some departments often disseminate or publish discussion drafts as per the proposal at hand. As was suggested in PAX’s proposed amendment to art. 9, Special Appropriation #41, the traffic calming procedure for Stedman St. in 2009 seems to have slipped through the cracks of the proposed procedure of this amendment.
ARTICLE 19

Board of Selectmen’s Proposed Amendment of the Petitioner's Motion

On May 26, 2011, the Board of Selectmen voted FAVORABLE ACTION on the following revised motion by a vote of 5-0. The motion incorporates Martin Rosenthal’s proposed amendment, with one change (underlined language is new):

Moved: that the Town adopt the following resolution:

Whereas, changes to create traffic calming can have a significant effect on the daily lives of residents;

Whereas, the existing Traffic Calming Policy and Procedures were written and voted by the Board of Selectmen in 2001 at which time traffic calming was a new idea in Brookline;

Whereas the Transportation Board has had ten years of experience in developing and implementing traffic calming measures;

Whereas new approaches and strategies for traffic calming continue to evolve;

NOW, THEREFORE BE IT RESOLVED THAT:

Town Meeting urges the Transportation Board to assess and evaluate its current Traffic Calming Policy and Procedures and revise them, where necessary, to reflect best practices regarding traffic calming planning, including public outreach and participation, development, and implementation; and follow the existing policy voted by the Board of Selectmen in 2001 in the interim, except that for the Pond Avenue and High Street projects, the Board of Selectmen and the Transportation Board shall develop a mitigating procedure at a public meeting; and

BE IT FURTHER RESOLVED, that Town Meeting urges the Transportation Board to submit its findings to the Board of Selectmen by the end of November 2011 March, 2012, after soliciting public input in at least one public hearing held after making a draft of the proposed policy and procedures publicly available through timely dissemination both by prominent placement on the Town website and also by a link thereto from by-law §3.21 listserv e-notices.

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ARTICLE 20

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

On May 17, the Selectmen considered the Petitioner’s revised motion, which was included on page 20-2 of the Combined Reports. For the same reasons offered in the Board’s original recommendation on Article 20, we recommend NO ACTION, by a vote of 4-1, on the revised motion offered by the petitioner.

ROLL CALL VOTE:

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<th>No Action</th>
<th>Favorable Action</th>
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ARTICLE 20

TWENTIETH ARTICLE
To see if the town will adopt the following resolution:

A Resolution Against the Use of Robocalls in Political Campaigns

Whereas, since the Do-Not-Call Implementation Act of 2003 was signed into law, Americans have made it clear that we do not appreciate being disturbed by telemarketing calls;

Whereas, as federal law requires all telephone calls using pre-recorded messages to include a way to contact the initiator of the call and yet this law is rarely followed;

Whereas, many states, including New Hampshire, California, Indiana, Missouri, and North Carolina, have already taken some form of action against political robocalls;

Whereas, Senator Diane Feinstein (D-CA) introduced a Federal Robocall Privacy Act (S. 2624) to the 110th Congress in February 2008, showing that there is a valid national concern for this issue;

Whereas, Citizens for Civil Discourse (CCD), a non-profit, non-partisan organization, is attempting to get politicians to follow the wishes of those citizens who have signed up for their National Political Do Not Contact Registry; and

Whereas, many politicians and campaign managers agree that robocalls are mostly ineffective when promoting a candidate or an issue;

NOW, THEREFORE, BE IT RESOLVED THAT this Town Meeting urges our representatives and senators in the Massachusetts General Court and the United States Congress to introduce and/or support legislation banning the combined use of computerized autodialers and pre-recorded messages in political campaigns; and

Be it Further Resolved, that the Town Clerk send notice of the adoption of this resolution to all representatives of Brookline in the General Court, the U.S. House of Representatives, and the U.S. Senate within two weeks of its adoption

or act on anything relative thereto.

________________________________________

PETITIONER’S ARTICLE DESCRIPTION
Although the federal government has passed legislation over the years regulating telephone solicitations, such legislation has exempted political candidates from following the wishes of consumers who have signed up with the National Do Not Call Registry. During recent election seasons—in particular the special election for senate that was held in December 2009 and January 2010—many residents of Massachusetts reported an excessive number of political robocalls coming from the campaigns of the various
candidates. Political robocalls only serve to annoy the electorate and are mostly ineffective as a campaign tool. This article would ask our representatives in the Massachusetts General Court and the United States Congress to pass legislation banning political robocalls. It would not affect the right of political campaigns to have volunteers or even candidates call up citizens personally to speak with them.

Summary: This article would ask our representatives in the Massachusetts General Court and the United States Congress to pass legislation banning political robocalls.

MOTION OFFERED BY THE PETITIONER
Michael Burstein, TMM-Prec.12

Moved that the Town adopt the following resolution:

A Resolution Supporting House Bill H00870, Regulating the Use of Robocalls

Whereas, the Do-Not-Call Implementation Act of 2003 has provided to Americans an opportunity to refuse to accept commercial telemarketing calls;

Whereas, Senator Diane Feinstein (D-CA) introduced a Federal Robocall Privacy Act (S. 2624) to the 110th Congress in February 2008;

Whereas, Citizens for Civil Discourse (CCD), a non-profit, non-partisan organization, is attempting to get politicians to follow the wishes of those citizens who have signed up for their National Political Do Not Contact Registry;

Whereas, the Honorable Stephen Kulik of Worthington, Massachusetts, representative of the First Franklin District in the General Court, has filed House Bill H00870, calling for legislation to restrict callers from using certain automatic dialing devices for sending information to subscribers of telephone services, a bill that is supported by no less than eleven of his colleagues as petitioners; and

Whereas, many Americans, including residents of Brookline, find robocalls to be intrusive and disruptive;

NOW, THEREFORE, BE IT RESOLVED THAT this Town Meeting urges our representatives and senator in the Massachusetts General Court to support House Bill H00870 regulating the combined use of computerized autodialers and pre-recorded messages; and

Be it Further Resolved, that the Town Clerk send notice of the adoption of this resolution to all representatives of Brookline in the General Court, the U.S. House of Representatives, and the U.S. Senate within two weeks of its adoption;

And that further, the Town Clerk send the same notice to the Honorable Stephen Kulik and all eleven petitioners of Bill H00870 in the General Court.
The text of Bill H00870, which is not part of the above motion, is as follows:

The General Laws are hereby amended by inserting, after chapter 159C, the following chapter:- Chapter 159D.

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Automatic dialing-announcing device”, a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

“Caller”, a person, corporation, firm, partnership, association, or legal or commercial entity who attempts to contact, or who contacts, a subscriber in the commonwealth by using a telephone or telephone line.

“Message”, any call, regardless of its content.

“Office”, the office of consumer affairs and business regulation.

“Subscriber”, a person who has subscribed to telephone service from a telephone company or any other person living or residing with the subscribing person.

Section 2. (a) A caller shall not use or connect to a telephone line an automatic-dialing device unless: (1) the subscriber has knowingly or voluntarily requested, consented to, permitted or authorized receipt of the message; or (2) the message is immediately preceded by a live operator who obtains the subscriber’s consent before the message is delivered.

(b) This chapter shall not apply to: (1) messages from school districts to students, parents or employees; (2) messages to subscribers with whom the caller has maintained or had a business relationship within the prior 24 months; (3) messages advising employees of work schedules; (4) messages on behalf of correctional facilities advising victims; or (5) messages on behalf of municipalities and government.

Section 3. A caller shall not use an automatic dialing-announcing device unless the device is designed and operated so as to disconnect within 10 seconds after termination of the telephone call by the subscriber.

Section 4. Where the message is immediately preceded by a live operator, the operator must, within the first minute, disclose:

The name of the business, firm, organization, association, partnership or entity on whose behalf the message is being communicated:

The purpose of the message
The identity or kind of goods or services the message is promoting; and

If applicable, the fact that the message intends to solicit payment or commitment of funds.

The approximate length of the call.

Section 5. A caller shall not use an automatic dialing-announcing device to call a subscriber between the hours of 8:00PM and 8:00AM, local time at the subscriber’s location.

Section 6. The office shall establish and maintain a no automatic dialing-announcing device message list of subscribers who do not wish to receive automatic dialing-announcing device messages. The office may contract with a private vendor to establish and maintain such listing provided the contract requires the vendor to provide the no automatic dialing-announcing device message listing in a printed hard copy format and any other format offered at a cost that does not exceed the production cost of the format offered. The office shall provide notice to subscribers of the establishment of a no automatic dialing-announcing device message listing. A subscriber who wishes to be included on the listing shall notify the office by calling a toll-free number provided by the office, or in such manner and at such times as the office may prescribe, which may include electronic notification. The office shall update such listing not less than quarterly and shall make such listing available to automatic dialing-announcing device providers and other persons for a fee as the office shall prescribe.

Section 7. Any caller who is found to have violated any provision of this chapter is subject to the penalties and remedies provided in sections 8-13 of chapter 159C.

Section 8. The office shall establish an advisory group comprise of government entities, local telecommunications companies, local automatic dialing-announcing device providers, businesses, senior citizens and other community advocates to compile and promote a list of educational literature to help subscribers understand their options with regard to automatic dialing-announcing device calls. The office shall work with local telecommunication companies to disseminate to their residential subscribers information about the availability of and instructions on how to request educational literature from the office. The office shall include on its internet website information that informs subscribers of their rights to be placed on the no automatic dialing-announcing device messages listing and the various methods, including notice to the office, of placing their names on the no automatic dialing-announcing message listing.

Section 9. This chapter shall not apply to any outbound telephone call that delivers a prerecorded healthcare message made by, or on behalf of, a covered entity or its business associate, as those terms are defined in the HIPPA Privacy Rule, 45 CFR 160.103.
SELECTMEN’S RECOMMENDATION

Article 20 is a petitioned resolution that, as originally filed, asks Brookline’s representatives in the Massachusetts Legislature and the United States Congress to pass legislation banning political robocalls, which are automated phone calls that use both a computerized autodialer and a computer-delivered pre-recorded message. Robocalls have both proponents and opponents, with proponents arguing they are a convenient and effective way of getting the message out and opponents disliking them for reasons including the calls being annoying, resulting in a reduction in political participation. Consumers are unable to place themselves on a do-not-call list because robocalls made by charitable organizations or political campaigns are exempted from the federal Telemarketing and Consumer Fraud and Abuse Prevention Act.

While the Board appreciates the concerns of the petitioner, a majority believes that limiting robocalls is a restriction on the First Amendment right of free speech. Freedom of political speech is the essence of our democracy and limiting that for the sake of avoiding annoyance goes against democratic ideals and may be unconstitutional. Therefore, the Board recommends NO ACTION, by a vote of 3-2 taken on May 5, 2011.

ROLL CALL VOTE:
No Action          Favorable Action
Daly              DeWitt
Mermell           Benka
Goldstein

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Robo calls (telephone calls placed by automatic dialing announcing devices) for political purposes have come to be used with increasing frequency. The use of robo calls was particularly great prior to the special election in 2010 to fill the U.S. Senate seat formerly held by Ted Kennedy. During campaigns that preceded that election, some Brookline residents, including petitioner Michael Burstein, received multiple robo calls in a single day. In some cases, the same message was delivered multiple times. Some residents find the calls intrusive and annoying.

The federal *Telemarketing and Consumer Fraud and Abuse Prevention Act* allows consumers to place themselves on a do-not-call list to opt out of commercial telephone solicitations. However, the legislation does NOT cover calls placed by charitable organizations or political campaigns.

The Federal Trade Commission prohibits businesses from using robo calls for telemarketing unless they have prior approval from consumers to do so.
A number of states already have regulations in place to limit use of robo calls for political purposes. One of these is California which allows them only when introduced by a “live person.” (The California regulations apply only to robo calls made from within the state; political campaigns can sidestep the regulations by contracting with a robo call provider outside the state.)

The use of robo calls for political purposes has become a national issue. Senator Feinstein (D-CA) has filed legislation to restrict use of political robo calls. Further, a national nonprofit organization, the Citizens for Civil Discourse, has taken up the issue. StopPoliticalCalls.org offers a national website on which people can register their preference to discontinue receiving political rob calls: http://www.stoppoliticalcalls.org/ht/d/Home/pid/176.

Prohibition of robo calls might present Freedom of Speech issues. Sarah Wunsch, a staff member of the American Civil Liberties Union of Massachusetts, cautions against prohibiting a mode of communication based solely upon annoyance. Because of First Amendment concerns, Ms. Wunsch indicated that the ACLU would be opposed to the ban on robo calls for political purposes proposed by Mr. Burstein.

Apart from questions about the effectiveness of robo calls in persuading voters, some political organizers believe that robo calls are useful in reminding voters to go to the polls on Election Days.

DISCUSSION:
The Advisory Committee discussed a modified motion which substitutes “regulate” for “ban” in the action proposed by the resolution. In general, committee members are sympathetic to the petitioner’s annoyance with frequent robo calls during political campaigns. The Committee prefers regulating robo calls to banning them. The Committee acknowledges that some robo calls may be welcome. Further, the Committee recognizes the importance of freedom of political expression. The Committee did not attempt to recommend an approach to regulation.

Support for the resolution was limited. The reservations include the following: skepticism that the annoyance generated by robo calls is sufficient to justify a regulatory remedy, appreciation for robo calls that remind the recipient to vote on election day, a perception that it is easier to hang up on a robo call than a live caller, concern that regulation might infringe on political communication protected by the First Amendment, and skepticism about whether regulation would be effective.

RECOMMENDATION
By a vote of 13 – 9 – 1, the Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:
Whereas, since the Do-Not-Call Implementation Act of 2003 was signed into law, Americans have made it clear that we do not appreciate being disturbed by telemarketing calls;

Whereas, Senator Diane Feinstein (D-CA) introduced a Federal Robocall Privacy Act (S. 2624) to the 110th Congress in February 2008;

Whereas, Citizens for Civil Discourse (CCD), a non-profit, non-partisan organization, is attempting to get politicians to follow the wishes of those citizens who have signed up for their National Political Do Not Contact Registry; and

Whereas, many Americans, including residents of Brookline, find political robocalls to be intrusive and disruptive;

NOW, THEREFORE, BE IT RESOLVED THAT this Town Meeting urges our representatives and senators in the Massachusetts General Court and the United States Congress to introduce and/or support legislation regulating the combined use of computerized autodialers and pre-recorded messages in political campaigns; and Be it Further Resolved, that the Town Clerk send notice of the adoption of this resolution to all representatives of Brookline in the General Court, the U.S. House of Representatives, and the U.S. Senate within two weeks of its adoption or act on anything relative thereto.

XXX
ARTICLE 20

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

On May 17, the Selectmen considered the Petitioner’s revised motion, which was included on page 20-2 of the Combined Reports. For the same reasons offered in the Board’s original recommendation on Article 20, we recommend NO ACTION, by a vote of 4-1, on the revised motion offered by the petitioner.

ROLL CALL VOTE:

<table>
<thead>
<tr>
<th>No Action</th>
<th>Favorable Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeWitt</td>
<td>Benka</td>
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<tr>
<td>Daly</td>
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<tr>
<td>Mermell</td>
<td></td>
</tr>
<tr>
<td>Goldstein</td>
<td></td>
</tr>
</tbody>
</table>
ARTICLE 20

The Petitioner is withdrawing his motion found on page 20-2 of the Combined Reports. He supports the motion moved by the Advisory Committee. Therefore, the motion under consideration will be the Advisory Committee’s motion.
ARTICLE 21

TWENTY-FIRST ARTICLE
To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT THAT REMOVES THE TOWN OF BROOKLINE AS A MEMBER COMMUNITY IN NORFOLK COUNTY.

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline shall, on the first day of July, in the year two thousand and twelve, cease to be a member community in Norfolk County.

SECTION 2. Notwithstanding the provisions in SECTION 1., above, the town of Brookline shall continue to be in the Norfolk Registry District, court system and penal system.

SECTION 3. This act shall take effect upon its passage; or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
With county governments seen as outmoded and inefficient, in 1997 and 1998 the Massachusetts Legislature abolished most county governments in the Commonwealth (Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk, and Worcester Counties). Many of the duties of the former county offices were transferred to state offices. For example, the duties of the Registries of Deeds all now come under the Office of the Secretary of State while the Sheriffs and jails come under the Executive Office of Public Safety. However, several counties in southeastern Massachusetts remained untouched, including Norfolk County.

The Town of Brookline has been a part of Norfolk County since Norfolk County broke away from Suffolk County in 1793. (Interestingly, “In 1795, Brookline petitioned the Supreme Judicial Court to “change its allegiance” back to Suffolk County; the court however, ignored the petition”.1) Brookline became an island of Norfolk County (meaning it is completely non-contiguous to the rest of the County) when several former towns in Norfolk County, including West Roxbury, were annexed by the City of Boston. Brookline is therefore contiguous to Middlesex County (Newton) and Suffolk County (Boston).

Because Norfolk County was not abolished, Brookline continues to pay mandatory assessments to the County. (These assessments are taken out of the Town’s portion of State aid and distributed to the County.) For Fiscal Year 2012, the County assessment for Brookline is nearly $700,000, which is an increase of more than 9% over the prior year.

1 See the Secretary of State’s web site at www.sec.state.ma.us/cis/cisctlist/ctlistidx.htm
(While the County assessment to all cities and towns is capped at 2½%, there is no cap on an individual town’s assessment increase.) Further, because mandated payments to the County are based on property tax assessments, Brookline’s financial contribution is disproportionate to its population. For Fiscal 2012, Brookline is the largest contributor, accounting for 13.2% of the total tax levy of all 28 contributing communities. On the other hand, cities and towns in abolished counties pay no county assessments, such as, for example, the City of Newton.

One may well question what the citizens of Brookline get for $700,000 and most residents would be hard pressed to even name what services Norfolk County provides. While Brookline does benefit from the provision of some minimal engineering services from the County (which arguably could be provided in house), the County Agricultural high school and reduced fees at the Presidents Golf Course in Wollaston are conspicuous examples of county services which provide virtually no benefit for Brookline. A question has also been raised about the Brookline District Court (the State leases the courthouse from Norfolk County) and whether it would continue to operate if Brookline were removed from Norfolk County. Clearly, the substantial savings that would result from this proposal would be more than sufficient to resolve (or offset) any questions concerning the future of this Court in Brookline if, in fact, its future were in question.

Brookline’s annual assessment has grown from $572,000 in Fiscal 2005 to nearly $700,000 in Fiscal 2012. During that period, Brookline has paid Norfolk County well in excess of $3 million in assessments. At this point, removing Brookline as a member of Norfolk County seems long overdue.

This home rule petition would ask the Legislature to remove Brookline as a member community in Norfolk County. It would also keep Brookline as a part of the Norfolk Registry and Courts which are administered by the State.

SELECTMEN’S RECOMMENDATION

Article 21 is a petitioned Article calling for the removal of the Town from being a member of Norfolk County. The same article was filed as part of the 2005 Annual Town Meeting. The core of the issue is the Town’s annual assessment, which is nearly $700,000. The petitioner argues that these funds, which are not even approved by Town Meeting (they are so-called “Non-Appropriated Expenses”), could be applied directly to Town needs.

NORFOLK COUNTY
Norfolk County consists of 28 eastern Massachusetts communities, located to the South and West of Boston. The County was incorporated as a regional governmental entity in 1793, and has its county seat at the town of Dedham. A map is shown on the following page.
The executive authority of Norfolk County is vested in the County Commissioners, who are popularly elected by its residents. The three Commissioners are elected for a four-year term with only one permitted from any one city or town.

The county provides regional services, including the following:

- Superior, probate and trial courthouses
- Norfolk County Agricultural High School
- President’s Golf Course in Quincy
- Registry of Deeds
- Sheriff’s Department
- Engineering Services for Communities
- Retirement Board Administration

Since the County is without a popularly elected legislative authority, it is therefore dependent upon its Advisory Board and the General Court for its budgetary appropriations and capital outlay proposals, which require borrowing. The Advisory Board is composed of a representative from each Norfolk County municipality. The executive authority (Selectman, Mayor, Manager, etc.) of each municipality appoints its own representative annually. Each municipality and their representative’s vote on the Advisory Board is weighted in accordance with the valuation of the assessment of the combined land values in that community. In Brookline’s case, its Advisory Board member’s vote accounts for 13% of the total vote.
County revenues are derived from the Registry of Deeds, a tax on the cities and towns of Norfolk County based on their land values, the Commonwealth of Massachusetts, and various grants. The County Tax is estimated to total $5.3 million in FY12, with Brookline providing $698,333 for the County, or 13.2% of the total tax. The total tax levy, per the provisions of MGL Ch 35, Sec.31, cannot increase by more than 2½ % each year; however, individual tax assessments can increase more or less than that, since the formula is based on equalized valuation (property value), and that value changes every two years.

COUNTY ABOLITION
In 1997 and 1998, the State abolished eight of the 14 counties. The six remaining counties are Barnstable, Bristol, Dukes, Nantucket, Norfolk, and Plymouth. Of the eight abolished counties, only one (Worcester) continues to pay a county tax, and it is frozen at FY98 levels. Municipalities in the other counties pay no county tax. When a county was abolished, the State absorbed both the assets and liabilities of the county, and if assets exceeded liabilities, the county tax was eliminated. If liabilities exceeded assets, the county tax remained until the outstanding liability was paid off.

ARTICLE 21
As proposed, Brookline as a municipality would no longer be a member of Norfolk County as of July 1, 2012; however, for purposes of the registry district, court system, and penal system, Brookline residents and businesses would utilize regional services located in Norfolk County. This means that Brookline individuals and businesses would continue to use, and pay for, the Registry of Deeds; have legal matters heard in the County Court; and have the services of the Norfolk County jail, which is funded by a combination of State funding and Registry of Deeds revenue (again, which Brookline pays for on a fee for service basis).

A major concern is the continuing operation of the Brookline District Court if the Town of Brookline were not paying the County tax. The pure judicial function (e.g., judges, court security officers, stenographers) is funded by the State, but the operational aspects (e.g., custodial services), are paid for by the County. An argument could be made that with Brookline paying no county tax, the other 27 communities within the county could choose not to support the maintenance of the courthouse, since the court is used for Brookline cases. The Selectmen believe the District Court is valuable to the community and that there would be substantial costs as well as harm to local residents if it were no longer located in Town, especially from losing the availability of the Juvenile Court.

CONCLUSION
It is quite evident that Brookline does not avail itself to the services the County offers. That is not the fault of the County; rather, it is due to the extremely professional operation run by the Town. For example, the Town has a full-service Engineering Division, so it does not use the county engineering services as much as communities with a small engineering staff. Similarly, with its own Retirement Board, the Town is not part of the County’s retirement system. Brookline has its own municipal golf course, with which the County’s course in Quincy actually competes.
The Board believes that having Brookline leave Norfolk County on its own is not the proper course to take. It would send the wrong message to the other Norfolk County communities, perhaps reduce needed support from other legislators in the county for any special legislation the Town may have before the General Court, and, most important, could result in the closing of the Brookline Municipal Court. However, the Board does support changes to the formula used to determine the amount of the county tax. It makes little sense to have Brookline, which barely utilizes the services offered by the County, pay the largest portion of the tax simply because it has the largest equalized valuation. Through the proposed resolution, the Board urges certain actions regarding the formula.

The Board recommends FAVORABLE ACTION, by a vote of 4-1 taken on May 5, 2011, on the following resolution:

MOVED: That the Town adopt the following resolution:

RESOLUTION AUTHORIZING AND REQUESTING THE BOARD OF SELECTMAN TO PETITION THE TOWN’S LEGISLATIVE DELEGATION TO STUDY THE INEQUITABLE NORFOLK COUNTY ASSESSMENT OF BROOKLINE AND OTHER MUNICIPALITIES AND TO ENACT LEGISLATION TO REMEDY SUCH INEQUITIES.

WHEREAS County governments are seen as outmoded and inefficient and in 1997 and 1998 the General Court of the Commonwealth of Massachusetts dissolved most county governments (Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk, and Worcester Counties).

WHEREAS Most of the functions, services and duties of the dissolved county governments were transferred to state offices. For example, the duties of the Registries of Deeds all now come under the Office of the Secretary of State while the Sheriffs and jails come under the Executive Office of Public Safety.

WHEREAS In dissolving most county governments the Commonwealth took on liability for continuing liabilities associated with the dissolved county governments such as pensions and other post-employment benefits.

WHEREAS Norfolk County and several other county governments in southeastern Massachusetts remain.

WHEREAS The Town of Brookline continues to pay mandatory assessments to Norfolk County government.

WHEREAS For Fiscal Year 2012, the Norfolk County assessment for the Town of Brookline is nearly $700,000, which is an increase of more than 9% over the prior year.
WHEREAS Municipalities which are located in counties where the county government has been dissolved receive essentially the same services from the Commonwealth as those formerly provided by the county but pay no mandatory assessment to a county government.

WHEREAS Municipalities which are located in counties where the county government has been dissolved do not contribute toward the continuing liabilities of the former county government.

WHEREAS It is unfair and inequitable that Brookline, and other similar municipalities, should be saddled with large county government assessments while municipalities located in counties where county government has been dissolved receive essentially the same services without paying an assessment.

WHEREAS Assessment paid by municipalities to the county government are based on the municipality’s property tax assessments and, therefore, the Town of Brookline’s financial contribution to Norfolk County government is dramatically disproportionate to its population and to the benefits the Town receives.

WHEREAS Except for the physical plant of the Brookline District Court, the Town of Brookline derives minimal benefit from Norfolk County government and the few benefits which are derived could easily be provided for in an alternative and more cost efficient means.

AND WHEREAS It is unfair and inequitable that the Town of Brookline should pay a disproportionate share of the Norfolk County government assessment relative to the benefits received by the Town of Brookline.

NOW IT IS THEREFORE RESOLVED that the Board of Selectman are authorized and requested

1. To communicate with other Norfolk County municipalities about the inequities inherent in the current county government system and to coordinate with other Norfolk County communities who seek a remedy.

2. To petition the Town’s legislative delegation to study the inequitable status, structure and assessment mechanism of remaining county governments.

3. To petition the Town’s legislative delegation to enact legislation to dissolve Norfolk County government or provide another remedy which will correct such inequities so that all municipalities within the Commonwealth, regardless of their geographical county, receive similar services at fair and similar costs.

4. To petition the Town’s legislative delegation to enact legislation which, if Norfolk County government is to continue, will correct such inequities so that the Town of Brookline, and other similar municipalities within Norfolk County, pay county assessment proportional to the benefits derived.

5. To issue a written report on the progress made on or before September 15, 2011 and to report further in this regard at the next Town Meeting.
ROLL CALL VOTE:
Favorable Action
DeWitt
Daly
Benka
Goldstein
No Action
Mermell

ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND:
Warrant Article 21 is a home rule petition which asks the General Court to remove Brookline from Norfolk County government. While removing Brookline from the county, the petition allows Brookline to continue to use the Registry, court, and penal systems.

A similar article was considered at the 2005 Annual Town Meeting. At that time the article was referred to a Moderator’s Committee, which submitted a report in November of 2008. At that time, the committee did not recommend removing Brookline from the county, though it recognized that Brookline “receives little, if any tangible value from Norfolk County government.” The committee did provide three recommendations:

1. Attempt to change the county assessment methodology, which is currently based on real estate value, to one based on population or some other hybrid,
2. Cap or reduce the county budget, and
3. Work with other towns, agencies, and organizations to eliminate all county government, finishing the process which began in the 1990’s.

Brookline’s county assessment in the coming fiscal year is almost $700,000. The petitioner believes we can put our $700,000 to better use. We just can’t keep spending for nothing.

Other abolished counties. Due to insolvency many county governments in Massachusetts were abolished in the late 1990’s. While a handful of eastern county governments were left in place, a total of 8 out of 14 were completely abolished, leaving only geographic boundaries:

- 1997: Franklin and Middlesex
- 1998: Hamden and Worcester
- 1999: Hampshire, Essex, and Suffolk
- 2000: Berkshire

Debts, liabilities, assets, revenues, employees, and functions of these counties were absorbed by the state. However, M.G.L. 34B Section 1 provides a means for the state to recover costs associated with any outstanding liabilities and debts of these counties, such
as unfunded pension obligations and OPEBs. The state estimated the present value of these obligations, and then assessed these fees on the towns until the obligation is retired:

“For the duration of said schedule, the state treasurer shall, pursuant to section 20 of chapter 59, assess upon each city and town within the former jurisdiction of an abolished county an amount equal to the county tax paid by each such city and town as assessed pursuant to the provisions of chapter 35 for the fiscal year beginning July 1 of the year immediately before the transfer date...”

Middlesex is the only county for which this obligation was waived, but Middlesex was dissolved before OPEB’s became a well understood issue. Franklin, dissolved at the same time as Middlesex, did not get this deal.

Norfolk County primarily provides the following services:

- Norfolk County Agricultural High School (operations mostly state funded, Chapter 70)
- Engineering services, including traffic studies, and surveying (5 engineers provide limited services due to insufficient capacity to serve the needs of area towns)
- Retirement/Pension Management
- President’s Golf Course in Quincy (produces small annual surplus)
- Registry of Deeds (run by county employees, 87% of revenues siphoned by state)
- Court maintenance (Brookline Municipal Court is one of seven courts run by the state, while the buildings are owned and operated by the county)
- Conservation land trustee

**Assets.** The county’s assets include the seven municipal court facilities, conservation land, as well as the golf course. While the state runs the municipal court system, it pays rent to the county for maintenance and use of the buildings. In the case of Brookline Municipal Court, the state pays Norfolk County approximately $300,000 per year.

**Debt.** The county has bond and other debt obligations of about $900,000.

**Revenues.** Total anticipated revenues for FY2012 are $25,789,998. The assessment on member towns represents 20% of this revenue. Other sources include golf course receipts, court building rentals, Registry transaction fees & revenues, state appropriations, Chapter 70 funds for the agricultural high school, as well as other minor sources.

**Employees.** There are 190 FTE county employees who work within the school, Registry, courts, and engineering department. There are small numbers of employees in the other areas. The Sheriff’s Department employees have recently been moved to the state payroll.

**Retiree obligations.** Like Brookline, Norfolk County has significant OPEB obligations, which it currently funds on a pay-as-you-go basis. That, together with the unfunded portion of the pension schedule (20 years remaining), adds up to a legacy obligation this year of $5,300,000. The county is working toward decreasing this retiree liability further. It expects to lower it to $4,200,000 by transferring to the Mayflower Municipal Health
Group, a joint purchase group of 31 governmental units organized under M.G.L. 32B Section 12 similar to the GIC.

Pension costs are increasing at a rate of 4.3% per year, outpacing the 2.5% allowable annual levy increase, forcing funds to come from other sources, and creating pressure to further reduce county services. Twenty-five percent of the retirees in the system are from the now disposed-of county hospital; any previous vested employees of the hospital may choose to join the county pension and health system at any time.

**Member town assessments.** While the overall increase of the county levy on member communities is capped at 2.5% by Proposition 2½, Brookline’s assessment for the upcoming fiscal year has increased more than other towns because the formula is based on EQV (equalized valuations). In fact the EQV has dropped for the vast majority of Norfolk County communities (23 of 28). Brookline’s EQV has risen, creating an assessment increase for Brookline of 9.4% from $638,000 to $698,000, well over the 2.5% average increase. Assessments are 4.5 cents/ $1,000 valuation, evenly applied across the county.

**Registry of Deeds.** The real estate downturn has caused receipts to drop at the Registry, which is a primary county revenue stream. The Registry is operated by county employees. Total Registry receipts have varied substantially based on real estate market conditions, in recent years, as high as $60m and as low as $30m. Less than 13% of Registry revenue goes to County operations, over 87% is directed by law to state programs and the state General Fund. The county hopes to convince the state to grant a larger share of Registry revenues to address OPEB costs, improve services, and lower assessments; it achieved a similar change in revenue distribution in 1988.

**DISCUSSION:**

**Recommendations from Moderator’s Committee.** There were three recommendations in the 2008 report from the Moderator’s committee. The first was to change the assessment methodology so that Brookline’s share of the levy would be based on population rather than purely real estate values. While a “progressive” tax approach may seem a fair way to divide the levy, Brookline also takes a hit on local aid because of our status as an affluent community. But changing the allocation formula would require a change to state law that predates 1911. It’s just like the education formula, with winners and losers.

The second recommendation was to cap or reduce the county budget. In some ways this has happened out of necessity. For example, the Sheriff’s Department has been absorbed by the state as part of a continuing trend of moving certain county functions to the state; and the Engineering Department has been reduced from 15 to 5 FTE’s due to shrinking revenue streams combined with increasing retiree costs, together creating a necessity to cut services. The county is now basically treading water but slowly sinking.

The third recommendation was to work with other towns and organizations to eventually eliminate the county. No steps have been taken toward this end, with the exception of this warrant article. The County Commission does not support this article because it feels that it would force the other member communities to pick up the slack. The County also feels there is some value in providing certain regional services, such as engineering, and
May 24, 2011 Annual Town Meeting
21-10

the county could provide a means for more cost effective local governments by reducing redundancy and allowing for common investments.

There is some logic to combining services regionally across towns as is done elsewhere in the country. However, because of scale, geography, and local school quality Brookline does not take advantage of many county services. The court system, Registry of Deeds and Sheriff’s Department are now part of the state rather than the county. Brookline students almost never use the agriculture school (there has been one student enrolled over the past four years). We rarely use the county engineering services, having our own full-time staff. Other towns without Brookline’s scale may benefit from shared county resources, but Brookline does not. And we pay the largest assessment of any member community.

*Risk to the Municipal Court.* The town derives a significant benefit from being its own municipal court district. It’s a great advantage for Brookline to have a community court next to the police station. According to County Director Dan Mathews the state wants to close and merge county courts to save money. Most recently, when the state tried to close the Stoughton court, other county towns provided political support to prevent it. Norfolk County estimates that if the Brookline court were merged, Brookline’s police overtime would soar. Police Chief Dan O’Leary provided a memo\(^2\) in support of remaining in Norfolk County to increase the likelihood of Brookline retaining its own municipal court district. The Chief believes the loss of the court would deplete staff on the streets due to transportation costs and time. We get time savings and other services because of the convenience of the court house location. Right now the Police Department budgets a certain number of officers for each shift; since we would have to take our prisoners elsewhere, the department would probably need a transport officer. The Chief also thinks this article would likely speed the process of closing the court.

However, courts did not close in other counties when they were dissolved. Also, it is likely that Norfolk County would continue to support Brookline’s efforts to retain the court house, because the county receives $300,000 per year in “rent” from the state for use of the county-owned court house building. At $3,100,000, court rentals represent a significant portion of the overall county budget.

*Options.* There is broad consensus on the Advisory Committee that Brookline needs to extricate itself from Norfolk County government and stop the continued expenditure of funds where such little value is returned. The question comes down to what approach is best. The County is carrying around 190 FTE employees. Brookline is responsible for its share of the legacy costs for these and prior employees. If we pull out of the County there is likely to be a continued assessment to cover our share of the legacy costs, but we would no longer accrue new liabilities and at some point the past liabilities will be paid down. The current yearly retiree liability of $5,300,000 roughly equals the total levy on member communities; based on precedent from other dissolved counties, the size of our continued assessment would likely be equivalent to our current yearly payment. This annual assessment would continue until our share of the legacy costs is completely paid.

\(^2\) The memo is included at the end of this Recommendation, after the proposed vote.
One approach would be for Brookline to push to reduce retiree obligations and the county cost structure prior to dissolution of, or seceding from, the county. This could be accomplished by further cutting of county services, using cost savings to fund OPEB liabilities, and working with the county to seek a larger share of Registry fees to be put toward fully funding retiree obligations. Reducing the legacy obligation prior to separating from the county could likely lessen our ongoing assessments into the future. Leaving the county prior to doing this could lock in our current $700,000 assessment for the next 20 years.

We would also be leaving at a time when Brookline’s percentage of the overall levy is at a high point based on our growing property values when compared to the shrinking values throughout the rest of the county. If the real estate market recovers across the state in the next few years, our percentage of the levy would certainly shrink back by a few percentage points. Before locking in our ongoing payment to the state, we should also ensure that we benefit from the coming 20% reduction in yearly OPEB liabilities when the county joins Mayflower Municipal Health Group.

Abolish Norfolk County. Although it was ruled beyond the scope of this article, another option considered was to change the petition to instead request the dissolution of the county. Abolishing the county would make more sense and be less risky than being removed from it, and possibly more likely to eventually get approval from the legislature given the precedent and well understood models from previous counties.

The agricultural school has value, but could be absorbed by the state and run similarly to other vocational and agricultural schools such as Essex Agricultural and Technical High School. The Registry would be absorbed by the state, which would probably like to gain control over more Registry revenues and have more opportunity to control its cost structure and operations. The golf course is profitable and could be transferred to the state, similar to what was done with Ponkapoag Golf Course.

If we pull out, then the court house would be more in danger according to Ronny Sydney, a previous county representative from Brookline. She said that if we went for dissolution, then we would fare better because we have models from other counties.

A significant minority of the Advisory Committee voted to recommend referral to a Selectman’s Committee to explore the option of working with other county municipalities towards the goal of dissolution (9 in favor, 12 opposed, 0 abstentions).

Given that it is out of the scope of the warrant to change the petition to a request to dissolve the county, a majority of the Advisory Committee believed it important to “draw a line in the sand” now, and stop accruing additional county retirement obligations.

**RECOMMENDATION:**
By a vote of 11 to 8 with 1 abstention, the Advisory Committee voted FAVORABLE ACTION on the following:
VOTED: That the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT THAT REMOVES THE TOWN OF BROOKLINE AS A MEMBER COMMUNITY IN NORFOLK COUNTY

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline shall, on the first day of July, in the year two thousand and twelve, cease to be a member community in Norfolk County.

SECTION 2. Notwithstanding the provisions in SECTION 1., above, the town of Brookline shall continue to be in the Norfolk Registry District, court system and penal system.

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

May 24, 2011 Annual Town Meeting
21-12

To: Mr. Melvin Kleckner, Town Administrator

From: Daniel C. O’Leary, Chief of Police

Subject: Warrant Article 21 - An Act That Removes the Town of Brookline as a Member Community in Norfolk County

I am writing to voice my concerns over the proposed warrant article that would remove Brookline from Norfolk County. I understand that this article exempts both the court system and the penal system. However, my concerns center around the possible impact on the Police Department’s ability to utilize the resources of the Court System and the Sheriff’s Department if Brookline is no longer a member of Norfolk County. I am
concerned that even though the courts and penal systems are exempt from the warrant article, we may still be prohibited from us from using these resources.

The Brookline Police Department is comprised of 136 sworn officers assigned to five divisions – Patrol, Detectives, Community Services, Traffic/Records and Administration. Our Department responded to roughly 70,000 calls for service in 2010. Brookline Police Officers are in the Brookline Court everyday – whether it is the Lieutenant assigned as the Police Prosecutor, the Detectives seeking warrants, the civilian advocate and detective assigned to domestic violence cases assisting victims in obtaining restraining orders, officers attending clerk’s hearings against juvenile offenders, officers testifying at trials, dangerousness hearings, warrants of apprehension and motions to suppress or one of the many officers who are attending traffic hearings. Both inside and outside the courthouse walls, the Brookline Police Department works closely with the Probation Department. Weekly, two officers and a probation officer go out for four hours and conduct checks on probationers. Additionally, our Community Service Officers and the Probation Officer attend the weekly Juvenile Roundtable meetings at the Brookline High School.

In looking at the numbers below, we can start to understand the impact that closing the Brookline Court would have on the Brookline Police Department, the criminal justice system and the community. With roughly 1100-1300 arrests, clerk’s hearings, summons, restraining orders, graffiti program referrals and warrants of apprehensions each year, as well as regular traffic hearings, the Brookline Court is an integral part of the Brookline community.

By way of example, the presence of the Brookline District Court, next door to the Brookline Public Safety Headquarters, allows for a speedy and efficient process for transferring prisoners to court. If the Police Department had to transfer prisoners on a daily basis to another court it would have a significant cost associated with doing so. Daily trips to another court could mean our two-person Prisoner Transport Unit, known as the U-car, would be out of service, and out of Town, for a large part of the day. The U-Car is essential not only to the transport and processing of prisoners but also as a two-person rapid response unit which has response capabilities throughout the Town. The availability of this vehicle is critical for ensuring that calls are answered quickly and that backup is available when needed.

The Brookline Police Department activity which is/could be court-related is outlined below:

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<tr>
<th>Activity</th>
<th>2008</th>
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<tr>
<td>Arrests</td>
<td>636</td>
<td>596</td>
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<tr>
<td>Moving Violations</td>
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<td>Field Interviews</td>
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<td>Court Action (summons, clerks hearings)</td>
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<td>Restraining Orders</td>
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<td>Care and Protections</td>
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May 24, 2011 Annual Town Meeting
21-14

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<th>Graffiti Program Participants</th>
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Part A Crimes in the Town of Brookline are broken down by crime type below:

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<th>Part A Crime</th>
<th>2008</th>
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<th>2010</th>
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<td>Murder</td>
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<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Rape</td>
<td>9</td>
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<tr>
<td>Robbery</td>
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<td>Burglary</td>
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<tr>
<td>Assault</td>
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<tr>
<td>Larceny</td>
<td>768</td>
<td>641</td>
<td>654</td>
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<tr>
<td>Motor Vehicle Theft</td>
<td>25</td>
<td>21</td>
<td>22</td>
</tr>
</tbody>
</table>

Just as important as having the court accessible to the police department, the central location of the Brookline Court is important for access to justice by those who are in need of court services. The Brookline Court not only hears criminal cases, but also civil hearings, CHINS, clerk’s hearings and restraining orders. Many of the people who need these services do not have cars – either they can’t afford them and/or they live in the city and don’t need one – so they must rely on public transportation to allow them to access court services. Many victims would not be able to make the necessary trips to another court and as a result we would have less victims accessing services, less witnesses showing up for trials and more cases being dismissed due to lack of prosecution. In the future, court appearances may not be made by on duty officers thereby increasing our overtime costs.

Obviously, the closing of the court would not be in the best interest of Brookline and its residents. We would also lose a lot of the benefits we currently enjoy by having a court in our community. For example, the Brookline Court handles all of our juvenile offenses and their dispositions. In many cases, the dispositions allow for intervention by the police and/or our schools. We do not want to lose this ability to help our young people through a troubled time. We also handle all of our traffic matters here in such a manner that our scheduling system has saved the town hundreds of thousands of dollars in court time costs. I do not think we would get this same type of scheduling flexibility in another court.

The Norfolk County Sheriff’s Office currently houses our prisoners when they are unable to make bail. The Sheriff is also responsible for transporting these prisoners to and from court. Recently, our Emergency Management Team entered into an agreement with the Sheriff’s office to utilize their community notification system in instances where Brookline’s may be unavailable. Futhermore, at least one program for our senior citizens is run by the Sheriff’s Office as well.

In recent years, the Federal Government has provided grant funding opportunities for several Norfolk County police departments. This grant specifically identified several departments and agreed to provide grant funds if those Norfolk County Police
Departments applied together. Each time this grant was offered, Brookline was asked to participate and applied. Because of this the Brookline Police Department received the following:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 06</td>
<td>$30,044.70</td>
</tr>
<tr>
<td>FY 07</td>
<td>$14,131.49</td>
</tr>
<tr>
<td>FY 08</td>
<td>$22,728.60</td>
</tr>
<tr>
<td>FY 09</td>
<td>$49,070.90 ARRA</td>
</tr>
<tr>
<td>FY 10</td>
<td>$29,861.90</td>
</tr>
</tbody>
</table>

TOTAL: $179,224.99

In summary, the loss of services provided by both the Brookline District Court and the Sheriff’s Office would be detrimental to many residents of the Town of Brookline. Access to justice by those who need it most would be greatly diminished by making the transportation to court a significant barrier. The partnerships between our Court, Police, Schools and Probation Departments would likely disintegrate and rehabilitative services to our systems youngest and most impressionable population, our youth, would be lessened.

Additionally, there are significant costs for the community and Police Department in terms of officers being unable to service calls because they are transporting prisoners outside of Brookline. The service of justice would also be greatly affected by the decline of victims, witnesses and officers who could attend an out of town court to seek services or testify. The overtime costs for officers to attend criminal cases, clerk’s hearings, traffic hearings, dangerousness hearings, etc. could amount to a significant amount to the Town of Brookline.

In conclusion, I am very concerned that by withdrawing from Norfolk County, we will lose many of the services our Police Department and criminal justice system currently receive.

DCO/kaf                     Daniel C. O’Leary
Chief of Police

XXX
At its May 19th meeting, the Advisory Committee reviewed the motion being offered by the Selectmen (found on pages 21-5 and 21-6 of the Combined Reports). This motion, supported by the article petitioner, gives flexibility to the Selectmen to address the inequities present in the current funding arrangement for Norfolk County, as well as the inequities that exist statewide between those municipalities paying county assessments and those that do not, while receiving the same services from the state.

The original article empowered the Selectmen to petition the legislature to allow Brookline to secede from the County. This new resolution, while not precluding that specific action, allows the Selectmen to engage in a broader conversation around this issue with the State, County, and other involved municipalities to work toward an acceptable solution, such as dissolution of the county government or creating an equitable assessment model.

While a few members of the committee felt there was some value in the original motion, in that it may more effectively draw attention to the issues presented by Article 21, a majority believes Brookline will be better served by working with other Norfolk County communities to build consensus and work jointly toward a remedy.

By a vote of 17-3-0, the Advisory Committee recommends FAVORABLE ACTION on the Selectmen’s motion found on pages 21-5 through 21-6 of the Combined Reports.
ARTICLE 22

TWENTY-SECOND ARTICLE
To see if the Town will vote to accept a grant of a surface water drain easement from the Massachusetts Bay Transportation Authority, a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts ("MBTA") in a portion of land at or near Station Street and Pearl Street in order for the Town to keep its water and sewer pipe in the location described below and to have access to such area. Said easement is situated at or near the MBTA Brookline Village Green Line Station in Norfolk County and contains approximately 1233 square feet as shown on a plan entitled “Plan to Accompany an Easement for a Surface Water Drain Through land of the Massachusetts Bay Transportation Authority”, dated April 5, 2010 prepared by the Department of Public Works Engineering/Transportation Division to be recorded at the Norfolk Registry of Deeds upon acceptance by the Town, said parcel of land being bounded and described as follows:

Beginning at a point 56.83 feet N57-13-42E of the angle point on the westerly side of Pearl Street at the MBTA Brookline Village Station.

Thence: running N33-18-52W through land of the MBTA sixty five and seventy two hundreds feet (65.72’) to a point at Station Street.
Thence: turning and running N61-26-13E along Station Street twenty and seven hundreds feet (20.07’) to a point.
Thence: turning and running through land of the MBTA sixty and seventy four hundreds feet (60.74’) to Pearl Street.
Thence: turning and running S59-55-10W along Pearl Street seventeen and four hundreds feet to a point.
Thence: turning and running S32-10-37E along Pearl Street four and thirty one hundreds feet to a point.
Thence: turning and running S57-13-42W along Pearl Street two and ninety hundreds feet to the point of beginning.

Said easement containing one thousand two hundred thirty three square feet (1233s.f.).

or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION
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 storm water 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 has
negotiated with the MBTA and has agreed to pay one quarter of the retroactive fees in the amount of $3,795 with the understanding that the Town will prepare the easement plan, suitable for recording at the Registry of Deeds, and pay $25,300 in exchange for the easement. This warrant article was submitted last year, but no action was taken since the MBTA would not accept the Town’s initial offer of payment in the amount of $10,000.

SELECTMEN’S RECOMMENDATION

In 2003, a project was undertaken near the green line station at Brookline Village to remove storm water from the sanitary sewer in this area, thereby eliminating/reducing surcharging of the sanitary sewer during storm events. As part of the project, the Town secured a license from the Massachusetts Bay Transportation Authority (MBTA) to install a 42” concrete drain that crossed the MBTA right of way at the Brookline Village station and tied into the existing Pearl Street drain. In order to cross the MBTA’s right of way, the Town secured a license from the MBTA that required the Town to pay the 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 in exchange for the easement, thereby eliminating the annual rent fee. Article 18 of the November, 2010 Special Town Meeting was originally intended to serve these purposes, but leading up to Town Meeting the MBTA Board of Directors voted to reject the proposed easement. As a result, No Action was taken on the article.

The Town has since negotiated with the MBTA and has agreed to pay one-quarter of the retroactive fees in the amount of $3,795, with the understanding that the Town will prepare the easement plan, suitable for recording at the Registry of Deeds, and pay $25,300 in exchange for the easement. Article 22 is required to approve this permanent easement and pay the associated expenses. Therefore, the Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on April 5, 2011, on the vote offered by the Advisory Committee.

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ADVISORY COMMITTEE’S RECOMMENDATION

BACKGROUND/DISCUSSION:
This matter is being brought before Town Meeting by the Department of Public Works, Engineering/Transportation.

Article 22, seeks Town Meeting approval accepting a permanent easement from the Massachusetts Bay Transportation Authority (MBTA) for the placement of a forty-two
inch diameter surface water drain at or near the MBTA Brookline Village Green Line Station, in Norfolk County containing approximately 1233 square feet as shown on the accompanying plan dated April 5, 2010, prepared by the Department of Public Works Engineering/Transportation Department.

On September 18, 2003, the Town of Brookline, through the use of a consultant, negotiated with the MBTA for a license to install a forty-two inch concrete surface water drain across MBTA land at the Brookline Village Green Line MBTA Station. This surface water drain line was to connect storm drains from Station Street and above to the existing Pearl Street drain. The Town paid a license fee of $2,530.62 in September 2003. The license called for annual rent payments of $2,530.62 due each September 18th. The drain was installed shortly after September 2003. The Town has failed to make further payments after the original license fee of $2,530.62 was paid.

This Article has previously come before us as Article 18 from the 2010 Fall Town Meeting but was withdrawn when negotiations between the Town and the MBTA stalled. The MBTA and the Town have now agreed, pending Town Meeting approval, that the Town will pay the MBTA the sum of $3,795.00 as a settlement to resolve the issue of unpaid yearly rent payments since 2004 which totaled $17,714.34. The $3,795.00 settlement is approximately 21.5% of the amount considered as delinquent. Also, a one-time payment of $25,300.00 will be made to the MBTA to secure a permanent easement from the MBTA.

Both payments will come from Capital Improvement monies from the Water and Sewer Enterprise Fund remaining in the Fund from the original construction appropriation.

RECOMMENDATION:
The Advisory Committee by a Vote of (19-0-0) recommends FAVORABLE ACTION on the vote that follows:

VOTED: That the Town vote to accept a grant of a surface water drain easement from the Massachusetts Bay Transportation Authority, a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts (“MBTA”) in a portion of land at or near Station Street and Pearl Street in order for the Town to keep its water and sewer pipe in the location described below and to have access to such area. Said easement is situated at or near the MBTA Brookline Village Green Line Station in Norfolk County and contains approximately 1233 square feet as shown on a plan entitled “Plan to Accompany an Easement for a Surface Water Drain Through land of the Massachusetts Bay Transportation Authority”, dated April 5, 2010 prepared by the Department of Public Works Engineering/Transportation Division to be recorded at the Norfolk Registry of Deeds upon acceptance by the Town, said parcel of land being bounded and described as follows:

Beginning at a point 56.83 feet N57-13-42E of the angle point on the westerly side of Pearl Street at the MBTA Brookline Village Station.

Thence: running N33-18-52W through land of the MBTA sixty five and
May 24, 2011 Annual Town Meeting
22-4

seventy two hundredths feet (65.72’) to a point at Station Street.
Thence: turning and running N61-26-13E along Station Street twenty and seven
hundredths feet (20.07’) to a point.
Thence: turning and running through land of the MBTA sixty and seventy four
hundredths feet (60.74’) to Pearl Street.
Thence: turning and running S59-55-10W along Pearl Street seventeen and four
hundredths feet to a point.
Thence: turning and running S32-10-37E along Pearl Street four and thirty one
hundredths feet to a point.
Thence: turning and running S57-13-42W along Pearl Street two and ninety
hundredths feet to the point of beginning.

Said easement containing one thousand two hundred thirty three square feet (1233s.f.).

XXX
ARTICLE 23

TWENTY-THIRD ARTICLE

Reports of Town Officers and Committees
To: Brookline Board of Selectmen
Brookline Advisory Committee
Brookline Town Meeting

Attention: Mr. Edward N. (Sandy) Gadsby, JD
Town Moderator
Town Meeting

Subject: Moderator’s Committee
On Parking and Zoning

In response to the Town Meeting resolution adopted at the November 2010 Special Town Meeting, Mr. Sandy Gadsby, the Town Moderator, appointed a nine-member committee comprised of members of the Board of Selectmen, the Advisory Committee, the Planning Board, the Transportation Board, Town Meeting, and Citizens at Large. That Committee was charged with producing a report of findings and positions pertaining to parking and zoning relative to Warrant Article 10 brought before the November 2010 Town Meeting.

To date, four meetings have been held in 2011 at Town Hall (January 5; February 9; March 9; and April 20). All of these meetings were “noticed” in the Calendar section of the Town’s website. The Committee has been active in gathering data and information with respect to previous studies and zoning changes that over time have been approved by Town Meeting. In addition, as part of that information gathering, the Committee has invited a number of individuals to speak on both sides of the issues (Ms. Linda Pehlke and Mr. Sean Lynn-Jones (February 9, 2011), Messrs. Stanley Spiegel and Jonathan Davis (March 9, 2011), and Mr. Michael Durant (April 20, 2011).

The Committee anticipates submitting another update on its work for the Fall session of Town Meeting.

Sincerely,

Lee Selwyn
Committee Chairperson
Town Meeting Member, Pct 13
Brookline Advisory Committee
On Leave of Absence as Committee Chair

Jonathan Simpson
Committee Vice-Chairperson
Brookline Planning Board

Jane Gould
Committee Secretary
Citizen at Large

Kenneth Goldstein
Board of Selectmen

Benjamin Birnbaum
Town Meeting Member, Pct 9
Resigned from Committee 3/8/11

Gustaa C.M. Driessen
Brookline Transportation Board

Angela Insinger
Citizen at Large

Alisa Jonas
Town Meeting Member, Pct 16

Benjamin Stern
Town Meeting Member, Pct 10
Pursuant to a Warrant Article adopted by Town Meeting, the Housing Advisory Board has, since 1997, provided Town Meeting with an annual progress report on Brookline’s work in support of affordable housing.

Through its housing policies and programs, the Town seeks:

- to preserve existing affordable housing;
- to increase the supply of housing affordable to low and moderate income households town-wide by encouraging
  - the creation of affordable units in existing rental buildings and
  - appropriately sited and scaled mixed-income new development;
- to apply Town-controlled resources to leverage other public and private resources;
- to assure that housing so created is kept affordable for as long as possible.

Since the 2010 Annual Town Meeting, the Housing Advisory Board (seven citizen appointees) and Housing Division staff have undertaken the following efforts to achieve these objectives:

1. Worked with New Atlantic Development Corporation on the **redevelopment of the 4.8 acre Town-owned reservoir site on Fisher Avenue**. The project entails the dismantling of the two underground reservoirs, construction of a subdivision, sale of ten market-rate single-family house lots, and construction of 24 affordable condominium units in three buildings that will resemble a turn-of-the-century estate. During the past year, a Land Disposition Agreement was signed with the Town, and the developer completed the regulatory process, including design, zoning and subdivision approvals; successfully sold/contracted the sale of nine of the 10 single-family lots; engaged a site contractor who has dismantled the reservoirs; and has selected a general contractor for the affordable housing development. Construction of the affordable housing will begin in June, simultaneously with the construction of the subdivision infrastructure. The developer’s successful management of the project and its costs will result in
an early pay-down of land cost to the Town, and a likely reduction of subsidy needs from the
Town for the affordable units from the original projection of $2.74 million.

2. Worked with Brookline Housing Authority to support its effort to develop a new 32-unit low
income rental project along Dummer Street on the site of Trustman Apartments. Provided
predevelopment funding, as well as a conditional commitment of up to $1.7 million, which has
allowed the project sponsor to develop plans and advance through the regulatory process, as
well as to submit a competitive application to the Commonwealth for low income tax credits
and various State subsidies.

3. Worked with the Planning Office for Urban Affairs (POUA) to close-out the multi-year St.
Aidan’s project, which provided 20 affordable rental units and 16 affordable homeownership
units, preserved the historic church building through adaptive re-use for nine market-rate
condominiums, in addition to another 14 market rate condominiums, while conserving the
historic courtyard and beech tree. The affordable units have been occupied since 2009, and the
last three market rate units are scheduled to close by the end of June. Final conservation and
preservation restrictions are in place.

4. Continued to work with developers of new market-rate projects subject to the inclusionary
zoning provisions (Section 4.08 of the Zoning By-law):

- Worked the developer of 310 Hammond Pond Parkway to identify financing sources, to
  market, to select prospective buyers by lottery, and to qualify and place buyers in two
  affordable condominiums units.

- Worked with the developer of 1842 Beacon Street to develop an affordable housing plan,
  including three on-site affordable units.

- Worked with the developer of 321 Hammond Pond Parkway to update an affordable
  housing plan for four on-site affordable units.

- Met with the developer of 109 Sewell Street in anticipation of the marketing of two on-
  site affordable condominium units.

5. Continued to provide financial and/or technical assistance to low- and moderate-income
households, including Town employees, seeking to purchase an affordable home in
Brookline, including the following:

- Counseled dozens of prospective purchasers.

- Exercised the Town’s right-of-first-refusal under permanent deed restrictions in the re-
  sale of three condominium units, with three additional sales in process, effecting transfers
to--and thereby maintaining affordability for--a new generation of eligible homebuyers.

- Assisted buyers of affordable units to access additional savings through close coordination
  with lenders participating in the Commonwealth’s SoftSecond Program.
▪ Reserved $500,000 from the Housing Trust as working capital for Affordability Preservation, in light of two defaulting homeowners, to assure that that the Town will be able to protect the continued affordability of its deed-restricted units in the event of foreclosure.

6. Worked with nonprofits **to preserve existing affordable housing** through energy savings and other capital improvements. Using CDBG and CDBG-R (Recovery Act) funding, assisted Pine Street Inn to complete $338,000 in needed improvements to 1043-45 Beacon Street; assisted Humanity House to carry out $192,000 in improvements to 16 Williams Street, thereby extending the useful life of housing for a total of 38 low income individuals. Currently working with the Brookline Improvement Coalition (BIC) to develop a capital improvements program for its six-unit property at 154-156 Boylston Street.

7. Continued to communicate with affordable rental housings developer/owners, and with brokers and property owners in an effort to **identify existing rental housing that might be transferred in ways that would achieve long term affordability.**

8. Provided program development and grant administration for the Brookline **Homelessness Prevention and Rapid Re-Housing Program,** funded under the American Recovery and Reinvestment Act of 2009 (federal stimulus funds) and aimed at assisting community members placed at risk by changing economic conditions. Coordinated by the Brookline Mental Health Center acting in collaboration with five other Town departments and agencies, this program has already assisted 441 individuals in 216 households.

9. Worked with the Town’s Fair Housing Officer to **promote public education regarding fair housing** issues on Brookline Cable Access TV.

10. **Worked to assure continued affordability through annual monitoring** of 135 affordable homeownership units and almost 500 affordable rental units at 18 Brookline property locations.
Memorandum

To: Town Meeting

From: Transportation Board

Date: May 20, 2011

Re: NO TURN ON RED RESOLUTION UPDATE

In response to the Town Meeting Resolution adopted at the November 2010 Special Town Meeting, the Transportation Board has directed DPW - Transportation Division staff to present a report on each of the 35 intersections where an existing NO TURN ON RED restriction currently exists to see if the regulation is warranted based on federal standards as expressed on the 2009 Manual on Uniform Traffic Control Devices (MUTCD). The Transportation Board plans to review a minimum of 4 locations at each of their monthly meetings until all intersections have been reviewed.

According to the MUTCD a municipality should consider implementing a NO TURN ON RED restriction when an engineering study finds that one or more of the following conditions exist:

1. Inadequate sight distance to vehicles approaching from the left (or right, if applicable);
2. Geometrics or operational characteristics of the intersection that might result in unexpected conflicts;
3. An exclusive pedestrian phase;
4. An unacceptable number of pedestrian conflicts with right-turn-on-red maneuvers, especially involving children, older pedestrians, or persons with disabilities;
5. More than three right-turn-on-red accidents reported in a 12 month period for the particular approach; or
6. The skew angle of the intersecting roadways creates difficulty for drivers to see traffic approaching from their left.

To date the Transportation Board has reviewed 13 intersections with 10 NO TURN ON RED regulations being upheld and 3 NO TURN ON RED regulations being removed. Attached is a spreadsheet detailing the intersections with existing NO TURN ON RED regulations, the reason for their original installation, and an update following the Transportation Board review. To see the staff reports submitted to the Transportation Board on a specific
intersection please go to www.brooklinema.gov/transportation and look under “TRANSPORTATION FILES”.

It is estimated that an average of 4 staff hours, between field and office, is consumed for each report generated per location. The Transportation Board maintains that the staffing levels of the Department of Public Works - Transportation Division remain low (1 Transportation Administrator, 1 Traffic Engineer, 1 Senior Clerk) when compared to the increasing amount of duties assigned to it. We believe that these staffing hours could have been better used addressing requests for new regulations and safety improvement measures on a site by site basis. In the future we urge members of the public who have site specific concerns file requests directly with the Transportation Board to investigate and mitigate an issue.
<table>
<thead>
<tr>
<th>LOCATION</th>
<th>ORIGINAL REASON PROVIDED</th>
<th>UPDATES</th>
<th>BOARD ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aspinwall Avenue @ Brookline Avenue</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
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<tr>
<td>Aspinwall Avenue @ Harvard Street</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aspinwall Avenue @ Kent Street</td>
<td>Restricted Sight Distance</td>
<td></td>
<td></td>
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<tr>
<td>Beacon Street @ Lancaster Terrace</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
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<tr>
<td>Beacon Street @ Fairbanks Street</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beacon Street @ Harvard Street</td>
<td>Exclusive Walk/Don't Walk Indication</td>
<td>Requested in 2008 by BPD for Ped Protection</td>
<td></td>
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<tr>
<td>Beacon Street @ Washington Street</td>
<td>Exclusive Walk/Don't Walk Indication</td>
<td>Requested in 2008 by BPD for Ped Protection</td>
<td></td>
</tr>
<tr>
<td>Beacon Street @ Kent Street/Powell Street</td>
<td>Inability to cross street to sustain traffic flow</td>
<td></td>
<td></td>
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<tr>
<td>Beacon Street @ St. Paul Street</td>
<td>Inability to cross street to sustain traffic flow</td>
<td></td>
<td></td>
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<tr>
<td>Beacon Street @ Centre Street/Webster Street</td>
<td>More than 4 approaches</td>
<td></td>
<td></td>
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<tr>
<td>Beacon Street @ Corey Road/Dean Road</td>
<td>Inability to cross street to sustain traffic flow</td>
<td></td>
<td></td>
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<tr>
<td>Brookline Avenue @ Washington Street</td>
<td>Exclusive Walk/Don't Walk Indication</td>
<td></td>
<td></td>
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<tr>
<td>Carlton Street @ Monmouth Street</td>
<td>Intersection without pedestrian crossing provisions</td>
<td></td>
<td></td>
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<tr>
<td>Centre Street @ Williams Street</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
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<tr>
<td>Cypress Street @ Rice Street/Kendall Street</td>
<td>Exclusive Pedestrian Phase</td>
<td>3/17/2011 NO ACTION</td>
<td></td>
</tr>
<tr>
<td>Cypress Street @ Walnut Street</td>
<td>Exclusive Pedestrian Phase</td>
<td>5/19/2011 VOTE TO REMOVE RESTRICTION ON WALNUT STREET EASTBOUND</td>
<td></td>
</tr>
<tr>
<td>Dean Road @ Chestnut Hill Avenue</td>
<td>Exclusive Pedestrian Phase</td>
<td>4/29/2011 NO ACTION</td>
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<td>Eliot Street @ Ackers Avenue</td>
<td>Exclusive Pedestrian Phase</td>
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<td></td>
</tr>
<tr>
<td>Grove Street @ South Street/Walnut Hill Road/Independence Avenue/Beverly</td>
<td>Exclusive Pedestrian Phase</td>
<td>Upheld by Board in 2009 for Restricted Sight Distance</td>
<td></td>
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<tr>
<td>Grove Street @ Street/Russell Road</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
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<tr>
<td>Harvard Street @ Williams Street/Stedman Street</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
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<tr>
<td>Harvard Street @ Fuller Street</td>
<td>Exclusive Pedestrian Phase</td>
<td>5/19/2011 NO ACTION</td>
<td></td>
</tr>
<tr>
<td>Harvard Street @ Verndale Street</td>
<td>Exclusive Pedestrian Phase</td>
<td>3/17/2011 NO ACTION</td>
<td></td>
</tr>
<tr>
<td>Harvard Street @ Babcock Street</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
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<tr>
<td>Harvard Street @ Vernon Street</td>
<td>Exclusive Pedestrian Phase</td>
<td>4/29/2011 VOTE TO REMOVE RESTRICTION</td>
<td></td>
</tr>
<tr>
<td>High Street @ Cypress Street</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
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<tr>
<td>Longwood Avenue @ Kent Street</td>
<td>Restricted Sight Distance</td>
<td>4/29/2011 NO ACTION</td>
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</tr>
<tr>
<td>Longwood Avenue @ St. Paul Street</td>
<td>Restricted Sight Distance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mountfort Street @ Carlton Street</td>
<td>Exclusive Walk/Don't Walk Indication</td>
<td>Upheld by Board in 2009 for Ped Protection</td>
<td></td>
</tr>
<tr>
<td>Newton Street @ Clyde Street</td>
<td>Exclusive Pedestrian Phase</td>
<td>5/19/2011 NO ACTION</td>
<td></td>
</tr>
<tr>
<td>Pleasant Street @ Freeman Street</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>St. Mary's Street @ Mountfort Street</td>
<td>Exclusive Walk/Don't Walk Indication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>St. Paul Street @ Freeman Street</td>
<td>Exclusive Pedestrian Phase</td>
<td>5/19/2011 VOTE TO REMOVE RESTRICTION ON FREEMAN</td>
<td></td>
</tr>
<tr>
<td>Washington Street @ Harvard Street/Andem Place/Kent</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington Street @ Street/Davis Avenue</td>
<td>Exclusive Pedestrian Phase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington Street @ Cypress Street/School Street</td>
<td>Exclusive Walk/Don't Walk Indication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington Street @ Boylston Street</td>
<td>Exclusive Walk/Don't Walk Indication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington Street @ Thayer Street</td>
<td>Fire Preemption</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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by Todd M. Kirrane, DPW - Transportation Administrator